

PETITION TO FINE, SUSPEND, OR \* BEFORE THE ALCOHOLIC  
 REVOKE THE ALCOHOLIC \*  
 BEVERAGE LICENSE OF \* BEVERAGE HEARING BOARD  
 JUNG-SUN KIM ON BEHALF OF \*  
 SUNNY SIDE, INC. T/A PINE \* FOR  
 ORCHARD LIQUORS FOR A CLASS \*  
 A-1 BEER, WINE & LIQUOR 7-DAY \* HOWARD COUNTY, MARYLAND  
 OFF SALE LICENSE \*  
 \* Case No.: 21-52  
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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 August 25, 2020, September 14, 2020, October 19, 2020, January 12, 2021, and February 17, 2021, the Hearing Board heard the Amended Petition of Howard County, Maryland and Detective Mark Baxter, the Alcoholic Beverage Inspector (collectively “Petitioners”), to Fine, Suspend, or Revoke the Class A-1 Beer, Wine, and Liquor 7-day off-sale license of Jung-Sun Kim (“Licensee”), held on behalf of Sunny Side, Inc. t/a Pine Orchard Liquors (“Pine Orchard”) located at 10281 Baltimore National Pike, Ellicott City, MD 21042. The Licensee was represented by Kelcie Longaker, Esquire. The Alcoholic Beverage Inspector was represented by Tsega Girma, Esquire.

The hearing was properly advertised, and the property posted pursuant to the Alcoholic Beverages Article of the Annotated Code of Maryland. All the documents on file were incorporated into the record by reference.

## STIPULATIONS

The parties agreed to stipulate to the allegations of the Petition set forth below:

- On December 4, 2019, an underage male cadet was sent into Pine Orchard Liquors to purchase an alcoholic beverage.
- The underage cadet proceeded to the counter with a 750 ml bottle of Absolut Original Vodka, an alcoholic beverage.
- The cashier, Allen Yoo, conducted the transaction without asking for the cadet's identification, which would have shown that he was under the age of twenty-one.
- Detective Baxter photographed the evidence, returned it to the store, and was refunded the money.
- The licensee, Jung-Sun Kim, was in the establishment and was subsequently notified of the incident details.
- Violation of Liquor Board Rule 5.02(A) – Sales to Minors

## SUMMARY OF TESTIMONY

Interpreter, Sohyun Kim, was sworn in and interpreted the hearing.

**Battalion Chief Jeremy Clancy** was sworn in and testified on behalf of Howard County, Maryland (the "County"). Chief Clancy testified he is employed by the Howard County Department of Fire and Rescue Services and holds the position of Battalion Chief. Chief Clancy testified that the Office of the Fire Marshall ("Fire Marshall") has two divisions, code enforcement and fire investigation, both are focused on life safety. Chief Clancy testified that he is familiar with Pine Orchard and was first aware of Pine Orchard because of previous enforcement activities by the Fire Marshall. Chief Clancy testified as it relates to this petition, that the first time the Fire Marshall had involvement with Pine Orchard was on

July 3, 2018. Chief Clancy testified that several violations were issued to Pine Orchard over the span of a year and a half. Chief Clancy testified that the first visit to Pine Orchard on July 3, 2018 occurred because there were potential fire code violations. Chief Clancy stated that Lieutenant Craig Matthews was the representative from the Fire Marshall's office that visited Pine Orchard. Chief Clancy testified that Lieutenant Matthews found eleven violations.

Chief Clancy testified that the violations related to exit signs, improper emergency lighting, maintenance of fire protection systems, extension cords, storage of combustible material, installation and maintenance of portable fire extinguishers, obstructed exits, obstructed fire hydrants, improper locks, storage in front of electrical panels, storage clearance in sprinkled areas. Chief Clancy testified that if there was a fire present with all of the violations at Pine Orchard on July 3, 2018, there likely would have been a poor outcome, which could have included the loss of life. Chief Clancy testified that the Licensee was provided a copy of the notification, and Lieutenant Matthews indicated on the violation that he would return to the location on July 10, 2018. Chief Clancy stated that when Lieutenant Matthews returned to Pine Orchard, none of the violations were abated and new violations were discovered. Chief Clancy testified that because of these additional violations, a new violation notice was issued on July 10, 2018. Chief Clancy stated that the violations in the July 10, 2018 notice related to the improper use of extension cords, dumpsters needing to be relocated, improper locks, and storage in front of electrical panels. Chief Clancy testified that the Licensee received the July 10, 2018 violation notice.

Chief Clancy stated that the Fire Marshall did not return until a citizen complaint was received in December, 2018 that reported overcrowding in the store. The on-call representative did not find overcrowding in the store. Chief Clancy testified that the

following day, December 21, 2018, Lieutenant Matthews returned to the store and found that the violations from the previous notices were not abated and again found additional violations. Chief Clancy testified that the new violations of December 21, 2018 related to obstructed exits and door latching mechanisms. Chief Clancy further testified that on the violation date, the Licensee refused entry by the Fire Marshalls to inspect the premises. Chief Clancy testified that after the December 21, 2018 visit, the Fire Marshall returned to Pine Orchard on January 8, 2019. Chief Clancy testified that on January 8, 2019, it was discovered that several violations were abated. Chief Clancy specifically identified that violations related to extension cords, report for the inspection of the fire protection system, exit signs, portable fire extinguishers, emergency lighting, storage clearance of the sprinkler areas, and obstructed fire hydrants were abated. Chief Clancy testified, however, that there were still a number of violations that remained unabated. Chief Clancy further testified that for one of the violations related to changing the “roll-up” door, that the Licensee removed an exit sign which affected one of the egress locations on the property. This created a new violation by the Fire Marshall related to means of egress and obstructed exits.

