

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

In the Matter of:)	
)	
La Fourchette, Inc.)	License No.: 08658
t/a La Fourchette)	Order No.: 2016-171
)	
Petition to Terminate or Amend a)	
Settlement Agreement)	
)	
at premises)	
2429 18th Street, N.W.)	
Washington, D.C. 20009)	

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
Ruthanne Miller, Member
James Short, Member

ORDER DENYING PETITION

The official records of the Alcoholic Beverage Control Board reflect that La Fourchette, Inc. (Petitioner), which holds a Retailer’s Class CR License, entered into a Settlement Agreement, which was approved on August 1, 1990. The Board denies the Petition because it is untimely filed and fails to comply with the requirements of D.C. Official Code § 25-401.

The Petitioner filed a request to terminate the Settlement Agreement (Petition), as part of a letter dated April 11, 2016. The final date of the renewal period for Class license holders and final date to file the Petition was Thursday, March 31, 2016. The Petitioner claims that an unnamed employee of the Alcoholic Beverage Regulation Administration inexplicably returned the Petition, which the Petitioner attempted to file on Wednesday, March 30, 2016. It should be noted that the Petitioner failed to complete the application form provided by ABRA.¹

Section 25-446(d)(2) provides that “The Board may accept an application to amend or terminate a settlement agreement by fewer that all parties in the following circumstances: (A) During the license’s renewal period; and (B) After 4 years from the date of the Board’s decision initially approving the settlement agreement.” D.C. Official Code § 25-446(d)(2).

¹ The form may be found here:
http://abra.dc.gov/sites/default/files/dc/sites/abra/publication/attachments/SA_Amend_Term_Form.pdf.

Section 25-401(a) states that “A person applying for . . . approval of substantial changes in operation . . . shall file with the Board an application in the form prescribed by the Board. The application shall contain the information set forth in this chapter and any additional information that the Board may require.” D.C. Official Code § 25-401(a). The regulations indicate that the petition to amend or terminate a settlement agreement is considered a substantial change. 23 DCMR § 1610.3 (West Supp. 2016). Furthermore, an incomplete application is subject to denial. 23 DCMR § 500.1.

In this case, even if the Board credited the Petitioner’s unsubstantiated story, the Petitioner had the opportunity to file the Petition the next day, which was the last day of the Petitioner’s renewal period. Instead, the Petitioner chose to wait twelve days and after the deadline expired to file its Petition or raise any complaints. It should also be noted that the Petitioner failed to file its Petition on the form provided by the Board, which is required under § 25-401 and renders the Petition incomplete.

ORDER

Therefore, the Board, on this 20th day of April 2016, **DENIES** the Petition. Copies of this Order shall be sent to the Petitioner.

District of Columbia
Alcoholic Beverage Control Board

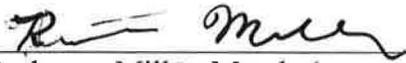


Donovan Anderson, Chairperson

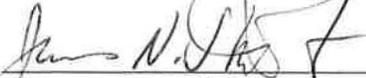


Nick Alberti, Member

Mike Silverstein, Member



Ruthanne Miller, Member



James Short, 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, 2000 14th Street, N.W., Suite 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 (West Supp. 2016) 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).