THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter of:		
Bakhtar Group, LLC t/a Malmaison	License Number: Case Number: Order Number:	085367 10-PRO-00132 2010-580
Application for a New Retailer's Class CR License at premises 3401 K Street, N.W. Washington, D.C. 20007		

BEFORE: Charles Brodsky, Chairperson
Mital Gandhi, Member
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ORDER DENYING REQUEST FOR STANDING

The Application for a new Retailer's Class CR License (Application) filed by The Bakhtar Group, LLC, t/a Malmaison, (Applicant) at premises 3401 K Street, N.W., Washington, D.C., was protested by ANC 2E, represented by Chairperson Ron Lewis, Commissioner Bill Starrels, Commissioner Aaron Golds, Commissioner Ed Solomon, Commissioner Tom Birch, and Commissioner Charles Eason. The Application was also protested by Jennifer Altemus, President of the Citizens Association of Georgetown (CAG), and Karen Tammany Cruse, a member of CAG.

The Roll Call Hearing occurred on November 1, 2010, Mediation was held on November 19, 2010, and the Status Hearing was held on December 1, 2010. The Applicant, ANC 2E, and CAG are working on the terms and conditions of a Voluntary Agreement. If a Voluntary Agreement is not reached, the Protest Hearing will take place on January 12, 2011.

The Notice of Application was posted on August 27, 2010, and the Petition Deadline was October 12, 2010. Nevertheless, in a letter to the Board, received on November 8, 2010, Edmund and Gail Kitch asked the Board to grant them standing in the protest against the Applicant. They state that the manager of their condominium

association mailed their protest on October 18, 2010, and it arrived two days late.[1] Edmund and Gail Kitch also noted that property where the notice was posted is not often frequented by people living in the condominiums. Edmund and Kitch ask the Board to reverse the Board's agent's decision to deny them standing.

D.C. Code 25-602(a) requires that protests be received by the Board during the protest period. As such, because the Board received the protest of Edmund and Gail Kitch two days after the protest period expired, the Board cannot grant them standing. Furthermore, neither Edmund nor Gail Kitch allege that the Applicant failed to follow the proper notice procedures under D.C. Code § 25-423. As such, by law, the Board has no manner in which to grant Edmund and Gail Kitch standing. Consequently, if Edmund and Gail Kitch seek to influence the protest process, they should contact ANC 2E, and request that its concerns be taken into account as the ANC negotiates the Voluntary Agreement and if necessary, participate in the Protest Hearing.

Therefore, upon consideration of the Request for Standing, the Board, on this 1st day of December 2010, hereby **DENIES** Edmund and Gail Kitch's request for standing.

[1] The letter submitted by Edmund and Gail Kitch state that the letter was mailed on December 18 but since that date has not yet occurred the Board presumes they meant that the letter was mailed on October 18, 2010.

District of Columbia
Alcoholic Beverage Control Board

Charles Brodsky, Chairperson

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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).