Chief Clancy testified that the next visit from the Fire Marshall was on October 4, 2019, and it was completed by him and Lieutenant Matthews. Chief Clancy testified that on the October 4, 2019 visit, they discovered new violations; however, several of the previous violations were abated. Chief Clancy testified that one of the new violations was the failure to comply with the annual report for the fire protection systems. Chief Clancy testified that the violations that remained unabated were violations related to the inspection and testing of the fire protection system, the roll-up door remaining over the rear exit door, the removal of the sign from the rear marked exit door, and blocked egress outside of the rear exit door.

Chief Clancy testified that they returned to Pine Orchard on November 6, 2019. Chief Clancy testified that the Licensee had not made any progress on abating the remaining violations. Chief Clancy testified that they visited on December 20, 2019, and the violations continued to be unabated. Chief Clancy indicated that the decision was made to issue the Licensee citations for the continued unabated violations. Chief Clancy testified that Lieutenant Matthews returned on December 23, 2019 and found new obstructions to the basement door of Pine Orchard. Chief Clancy testified that eventually the Licensee abated all citations, and the total citation penalty amount was \$60,750.00. Chief Clancy testified that they offered the Licensee a settlement in the amount of \$10,750.00 and she paid the settlement amount in lieu of standing trial. Chief Clancy testified that throughout the violation/citation process with the Fire Marshall, the Licensee was uncooperative at times and moved very slowly in abating the fire code violations.

**September 14, 2020 testimony:**

**Captain Craig Matthews** was sworn and testified for the County.

Captain Matthews testified that he has worked for Howard County Fire and Rescue Services for over 19 years and has been assigned to the Fire Marshall's office for the past ten months. He testified that he is one of two captains who have supervisory roles in the fire investigation division, which handles code enforcement. He testified that prior to becoming a captain he was a lieutenant assigned to fire investigations. Captain Matthews stated that he is familiar with Pine Orchard because he was notified by an engine company in early July, 2018 of a fire alarm and related code violations. He testified that, at that time, he was the on-call fire investigator, and investigated the fire violations and was the first person who issued a notice of violation to Pine Orchard in July, 2018. Captain Matthews said that he heard the

testimony of Chief Clancy at the earlier hearing, and that it was accurate regarding violations at Pine Orchard, and that he would adopt Chief Clancy's testimony as his own. He testified that his interaction with the Licensee over several months was sometimes respectful on her part, and at other times she was disrespectful and deceptive. He stated that the Licensee has denied him access to the premises and screamed at him, and he does not believe she is capable of complying with fire codes and regulations.

Captain Matthews testified that he was at Pine Orchard approximately 6-8 times with approximately 7 days between each visit, although it sometimes varied. He testified that an e-mail would be generated after each visit, typically within a day or two; however, a supervisor has to approve the violation so it would sometimes take longer. He testified that he thought the violations at Pine Orchard put the public at harm, specifically violations related to obstructed exits and storage in front of electrical panels that appeared to be in working condition. He noted that if an electrical panel is not operational, it should be removed. Captain Matthews testified that the Licensee denied him access to the store on July 3, 2018, the first visit, and again on December 21, 2018. He testified that the Licensee was not at the store on December 21, 2018 when they initially arrived at Pine Orchard, but they waited outside until she returned, at which time, she refused them access. Captain Matthews testified that the Licensee claimed that the inspectors always target her during the busy season, and it was a bad time to do inspections. Captain Matthews testified that they advised her that they were not only at Pine Orchard for a re-inspection, but also for a new complaint regarding blocked exits and overcrowding.

Captain Matthews testified that the focus of a re-inspection is generally regarding the previous violations; however, if they found additional violations, they are required to

document those violations. He testified that the Licensee's demeanor varied on his visits. He stated that he never raised his voice or threatened the Licensee. Captain Matthews testified that he never told the Licensee that, for example, if a beer bottle was out of place he would shut her down. He testified that it generally takes a business owner until the follow up inspection to mitigate a fire code violation. He stated that he has only had one other business take over a year and a half to abate a fire code violation. There were many visits in which the Licensee had not abated any of the previous violations. Captain Matthews testified that issuing citations for violations is a last resort. Captain Matthews testified that the Licensee ultimately abated the violations in January, 2020. Captain Matthews also testified that he felt that the Licensee could understand the violations they were asking her to abate. He also testified that the Licensee never indicated to him that she does not speak, read, or understand English. Regarding the County's Exhibits concerning the violations, Captain Matthews testified that the Licensee received each notice of violation that was e-mailed to her, and that the violations were outlined in the notice.

**Allen Yoo**, son of the Licensee and employee at Pine Orchard, was sworn in and testified as follows:

Mr. Yoo testified that he has been employed as a cashier at Pine Orchard for approximately two years. He testified that his job entails helping customers, stocking inventory, working the cash register and sweeping up. He testified that he has a degree in Communications from Salisbury University, and that he has previously worked at the Cheesecake Factory in Tyson's Corner, Virginia, as well as two other liquor stores. He stated that he has never had an alcoholic beverage violation at any of his previous jobs, and that he is alcohol awareness certified. Mr. Yoo testified that he is the employee who made the underage

sale that is outlined in the Petition. He testified that, on that day, he rang up two customers who purchased alcohol and after they left, Detective Baxter came in to let him know that they were underage cadets. Mr. Yoo said that he was very distraught and let his mother know what had happened.

