

**THE DISTRICT OF COLUMBIA  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**In the Matter of:**

BCI Food Services, LLC  
t/a Garden District

Application for Renewal of a  
Retailer's Class CR License

at premises  
1801 14th Street, N.W.  
Washington, D.C. 20009

Case No. 16-PRO-00022  
License No. ABRA-083769  
Order No. 2016-389

BCI Food Services, LLC, t/a Garden District (Applicant)

James Turner, Chairperson, Advisory Neighborhood Commission (ANC) 1B (Protestant)

Joan Sterling, on behalf of The Show Dupont Citizens Alliance, Inc. (SDCA)

**BEFORE:** Donovan Anderson, Chairperson  
Nick Alberti, Member  
Mike Silverstein, Member  
Ruthanne Miller, Member  
James Short, Member

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**ORDER DENYING MOTION FOR RECONSIDERATION**

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The Application filed by BCI Food Services, LLC, t/a Garden District, for renewal of its Retailer's Class CR License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on May 16, 2016, in accordance with D.C. Official Code § 25-601 (2001). On May 16, 2016, the Board dismissed the Protest of SDCA, because SDCA did not give the Applicant at least seven days advanced notice of the SDCA meeting, pursuant to D.C. Official Code § 25-601(3)(B).

SDCA now asks the Board to reconsider its prior Order, which is opposed by the Applicant. The SDCA indicates that it mailed notice of the April 21, 2016 meeting—where the SDCA voted to protest the Applicant—on April 13, 2016 and provided verbal notice to an employee or manager of the Applicant on April 18, 2016.

On these facts, it is clear that the SDCA failed to provide the Applicant with proper notice of the meeting as required by law.

In § 25-601, it states

(3) A citizens association incorporated under the laws of the District of Columbia located within the affected area; provided, that the following conditions are met:

(A) Membership in the citizens association is open to all residents of the area represented by the association; and

(B) A resolution concerning the license application has been duly approved in accordance with the association's articles of incorporation or bylaws at a duly called meeting, with notice of the meeting *given to* the voting body and the applicant at least 7 days before the date of the meeting

D.C. Official Code § 25-601(3)(B) (emphasis added).<sup>1</sup>

Section 25-601 requires that the Applicant actually receive notice of the meeting no less than seven days before the meeting. Unless the SDCA sought same-day delivery or next-day delivery, which is not the case here, it is obvious that a letter mailed eight days before the meeting would not arrive at the establishment seven days before the meeting as required by law.<sup>2</sup> Therefore, because § 25-601 applies to the standing of the SDCA as a party and is jurisdictional, this oversight cannot be overlooked or excused by the Board.

### ORDER

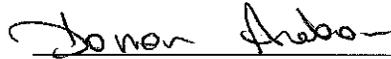
Therefore, the Board does hereby, on this 15th day of June 2016, **AFFIRMS** the dismissal of the SDCA for the reasons described in Board Order No. 2016-322 and this Order. Copies of this Order shall be sent to the Applicant, ANC 1B, and the SDCA.

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<sup>1</sup> The Board notes that the bonus time provided by the regulations for service by mail does not apply to this case, because the extra time provided by the statute only applies to responses to motions and Board orders, not the initial action. 23 DCMR § 1702.1 (West Supp. 2016) (“Whenever a party to a proceeding under this chapter has the right or is required to perform some act within a specified time period *after the service of notice upon the party*, and the notice is served upon that party by mail, three (3) days shall be added to the prescribed period.”) (emphasis added).

<sup>2</sup> In legal cases, proper service and notice are fundamental requirements of due process. Therefore, it is imperative that parties retain proof of service and notice in order to avoid any questions regarding their compliance with the law. It should be noted that proof of service and notice can be easily obtained by retaining certified mail and delivery confirmation receipts from the United States Postal Service or printing out copies of emails with the appropriate date stamp.

District of Columbia  
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson

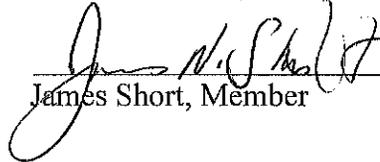


Nick Alberti, Member



Mike Silverstein, Member

Ruthanne Miller, Member



James Short, Member

Pursuant to D.C. Official Code § 25-433(d)(1), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 2000 14<sup>th</sup> Street, N.W., Suite 400S, Washington, DC 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code §2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR §1719.1 (2008) stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. See D.C. App. Rule 15(b) (2004).