

IN THE MATTER OF THE	*	BEFORE THE ALCOHOLIC
APPLICATION OF KEE DONG KIM,	*	
HONG B. KIM, AND MYOUNG B. KIM	*	BEVERAGE HEARING BOARD
ON BEHALF OF EL ROI, LLC, t/a	*	
HUNTINGTON DELI AND MARKET,	*	FOR
FOR A NEW CLASS A BEER AND	*	
LIGHT WINE 7-DAY OFF-SALE	*	HOWARD COUNTY, MARYLAND
LICENSE	*	
	*	Case No. 15-12

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### **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 January 13, 2015, January 27, 2015, and February 10, 2015, the Hearing Board heard the application of Kee Dong Kim, Hong B. Kim, and Myoung B. Kim ("Applicants"), on behalf of El Roi, LLC, t/a Huntington Deli and Market ("El Roi, LLC"), for a new Class A Beer and Light Wine 7-day off-sale license for a 2,000 square foot package goods store located at 7635 Murray Hill Road, Columbia, Maryland 21046. The hearing was properly advertised pursuant to Article 2B of the Annotated Code of Maryland. The Applicants were represented by Paul D. Murphy, Jr., Esquire. There were 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 August 14, 2014, from Hyunjae Shin, Esquire providing documents for the applicants, and a correction of an address for Dae Un Kim; a copy of the application; a copy of a real property search from the State Department of Assessment and Taxation for 7352 Point Patience Way, Elkridge, Maryland; a copy of a letter dated September 23, 2014, from the Law Office of David Woo enclosing a third reference for the resident agent; a letter dated October 8, 2014, from David Woo, attorney, confirming representation of El Roi, LLC; a corporate charter approval sheet for El Roi, LLC; a copy of the Articles of Organization for El Roi, LLC; a copy of the floor plan; copies of the background investigation questionnaires

for the Applicants; copies of the criminal history record checks for the Applicants from the Maryland Criminal Justice Information System; a copy of the Certificate of Naturalization for Kee Dong Kim; copies of the permanent resident cards for Myoung B. Kim and Hong B. Kim; a memorandum dated December 8, 2014, from the Liquor Board to the Alcoholic Beverage Inspector, the Department of Inspections, Licenses, and Permits, the Bureau of Environmental Health, and the Department of Planning and Zoning; the background investigation of the Applicants by the Alcoholic Beverage Inspector dated January 9, 2015; an email dated January 16, 2015, from the Office of the Fire Marshall; an email dated December 11, 2014, from the Department of Inspections, Licenses and Permits; an internal memo dated January 12, 2015, from the Department of Planning and Zoning; a letter dated December 8, 2014, to the Department of Finance; an letter dated December 12, 2014, from the Department of Finance; a letter dated December 8, 2014, to the Comptroller of Maryland; a letter dated December 15, 2014, from the Comptroller of the Treasury; a fax transmission to the Applicants' attorney enclosing a letter dated December 8, 2014, with notification of the hearing date and the necessity to advertise; a fax transmission to the Administrator of the Liquor Board from the Applicants' attorney enclosing the certification of advertisement from the Howard County Times and the Baltimore Sun; and an email dated January 8, 2015, from the Alcoholic Beverage Inspector stating the premises had been posted.

#### SUMMARY OF TESTIMONY – JANUARY 13, 2015

Charlie Sung, Hearing Board Member, recused himself because his law firm had previously represented the applicants.

Kee Lee, a court registered interpreter, was sworn and testified he would translate for the applicants.

Kee Dong Kim, 10% shareholder for El Roi, LLC, t/a Huntington Deli and Market, was sworn and testified that he has lived in Howard County since 1998, and that he is a registered voter. Mr. Kim testified that he is the brother-in-law of Hong B. Kim, and that he will frequent the store on a regular basis. Mr. Kim testified that he has taken an alcohol awareness course, and that he understands the responsibility of being the resident agent. Mr. Kim testified that he is familiar with the Rules and Regulations governing the sale of alcoholic beverages.

Mr. Kim testified that they have been in business for ten years. Mr. Kim testified that they are not located near another liquor store, nor are there any schools in close proximity. Mr.

Kim testified that they are near the neighborhood pool, but that it is only open from the end of May until August.

Mr. Kim testified that they have installed four new security cameras, both inside and outside of the store. Mr. Kim testified that all employees are alcohol awareness certified.

