

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

In the Matter of:)	
)	
Daci Enterprises, LLC)	Case No.: 15-PRO-00071
t/a Dacha Beer Garden)	License No: 092773
)	Order No: 2015-453
Application for a Substantial Change to a)	
Retailer's Class DT License)	
)	
at premises)	
1600 7th Street, N.W.)	
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

ALSO PRESENT: Daci Enterprises, LLC, t/a Dacha Beer Garden (Applicant)

Andrew Kline, Counsel, of the Veritas Law Firm, on behalf of the Applicant

Brian Peters, Central Shaw Neighborhood Association (CSNA), Protestant

Alexander M. Padro, Chair, Advisory Neighborhood Commission (ANC) 6E, Protestant

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

ORDER GRANTING APPLICANT'S MOTION TO DISMISS

In *Trinity*, the Alcoholic Beverage Control Board dismissed the protest of the Central Shaw Neighborhood Association (CSNA) for lack of standing because it was not incorporated as a citizens association "open to all residents of the area" under District of Columbia (D.C.) Official Code § 25-601(3)(A). *In re I Before E, LLC, t/a Trinity*, Case No. 15-PRO-00027,

Board Order No. 2015-424, 3-4 (D.C.A.B.C.B. Sept. 10, 2015). Specifically, the Board held that CSNA could not demonstrate compliance with the standing requirements of a citizens association where its articles of incorporation require a two-thirds majority vote to approve new members. *Id.* at 3.

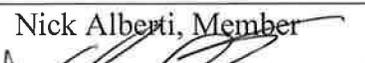
The Applicant raises the same objection to the CSNA's standing in its motion to dismiss, which is opposed by the CSNA on similar grounds. *Motion to Dismiss the Protest of Central Shaw Neighborhood Association*, 1-3; *Response to Dacha's Motion to Dismiss the Protest of Central Shaw Neighborhood Association*, 1-8. Based on the precedent set by the Board's decision in *Trinity* and the similarity in the facts, the Board grants the Applicant's motion to dismiss. On a final note, the Board further agrees with the Applicant that the "CSNA cannot change [its] articles, long after the protest deadline has passed" and that changes to its founding documents made after the protest deadline expired are ineffective and cannot be applied retroactively to save the CSNA's faulty protest. *Reply Brief in Support of the Motion to Dismiss the Protest of the Central Shaw Neighborhood Association*, 1-2.

ORDER

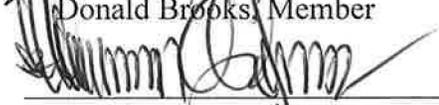
Therefore, on this 7th day of October 2015, the Board hereby **GRANTS** the motion to dismiss filed by the Applicant. The protest filed by CSNA is hereby **DISMISSED** for lack of standing under § 25-601(3). ABRA shall deliver this order to the designated representatives of the parties.

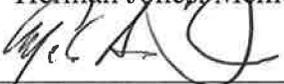
District of Columbia
Alcoholic Beverage Control Board

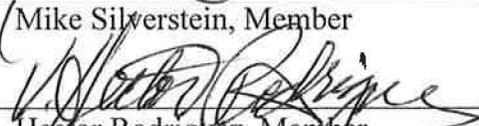

Ruthanne Miller, Chairperson

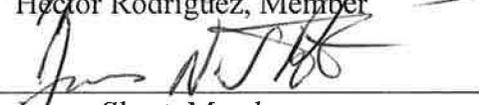

Nick Alberti, Member


Donald Brooks, Member


Herman Jones, Member


Mike Silverstein, Member


Hector Rodriguez, Member


James Short, Member

Pursuant to 23 DCMR § 1719.1, 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, N.W., 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, District of Columbia 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. 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).