

IN THE MATTER OF THE	*	BEFORE THE ALCOHOLIC
APPLICATION OF TIMOTHY JOSEPH	*	
MAYOTTE AND HO RAK PARK ON BEHALF	*	BEVERAGE HEARING
OF NIKO, INC., t/a NIKO JAPANESE	*	
RESTAURANT, FOR AN EXTENSION OF	*	BOARD FOR HOWARD
PREMISES ON A CLASS B BEER, WINE, AND	*	
LIQUOR 7-DAY ON-SALE LICENSE	*	COUNTY, MD
	*	
	*	Case No. 17-05

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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 10, 2017, 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, for an extension of premises on a Class B Beer, Wine, and Liquor 7-day on-sale license from a 1,625 square foot restaurant, to a 2,825 square foot restaurant located at 3570 St. Johns Lane, #102, Ellicott City, Maryland 21042. The hearing was properly advertised pursuant to the Alcoholic Beverages Article 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 September 16, 2016, from the attorney for the

Applicants enclosing the application; a copy of the floor plan; copies of the background investigation questionnaires for the Applicants; a memorandum dated October 21, 2016, 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 December 30, 2016; a memorandum dated November 15, 2016, from the Department of Planning and Zoning; an email dated October 25, 2016, from the Department of Inspections, Licenses, and Permits; a memorandum dated November 1, 2016, from the Bureau of Environmental Health; a letter dated December 14, 2016, from the Office of the Fire Marshal; a letter dated October 21, 2016, to the Department of Finance; letter from the Department of Finance; a letter dated October 21, 2016, to the Comptroller of the Treasury; a letter dated January 3, 2017 from the Comptroller of Maryland; a fax transmission dated October 21, 2016, from the Liquor Board Administrator to the attorney for the Applicants, enclosing a letter dated October 21, 2016, advising notification of the hearing date, and enclosing the required advertisement; and an e-mail dated December 22, 2016, 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., t/a Niko Japanese Restaurant, was sworn and testified that he is alcohol awareness certified, and that he has been a licensee for Niko, Inc., at this location since July 2016. Mr. Park testified that he has been happy with the restaurant, but would like a 1,200 square foot expansion so that he can have a larger sushi bar, and have more space to accommodate approximately 30

extra patrons.

Mr. Park testified that his prior restaurant was larger than his current restaurant, so he will have no problem with the increase of square footage.

Mr. Park testified he is at the restaurant when it is open, but his wife along with the managers are also alcohol awareness certified.

Timothy Joseph Mayotte, Authorized Member and 10% shareholder of Niko, Inc., t/a Niko Japanese Restaurant, was sworn and testified that he visits the restaurant so that he can observe the operation, approximately two times per month. Mr. Mayotte testified that he is familiar with the rules and regulations governing the sale of alcoholic beverages.

The following Exhibit was entered into the record:

Exhibit A – a copy of the floor plan

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 an extension of premises on a Class B Beer, Wine, and Liquor 7-day on-sale license from a 1,625 square foot restaurant, to a 2,825 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, a member and 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 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 Timothy Joseph Mayotte and Ho Rak Park, on behalf of Niko, Inc., t/a Niko Japanese Restaurant, have applied for an extension of premises on a Class B Beer, Wine, and Liquor 7-day on-sale license from a 1,625 square foot restaurant, to a 2,825 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 the application would not unduly disturb the peace and safety of the neighborhood.



**ORDER**

For the foregoing reasons, it is this 24<sup>th</sup> day of January 2017, by the Alcoholic Beverage Hearing Board of Howard County **ORDERED** that the application of Timothy Joseph Mayotte and Ho Rak Park (the "Applicants"), on behalf of Niko, Inc., t/a Niko Japanese Restaurant, for an extension of premises on a Class B Beer, Wine, and Liquor 7-day on-sale license from a 1,625 square foot restaurant, to a 2,825 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:

- (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 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

\_\_\_\_\_  
ABSENT  
Mary Bird, Vice-Chairperson

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

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

ABSENT AT TIME OF SIGNING  
Gene Ryan, Member

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

  
\_\_\_\_\_  
Charley C. Sung, Member