

IN THE MATTER OF THE	*	BEFORE THE ALCOHOLIC
APPLICATION OF KATHLYN P. MCCANN,	*	
ROBERT R. BALDINI, AND LAURA A.	*	BEVERAGE HEARING
FERGUSON ON BEHALF OF RUBY TUESDAY *		
OF COLUMBIA, INC., t/a RUBY TUESDAY,	*	BOARD FOR HOWARD
FOR A RESIDENT AGENT CHANGE ON A	*	
CLASS B BEER, WINE, AND LIQUOR 7-DAY	*	HOWARD COUNTY, MD
ON-SALE LICENSE	*	
	*	Case No. 17-15

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 February 28, 2017 and March 22, 2017, the Hearing Board heard the application of Kathlyn P. McCann, Robert R. Baldini, and Laura A. Ferguson (the “Applicants”), on behalf of Ruby Tuesday of Columbia, Inc., t/a Ruby Tuesday (“Ruby Tuesday of Columbia, Inc.”), for a resident agent change from Robert H. Dowling, III to Kathlyn P. McCann on a Class B Beer, Wine, and Liquor 7-day on-sale license for a 5,243 square foot restaurant located at 9071 Snowden River Parkway, Columbia, Maryland 21046. The hearing was properly advertised pursuant to the Alcoholic Beverages Article of the Annotated Code of Maryland. The Applicants were represented by Edward J. Gilliss, 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: an email dated March 1, 2017, from the attorney for the Applicants to the Liquor Board Administrator asking for a report of any violations at either Ruby Tuesday in Columbia or Clarksville; a letter dated March 2, 2017, from the Liquor Board Administrator to the attorney for the Applicants stating there were not any violations at either Ruby Tuesday restaurant; a letter dated January 3, 2017, from the attorney for the Applicants to the Liquor Board Administrator providing additional application information; a letter dated November 28, 2016, from the attorney for the Applicants to the Liquor Board Administrator enclosing the application; a copy of the Unanimous Written Consent of the Board of Directors of Ruby Tuesday of Columbia, Inc.; Shares Certificate of Ruby Tuesday of Columbia, Inc. for Kathlyn P. McCann; copies of the background investigation questionnaires for the Applicants; a receipt and the criminal history record check dated November 9, 2016, from the Department of Public Safety and Correctional Services Information Technology & Communication Division Criminal Justice Information System – Central Repository for Kathlyn Prep McCann; a memorandum dated January 18, 2017, from the Liquor Board Administrator to the Alcohol Beverage Inspector, the Department of Inspections, Licenses, and Permits, the Bureau of Environmental Health, the Department of Planning and Zoning, and the Office of the Fire Marshal; the background investigations of the Applicants by the Alcohol Beverage Inspector dated February 21, 2017; a memorandum dated February 21, 2017, from the Department of Planning and Zoning; an email dated February 8, 2017, from the Office of the Fire Marshal; a letter dated January 18, 2017, to the Department of Finance; a letter from the Department of Finance; a letter dated January 18, 2017, to the Comptroller of Maryland; a letter dated February 13, 2017, from the Comptroller of Maryland; a fax

transmission sheet dated February 13, 2017, with a letter from the Liquor Board Administrator to the attorney for the Applicants, advising notification of the hearing date, and enclosing the required advertisement; and an e-mail dated February 21, 2017, from the Alcoholic Beverage Inspector stating the premises had been posted.

SUMMARY OF TESTIMONY – FEBRUARY 28, 2017

Mr. Gillis proffered that the general facts and testimony for this application and the application in Case No. 17-16 for a resident agent change on behalf of RT Clarksville, Inc., t/a Ruby Tuesday, from Robert H. Dowling, III to Kathlyn P. McCann on a Class BLX Beer, Wine, and Liquor 7-day on-sale license for a 5,739 square foot restaurant located at 6080 Daybreak Circle, Clarksville, Maryland 21029, are essentially the same.

Kathlyn P. McCann, Assistant Secretary and 10% shareholder of Ruby Tuesday of Columbia, Inc., was sworn in case 17-16 and testified that she has lived in Howard County for approximately 20 years, that she is a registered voter, and that she has been alcohol awareness certified and will be taking a new course soon. Ms. McCann testified that she will visit the restaurant approximately five times per month. Ms. McCann testified that she understands the responsibility of being the resident agent.