He testified that since receiving the violation, he has taken remedial alcohol awareness training with Martin Johnson, who came to the store and trained him for at least two hours. Mr. Yoo testified that the store has instituted a new carding system, Intelliscan, that scans IDs to assure that they are legitimate. Mr. Yoo testified that he now trains other employees in the store. He also testified that they have increased the number of staff and have made sure all the cashiers are alcohol awareness trained. Mr. Yoo testified that they now ID anyone who appears to be under 40 years of age, and that there are signs in the store to that effect. If a customer refuses to show their ID, they are asked to leave. Mr. Yoo stated that he is very sorry for what happened, and he is very distraught over the underage sale violation. Mr. Yoo testified that he took the supplemental alcohol awareness training approximately seven months after the violation at the request of his mother. Mr. Yoo testified that the training was delayed after his mother attempted multiple times to schedule the training.

**Ronald Johnston**, Architect, was sworn and testified for the Licensee:

Mr. Johnston testified that he has been an architect since 1994, and that he owns his own architectural firm, Ronald Johnston and Associates Architects. He testified that he was retained by Covey Construction and Consulting, who were asked by the Licensee to help her deal with the permitting process and help her resolve her fire code violations. He stated that he first met with the Licensee on January 3, 2020 and prepared a floorplan of the building and an Interior Alteration Plan. Mr. Johnston testified that the Department of Inspections,



Licenses, and Permits (DILP) required him to create a demolition plan showing a drawing as if there was an exit that was removed and replaced by a roll-up door and then provide a proposed plan that an exit sign was being removed from the roll-up door. Mr. Johnston testified that he doesn't believe there was ever an exit door, landing, and/or stairs in that location as it appears to be a loading platform, and it doesn't appear to have ever been modified. He testified that in his experience, roll-up doors are not designated as exit doors as they do not meet fire safety codes for exit doors.

Mr. Johnston testified that he is familiar with most of the violations the Licensee received. He testified that she had two choices regarding the violation concerning the roll up door. One was to remove the exit sign and the other was to make the roll-up door a swing door with stairs, both of which would have required permit applications and approval from DILP. Mr. Johnston testified that this documentation would have to be submitted by an architect or engineer showing what was existing and what was proposed. Mr. Johnston testified that he prepared a set of drawings and made application for a permit in January, 2020. He said DILP's review of the plan indicated that there was no problem with removal of the exit sign, but they felt another exit sign was needed in another location. Mr. Johnston testified that he disagreed with the assessment and made a new sketch to be submitted to DILP. He testified that on July 13, 2020, he walked the plan with the Fire Marshall's office and DILP and after some revisions, the submission was approved, construction was completed, and the use and occupancy permit was issued. He testified that the current status of the changes to the floorplan is complete and an inspection by the Fire Marshall's Office and by DILP has been done and all violations have been abated. He testified that the original building is quite old and has been added onto and modified several times, and he could not

tell if the previous modifications had been approved by DILP. He testified that he primarily assisted the Licensee in mitigating the violations related to the exit sign and roll-up door.

**October 19, 2020 testimony:**

**Preliminary Motion made on behalf of the Licensee, Ms. Kim**

Ms. Longaker, on behalf of the Licensee, requested that Hearing Board Member Evans be recused from the proceedings because she believed that Mr. Evans was watching television during the September 14th hearing and was concerned as to whether he was fully participating. Further, Ms. Longaker indicated that during the testimony by Mr. Yoo, Board Member Evans stated that he conducted a survey of teenagers and that they indicated Pine Orchard is the place to go if you are underage and want to buy alcohol. Ms. Longaker indicated that these comments show that Mr. Evans has reached a conclusion on this case, is considering facts outside of the record, is highly prejudicial, and demonstrates a bias against the Licensee.

Ms. Girma stated that the record is clear that Mr. Evans has been paying attention and asking informed questions. Additionally, Ms. Girma argued that Mr. Evans and the Hearing Board are capable of adhering to the record before them in making a decision in this matter, and they can be instructed to limit their decision to the record presented by the parties in this matter.

After consideration, the Hearing Board denied the request to recuse Mr. Evans, because any appearance of distraction by Mr. Evans was minor and not sufficient for him to be removed, and secondarily, the comments made related to underage drinking, would not be considered by the Hearing Board especially since the Licensee has already stipulated to the underage sale to a minor.

**Licensee, Jung Sun Kim,** was sworn and testified as follows:

The Licensee testified that she is the owner of Pine Orchard and purchased the business in 2004. She testified that she has seen the Petition and understands it includes violations to Liquor Board Rule 4.04, compliance with Rules and Regulations; Liquor Board Rule 3.03, cooperation by License Holders; Liquor Board Rule 4.08, License Holders responsibility, Liquor Board Rule 5.02(A), Sales to Minors, and Liquor Board Rule 5.08, Acts Contrary to Law. The Licensee testified that she stipulates to the violation of Liquor Board Rule 5.02(A), Sales to Minors and admits fault to only that violation. She stated that the facts that she is stipulating to relate to the sale to a minor on December 4, 2019, however, the second set of allegations come from the Fire Marshall's Office, and she does not stipulate to them.

As to the sale to the minor, the Licensee testified that she was working in the store on December 4, 2019 and that Allen Yoo, her son, is the person who made the sale to the minor. The Licensee stated that this was not her first sale to minor violation; however, the previous violations were approximately ten and sixteen years ago. The Licensee testified that in 2019, the store had 300,368 sales to customers, which equates to 854 sales per day. She testified that her busiest month is December, and the busiest week is the week of Christmas. She testified that she has received several commendations over the past ten years, including several commendations from the Health Department and the County Executive. The Licensee testified that, at the time of the violation, she had approximately 23 employees, and she currently has between 28-31 employees.