Hong B. Kim, member and 45% shareholder for El Roi, LLC, t/a Huntington Deli and Market, was sworn and testified that he has lived in Maryland for fifteen years, and is a resident alien. Mr. Kim testified that he has been the manager and owner of Huntington Deli for ten years. Mr. Kim testified that he works six days per week from 6:00 A.M. to 5:00 P.M., and that the deli is open until 8:00 P.M. Mr. Kim testified that his customers live in the surrounding area, and come to the store daily. Mr. Kim testified that his customers have said it would be convenient for them if he sold alcoholic beverages, because many do not have motor vehicles. Mr. Kim testified that the closest package goods store is Kings Contrivance Liquors, which is 1.3 miles away.

Mr. Kim testified that members of the pool frequent his store, and that he plans to have the alcohol partitioned off in a separate area from other merchandise. Mr. Kim testified that his store is 2,000 square feet, and that he would only use 600 square feet to store or sell alcoholic beverages, if approved.

Mr. Kim testified that he is familiar with the Rules and Regulations governing the sale of alcoholic beverages, and that he will comply with them. Mr. Kim testified that he has sold tobacco in the store, without any violations, and received a certificate from the Health Department congratulating him for passing an underage tobacco sales test.

Bill Boarman, was sworn and testified in protest of the application. Mr. Boarman testified that he was a prior owner of Harpers Choice Liquors. Mr. Boarman testified that this application was heard in 2008, and that they were denied. Mr. Boarman testified that nothing has changed since that time. Mr. Boarman testified that he thinks that it would be a bad idea to grant this license, as there is a swim club next to it, which attracts a lot of young people in the summer months. Mr. Boarman testified that the pool itself is a problem with the Columbia Association and the police. Mr. Boarman testified that he does not feel that the liquor license is necessary, and that it will disturb the peace and safety of the citizens in the area.

Barbara Seeley, Chairperson of the Kings Contrivance Village Association, was sworn and testified that she has a letter on behalf of the Kings Contrivance Village Board, requesting

that the Hearing Board postpone making a decision on this application until they have sufficient time to advertise this hearing to the residents in the area.

John Herdson, was sworn and testified that he was representing the Columbia Association's Aquatics Director, and that they are requesting the hearing be postponed because they have not had time to make the King's Contrivance residents aware of the application. Mr. Herdson testified that he felt that if the application were approved, it would make it easier for minors to obtain alcohol, and it would increase littering and destruction of property on the pool's premises. Mr. Herdson testified that he also protested the application in 2008.

Wayne Davis, was sworn and testified in support of the application. Mr. Davis testified that he lives within a five minute walk from Huntington Deli and Market. Mr. Davis testified that he has been a resident of the area for twenty-two years, and that he was not in favor of the application in 2008, because they had a lot of bad influences in the neighborhood. Mr. Davis testified that they did not need any more temptation for the bad people living in the area. Mr. Davis testified that the neighborhood has changed since the Kim's bought the store. Mr. Davis testified that the Kim's have been fantastic owners, who have treated their customers with respect. Mr. Davis testified that they are open in bad weather, and are an asset and convenience to the community.

Mr. Davis testified that he is the President of Spring Breeze Community Association, and they have 131 units. Mr. Davis testified that he will get a formal position from the association, as they would be having a meeting the next day.

#### SUMMARY OF TESTIMONY – JANUARY 27, 2015

Charlie Sung, Hearing Board Member, recused himself, as his law firm had previously represented the applicants.

Mark Cult, Division Director of Sport and Fitness, and representative of Columbia Association, was sworn and testified that the members of Sport and Fitness met and unanimously voted to oppose the application for the liquor license. They opposed it because of its location with regards to the open space and swimming pool.

Lewis Larson was sworn and testified in opposition to the application. Mr. Larson testified that he lives about 100 yards from the deli and although he has a lot of respect for the Kim's, the proposed licensees, he is in opposition to the application. Mr. Larson testified that he thinks it would be a terrible precedent to set since the deli is located so close to the

swimming pool. Mr. Larson testified that he is concerned that young people who are interested in trying alcoholic beverages would find it more accessible and easier to obtain.

Joseph Collins was sworn and testified in opposition to the application. Mr. Collins testified that he is a 25 year resident of the area and feels the location of the deli is too close to the pool area. Mr. Collins testified that the location is also a magnet for young men and women who do not go to school or work. Mr. Collins testified that crime has gone up in the area because of the loitering. Mr. Collins testified that he is concerned for the safety of the community.

