

IN THE MATTER OF	*	BEFORE THE ALCOHOLIC
THE APPLICATION OF TIMOTHY	*	
JOSEPH MAYOTTE AND HO RAK	*	BEVERAGE HEARING BOARD
PARK ON BEHALF OF NIKO, INC., t/a	*	
NIKO JAPANESE RESTAURANT, FOR	*	FOR
A NEW CLASS B BEER, WINE, AND	*	
LIQUOR 7-DAY ON-SALE LICENSE	*	HOWARD COUNTY, MARYLAND

* Case No.: 15-57

DECISION AND ORDER

The Board of License Commissioners for Howard County, Maryland (the "Liquor Board"), pursuant to Rule 1.02(A) of the Liquor Board Rules and Regulations, has delegated the authority to hear and decide cases to the Alcoholic Beverage Hearing Board for Howard County, Maryland (the "Hearing Board").

On December 8, 2015, the Hearing Board heard the application of Timothy Joseph Mayotte and Ho Rak Park (the "Applicants"), on behalf of Niko, Inc., t/a Niko Japanese Restaurant ("Niko, Inc."), for a new Class B Beer, Wine, and Liquor, 7-day on-sale license for a 1,625 square foot restaurant located at 3570 St. Johns Lane, #102, Ellicott City, Maryland 21042. The hearing was properly advertised pursuant to Article 2B of the Annotated Code of Maryland. The Applicants were represented by Thomas Coale, Esquire. There were no protestants who appeared in opposition to the application.

All the documents on file were incorporated into the record by reference. These include the following: a letter dated October 2, 2015, from the paralegal for the attorney for the Applicants; the application; a copy of the status of the Articles of Incorporation for Niko, Inc., from the Maryland Department of Assessments and Taxation dated July 22, 2015; a copy of the

Articles of Incorporation of Niko, Inc.; the background investigation questionnaires for the Applicants; a copy of the criminal history check of Maryland's Criminal Justice Information System for the Applicants; a copy of the floor plan; a memorandum dated November 2, 2015, from the Liquor Board to the Alcohol Beverage Inspector, the Department of Inspections, Licenses, and Permits, the Bureau of Life Safety, the Bureau of Environmental Health, the Department of Planning and Zoning, and the Office of the Fire Marshal; the background investigation of the Applicants from the Alcohol Beverage Inspector, dated November 30, 2015; a memorandum dated December 2, 2015, from the Bureau of Environmental Health; an email dated November 6, 2015, from the Department of Inspections, Licenses, and Permits; a letter dated November 10, 2015, from the Office of the Fire Marshal; a memorandum dated November 6, 2015, from the Department of Planning and Zoning;; a letter dated November 2, 2015, to the Department of Finance; a letter from the Department of Finance; a letter dated November 2, 2015, to the Comptroller of the Treasury; a letter dated November 13, 2015, from the Comptroller of the Treasury; a fax transmission to the attorney for the Applicants enclosing a letter dated November 2, 2015, with notification of the hearing date and the necessity to advertise; an email dated December 4, 2015, from the paralegal for the attorney for the Applicants enclosing certification of advertisement from the Baltimore Sun and Patuxent Publishing; and a memorandum dated November 18, 2015, from the Alcoholic Beverage Inspector stating the premises had been posted.

SUMMARY OF TESTIMONY

Ho Rak Park, Authorized Member and 90% shareholder of Niko, Inc., was sworn and testified that he is alcohol awareness certified, and has been in the restaurant business for over 20 years. Mr. Park testified that he owned and operated Niko Japanese Restaurant in the Normandy Shopping Center from 2001 to 2014, and that the restaurant closed in October of 2014, because of renovations to the shopping center.

Mr. Park testified that if approved, he will be at the restaurant every day. Mr. Park testified that the hours of operation will be 11:30 A.M. to 10:00 P.M. on week days, and 11:30 A.M. to 10:30 P.M. on weekends. Mr. Park testified that he will have eight employees, and that he will try to use his previous experienced employees. Mr. Park testified that he did not have any prior violations at his other restaurant, and that he feels this restaurant will not disturb the peace and safety of the community. Mr. Park testified that he feels that this restaurant will accommodate the public. He stated that he intends to offer the same menu items as at his previous restaurant and to train his service staff in proper alcohol service.