The Licensee indicated that she has more employees because she has increased the number of cashiers, and many people are looking for employment because of COVID. The

Licensee stated that she now has a carding system in place, which she implemented soon after the violation. She testified that employees now check identification of anyone who appears to be under 40 years old and there is signage in the store regarding this policy located next to the cash register. She testified that she also has an employee handbook that is located at each cash register and that each employee must sign off on before being employed. She testified that Mr. Yoo signed the handbook after the sale to the minor and she obtained additional training for her staff from Alcohol Beverage consultant, Martin Johnson. She further discussed the training provided by Mr. Johnson in July 2020 was delayed due to COVID-19. The Licensee testified that she and her employees received supplemental alcohol awareness training and received certificates in January of 2020, which documented their completion of the training. Additionally, the Licensee stated they purchased a machine that detects fake licenses.

The Licensee testified that she has not made alterations to the ingress and egress of the building since her purchase in July, 2004. The Licensee testified that representatives from the Fire Marshall's office came to the store on July 3, 2018. The Licensee stated that she was at the store, but they asked for the manager. She initially didn't know they were in the store because she was in her office. The Licensee testified that she asked for the report from the Fire Marshall in order to fix the violations that they found in their inspection. The Licensee indicated that she received the report on July 6, 2018 and the report indicated that the Fire Marshalls would return on July 10, 2018. The Licensee testified that she was not able to correct any of the citations in the report before they returned as she needed to hire people to address the problems. She also testified that she placed an order for an e-conolight on July 6, 2018 and it had not arrived at the time of the second visit. She stated that she showed the

order to the Fire Marshall inspectors and she was told that it didn't matter. The Licensee testified that it seemed like they were conducting a Fire Marshall inspector training in her store during their visit to the store on July 10, 2018.

The Licensee testified that the violations noted on the re-inspection report were different from the violations on earlier reports, and that she believed new violations were added to the previous violation reports. The Licensee testified that the violations seemed to change week to week, and that she had a hard time determining what needed to be addressed. The Licensee testified between July 10, 2018 and August 7, 2018. She testified that she got an electrician to fix electrical problems, and sent a memo to the employees about where to place boxes, and she fixed other issues regarding the fire extinguisher.

The Licensee testified that the next visit to the store was on December 21, 2018. The Licensee testified that she was at the bank when the Fire Marshall arrived at the store. The Licensee stated that she asked her employee to ask the Fire Marshalls to wait for her return. The Licensee testified that when she arrived, the Fire Marshalls were waiting near the front door outside of the store. The Licensee stated that Captain Matthews told her that they had received a call from 911, and that they wanted to see the back door. The Licensee testified that there were a lot of customers in the store, but she never refused their entry. The Licensee testified that the Fire Marshalls identified boxes stored near the exit doors, and she asked her employees to clear them away from the exit doors.

The Licensee testified that the reports indicating that she refused the Fire Marshalls entry into the store is not accurate. She testified that the first three visits from the Fire Marshall were complaint visits and not reinspection visits, and that she had taken steps to fix the violations.

The Licensee testified that the January 8, 2019 report for a re-inspection that she received is not the same as the report provided by the County as evidence in this case. The Licensee testified that she believed that this inspection report was to re-inspect all of the items that were outstanding and that she found the reports very confusing. She stated that she thought everything else had been corrected except for the outstanding violations on the January 8, 2019 report.

The Licensee testified that the Fire Marshalls had come in 2016 and told her to remove an exit sign. When she relayed that to Detective Matthews in January of 2019, he accused her of lying. She testified that the next time the Fire Marshall came was on October 4, 2019, which was nine months after their prior visit, and that at that time, she did not believe there were any outstanding fire violations. She stated that Captain Matthews and Chief Clancy both came on that visit and went to the storage room and there were boxes in front of the heater. The Licensee testified that Chief Clancy stated she didn't have to move them immediately since they were working and the boxes had just been delivered. She testified that she told Chief Clancy that the water heater was not working and had been replaced by a smaller one, and that he told her that if they did not use the water heater, they could leave the boxes there, but it appeared that Captain Matthews was in disagreement with Chief Clancy.

The Licensee testified that Chief Clancy asked her who her fire prevention company was and she told him that she used Johnson and Johnson. She stated that he suggested that he also knew of the company, Guardian, and said he would contact them for her. She testified that after that conversation, she thought things were finally resolved, as her understanding was the fire prevention company issue was the only remaining concern from the Fire Marshall.

**January 12, 2021 testimony:**

**Licensee, Ms. Jung-Sun Kim**, testified that she had a contract with Guardian Fire in place for a fire suppression plan and presented a contract dated July 11, 2018. The Licensee testified that she also had contracts with Johnson Controls and Tyco, which are fire alarm inspection and testing companies. The Licensee stated as of December 2019, Johnson Controls did not identify any issues with her fire alarm. The Licensee testified that she had additional exit signs installed as a result of the Fire Marshall's visits. The one at the center of the store was installed in 2016 showing an exit to the back door of the building. The Licensee stated that she did not get a permit when she installed the exit sign. The Licensee testified that she hired someone to paint an orange area outside the delivery door so that employees and delivery personnel would know that nothing should be placed in this area. The Licensee did this because she was told by the Fire Marshalls that she would receive a \$1,000.00 per day fine if she had anything in front of a delivery door. The Licensee testified that the Fire Marshall suggested that she change the roll-up door to a different kind of entrance, but that there is a slope from the parking lot to the roll-up door, which would make it impossible to change the door to a swinging type of door.