Jason Prothro was sworn and testified in opposition to the application. Mr. Prothro testified that he lives within a mile of the deli and is concerned that if the liquor license is approved, there will be more broken glass in the pool area. Mr. Prothro testified that the deli shares the parking lot with the pool, and that children walk around with bare feet. Mr. Prothro testified that he is also concerned that people might buy the beer and wine and use the surrounding pathways as a place to consume their drinks. Mr. Prothro testified that the increase in accessibility of alcoholic beverages may increase drunk driving.

Patricia Walls was sworn and testified in opposition to the application. Ms. Walls testified that she is a 12 year resident of the area and loves having the deli in the community, and loves the Kim's, but does not feel there is a need for a liquor license at this location. Ms. Walls testified that one of her concerns is that lifeguards are generally between the ages of 16 and 21, and that if adults brought alcoholic beverages into the pool area, teenagers would be asked to police adults, which is not fair. Ms. Walls testified that there are plenty of liquor stores in the area, and that drinking alcohol should not be a convenience. Ms. Walls testified that she feels that broken glass is also an issue to consider. Ms. Walls testified that she could see loiterers hanging out, drinking the alcohol, and throwing the bottles out onto the parking lot or pool area. Ms. Walls also testified that she did not feel there was enough notification of the hearing.

Detective Mark Baxter, Howard County Liquor Inspector, was sworn and testified that he posted the sign notifying the public of the hearing on January 8, 2015, outside on the front window of the deli. Detective Baxter testified that he did not go back and check to see if the sign remained posted.

Kee Lee, was sworn in as the interpreter for Hong B. Kim.

Hong B. Kim, 45% shareholder for El Roi, LLC, t/a Huntington Deli and Market, was sworn and testified that after the sign to advertise the hearing was posted, he moved the sign to the right of the window because it was too low for people to see. Mr. Kim testified that the sign is still posted.

Steve McGlaughlin, was sworn and testified in support of the application. Mr. McGlaughlin testified that he has lived within one quarter of a mile from the deli for 20 years. Mr. McGlaughlin testified that he is looking forward to the convenience of beer and wine being offered at the deli. Mr. McGlaughlin testified that he likes the way the Kim's operate the store, and that they are very thorough and responsible people. Mr. McGlaughlin testified that the store is very clean, and that Mr. Kim is always outside picking up litter.

Jerry Rushing, was sworn and testified in support of the application. Mr. Rushing testified that he has lived within three to four miles from the location of the deli for 60 years. Mr. Rushing testified that he frequents the deli, and feels it would be very convenient to be able to purchase beer and wine at the store. Mr. Rushing testified that the Kim's are very diligent, and that he feels comfortable that they will continue to be good business owners. Mr. Rushing testified that he feels the store would be more viable, if they were able to offer beer and wine. Mr. Rushing testified that he is concerned about the viability of the business, and that if it does not succeed, it will be terrible for the community. Mr. Rushing also testified that he knows that the property has been posted more than 15 days.

#### SUMMARY OF TESTIMONY – FEBRUARY 10, 2015

Charlie Sung, Hearing Board Member, recused himself, as his law firm had previously represented the applicants.

Harry Evans, Hearing Board Member, testified that he reviewed the previous recordings of the hearings for El Roi, LLC, t/a Huntington Deli and Market, and would participate in the decision on the application.

Kee Dong Kim, brother in-law of Hong B. Kim, was sworn in as his interpreter.

Hong B. Kim was sworn and upon questions from the Board, he testified that he would move bread, cookies, and cereals, so that he would have room for the beer and wine. Mr. Kim testified that he would also offer fewer soups. Mr. Kim testified that he would eliminate some of the brands of the juices in the cooler space. Mr. Kim testified that with regards to storage of wine, he would learn what to do from his brother-in-law, who previously owned a liquor store.

Mr. Kim testified that he would sell what his customers request, but will not sell single beers.

Mr. Kim testified that he will have two employees in the store.

