

IN THE MATTER OF THE	*	BEFORE THE ALCOHOLIC
APPLICATION OF ALYSSA BAKER	*	
HEINZ AND ROBERT ERIK	*	BEVERAGE HEARING BOARD FOR
MCCOLGAN ON BEHALF OF	*	
MODMARKET COLUMBIA, LLC,	*	HOWARD COUNTY, MARYLAND
t/a MODERN MARKET, FOR A NEW	*	
CLASS B, BEER AND WINE, 7-DAY	*	Case No.: 18-35
ON-SALE LICENSE	*	
	*	

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 August 23, 2018, the Hearing Board heard the application of Alyssa Baker Heinz and Robert Erik McColgan (“Applicants”), on behalf of Modmarket Columbia, LLC, t/a Modern Market (“Modern Market”), for a new Class B Beer and Wine, 7-day on-sale license for a 3,224-square foot restaurant, located at 6181 Old Dobbin Lane, Suite 200, Columbia, Maryland 21045. The hearing was properly advertised, and the property posted pursuant to the Alcoholic Beverages Article of the Annotated Code of Maryland. The Applicants were represented by Leanne M. Schrecengost, Esquire. There were no protestants who appeared in opposition to the application.

All the documents on file were incorporated into the record by reference.

SUMMARY OF TESTIMONY

Robert McColgan, co-founder of the Modern Market brand and current CEO, was sworn and testified that his personal information has not changed since the application was filed and

that he has no felony convictions. He testified that he lives in Colorado and oversees 30 restaurants nationwide and this restaurant is one of three located in Maryland. He testified that this restaurant has been open since February of 2018 and is a fast-casual restaurant serving salads, pizza and healthy food. Mr. McColgan stated that all the other Mod Market locations serve beer and wine and that the sale of alcohol will be approximately 4% of the total sales.

Mr. McColgan testified that the corporate policy is to card anyone that requests alcohol, that everyone on staff who serves alcohol is alcohol awareness certified, and that no vertical IDs will be accepted. He stated that signage will be posted near the cashier area where orders are taken stating the minimum birth date information for someone over the age of 21 and outlining the internal store policies including acceptable forms of ID and non-acceptable forms of ID.

Mr. McColgan testified that the restaurant currently has 28 employees, however, only 10 will be involved in the sale of alcohol, which includes 4 members of the leadership team and 6 cashier team members. He stated that there will be a secret shopping program used at this store with four mystery shops per month. The mystery shoppers will act as a guest and may or may not order alcohol but will make sure that all policies are adhered to.

Mr. McColgan testified that the hours of operation will be from 8 a.m. to 9:30 p.m., with breakfast being served until 10:30 a.m. He stated that alcohol will not be served until after 10:30 a.m.

Mr. McColgan testified that he has received and reviewed the Board's Rules and Regulations and will answer to the Board should any violation occur at this restaurant. He stated that he plans to make 8-10 trips per year to this location, however, he has a team to oversee this operation on a day-to-day basis and he will be relying on his senior management team based in this area as well as a training team that travels here frequently, along with the mystery shopper

program. He identified his senior coach for the region, Peter Driscoll, who is TIPS certified and manages the four restaurants in the D.C./MD area, and that he will always be readily available.

Mr. McColgan testified that there was a violation at a store in Montgomery County and that procedures were not followed - there was an unapproved schedule change which had a cashier on duty who was not TIPS certified and ID was not properly checked. The employee was immediately terminated, and Modern Market used this as an opportunity to review their rules and procedures. Policies that were in place were tightened up and new procedures now require that a certain number of employees on duty at any given time be alcohol awareness certified.

Mr. McColgan testified that there is no bar at this location. He testified that most alcohol is stored in the back of the restaurant in a storage area, however, there is some alcohol stored on shelving for presentation purposes so that customers are aware that beer and wine is available for purchase. Orders are placed with cashiers at the register and the cashier hands any alcohol directly to the guest after they are carded. The guest is then given a buzzer to alert them when their food is ready.

Ms. Schrecongost clarified that both applicants are authorized persons of Modern Market and that Mr. McColgan is a Class A member and is authorized to handle everything in the chain of command.

Alyssa Baker Heinz, proposed resident agent and 10% shareholder, was sworn and testified that her personal information has not changed since the application was filed and that she has no violation of alcohol laws or any felony convictions. Ms. Heinz testified that she has been a resident of Howard County for 32 years and is a registered voter. She testified that she has received and reviewed the Liquor Board Rules and Regulations and will abide by them.

Ms. Heinz testified that she lives about 20 minutes away from this location and plans to

visit this restaurant about once a month at various times of the day and will meet with management to set up a schedule and to meet staff. Ms. Heinz stated that should she witness any possible violation of liquor laws, she would immediately go to the manager on duty. Ms. Heinz testified that she has completed her alcohol awareness training and is waiting for the certificate to be issued.

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 Alyssa Baker Heinz and Robert Erik McColgan, on behalf of Modmarket Columbia, LLC, t/a Modern Market, have applied for a new Class B Beer and Wine, 7-day on-sale license for a 3,224-square foot restaurant, located at 6181 Old Dobbin Lane, Suite 200, Columbia, Maryland 21045.

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 Alyssa Baker Heinz has been a Howard County resident for more than two years, is a registered voter, and a 10% shareholder of Modern Market.

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 Alyssa Baker Heinz and Robert Erik McColgan, on behalf of Modmarket Columbia, LLC, t/a Modern Market, have applied for a new Class B Beer and Wine, 7-day on-sale license for a 3,224-square foot restaurant, located at 6181 Old Dobbin Lane, Suite 200, Columbia, Maryland 21045.

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 Alyssa Baker meets the requirements of Rules 1.10(S), 1.10(T), and 2.06 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 will not unduly disturb the peace and safety of the neighborhood.

ORDER

For the foregoing reasons, it is this 25th day of September 2018, by the Alcoholic Beverage Hearing Board of Howard County **ORDERED** that the application of Alyssa Baker Heinz and Robert Erik McColgan, on behalf of Modmarket Columbia, LLC, t/a Modern Market, for a new Class B Beer and Wine, 7-day on-sale license for a 3,224-square foot restaurant, located at 6181 Old Dobbin Lane, Suite 200, Columbia, Maryland 21045, be and the same is hereby **GRANTED**, subject to the following conditions:

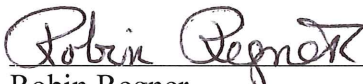
- (a) That the Applicants comply with all State and County laws and regulations; and
- (b) That the certificate for completion of the Alcohol Awareness Training Program for Alyssa Baker Heinz be submitted to the Board prior to issuance of the license;

and

- (c) That the Applicants satisfy any requirements necessary to obtain the license by December 25, 2018, unless that deadline is extended by the Board upon good cause shown; and
- (d) Failure to comply with these conditions shall render this Proposed Decision and Order null and void.

ATTEST:

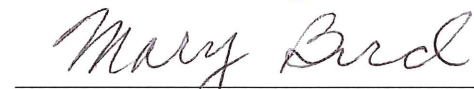
**ALCOHOLIC BEVERAGE HEARING
BOARD OF HOWARD COUNTY,
MARYLAND**



Robin Regner
Board Administrator



Heather Gaetano, Chairperson



Mary Bird, Vice-Chairperson


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



Charles C. Feaga, Member



Gene Ryan, Member



Lewis Taylor, Esquire
Senior Assistant County Solicitor

~~Absent AT TIME OF SIGNING~~

~~Charley C. Sung, Member~~