The Licensee testified that she also put yellow and red tape in front of an electrical panel to indicate that nothing should be placed there, because she received a citation for blocking the electrical panel. The Licensee also stated that she installed a sign in front of a separate electrical panel indicating that nothing should be placed in front of it. In addition, the Licensee testified that she put a red mark in front of another electrical panel where she received a violation, and placed signs indicating nothing should be placed in front of it. She testified that she also put tape and signs in front of the HVAC unit, although the Fire Marshalls were not clear if this was required. The Licensee testified that she also put tape in

front of and signs above the water meter to ensure the area was clear.

The Licensee testified that some of the Fire Marshall reports were very confusing; she was first told to change the delivery roll-up door to a swing door, and was later told that she could simply remove the exit sign and keep the rolling door. The Licensee questioned why she would have to remove a roll-up door that has been in place for over fifty years. The Licensee testified that she has a padlock on a door; however, it has been removed.

She testified that there was a non-working water heater that had storage in front of it, and she ultimately got a violation for storing things too close to the water heater. The Licensee testified that she abated all the violations that were issued against her. The Licensee testified that she was not present for every visit from the Fire Marshall's office and she never denied access to the Fire Marshalls and she never directed her employees to deny them access. The Licensee testified that there was a time when she lost the key to the padlock and the Fire Marshalls told her to remove the padlock.

The Licensee testified that she ultimately paid a settlement of approximately \$10,000 on the citations.

**Feb 17, 2021 testimony:**

**Licensee, Ms. Jung-Sun Kim,** testified that she is the only person on the liquor license for Pine Orchard and used to run the daily operations of the store until four years ago when she hired a new manager. The Licensee, testified that she and the manager share duties, but she understands that she is ultimately responsible for the liquor license. She testified that currently her manager and her son are responsible for ordering inventory of alcohol. However, she acknowledged that it is her responsibility to oversee the operations because it is her building and business. The Licensee testified she employs more than 20 people, although



it varies during the year. The Licensee testified that she handles the payroll and other matters for the employees. The Licensee testified that, in 2019, she had more than \$25,000,000 in sales for the year. The Licensee testified that the store is open 7 days a week, and she sometimes works many hours before and after it is open. The Licensee testified that she does not operate an easy business. She testified that she does not require an interpreter on a day-to-day basis because she can speak simple English and has spoken in English to Fire Marshalls. The Licensee testified that, when interacting with Chief Clancy and Captain Matthews, she has never requested an interpreter.

The Licensee testified that she does not dispute that, beginning July 3, 2018 and subsequent dates after, the Fire Marshalls approached her regarding several fire code violations. The Licensee testified that Mr. Ron Johnston, architect, filed permits on her behalf with the Department of Licensing and Permits. The Licensee testified that Mr. Johnston submitted architectural drawings on her behalf. The Licensee testified that Mr. Johnston submitted the architectural drawings and permits on her behalf beginning January of 2020.

The Licensee testified that in December of 2019, the Fire Department issued citations against her that had daily accruing fines. The Licensee testified that the underage sale occurred in December, 2019. The Licensee stated she retained Martin Johnson to help ensure that underage sales did not occur, and he installed a second carding system and conducting training for the employees on how to eliminate underage sales. The Licensee testified that the training was conducted in July of 2020, and it was delayed because of COVID-19. The Licensee testified that her management was faulty in the operation of the business as it relates to scheduling the training between the time of the underage sale violation and March, 2020.

The Licensee testified that she believes she is being targeted by the Fire Marshall's

office. The Licensee stated that she never met Chief Clancy before July, 2018. The Licensee testified that she recalls testifying that she had more than 300,000 customers in December, 2019. The Licensee testified that she paid approximately \$10,000 as a settlement for the citations issued by the Fire Marshall. The Licensee testified that she was afraid and did not trust the County, so she paid it. The Licensee recalled that she gave testimony that her busiest time is between Christmas and New Year. The Licensee testified that at the time she got her license she told the Hearing Board that she was familiar with the Hearing Board's Rules and Regulations. The Licensee testified that she does not believe she has been a good operator of her license, and that she will try to do better and learn from the mistakes that have been made. The Licensee testified that this has been her most difficult time since she has owned the business.

The Licensee testified that she may have been inefficient in resolving the Fire Code violations, but she believes she was cooperating. The Licensee testified that she may have ordered too much product, which caused the boxes to be put in places where they should not be, and that she has changed her ordering habits so that it no longer happens. The Licensee testified that the store is currently open from 9am – 9pm, 6 days a week and 10am - 8pm on Sundays. She testified that she spoke with the inspectors in English, but did not understand that there were serious penalties to the violations. The Licensee testified that that she sometimes uses an interpreter, generally a family member or co-worker, to communicate in her day-to-day business. The Licensee testified that she did not use an interpreter when communicating in person with the Fire Marshalls.

The Licensee testified that she did not hire Ron Johnston directly. She stated that the builder of her inventory warehouse hired Mr. Johnston. The Licensee stated that she asked

Mr. Johnston to go to DILP to address any permits regarding the Fire Marshall's violations. The Licensee testified that the violations related to the signs were confusing to her and Mr. Johnston. The Licensee stated that Mr. Johnston told her that he did not believe another door was necessary. The Licensee testified that, after DILP came to the store with Mr. Johnston and walked the property, they ultimately agreed that another door was not necessary as long as some things were repositioned within the store. The Licensee testified that the Fire Marshall never came back to the store after the repositioning of items within the store and DILP approval.

The Licensee testified that she settled her dispute with the Fire Marshall in the amount of \$10,000 in fines after all of the violations were abated. The Licensee testified that the proposed fine was \$60,000, however, she negotiated a \$10,000 fine after the violations were addressed. The Licensee testified that the Fire Marshalls informed her that if she disputed the fines, she would have to go to court.

