

posted at the 103 North Wayne Avenue premises on May 28, 2010.² (Board's Finding of Fact No. 7.) Any person wishing to challenge the transfer of the liquor license to Xilantro was required to file a protest or petition to intervene within 30 days of the date of posting. 40 Pa. Code §17.13(b).³ The 30-day period to protest or petition to intervene expired on June 27, 2010.

On July 14, 2010, almost three weeks after the period for filing protests or petitions had expired, Schneller filed a petition to intervene in the license transfer proceeding. (Board's Finding of Fact No. 26.) In his petition, Schneller objected to the license transfer for numerous reasons, including the following: (1) the proposed location is a hazard with a narrow sidewalk and burdensome traffic; (2) the municipality is burdened with an inordinate number of liquor licenses; (3) the liquor license will deprive Schneller of his rights to, among other things, a safe, comfortable environment and the moral and ethical fabric of his area; and (4) the establishment will be noticeable to nearby churches and school children using the sidewalk. (Petition to Intervene, ¶¶ 16, 19, 22, 28, 29.) Schneller acknowledged that he filed

² An applicant is required to notify the public that an application has been filed with the Board by posting a notice on the premises. 40 Pa. Code §§3.11-14.

³ This regulation provides in pertinent part as follows:

§ 17.13. Protests/intervention procedure.

....

(b) *Time.* A protest or petition to intervene shall be filed with the Board within 30 days of the posting of notice of application as required under Chapter 3, Subchapter B (relating to notice posting). The Board may accept an untimely filed protest or petition to intervene, but only upon good cause shown.

40 Pa. Code §17.13 (b).

the petition to intervene 47 days after the written date on the posted notice, and he asked the Board to allow him to file his petition beyond the 30-day period. (Petition to Intervene, ¶¶ 46-51.)

The Board notified Schneller that his petition was untimely and directed him to submit an affidavit explaining the reasons for the late filing. (Board's Finding of Fact No. 32.) Schneller complied with the Board's request and submitted the affidavit. Among other things, Schneller averred in his affidavit that, during the 30 day period for intervention, he was engaged in a political campaign for the United States House of Representatives, which included a "60 day, 12 hour a day effort" to gather the 4,200 signatures required to become a candidate. (Affidavit at ¶¶8, 10.) Schneller explained that, because of his political campaign, he "necessarily had to travel, on a daily basis, from my home, which is more than 2,000 feet from the premises, in the opposite direction from the proposed premises, and returning home without time for leisure walk or ride..." (Affidavit at ¶8.) He also averred that his sole means of travel are by foot and bicycle, (Affidavit at ¶ 6), that the bus stops and train stations are in the opposite direction from the posted premises, (Affidavit at ¶10), and that he did not travel in the direction of the posting or pass by the posting. (Affidavit at ¶¶8, 9, 10, 11.) Moreover, Schneller averred that the filing of his petition to intervene was delayed because he was involved in proceedings before the Pennsylvania Supreme Court and the United States Supreme Court. (Affidavit at ¶14.)

On November 2, 2010, the Board determined that Schneller did not have good cause to file his petition outside the 30-day intervention period and denied his petition to intervene. The Board considered the merits of the case and approved the transfer of the liquor license.

On appeal to this court,⁴ Schneller first contends that the Board erred in finding that he did not have good cause for filing an untimely petition to intervene. We disagree.

The Board is authorized to accept an untimely petition only upon a showing of good cause. 40 Pa. Code §17.13. Although the regulations do not provide a precise definition, the term “good cause” is defined generally as “[a] legally sufficient reason.” Black’s Law Dictionary 251 (9th ed. 2009). Granting or denying a petition to intervene is within the sound discretion of the agency involved, and a decision on intervention will not be disturbed unless there has been a manifest abuse of discretion. Malt Beverages Distribution Association v. Pennsylvania Liquor Control Board, 965 A.2d 1254 (Pa. Cmwlth. 2009), aff’d, ___ Pa. ___, 8 A.3d 885 (2010). A manifest abuse of discretion occurs when the Board misapplies the law or commits an error of judgment. Pennsylvania Liquor Control Board v. George Roscoe, Inc., 431 A.2d 1119 (Pa. Cmwlth. 1981).

