

DISTRICT OF COLUMBIA COURT OF APPEALS

No. 12-AA-344

SPRING VALLEY – WESLEY HEIGHTS CITIZENS ASSOCIATION, PETITIONER,

v.

DISTRICT OF COLUMBIA ALCOHOLIC BEVERAGE CONTROL BOARD, RESPONDENT.

Petition for Review of Order
of the District of Columbia Alcoholic Beverage Control Board
(PRO-0045-11)

(Submitted May 14, 2013)

Decided August 26, 2013)

Before THOMPSON and MCLEESE, *Associate Judges*, and BELSON, *Senior Judge*.

MEMORANDUM OPINION AND JUDGMENT

PER CURIAM: Petitioner Spring Valley – Wesley Heights Citizens Association seeks reversal of an order issued by respondent District of Columbia Alcoholic Beverage Control Board in connection with a liquor-license proceeding. We dismiss the petition for review for lack of jurisdiction, because the petition was untimely.

I.

This petition for review arises from proceedings before the Board regarding a liquor-license application filed by Golden Eagle, Incorporated. Spring Valley, the Advisory Neighborhood Commission 3D, and a group of individuals protested Golden Eagle's application. The parties subsequently submitted a proposed voluntary agreement to the Board, which addressed the protestants' concerns regarding the liquor-license application. On February 1, 2012, the Board rejected the voluntary agreement on the ground that several provisions in the agreement exceeded the Board's jurisdiction. The Board notified the parties of its decision in an e-mail sent on February 3, 2012.

On March 13, 2012, Spring Valley filed a petition for reconsideration with the Board. The Board denied the petition, communicating that denial to Spring Valley in an e-mail sent to Spring Valley on March 15, 2012. On March 21, 2012, the Board issued a formal order denying the petition for reconsideration. On March 26, 2012, the Board issued an order granting Golden Eagle's application, recognizing the withdrawal of all protests against the application, and approving and incorporating a modified version of the voluntary agreement.

Spring Valley filed its petition for review in this court on March 19, 2012, designating the February 1, 2012, decision by the Board as the order sought to be reviewed.

II.

This court's rules governing review of agency actions provide that a petition for review generally must be filed within 30 days after notice is given of the order or decision sought to be reviewed. D.C. App. R. 15 (a)(2). If a party timely files a petition for reconsideration in accordance with the rules of the agency, however, that 30-day period runs from the date when notice of the order denying the petition for reconsideration is given. D.C. App. R. 15 (b). Petitions for reconsideration of a decision or order of the Board must be filed within ten days after the date of receipt of the Board's final order. D.C. Code § 25-433 (d)(1) (2001-2012). Here, Spring Valley filed its petition for reconsideration more than a month after it received notice of the Board's February 1, 2012, decision. Because Spring Valley did not file a timely petition for reconsideration, it was required to file its petition for review of the Board's February 1, 2012, decision within 30 days of receiving notice of that decision. *See* D.C. Code § 25-433 (d)(1); D.C. App. R. 15 (a)(2) & (b). Spring Valley received notice of the Board's decision on February 3, 2012, but did not file its petition for review in this court until March 19, 2012. We therefore conclude Spring Valley's petition for review is untimely as to the Board's February 1, 2012, order. *See* D.C. App. R. 15 (b).

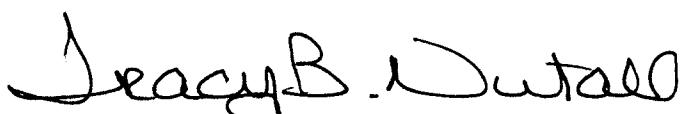
Before dismissing Spring Valley's petition for review as untimely, we consider whether the petition is sufficient to bring before us for review the Board's subsequent final order granting the liquor license. D.C. App. R. 15 (a)(3) states that a petition for review must "specify the order or decision or part thereof to be reviewed." Applying a liberal construction of D.C. App. R. 15 (a)(3), this court has in some cases treated premature petitions for review as sufficient to bring a final order before this court for review. *See, e.g., District of Columbia Dep't of Emp't Servs. v. Vilche*, 934 A.2d 356, 359 (D.C. 2007) (excusing prematurity

where petitioner sought review of order after filing motion for reconsideration of that order but before motion was decided, and motion was decided before court ruled on whether premature notice was sufficient). In this case, however, the Board's subsequent order did not simply decide a motion to reconsider the designated order. The Board's March 26, 2012, order granting the liquor license was the final determination of the entire matter and was substantively distinct from the Board's earlier February 1, 2012, order, which dealt only with the voluntary agreement. Further, as we have already explained, Spring Valley's petition for review was untimely as to the order it designated. *See D.C. App. R. 15 (b).* We see no basis upon which we could treat an untimely petition to review one order as conferring jurisdiction to review a quite different order entered after the petition for review was filed. We therefore conclude that Spring Valley's petition for review does not bring before us for review the Board's March 26, 2012, order granting Golden Eagle's liquor-license application.

The petition for review is therefore

Dismissed.

ENTERED BY DIRECTION OF THE
COURT:


for JULIO A. CASTILLO
Clerk of the Court

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