The Licensee testified that she first obtained a liquor license in Howard County 17 years ago. The Licensee testified that she first received a liquor license in another jurisdiction in 1990. The Licensee testified that when she applied for her license in Howard County, she reviewed the rules and regulations. The Licensee testified that when she renews her license yearly, she reviews the regulations. The Licensee testified that she first hired consultant Martin Johnson for her business in 2013 when she had a prior violation of an underage sale. The Licensee testified that Mr. Johnson has previously trained her employees and that she has used him to train her employees every four years. The Licensee testified that she has never had any other issues with the Fire Marshall before those discussed in this case. The Licensee testified that she has been working for 32 years, and this is the first time she has ever had to

deal with anything like this and that she was disappointed in the way the Fire Marshalls treated her case.

The following exhibits were submitted into the record:

**County Exhibits:**

- #1 – *Howard County Fire and Rescue Inspection 7/3/18*
- #2 – *Howard County Fire and Rescue Inspection 7/10/18*
- #3 – *Howard County Fire and Rescue Inspection 12/21/18*
- #4 – *Howard County Fire and Rescue Inspection 10/4/19*
- #5 – *Howard County Fire and Rescue Inspection 10/4/19*
- #6 – *Howard County Fire and Rescue Inspection 12/20/19*
- #7 – *Fire Marshall Civil Citations*
- #8 – *Howard County Fire and Rescue Inspection 4/4/16*

**Licensee Exhibits:**

1. *Ron Johnston Resume*
2. *Pine Orchard Liquors Architectural Plans*
3. *SD Ext. Plan Rev Pine Orch*
4. *Rev PS Pine Orchard Liquors Sheet A-2*
5. *Pine Orchard Liquors Misc. Docs.*
6. *Sales Report 4844-0647-3931*
7. *1/19/18 Howard County Health Department*
8. *12/14/18 Howard County Health Department*
9. *12/14/18 Howard County Health Department2*
10. *12/14/18 Howard County Health Department3*
11. *11/23/19 Howard County Health Department*
12. *3/7/20 Howard County Health Department*
13. *1/20/19 Letter from Howard Co. Exec.*
14. *2/3/21 Letter from Howard Co. Exec.*
15. *Actions letter to Sun signed*
16. *Alcohol Awareness Certificate – Sun Kim*
17. *Alcohol Awareness Certificate – Employee*
18. *2016 Fire Marshal Report*
19. *E-conolight Order Information*
20. *7/10/18 Ho. Co. Fire Marshal Inspection Report*
21. *1/8/19 Ho. Co. Fire Marshal Inspection Report*
22. *Guardian 2018 Contract*
23. *Fire Alarm Inspection Report Tyco (not admitted)*
24. *Fire Alarm Inspection Report Johnson*
25. *Interior Exit Sign Green (not admitted)*
26. *Ceiling Clearance (not admitted)*

27. *Delivery Door 1 (not admitted)*
28. *Delivery Door 3*
29. *Delivery Door and Storage Door 2*
30. *Delivery Door Ramp*
31. *Electrical Panel 2*
32. *Electrical Panel 3*
33. *Electrical Panel 4*
34. *Electrical Panel*
35. *Fire Code Sign*
36. *HVAC*
37. *Interior Exit Sign Red*
38. *Pipe*
39. *Rolling Door*
40. *Rolling Door outside*
41. *Storage Area Interior door*
42. *Storage Area*
43. *Storage Door inside*
44. *Water Heater*

#### **POST HEARING MOTIONS**

The Licensee, through her Counsel's Closing Argument Memorandum, requested the County's Petition be denied on its face because the County alleged in its Petition that the "Board's authority derives from Article 2B of the Maryland Code" and that Article 2B was repealed in 2016. In the alternative, the Licensee argued that the Hearing Board use the current version of the law "known as [the] Alcoholic Beverages Article."

The Licensee is correct that the current version of the state law which this Hearing Board derives its authority is known as the Alcoholic Beverages Article. However, her claim is incorrect that the Amended Petition indicates that the Hearing Board's authority is derived from Article 2B of the Maryland Code. The reference to Article 2B of the Maryland Code in the Amended Petition is speaking to the Petitioners' (Howard County, Maryland and Det. Mark Baxter) authority to file a Petition to Fine, Suspend, or Revoke an Alcoholic Beverage License. This reference does address the Hearing Board's authority. Further, while this

reference is an error in citing to an older version of the law, it is not a material mistake. Additionally, this motion made by the Licensee is typically made prior to the commencement of proceedings as opposed to a post hearing motion. The Licensee proceeded with the violation case on August 25, 2020 without any objection to the County's Amended Petition and also stipulated to several allegations in the County's Amended Petition. Thus, the Licensee waived the ability to request that the County's Amended Petition be dismissed.

This Hearing Board denies the Licensee's Motion to Dismiss County's Amended Petition to Fine, Suspend, or Revoke Alcoholic Beverage License.

