THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter of:		
States & Letters Restaurant, LLC t/a The Dabney	Case No.:	15-PRO-00020
	License No.:	ABRA-097803
	Order No.:	2015-286
Application for a New Retailer's Class CR License		
at premises 1216-1226 9th Street Washington, D.C. 20001		

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

ORDER GRANTING APPLICANT'S MOTION TO DISMISS PROTEST

The Application filed by States & Letters Restaurant, LLC t/a The Dabney, for a new Retailer's Class CR License, having been protested, was scheduled for a Roll Call Hearing on April 20, 2015 before the Alcoholic Beverage Control Board (Board), in accordance with the D.C. Official Code § 25-601 (2001). *ABRA Protest File 15-PRO-00020, Notice of Public Hearing*. Due the unavailability of the Board's agent on April 20, 2015, the Roll Call Hearing was continued to May 4, 2015. Both Parties received written notice of the continued Roll Call Hearing on or around April 23, 2015. *ABRA Protest File 15-PRO-00020, Official Roll Call Hearing Notice*, dated April 23, 2015.

On April 28, 2015, States & Letters Restaurant, LLC t/a The Dabney (Applicant) filed a Motion to Dismiss Protest on the grounds that Protestants Ahmed Ait-Ghezala and Ramona Bowden lacked standing to protest the Application. *ABRA Protest File 15-PRO-00020, Applicant's Motion to Dismiss Protest,* dated April 28, 2015, 1. More specifically, the Applicant

argued that the Protestants did not qualify as "abutting property owners...sharing a property line" as defined in D.C. Official Code § 25-601. *ABRA Protest File 15-PRO-00020, Applicant's Motion to Dismiss Protest,* dated April 28, 2015, 1.

On May 7, 2015, Protestant Ait-Ghezala (Protestant) timely filed a Response to Applicant's Motion to Dismiss Protest. *ABRA Protest File 15-PRO-00020, Protestant's Response to Motion to Dismiss Protest,* 1-4. In his response, the Protestant argued that his residence abuts the Applicant's property and is directly affected by the project. *Id.* at 2. Therefore, he reasoned, he should be recognized as a Protestant with adequate standing to participate in the protest process. *Id.* at 3-4.

On May 8, 2015, the Applicant filed a reply to the Protestant's Response in which it cited *In the Matter of Expresso, Inc. t/a Park Café,* Case No. 10-PRO-00101, wherein "the Board determined that the property lines of the Nottages and the Applicant abut. Therefore, the Nottages, as abutting property owners, have standing..." *ABRA Protest File 15-PRO-00020, Applicant's Reply to Protestant's Response to Applicant's Motion to Dismiss Protest,* 1-2.

In response, the Protestant timely filed a response to the Applicant's reply. *ABRA Protest File 15-PRO-00020, Protestant's Response to Applicant's Reply to Protestant's Response to Applicant's Motion to Dismiss Protest,* 1-2. The Protestant again asserted that based upon the proximity of his property to the proposed establishment, he should be granted standing in this matter. *Id.*

Discussion

The Board grants the Applicant's Motion to Dismiss Protest. As outlined in in D.C. Official Code § 25-601, an abutting property owner has the standing to file a protest against a license. D.C. Official Code § 25-601. Furthermore, 23 DCMR § 101.2 states, "In establishing the distance between one or more places... the distance shall be measured linearly by the Board and shall be the shortest distance between the property lines of the places." 23 DCMR § 101.2 (West Supp. 2015). Consequently, as a matter of law, when two lots have property lines that touch, those lots are considered abutting under § 25-601, because there is no distance between the lots in accordance with 23 DCMR § 101.2. Therefore, the Board agrees with the Applicant that the Protestant's property, which is bounded by a public alley on the north side of the establishment's property, does not share a touching property line with the establishment.

The Board also rejects the Protestant's challenge to the Applicant's Motion to Dismiss the Protest. The Protestant posits that he should be granted standing on the basis that he shares an alleyway with the proposed establishment. *ABRA Protest File 15-PRO-00020, Protestant's Response to Motion to Dismiss Protest,* 2-4. However, the Board finds that this is not enough to satisfy the standard under 23 DCMR § 101.2. In *Park Place*, we held that the Protestant was indeed an abutting property owner because there was no distance between the lots owned by the parties. *In re Park Place, Inc. t/a The Park Place at 14th*, Case No. 13-PRO-00153, Board Order No. 2014-026, (D.C.A.B.C.B. Jan. 14, 2014). Moreover, the lots shared a property line. *Id.* The Board finds that in the instant case, the Protestant and Applicant share an alleyway, with seventy feet separating the two properties. *ABRA Protest File 15-PRO-00020, Applicant's Reply to*

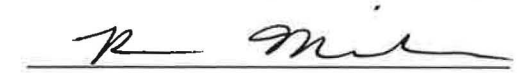
Protestant's Response to Applicant's Motion to Dismiss Protest, 1. As a result, the Board concludes that the Applicant and Protestant do not share a common wall, nor property line, that satisfies the requirements under 23 DCMR § 101.2 and D.C. Official Code § 25-601. Accordingly, the Board grants the Applicant's Motion to Dismiss Protest.

ORDER

Therefore, based on the foregoing, the Board, on this 3rd day of June 2015, **GRANTS** the Motion to Dismiss Protest filed by the Applicant.

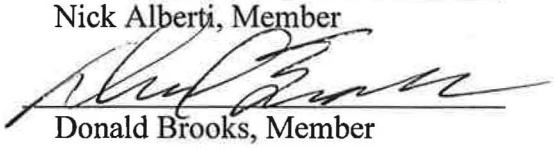
ABRA shall deliver copies of this Order to the Applicant and the Protestant.

District of Columbia
Alcoholic Beverage Control Board



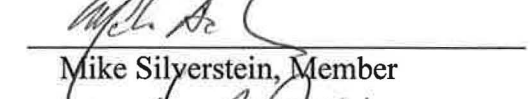
Ruthanne Miller, Chairperson

Nick Alberti, Member

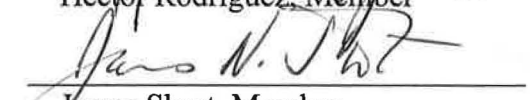


Donald Brooks, Member

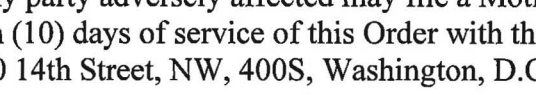
Herman Jones, Member



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).