Ms. McCann testified that she is the resident agent for a Howard County Class BLX license for On the Border restaurant, and she has prior experience in the restaurant business as she is a server at Timbuktu Restaurant. Ms. McCann stated that she was not aware of any issues at Ruby Tuesday restaurants involving underage sales. Ms. McCann was recall in this case and testified that the testimony in 17-16 applied equally to this case.

Robert Baldini, President of Ruby Tuesday of Columbia, Inc., was sworn in case 17-16 and testified that he was employed by Ruby Tuesday for approximately 26 years,

and has been responsible for overseeing multiple restaurants during that time. He retired on July 1, 2016. He testified that he opened all the Maryland restaurants.

Mr. Baldini testified that he answered no to question number eight on the application because he thought it was referring to DUI convictions. Mr. Baldini testified that it was not his intention to lie.

The Board asked Mr. Baldini about the numerous underage sale violations at several Ruby Tuesday locations where he was a licensee that had not been initially disclosed. Mr. Baldini testified that he did not know whether the violations were disclosed on alcoholic beverage license applications in other jurisdictions. He stated that every team member that served a minor was terminated, along with some managers. He said they increased the frequency of team meetings. Mr. Baldini testified that they have signs that advise customers that no vertical identification cards will be accepted. Mr. Baldini testified that the employees who are involved with the sale of alcoholic beverages are all required to be alcohol awareness certified, and are being extensively trained. Mr. Baldini testified that they have computers that require the server to enter the customer's date of birth, which will help to avoid mistakes. Mr. Baldini testified that he will meet with the area Director once per month, and that he understands his responsibility as a licensee.

Edward Gillis, attorney for the Applicants, proffered that Detective Johnson has worked with the Applicants, and that they have a zero-tolerance policy. Mr. Gillis proffered that the policy of Ruby Tuesday is that they do not accept vertical identification cards, and that they will card anyone who appears to be under the age of 35. Mr. Gillis proffered that Ruby Tuesdays are good corporate citizens, and that they have a great

history in Howard County. Mr. Gilliss proffered that there was no intent on Mr. Baldini's part to hide that he was on multiple licenses.

Laura Ferguson, Secretary and Treasurer for Ruby Tuesday of Columbia, Inc., t/a Ruby Tuesday, was sworn in case 17-16 and testified that she is a licensee for both Ruby Tuesday restaurants located in Howard County. Ms. Ferguson testified that she was not aware of the violations which occurred at the Ruby Tuesday restaurants located in other counties.

The Alcoholic Beverage Board hearing was continued until March 14, 2017, to enable the Applicants to complete the required legal advertising, and to provide information on what Ruby Tuesday restaurants in Howard County have been doing to address incidents of sales to underage persons.

Due to inclement weather, the hearing scheduled for March 14, 2017, was postponed until March 22, 2017.

SUMMARY OF TESTIMONY – MARCH 22, 2017

Ed Gilliss, attorney for the Applicants, proffered that he submitted a binder which included information requested by the Alcoholic Beverage Hearing Board in advance, and would like to introduce it into evidence. Mr. Gilliss proffered that the managers for both Ruby Tuesday restaurants were at the hearing, along with the regional manager, if the Alcoholic Beverage Hearing Board would like to question them.

Mr. Gilliss proffered that Martin Johnson, a former Liquor Inspector, assisted Ruby Tuesday restaurants by performing unannounced compliance inspections, and comprehensive evaluations of all the facets of the alcoholic beverage service at both the Clarksville and Columbia locations.

Robert Baldini was sworn and testified that Ruby Tuesdays have instituted a policy of carding everyone. They have daily shift meetings with the employees to discuss checking IDs. Mr. Baldini testified that they no longer accept vertical identification cards, and that they have a poster displayed stating the same. Mr. Baldini testified that both locations now have a 2017 ID Checking Guide, and have a Point-Of-Sale system screen button that displays the minimum date of birth for a person to be 21 years of age or older. Mr. Baldini testified that they have had more employees become alcohol awareness certified. Mr. Baldini testified that the area Director is now certified to train alcohol awareness. Mr. Baldini testified that they have elevated consciousness for employees to follow the rules and laws regarding alcoholic beverages.