Mr. Park testified that he has been charged twice with driving under the influence, in March of 2000 and in July of 2014. Mr. Park testified that in July of 2014, he received 60 days of supervised probation, and was required to have an interlock device on his vehicle. Mr. Park testified that he has learned from his mistakes, and that he no longer consumes alcoholic beverages.

Timothy Joseph Mayotte, Authorized Member and 10% shareholder of Niko, Inc., was sworn and testified that he has been a resident of Howard County for seven years, is a registered voter, and is alcohol awareness certified. Mr. Mayotte testified that he has never held a liquor

license, but that he understands the responsibility. Mr. Mayotte testified that he will go to the restaurant approximately three times per week when they first open. Mr. Mayotte testified that after it is open for a while, he will go one to two times per week. Mr. Mayotte testified that he will talk to the employees and bartenders when he goes to the restaurant, and will observe the operation.

The following Exhibit was entered into the record:

Exhibit #1 – an example of the menu

Pursuant to Rule 6.13 of the Liquor Board Rules and Regulations, the Applicants waived their right to request the Liquor Board to hear the case.

Based on the evidence presented at the hearing, the Alcoholic Beverage Hearing Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Hearing Board finds that Timothy Joseph Mayotte and Ho Rak Park on behalf of Niko, Inc., t/a Niko Japanese Restaurant, have applied for a new Class B Beer, Wine, and Liquor 7-day on-sale license for a 1,625 square foot restaurant located at 3570 St. Johns Lane, #102, Ellicott City, Maryland 21042.
2. The Hearing Board finds that the Applicants are fit and proper persons to hold an alcoholic beverage license.
3. The Hearing Board finds that Timothy Joseph Mayotte has been a Howard County resident for more than two years, is a registered voter, and a 10% shareholder of Niko, Inc., t/a Niko Japanese Restaurant.
4. The Hearing Board finds that the granting of the application is necessary for the

accommodation of the public.

5. The Hearing Board finds that the granting of this application will not unduly disturb the peace and safety of the residents of the neighborhood.

CONCLUSIONS OF LAW

1. The Hearing Board concludes that Timothy Joseph Mayotte and Ho Rak Park on behalf of Niko, Inc., t/a Niko Japanese Restaurant, have applied for a new Class B Beer, Wine, and Liquor 7-day on-sale license for a 1,625 square foot restaurant located at 3570 St. Johns Lane, #102, Ellicott City, Maryland 21042.

2. The Hearing Board concludes that the Applicants are fit and proper persons to hold an alcoholic beverage license.

3. The Hearing Board concludes that Timothy Joseph Mayotte meets the requirements of Rules 1.09(T), 1.09(U), 2.06, and 2.10 of the Liquor Board Rules and Regulations concerning resident agent qualifications.

4. The Hearing Board concludes that the granting of the application is necessary for the accommodation of the public.

5. The Hearing Board concludes that the granting of this application would not unduly disturb the peace and safety of the neighborhood.

ORDER

For the foregoing reasons, it is this 2nd day of January, 2016, by the Alcoholic Beverage Hearing Board of Howard County **ORDERED** that the application of Timothy Joseph Mayotte and Ho Rak Park on behalf of Niko, Inc., t/a Niko Japanese Restaurant, for a new Class B Beer, Wine, and Liquor 7-day on-sale license for a 1,625 square foot restaurant located at 3570

St. Johns Lane, #102, Ellicott City, Maryland 21042, be and the same is hereby **GRANTED**, subject to the following conditions:

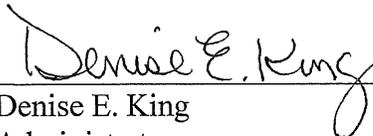
1. That this **PROPOSED DECISION AND ORDER** shall become final when the Applicants obtain the license and comply with the following conditions:

(a) That the Applicants comply with all State and County Rules and Regulations; and

(b) Failure to comply with these conditions and obtain the license by March 31, 2016, shall render this Proposed Decision and Order null and void.

ATTEST:

ALCOHOLIC BEVERAGE HEARING
BOARD OF HOWARD COUNTY,
MARYLAND


Denise E. King
Administrator


Mary Bird, Chairperson

ABSENT
Harry Evans, III, Vice-Chairperson

REVIEWED BY HOWARD COUNTY
OFFICE OF LAW
GARY W. KUC
COUNTY SOLICITOR


Charles C. Feaga, Member

Heather Gaetano, Member


Lewis Taylor, Esquire
Assistant County Solicitor


Charley C. Sung, Member