Here, Schneller does not dispute that the premises was properly posted during the 30-day period allowed for filing petitions to intervene; nor does he dispute that he filed his petition after the time to intervene had expired. Rather, Schneller avers that the untimely filing of his petition was caused by the demands of his political campaign, changes in his customary routes of travel, and his involvement in legal proceedings in other courts. All these things, Schneller averred, prevented him from observing the posted application. (Affidavit at ¶13.)

⁴ Our scope review is limited to determining whether there was a constitutional violation or an error of law, whether the practices and procedures of the Board were followed, and whether necessary findings of fact were supported by substantial evidence in the record. Malt Beverages Distributors Association v. Pennsylvania Liquor Control Board, 966 A.2d 1180 (Pa. Cmwlth. 2009), aff’d, ___ Pa. ___, 8 A.3d 885 (2010).

While Schneller's efforts and willingness to serve the people as an elected official and public servant is certainly noteworthy, and although Schneller may have been focused on his political campaign and travelled different routes during the time the property was posted, the Board correctly found that Schneller's decision to engage in time-consuming activities that altered his day-to-day routine did not constitute a legally sufficient reason for failing to timely file a petition to intervene.⁵ If Schneller's rationale was accepted as constituting good cause, any person who has a demanding schedule could claim that he or she was too busy or distracted to file a timely petition, which would render the 30-day period for intervention meaningless. Because Schneller did not have good cause for filing an untimely petition to intervene, the Board did not err or abuse its discretion by denying Schneller intervenor status.

Moreover, even if his petition had been timely filed, the Board correctly observed that Schneller was not directly aggrieved by the liquor license transfer and thus did not have standing to intervene. The Board's regulations provide that a person who can demonstrate a direct interest in a liquor license application and who can further demonstrate that a Board decision contrary to the person's direct interest will cause the person to be aggrieved may file a petition to intervene. 40 Pa.Code

⁵ Schneller argues that the Board erred by not providing him a hearing. However, although it is not clear from his brief that Schneller believes he was entitled to a hearing on the question of good cause for filing a late appeal, we observe that there are no disputed facts on this issue. Even assuming that every averment in his affidavit is true, Schneller cannot show that he had good cause for filing a late appeal. See Dee-Dee Cab, Inc. v. Pennsylvania Public Utility Commission, 817 A.2d 593 (Pa. Cmwlth. 2003) (when there are no disputed questions of fact and the issue to be decided is purely one of law or policy, a case may be disposed of without resort to an evidentiary hearing).

Because Schneller's petition to intervene was untimely filed without good cause, he was not entitled to a hearing on whether he had standing to intervene or the merits of the transfer of the liquor license.

§17.12(a). A person seeking to intervene must have a substantial interest, that is, there must be some discernible adverse effect to some interest other than the abstract interest of all citizens in having others comply with the law. Malt Beverages Distribution Association, 965 A.2d at 1261-62. Also, the person's interest must be direct, which means that the person claiming to be aggrieved must show causation of the harm to his interest by the matter of which he complains. Id. Further, the interest must be immediate and not a remote consequence of the judgment. Id.

In this case, Schneller's petition to intervene alleged general concerns such as traffic, the possibility of college students patronizing the establishment, safety, comforts, the environment, the ethical and moral fabric of the area, the morals of the youth, property values, travel time, and enjoyment. Although we commend his concern for society and his commitment to public service, all of Schneller's reasons for wanting to intervene are speculative in nature and express general concerns for the welfare of the community, and are insufficient to show that Schneller would be directly and substantially harmed by the liquor license transfer. Tacony Civic Association v. Pennsylvania Liquor Control Board, 668 A.2d 584 (Pa. Cmwlth. 1995) (holding that protestant's expressions of general concern for the welfare of the community were insufficient to demonstrate the likelihood of immediate harm necessary to confer standing).

Accordingly, the Board's order is affirmed.