Mr. Gilliss proffered that Ms. McCann has taken an alcoholic awareness training course and the certification would be provide to the Board.

Detective Mark Baxter, the Alcoholic Beverage Inspector, was sworn and testified that he is responsible for the inspections of businesses holding alcoholic beverage licenses in Howard County. Detective Baxter testified that he has never conducted an inspection at either of the Ruby Tuesday restaurants.

The following Exhibits were entered into record:

Exhibit #1 – a notebook containing materials relating to Ruby Tuesday alcohol beverage service

Exhibit #2 – copies of signs posted in Ruby Tuesday stating no vertical IDs accepted

Exhibit #3 – (5) photos of alcoholic service signage and an alcoholic service log taken by Mr. Baldini

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 Kathlyn P. McCann, Robert R. Baldini, and Laura A. Ferguson, on behalf of Ruby Tuesday of Columbia, Inc., t/a Ruby Tuesday, have applied for a resident agent change from Robert H. Dowling, III to Kathlyn P. McCann on a Class B Beer, Wine, and Liquor 7-day on-sale license for a 5,243 square foot restaurant located at 9071 Snowden River Parkway, Columbia, Maryland 21044.

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 Kathlyn P. McCann has been a Howard County resident for more than two years, is a registered voter, an Assistant Secretary and 10% shareholder of Ruby Tuesday of Columbia, Inc., t/a Ruby Tuesday.

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 the application will not unduly disturb the peace and safety of the residents of the neighborhood.

CONCLUSIONS OF LAW

1. The Hearing Board concludes that Kathlyn P. McCann, Robert R. Baldini, and Laura A. Ferguson, on behalf of Ruby Tuesday of Columbia, Inc., t/a Ruby Tuesday, have applied for a resident agent change from Robert H. Dowling, III to Kathlyn P. McCann on a Class B Beer, Wine, and Liquor 7-day on-sale license for a 5,243 square foot restaurant located at 9071 Snowden River Parkway, Columbia, Maryland 21044.

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 Kathlyn P. McCann 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 finds that the granting of the application will not unduly disturb the peace and safety of the residents of the neighborhood.

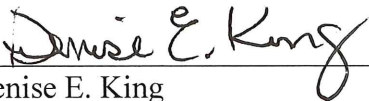
ORDER

For the foregoing reasons, it is this 28th day of April, 2017, by the Alcoholic Beverage Hearing Board of Howard County **ORDERED** that the application of Kathlyn P. McCann, Robert R. Baldini, and Laura A. Ferguson, on behalf of Ruby Tuesday of Columbia, Inc., t/a Ruby Tuesday, for a resident agent change from Robert H. Dowling, III to Kathlyn P. McCann on a Class B Beer, Wine, and Liquor 7-day on-sale license for a 5,243 square foot restaurant located at 9071 Snowden River Parkway, Columbia, Maryland 21044, be and the same is hereby **GRANTED**, subject to the following conditions:


- (a) That the Applicants comply with all State and County laws; and
- (b) That the Applicants provide the Board with a copy of the alcoholic awareness training certificate for Kathlyn P. McCann; and
- (c) Failure to comply with these conditions and obtain the license by April 30, 2017, shall render this Proposed Decision and Order null and void.

ATTEST:

ALCOHOLIC BEVERAGE HEARING
BOARD OF HOWARD COUNTY,
MARYLAND



Denise E. King
Administrator



Heather Gaetano, Chairperson



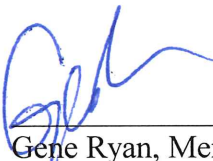
Mary Bird, Vice-Chairperson

REVIEWED BY HOWARD COUNTY
OFFICE OF LAW


ABSENT

Charles C. Feaga, Member

GARY W. KUC
COUNTY SOLICITOR



Gene Ryan, Member



Lewis Taylor, Esquire
Assistant County Solicitor

ABSENT

Charley C. Sung, Member