

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

In the Matter of:)	
)	
Prospect Dining, LLC)	License Number: 78058
t/a George)	Case Number: 09-CMP-00723
)	Order No.: 2010-368
Holder of a Retailer's Class CR License)	
at premises)	
3251 Prospect Street, N.W.)	
Washington, D.C. 20007)	

BEFORE: Charles Brodsky, Chairperson
Mital Gandhi, Member
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member

ORDER DENYING RESPONDENT'S MOTION FOR STAY PENDING REVIEW

Prospect Dining, LLC, t/a George (Respondent) was subject to a Show Cause Hearing on April 7, 2010, and found in violation of D.C. Code § 25-446(a) by Board Order No. 2010-339. The Respondent now appeals the Alcoholic Beverage Control Board's ("Board") decision and has submitted a Motion for Stay Pending Review. The Office of Attorney General for the District of Columbia ("Government") opposes the Respondent's motion and both parties have submitted written briefs.

The Board will grant a Motion for Stay Pending Review only "upon good cause, which shall consist of unusual or exceptional circumstances." D.C. Code § 25-433(d)(3) (2002).

Respondent argues that the Board should stay the imposition of the penalty imposed by Board Order No. 2010-339. Respondent argues that the terms in the Voluntary Agreement interpreted by the Board were ambiguous. Furthermore, the Respondent requests that the Board consider the Respondent's ongoing negotiations with ANC 2E, the Respondent's upcoming petition to terminate the Voluntary Agreement, and the Respondent's pending appeal before the D.C. Court of Appeals.

In contrast, the Government argues that the Board should deny the Respondent's motion. The Government argues the Respondent did not file their motion within the ten (10) day time period allowed by D.C. Code § 25-433 (2002). Furthermore, the

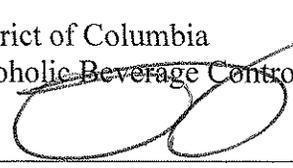
Government argues that the statement: “the establishment shall have a maximum capacity of ninety-nine persons,” found in the Voluntary Agreement is unambiguous.

The Board is not convinced by the Respondent’s arguments that there is good cause to stay the imposition of the penalty imposed by the Board. First, the Board agrees with the Government that the motion is untimely. Second, even if the motion was filed in a timely fashion, the Board would still reject the Respondent’s motion because the language in the Voluntary Agreement signed by the Respondent was clear and unambiguous that the establishment could only have ninety-nine people in the building at any one time.

Finally, although the Board commends the Respondent for entering into negotiations with ANC 2E over amending the Voluntary Agreement, it is irrelevant to the present motion. As such, the Respondent has failed to demonstrate any unusual or exceptional circumstances.

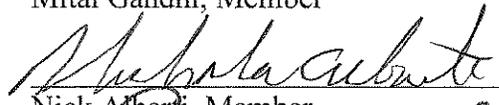
Therefore, upon consideration of the Respondent’s Motion and the entire record of this matter, the Board, on this 23rd day of June, 2010, hereby **DENIES** Respondent’s Motion.

District of Columbia
Alcoholic Beverage Control Board



Charles Brodsky, Chairperson

Mital Gandhi, Member



Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member



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 the service of this Order, with the District of Columbia Court of Appeals, 500 Indiana Avenue, N.W., Washington D.C. 20001.

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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 (April 2004) 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).