

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

In the Matter of:)
)
Renaissance Centro M Street, LLC)
t/a Hyatt Place Washington DC)
Georgetown/ West End)
)
Application for Renewal of)
Retailer's Class CT License)
)
at premises)
2121 M Street, N.W.)
Washington, D.C. 20037)
_____)

Case No. 15-PRO-00078
License No. ABRA-099352
Order No. 2015-438

Renaissance Centro M Street, LLC t/a Hyatt Place Washington DC Georgetown/West End
(Applicant)

Michael Fonseca, Esq. on behalf of Renaissance Centro M Street, LLC

Patrick Kennedy, Chairperson, Advisory Neighborhood Commission (ANC) 2A (Protestant)

Jamie Darvish and Sally Blumenthal, on behalf of A Group of Five or More Individuals (Forty-Six Individuals) (Protestant)

Sara Maddux, President West End Citizens Association (Protestant)

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Mike Silverstein, Member
Hector Rodriguez, Member
James Short, Member

ORDER DENYING PROTESTANT'S REQUEST FOR REINSTATEMENT

The Application filed by Renaissance Centro M Street, LLC t/a Hyatt Place Washington DC Georgetown/ West End (Applicant), for a new Retailer's Class CH License, was protested by the West End Citizens Association (WECA), by letter dated July 31, 2015. *ABRA Protest File 15-PRO-00078, West End Citizens Association Protest Letter*, dated July 31, 2015 [*Protest*

Letter]. The petition deadline for filing the protest was August 10, 2015, and the matter came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on August 24, 2015 in accordance with D.C. Official Code § 25-601 (2001). *ABRA Protest File 15-PRO-00078, Placard Notice*.

At the Roll Call Hearing, the Board dismissed the Protest of West End Citizens Association (WECA), because the WECA did not give the Applicant at least seven (7) days advance notice of the WECA meeting, as required under D.C. Official Code § 25-601 (3)(B). *Renaissance Centro M Street, LLC t/a Hyatt Place Washington DC Georgetown/ West End*, Case No. 15-PRO-00078, Board Order No. 2015-406 (D.C.A.B.C.B. Mar. 11, 2015).

In its July 31, 2015 protest letter, the WECA explained that because it only holds quarterly membership meetings, the WECA held a Board meeting on July 15, 2015 to adopt the resolution protesting the application. *Protest Letter at 1*. The WECA Board members were present, but the full WECA membership was not present nor was the Applicant provided seven days advance notice of the Board meeting. *Id.* The WECA counters this failure with the argument that it was in attendance at the Advisory Neighborhood Commission meeting where the Applicant was also present and informed the Applicant at that time of its objections to the application. *Id.*

On September 14, 2015, the WECA requested reinstatement of its Protest. *ABRA Protest File 15-PRO-00078, West End Citizens Association Request for Reinstatement*, dated September 14, 2015 [*Req.*]. In its request for reinstatement, the WECA reiterated its position that its quarterly membership meeting structure did not allow for a meeting prior to the expiration of the protest deadline. *Id.* Thus the WECA could not have given the Applicant any earlier notice of its membership meeting than what was given. *Id.* The WECA extended an invitation to the Applicant to its next quarterly membership meeting held September 26, 2015, with more than seven (7) days advance notice, and the Applicant accepted. *Id.*

Discussion

Pursuant to D.C. Official Code § 25-601, a citizen's association has standing to file a protest against a license application if its protest resolution has been duly approved in accordance with the association's articles of incorporation or bylaws at a duly called meeting. Additionally, notice of the association's meeting must be given to the voting body and the Applicant at least seven (7) days before the date of the meeting. D.C. Official Code § 25-601 (3)(B).

The WECA discloses in its protest letter that the WECA did not convene its membership meeting prior to filing its protest. *Protest Letter at 1*. It does not appear that WECA made any effort to provide notice to the Applicant of the Board meeting where action was taken by the WECA to file a protest. The WECA argues that it invited the Applicant, with more than adequate advance notice, to attend its quarterly meeting held September 26, 2015, the earliest meeting the WECA could convene under its quarterly meeting schedule. *Req. at 1*.

The Board does not find the WECA's arguments for reinstatement of its protest persuasive. While the Board recognizes that the WECA only meets four times a year, the

WECA is not precluded from conducting business at a special membership meeting, convened outside of the quarterly meeting structure, in order to adopt a protest resolution. Moreover, the WECA cannot file its protest resolution, then subsequent to the filing invite the Applicant to its duly called meeting, and have that pass for compliance with the law. This backwards approach by WECA is contrary to the requirement set forth in D.C. Official Code § 25-601 (3)(B), and it denies the Applicant any legitimate notice of the association's actions or the opportunity to address the WECA's concerns. As a result, the Board denies the WECA's Request for Reinstatement.¹

ORDER

The Board does hereby, this 30th day of September, 2015, **DENIES** the Request for Reinstatement filed by WECA.

Copies of this Order shall be sent to the Applicant, ANC 2A, A Group of Five or More Individuals (Forty-Six Individuals), and the WECA.

¹ WECA is not precluded from participating in a protest hearing as a non-party pursuant to 23 DCMR §1701.4.

District of Columbia
Alcoholic Beverage Control Board


Ruthanne Miller, Chairperson

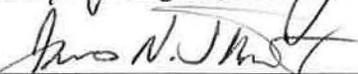

Nick Alberti, Member


Donald Brooks, Member


Herman Jones, Member


Mike Silverstein, Member


Hector Rodriguez, Member


James Short, Member

Pursuant to 23 DCMR § 1719.1 (2008), 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 14th Street, NW, 400S, Washington, D.C. 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).