Additionally, the Licensee argued that the Hearing Board lacks subject matter jurisdiction to address Fire Code violations and should dismiss the violations alleged under Liquor Board Rule 3.03, 4.04, 4.08, and 5.08. In the alternative, the Respondent request that the Hearing Board issue the appropriate fines as a sanction. Section 4-604 of the Alcoholic Beverages provides discretionary grounds and mandatory grounds that a local licensing board may revoke or suspend a license. The discretionary grounds provide that "a local licensing board may revoke or suspend a license: (1) for any reason to promote the peace or safety of the community in which the premises are located; or (2) for offenses as provided in this article." (See Section 4-604(a) of Alcoholic Beverages Article). Additionally, Section 23-2102 of the Alcoholic Beverages Article provides that specifically in Howard County "[i]n addition to the grounds for revocation or suspension in § 4-604 of this article, the Board may revoke or suspend a license if the Board finds that a license holder or an agent or employee of a license holder has violated this article or a rule or regulation of the Board." The law is clear that this Hearing Board has ability to determine if there has been a violation of its Liquor Board Rules to include

Liquor Board Rule 3.03, 4.04, 4.08, and 5.08 and if there is a violation of those rules to issue a suspension or revocation of a license.

Thus, this Hearing Board denies the Licensee's motion claiming that this Hearing Board lacks subject matter jurisdiction.

### **FINDINGS OF FACT**

- The Hearing Board finds that Jung-Sun Kim is a licensee on behalf of Sunny Side, Inc. t/a Pine Orchard Liquors, a Class A-1 Beer, Wine & Liquor 7-day off-sale license located at 10281 Baltimore National Pike, Ellicott City, MD 21042.
- At all times relevant to these proceedings, Jung-Sun Kim was responsible for the operation of Pine Orchard Liquors and was responsible for ensuring compliance with all local and State laws concerning her liquor license.
- Detective Mark Baxter, Petitioner, at the time of the Petition, was a sworn Howard County Police Officer, specially assigned and designated, pursuant to the applicable laws, as the Alcoholic Beverage Inspector for Howard County. In this capacity, he has the obligation, duty, and responsibility to investigate any licensed liquor establishment for any violations of the applicable liquor or other laws which may occur in the licensed establishment.
- Howard County, Maryland, is a chartered county, organized pursuant to law, and has the authority, through the exercise of its police power, to enforce all of the laws relating to alcoholic beverages.
- On December 4, 2019, an underage male cadet was sent into Pine Orchard Liquors to purchase an alcoholic beverage.
- The underaged cadet proceeded to the counter with a 750 ml bottle of Absolut Original

Vodka, an alcoholic beverage.

- The cashier, Allen Yoo, conducted the transaction without asking for the cadet's identification, which would have shown that he was under the age of twenty-one.
- Detective Baxter photographed the evidence, returned it to the store, and was refunded the money.
- The Licensee, Jung-Sun Kim, was in the establishment and was subsequently notified of the incident details.
- Ms. Jung-Sun Kim as a Licensee for Pine Orchard Liquors has been previously found by the Howard County Alcoholic Beverage Hearing Board to have violated Liquor Board Sale to Minor provisions in 2008 and 2010.
- After the sale to a minor violation in 2019, Ms. Kim increased the number of cashiers, had a new carding system in place, and her staff received training from alcoholic beverage consultant, Martin Johnson.
- Battalion Chief Jeremy Clancy and Captain Craig Matthews are employed by the Howard County Department of Fire and Rescue Services and are assigned to the Office of the Fire Marshall.
- On July 3, 2018, Captain Craig Matthews visited the Pine Orchard Liquors and found numerous fire code violations.
- Ms. Jung-Sun Kim was issued an inspection report with numerous fire code violations for Pine Orchard Liquors and was informed that the Office of the Fire Marshall would return on July 10, 2018 for a re-inspection.
- Many of the fire code violations found on July 3, 2018 needed to be abated immediately



due to concerns of life safety.

- The Office of the Fire Marshall returned on July 10, 2018, and none of the violations were abated. Additionally, the Office of the Fire Marshall found new fire code violations and issued an inspection report with new violations that needed to be abated. The Office of Fire Marshall informed Ms. Jung-Sun Kim that they would return on or about August 7, 2018 for a re-inspection.
- The Office of the Fire Marshall returned on December 20, 2018 and December 21, 2018 and found that the violations from the previous inspection reports in July remained unabated.
- Ms. Jung-Sun Kim was uncooperative with the Office of the Fire Marshall by not allowing them access to inspect the basement storage area of Pine Orchard Liquors on December 21, 2018. Additionally, the Office of the Fire Marshall found new violations and issued an inspection report with new fire code violations that needed to be abated. The Office of Fire Marshall informed Ms. Jung-Sun Kim that they would return on or about January 4, 2019 for a re-inspection.
- The Office of the Fire Marshall returned on January 8, 2019 and several violations were abated; however, there were many violations that remained unabated. Additionally, the Office of the Fire Marshall found new fire code violations.
- The Office of the Fire Marshall returned to Pine Orchard Liquors on October 4, 2019 and several violations were abated; however, there were several of the previous fire code violations that remained unabated. Additionally, the Office of the Fire Marshall found new fire code violations and issued an inspection report with new fire code violations that needed to be abated. The Office of Fire Marshall informed Ms. Jung-Sun Kim that they

would return on or after October 21, 2019 for a re-inspection.

