

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

In the Matter of:)	
)	
)	
Creole on 14th, LLC)	Case No.: 21-PRO-00074
t/a Creole on 14th)	License No.: ABRA-115577
)	Order No.: 2021-700
Application for a Substantial Change to a)	
Retailer's Class CR License)	
)	
at premises)	
3345 14th Street, N.W.)	
Washington, D.C. 20010)	

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Bobby Cato, Member
Rafi Aliya Crockett, Member
Jeni Hansen, Member
Edward S. Grandis, Member

ALSO PRESENT: Creole on 14th, LLC, t/a Creole on 14th, Respondent

Kent C. Boese, Chairperson, Advisory Neighborhood Commission (ANC)
1A, Protestant

Timothy P. Schwartz , Counsel, on behalf of Tivoli Partners Commercial,
LLC, Abutting Property Owner, Protestant

Stefan Lopatkiewicz, Counsel, and Rebecca Medrano, Executive Director,
on behalf of the GALA Hispanic Theatre, Protestant

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

ORDER GRANTING REINSTATEMENT

INTRODUCTION

The Alcoholic Beverage Control Board grants the reinstatement of the protest filed by Tivoli Partners Commercial, LLC, and affirms its dismissal of the GALA Hispanic Theatre for the reasons stated below.

Tivoli Partners Motion for Reinstatement

Tivoli Partners Commercial, LLC, (TPC) filed a timely protest letter objecting to the Application for a Substantial Change filed by Creole on 14th, LLC, t/a Creole on 14th. At the Roll Call Hearing in Case No. 21-PRO-00074, TPC was dismissed for failing to qualify as an abutting property owner. *In re Creole on 14th, LLC, t/a Creole on 14th*, Case No. 21-PRO-00074, Board Order No. 2021-548, 1-2 (D.C.A.B.C.B. 20, 2021). TPC timely filed for reinstatement, which was not opposed by the Applicant.

Section 25-601 of Title 25 of the D.C. Official Code grants standing to protest a substantial change to a liquor license to any abutting property owners, defined as the owner of “any property where the property line has a boundary or boundary point in common with the property line of the licensed establishment. D.C. Code § 25-601(a), (1)(A)-(B). Section 25-602 further requires that “(a) Any person objecting, under § 25-601, to the approval of an application shall notify the Board in writing of his or her intention to object and the grounds for the objection within the protest period.” D.C. Code § 25-602. Section 1801.2 requires each protest petition to contain the signature of the protestant. 23 DCMR §§ 1602.3; 1801.2(f).

In this case, because the protest letter stated that the protestant is the landlord, it is reasonable to infer that the TPC filed as an abutting property owner. TPC has further demonstrated that it is an abutting property owner because it owns the entire property where the license is located and all subdivided properties that touch the Applicant’s premises; therefore, the landlord owns a property line that touches the Applicant’s property line. *Motion for Recon.*, at ¶ 4; *In re Spero, LLC, t/a Reverie*, Case No. 17-PRO-00088, Board Order No. 2018-045, 2 (D.C.A.B.C.B. Jan. 31, 2018) (saying properties that share a common wall or ceiling within the same building constitute abutting properties). Furthermore, because the landlord is an entity, the entity’s counsel is entitled to sign paperwork on its behalf.¹ Therefore, TPC merits reinstatement.

GALA Hispanic Theatre Motion for Reinstatement

Similarly, the GALA Hispanic Theatre (GALA) filed a timely protest letter objecting the Application for a Substantial Change filed by Creole on 14th, LLC, t/a Creole on 14th. At the Roll Call Hearing in Case No. 21-PRO-00074, GALA was dismissed for failing to qualify as an abutting property owner and failing to appear. *In re Creole on 14th, LLC, t/a Creole on 14th*,

¹ The Board has accepted protest letters executed by counsel alone on behalf of an entity in prior cases. *See e.g., Letter from Leah M. Quadrino and Yvonne N. Malino, Counsels*, 5 (Nov. 25, 2019) (Protest Letter in Case No. 19-PRO-00146) (Counsels for a corporate entity filed a protest letter solely using their signature, which was accepted by the Board).

Case No. 21-PRO-00074, Board Order No. 2021-548, 1-2 (D.C.A.B.C.B. 20, 2021). GALA filed a motion for reinstatement, which was not opposed by the Applicant.

In accordance with § 1603.4, “Failure to appear . . . at the roll call hearing may result in . . . dismissal of a protest, unless, in the discretion of the Board, good cause is shown for the failure to appear” 23 DCMR § 1603.4 (West Supp. 2021).

In its motion for reconsideration, GALA claimed that it was not provided notice of the hearing. Nevertheless, ABRA’s records show that an email notifying GALA of the October 18, 2021, hearing was sent on September 28, 2021. *Email from Imani Moreland, Legal Administrative Specialist, to Rebecca Medrano, Executive Director* (Sept. 28, 2021) (Re: In the Matter of the Protest of Creole on 14th). GALA further has not demonstrated good cause for missing the hearing despite being provided with adequate notice. Finally, the date and time of the hearing was advertised in the D.C. Register and on the public placard posted on the premises during the protest period. *Notice of Public Hearing*, ABRA License No. 115577 (Jul. 23, 2021). Therefore, the dismissal of GALA’s protest was warranted even if it qualifies as an abutting property owner.²

ORDER

The Alcoholic Beverage Control Board on this 17th day of November 2021, hereby **GRANTS** the motion for reinstatement filed by TPC. The motion filed by GALA is **DENIED**. The Protest Status Hearing in this matter shall occur on January 26, 2022, at 10:30 a.m.

The Board **ADVISES** the parties that this Order does not preclude any party from relying on any evidence or witnesses provided by any dismissed person or entity.

A copy of this Order shall be provided to the Parties.

² The Board does not address GALA’s argument that it qualifies as an abutting property owner. During the Roll Call Hearing, the Board’s Agent noted that GALA appeared to be “a tenant in the building, but . . . not an abutting property owner.” *Transcript*, October 18, 2021 at 11. In light of TPC’s claim that it is the landlord of the building, there is insufficient information in the record to establish that GALA qualifies as a property owner pursuant to D.C. Official Code § 25-601(a)(1)(A)-(B). Therefore, should GALA continue to pursue this matter, the Board would request that it files appropriate documents demonstrating its ownership of the abutting property.

District of Columbia
Alcoholic Beverage Control Board

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Donovan Anderson
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Donovan Anderson, Chairperson

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James Short
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James Short, Member

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Edward S. Grandis, 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, Reeves Center, 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 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).