BEFORE THE ALCOHOLIC BEVERAGE CONTROL APPEALS BOARD OF THE STATE OF CALIFORNIA

AB-8680

File: 20-437920 Reg: 06064034

MANJIT SINGH, Appellant/Protestant

v.

NEERA RANI MITAL and PANKAJ MITAL, dba Raj Mart
2889 East Valley Boulevard, Unit D, West Covina, CA 91792,
Respondents/Applicants

and

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: John W. Lewis

Appeals Board Hearing: June 5, 2008
Los Angeles, CA

ISSUED SEPTEMBER 23, 2008

Manjit Singh (appellant/protestant) appeals from a decision of the Department of Alcoholic Beverage Control[1] which granted the application of Neera Rani Mital and Pankaj Mital, doing business as Raj Mart (respondents/applicants), for an off-sale beer and wine license.

Appearances on appeal include appellant/protestant Manjit Singh, representing himself; respondents/applicants Neera Rani Mital and Pankaj Mital, representing themselves; and the Department of Alcoholic Beverage Control, appearing through its counsel, Matthew G. Ainley.

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[1]The decision of the Department, dated February 1, 2007, is set forth in the appendix.

FACTS AND PROCEDURAL HISTORY

Applicants petitioned for issuance of an off-sale beer and wine license. Protests were filed by appellant (and others), and an administrative hearing was held on December 8, 2006. At that hearing, oral and documentary evidence was presented concerning the application and the protests. Appellant Manjit Singh was the only protestant to appear at the administrative hearing.

Subsequent to the hearing, the Department issued its decision which overruled appellant's protest, dismissed the protests of the protestants who did not appear, and allowed the license to issue, subject to conditions.

Appellant thereafter filed an appeal letter stating that he did not agree with the Department's decision.

Written notice of the opportunity to file briefs in support of appellant's position was given on March 4, 2008. Appellant has not filed a brief. We have reviewed the notice of appeal and have found it lacks sufficient information for this Board to determine the basis for appellant's appeal.

The Appeals Board is not required to make an independent search of the record for error not pointed out by appellant. It was appellant's duty to show the Board that the error existed. Without such assistance by appellant, the Appeals Board may deem the general contentions waived or abandoned. (*Horowitz v. Noble* (1978) 79 Cal.App.3d 120, 139 [144 Cal.Rptr. 710]; *Sutter v. Gamel* (1962) 210 Cal.App.2d 529, 531 [26 Cal.Rptr. 880, 881].)

The Board has reviewed the record, however, and finds no basis for rejecting the decision of the Department.

DISCUSSION

Appellant is co-licensee of a 7-Eleven store located virtually next door to the applicants' premises. The administrative law judge (ALJ) said this about appellant's protest (Legal Conclusion 9):

> Protestant Manjit Singh testified that he is concerned about the numerous children who pass by the premises going to and from school. However, it should be noted that the same children most assuredly pass by Singh's 7-Eleven Store, which is practically next door to the applicants' store. The conditions agreed to by the applicants should serve to minimize any negative impact. Although Singh claims to be concerned with the safety of children, his testimony proved otherwise. When Singh was asked if there were any conditions that he would like to see on the license to satisfy his concerns, he replied that he wanted the applicants to cease sales of alcoholic beverages at 4:00 p.m. and also to limit the sales of beer or wine to multiple packs and not single cans or bottles. This response makes it very obvious that Singh's true motive for his protest is the elimination of competition.

The ALJ found that the premises is not located in an area with an undue concentration of licenses or high crime. Applicants have agreed to conditions that will help ensure there is no problem with children in the area, graffiti, loitering, or public consumption of alcoholic beverages.

There is no evidence of any kind that the Department has abused its discretion in allowing this license to issue.

ORDER

The decision of the Department is affirmed.[2]

FRED ARMENDARIZ, CHAIRMAN
SOPHIE C. WONG, MEMBER
TINA FRANK, MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

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[2]This final order is filed in accordance with Business and Professions Code section 23088, and shall become effective 30 days following the date of the filing of this order as provided by section 23090.7 of said code.

Any party, before this final order becomes effective, may apply to the appropriate court of appeal, or the California Supreme Court, for a writ of review of this final order in accordance with Business and Professions Code section 23090 et seq.