- The Office of the Fire Marshall returned to Pine Orchard Liquors on November 6, 2019 and Ms. Kim had not made any progress on the abating the remaining fire code violations.
- The Office of the Fire Marshall returned to Pine Orchard Liquors on December 20, 2019 and the remaining fire code violations continued to be unabated.
- The Office of the Fire Marshall issued Ms. Jung-Sun Kim civil citations for the continued unabated fire code violations. There were in total 8 civil citations issued to Jung-Sun Kim. The civil citations issued had daily accruing fines.
- The issuance of the civil citations by the Office of the Fire Marshal is a last resort to get compliance of unabated fire code violations.
- Mr. Ronald Johnston, is an architect, that helped Ms. Kim mitigate some of her fire code violations.
- Ms. Jung-Sun Kim abated all of the violations noted on the civil citations; however, the citation fine penalty was \$60,750.00. The Office of the Fire Marshal offered Ms. Jung-Sun Kim a settlement amount of \$10,750.00 and she paid the settlement amount in lieu of standing trial.
- Ms. Jung-Sun Kim was uncooperative with the Office of the Fire Marshalls during inspections and by slowly abating the fire code violations.
- The Hearing Board concludes that the Licensee has violated:
  - Liquor Board Rule 3.03 – Cooperation by License holders;
  - Liquor Board Rule 4.04 - Compliance with Laws and Regulations;
  - Liquor Board Rule 4.08 – License holder’s Responsibility;

- Liquor Board Rule 5.02(A) - Sales to Minors; and
  - Liquor Board Rule 5.08 - Acts Contrary to Law.
- The Hearing Board concludes that it is not necessary to revoke the License, but in order to ensure compliance with the law and Rules and Regulations, and protect the public health and safety, it is necessary to impose a one-week suspension, a fine of Five Thousand and 00/100 Dollars (\$5,000.00), and a fee of Two Hundred Seventy and 00/100 Dollars (\$270.00) for the cost of the hearing as provided by Rule 7.05(B).

### **CONCLUSIONS OF LAW**

1. The Hearing Board concludes that Jung-Sun Kim is a Licensee on behalf of Sunny Side, Inc. t/a Pine Orchard Liquors, a Class A-1 Beer, Wine & Liquor 7-day off-sale license located at 10281 Baltimore National Pike, Ellicott City, MD 21042.

2. The Hearing Board concludes that the Licensee has violated:

- Liquor Board Rule 3.03 – Cooperation by License holders;
- Liquor Board Rule 4.04 - Compliance with Laws and Regulations;
- Liquor Board Rule 4.08 – License holder’s Responsibility;
- Liquor Board Rule 5.02(A) - Sales to Minors; and
- Liquor Board Rule 5.08 - Acts Contrary to Law.

3. The Hearing Board concludes that it is not necessary to revoke the License, but in order to ensure compliance with the law and Rules and Regulations, and protect the public health and safety, it is necessary to impose a one-week suspension, a fine of Five Thousand and 00/10 Dollars (\$5,000.00), and a fee of Two Hundred Seventy and 00/100 Dollars (\$270.00) for the cost of the hearing as provided by Rule 7.05(B).

**ORDER**

For the foregoing reasons, and upon finding a violation of Liquor Board Rules, 3.03, 4.04, 4.08, 5.02(A) and 5.08, it is this 29<sup>th</sup> day of June, 2022, by the Alcoholic Beverage Hearing Board of Howard County **ORDERED:**

1. That the Class A-1, Beer, Wine, and Liquor 7-day off-sale license held by Jung-Sun Kim on behalf of Sunny Side, Inc. t/a Pine Orchard Liquors, located at 10281 Baltimore National Pike, Ellicott City, MD 21042, be and hereby is **SUSPENDED beginning at 6 a.m. on Monday, July 18, 2022, through 2 a.m. on Sunday, July 24, 2022;** and

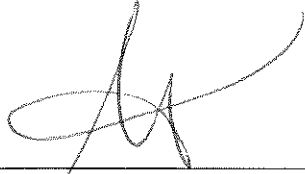
2. That the Licensee shall **DISPLAY the attached SIGN** in color and in a prominent and clear manner, on the front door of the licensed premises beginning at the close of business the day prior to suspension and continuing until reopening for business the day after the suspension; and,

3. That a **FINE** in the amount of **Five Thousand Dollars (\$5,000.00)**, for violation of the Liquor Board Rules, 3.03, 4.04, 4.08, 5.02(A) and 5.08 and a **FEE of Two Hundred Seventy and 00/100 Dollars (\$270.00)** is **HEREBY IMPOSED** upon Jung-Sun Kim on behalf of Sunny Side, Inc. t/a Pine Orchard Liquors, located at 10281 Baltimore National Pike, Ellicott City, MD 21042 and **SHALL BE PAID NO LATER THAN July 24, 2022.**

ANY PERSON AGGRIEVED BY THIS DECISION AND ORDER MAY APPEAL THE DECISION TO THE LIQUOR BOARD WITHIN TEN DAYS OF THE DATE OF THE DECISION, IN ACCORD WITH RULE 6.14 OF THE RULES AND REGULATIONS OF THE LIQUOR BOARD.

ATTEST:

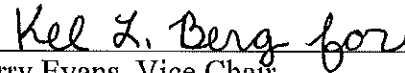
ALCOHOLIC BEVERAGE HEARING BOARD  
OF HOWARD COUNTY, MARYLAND



Ashley Aguilar  
Board Administrator

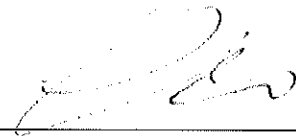


Mary Bird, Chairperson



Harry Evans, Vice Chair

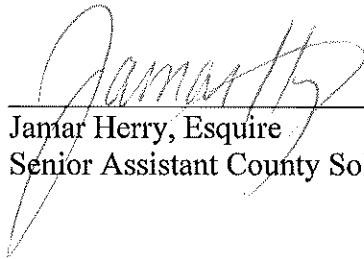
REVIEWED BY HOWARD COUNTY  
OFFICE OF LAW  
GARY W. KUC  
COUNTY SOLICITOR



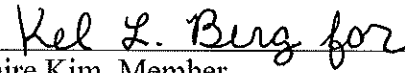
Charley Sung, Member



Steven Chen, Member



Jamar Herry, Esquire  
Senior Assistant County Solicitor



Claire Kim, Member

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