

REPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 97

September Term, 1995

Karen A. Patten

v.

Board of Liquor License Commissioners
of Baltimore City

Fischer,
Harrell,
Murphy,

JJ.

Opinion by Fischer, J.

-1-

Filed: November 30, 1995

Karen A. Patten (Patten) appeals from an order by the Circuit Court for Baltimore City affirming the Board of Liquor License Commissioners for Baltimore City (Board). The Board denied Patten's request for the transfer of the ownership and location of a liquor license. Patten raised the following issues for our consideration, which have been reworded and reordered:

I. Did the circuit court err by recalculating the universe of possible protest votes from fifty to forty-nine?

II. Did the circuit court err by affirming the Board's decision to allow a one-half vote of protest for World Cars, Inc. (World Cars), even though its corporate charter had been forfeited?

III. Did the circuit court err by allowing one vote of protest for 838 South Bond Street, where three of the four co-owners actually voted against the transfer?

IV. Did the circuit court err by affirming the Board's decision to allow Mr. Allen Taylor to cast two protest votes for London Court Limited Partnership and London Court General Partnership?¹Board rejected Patten's request, Patten appealed to the circuit court, which affirmed the Board's mandate.²land courts examine three factors to determine if an agency relationship exists. These three factors require: 1) an agent to be subject to the principal's right of control; 2) an agent to have a duty to act primarily for the benefit of the principal; and 3) an agent to hold the power to alter the legal relations of the principal. *Schear v. Motel Management Corp.*, 61 Md. App. 670, 687 (1985) (citing to

¹ These two partnerships will be collectively referred to as "London Courts" in the rest of the opinion

² The Board and the protestants, through their respective counsel, participated in the proceedings before the circuit court. They remain as appellees before u

Restatement (Second) Agency §§ 12-14 (1982)). There was no written agency agreement in the case *sub judice*, so we need to examine the record to determine if there was substantial evidence to support the Board's finding.

The facts of the case *sub judice* are not substantial enough to convince a reasonable person that Taylor fits the legal definition of an agent. At best, Taylor was a tenant in one of the two London Court properties and a property manager of both. He oversaw the maintenance and repairs for the buildings. In return he received a rent credit of five hundred dollars per year.

It is possible for a property manager or maintenance worker to be an agent, but this determination is dependant on the specific factual relationship between the property manager and property owner. In the case *sub judice*, Taylor and London Courts did not have the type of fiduciary relationship necessary to effectuate an agency relationship. The record reflects that Taylor did not keep the financial books for the partnerships, did not negotiate contracts, and did not lease the other property on behalf of London Courts. The record also illustrates that Taylor did not even have a written agreement acknowledging his position as a property manager. In other words, there is *nothing* in the record indicating that the partnership gave Taylor the legal authority to act on its behalf as an agent to the extent of authorizing him to vote on behalf of the partnership.

Final vote count: 24½:50.

For the above stated reasons, the decision of the circuit court must be reversed. Patten is entitled to a hearing on the merits of her transfer application.

JUDGMENT

REVERSED.

**C A S E
REMANDED
TO THE
C I R C U I T
C O U R T F O R**

BALTIMORE
CITY WITH
INSTRUCTIO
NS TO
REMAND TO
THE BOARD
F O R
FURTHER
PROCEEDING
S.

COSTS TO
BE PAID $\frac{1}{4}$
b Y
APPELLANT
AND $\frac{3}{4}$ BY
MAYOR AND
C I T Y
COUNCIL OF
BALTIMORE.