The following Applicant's Exhibits were entered into the record:

Exhibit #1a-c –	Alcohol certification for the three proposed licensees
Exhibit #2 –	Petition containing signatures of persons supporting the application for El Roi, LLC, t/a Huntington Deli and Market
Exhibit #3 -	Updated drawing of the interior of Huntington Deli and Market

The following Protestant's Exhibits were entered into the record:

Exhibit #1 -	Photographs of Huntington Deli and outside surrounding areas
Exhibit #2 -	Letter dated January 8, 2015, from Kings Contrivance Community Association protesting the application

#### FINDINGS OF FACT

1. The Hearing Board finds that Kee Dong Kim, Hong B. Kim, and Myoung B. Kim, on behalf of El Roi, LLC, t/a Huntington Deli Market, have applied for a new Class A Beer and Light Wine 7-day off-sale license for a 2,000 square foot package goods store located at 7635 Murray Hill Road, Columbia, Maryland 21046.

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 Kee Dong Kim has been a Howard County resident for more than two years, is a registered voter, and a 10% shareholder of El Roi, LLC, t/a Huntington Deli and Market.

4. The Hearing Board finds that the Applicants have not shown that granting the application is necessary for the accommodation of the public. The testimony reflects that there are other liquor stores in the vicinity of the proposed license. Additionally, several nearby residents testified that they did not believe the license was necessary for the accommodation of the public. Although there was some testimony in favor of the application, the weight of the testimony was in opposition.

5. The Hearing Board finds that the Applicants have not shown that granting this application will not unduly disturb the peace and safety of the residents in the neighborhood. There was testimony regarding loitering in the vicinity of the proposed license. Additionally, the proposed license is located proximate to open space and a swim club that attracts numerous minor children who patronize the Deli.

### CONCLUSIONS OF LAW

1. The Hearing Board concludes that Kee Dong Kim, Hong B. Kim, and Myoung B. Kim, on behalf of El Roi, LLC, t/a Huntington Deli Market, have applied for a new Class A Beer and Light Wine 7-day off-sale license for a 2,000 square foot package goods store located at 7635 Murray Hill Road, Columbia, Maryland 21046.
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 Kee Dong Kim 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 not necessary for the accommodation of the public.
5. The Hearing Board concludes that the granting of the application may unduly disturb the peace and safety of the residents in the neighborhood.

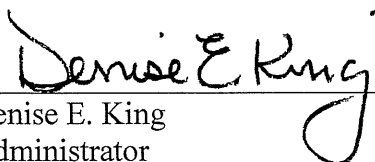
### ORDER

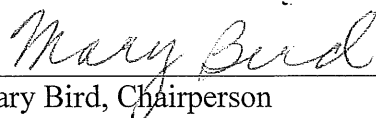
For the foregoing reasons, it is this 19<sup>th</sup> day of May, 2015, by the Alcoholic Beverage Hearing Board of Howard County, Maryland **ORDERED** that the application of Kee Dong Kim, Hong B. Kim, and Myoung B. Kim, on behalf of El Roi, LLC, t/a Huntington Deli Market, for a new Class A Beer and Light Wine 7-day off-sale license for a 2,000 square foot package goods store located at 7635 Murray Hill Road, Columbia, Maryland 21046, be and the same is hereby **DENIED**.

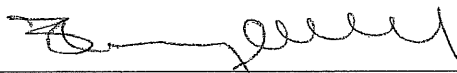


ATTEST:

ALCOHOLIC BEVERAGE HEARING  
BOARD OF HOWARD COUNTY,  
MARYLAND

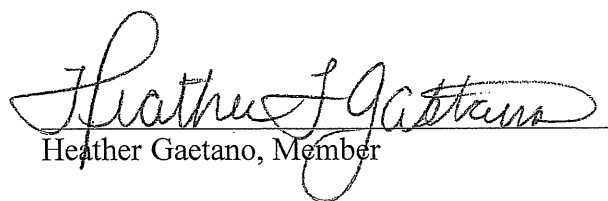
  
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Denise E. King  
Administrator


  
\_\_\_\_\_  
Mary Bird, Chairperson

  
\_\_\_\_\_  
Harry Evans, III, Vice-Chairperson

REVIEWED BY HOWARD COUNTY  
OFFICE OF LAW  
MARGARET ANN NOLAN  
COUNTY SOLICITOR

\_\_\_\_\_  
Charles C. Feaga, Member

  
\_\_\_\_\_  
Heather Gaetano, Member

  
\_\_\_\_\_  
Lewis Taylor, Esquire  
Assistant County Solicitor

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ABSTAIN  
Charley C. Sung, Member