



Board of Appeals of Baltimore County

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March 16, 2016

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Prevas & Prevas
American Building, Suite 702
231 East Baltimore Street
Baltimore, Maryland 21202

R. Brady Locher, Assistant County Attorney
Dept. of Permits, Approvals and Inspections
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: *In the Matter of: SAHBI Hookah, Inc. – Tenant/Respondent*
Frances Adolph and Irvin Baddock, Trustees of the
Richard K. Adolph Residuary Trust – Owners of the
Property located at 28 West Pennsylvania Avenue
Case No.: CBA-16-030

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Krysundra "Sunny" Cannington
Administrator

KLC/tam
Enclosure
Duplicate Original Cover Letter

c: Chip Raynor, Inspector/Code Enforcement/PAI
Lionel Van Dommelen, Chief of Code Enforcement/PAI
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Deputy Administrative Officer, and Director/PAI
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

Nasser Taha/SAHBI Hookah, Inc.
Frances Adolph and Irvin Baddock, Trustees of
the Richard K. Adolph Residuary Trust

IN THE MATTER OF	*	BEFORE THE
SAHBI Hookah, Inc. – Tenant/Respondent		
Frances Adolph and Irvin Baddock, Trustees of the	*	BOARD OF APPEALS
Richard K. Adolph Residuary Trust – Owners of the		
Property located at 28 West Pennsylvania Avenue	*	OF
Towson, Maryland 21204		
	*	BALTIMORE COUNTY
Citation No. 1507603		
	*	Case No. CBA-16-030

* * * * *

OPINION

This matter comes before the Board of Appeals for Baltimore County (the “Board”) as a Record Appeal from the Administrative Law Judge’s August 28, 2015 Opinion and Order wherein a violation for Failure to comply with hours of Operation as set forth in the Baltimore County Zoning Regulations (BCZR) sections 101.1 and 230.1 against Appellant/Respondent, SAHBI Hookah, Inc. was upheld. A two hundred dollar (\$200.00) fine was imposed. The decision was appealed to this Board for a hearing on the record that was held on March 1, 2016. Appellant, SAHBI Hookah, Inc. was represented by Peter A. Prevas, Esq. of Prevas and Prevas, and Assistant County Attorney, R. Brady Locher appeared on behalf of Baltimore County.

BACKGROUND

As this case comes before the Board as a Record Appeal, the Board’s review of the Administrative Law Judge’s decision is solely based on the audio record of the August 28, 2015 Hearing that this Board was provided, documents entered at said hearing, and the oral argument presented before this Board on March 1, 2016 at the Record Appeal hearing.

This case comes before the Board as a result of the Code Enforcement and Inspection Citation issued to the Appellant, SAHBI Hookah, Inc. for failure to comply with Hours of Operation as set forth in the Baltimore County Zoning Regulations, sections 101.1 and 230.1.

Baltimore County Zoning Regulation Section 101.1 defines Hookah Lounge as:

Any facility, establishment, or location whose business operation, whether as its primary use or as an ancillary use, includes the smoking of tobacco or other substances through one or more hookah pipes (also commonly referred to as a hookah, waterpipe, shisha or nareghile), including by not limited to establishments known variously as hookah bars, hookah lounges or hookah cafes. A hookah lounge may only operate from 6:00 a.m. to 12:00 midnight. [Bill No. 16-2014]

Baltimore County Zoning Regulation Section 230 states:

SECTION 230: Business, Local (B.L.) Zone Use Regulations

230.1 Permitted Uses

A. The following uses only are permitted (See Section 230.2.):

9. ...Hookah Lounge [Bill 16-2014]

At the August 12, 2015 hearing before the Administrative Law Judge evidence was presented that, at 12:59 a.m. on June 27, 2015 several Baltimore County Police Officers observed an "open" flag flying in front of SAHBI Hookah, located at 28 W. Pennsylvania Avenue in Baltimore County. Said Officers then observed patrons still dancing, watching television, etc. in SAHBI Hookah. Furthermore, Police noted the owner of the establishment locking the front entrance door, but allowing patrons to leave via a side entrance/exit. The hours of operation enunciated in BCZR 101.1 are from 6 a.m. to 12 a.m.

BOARD'S OPINION

Code § 32-4-281 (e) of the Baltimore County Code states,

(e) *Actions by Board of Appeals.*

(1) In a proceeding under this section, the Board of Appeals may

- (i) Remand the case to the Hearing Officer;
- (ii) Affirm the decision of the Hearing Officer; or
- (iii) Reverse or modify the decision of the Hearing Officer if the decision:
 - 1. Exceeds the statutory authority of jurisdiction of the Hearing Officer;
 - 2. Results from an unlawful procedure;
 - 3. Is affected by any other error of law;
 - 4. Is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or
 - 5. Is arbitrary or capricious.

In the hearing before this Board, Counsel for Appellant conceded to the findings of the Administrative Law Judge.¹ The Appellant also agreed that the fine of two hundred dollars (\$200.00) was reasonable. Therefore, the Board can find no justification within the statutory confines of § 32-4-281 (e) to disturb the findings of the Administrative Law Judge's Opinion and Order of August 28, 2015.

CONCLUSION

Based on the findings stated above, the Board finds that the Administrative Law Judge's August 28, 2015 decision in this matter is AFFIRMED.

ORDER

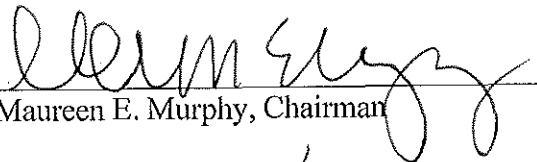
THEREFORE, IT IS THIS 16th day of March, 2016, by the Board of Appeals of Baltimore County


ORDERED that the decision of the Administrative Law Judge dated August 28, 2015, be and the same is hereby **AFFIRMED**.

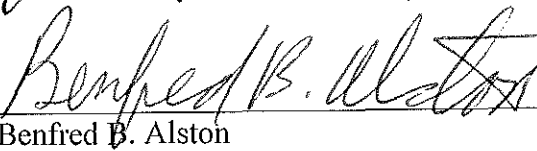
¹ Appellant has several different legal matters concerning Bill 16-14 pending in various jurisdictions

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Maureen E. Murphy, Chairman


Jane M. Hanley


Benfred B. Alston