

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

In the Matter of:	)	
	)	
The Shaw-Dupont Citizens Alliance, Inc.;	)	License No.: N/A
at premises	)	Case No.: N/A
1233 S Street, N.W.	)	Order No.: 2013-061
Washington, D.C. 20009	)	
	)	
Residential Action Coalition	)	
at premises	)	
1524 T Street, N.W.	)	
Washington, D.C. 20009	)	
	)	
Petitioners	)	
	)	

**BEFORE:** Ruthanne Miller, Chairperson  
Nick Alberti, Member  
Donald Brooks, Member  
Herman Jones, Member  
Mike Silverstein, Member

**ALSO PRESENT:** Martha Jenkins, Esq., General Counsel  
Alcoholic Beverage Regulation Administration

---

**ORDER ON MORATORIUM PETITION**

---

**INTRODUCTION**

The Alcoholic Beverage Control Board (Board) finds that the request for a moratorium submitted by the Shaw-Dupont Citizens Alliance, Inc., (Alliance) is valid under Title 25 of the D.C. Official Code. The Board will hold a public hearing on the request on May 22, 2013, at 1:30 p.m. Finally, the Board finds that the Residential Action Coalition (Coalition) lacks standing as a citizens association, and therefore, we strike the Coalition from the Petition.

***Procedural Background***

The Alliance and the Coalition (collectively the "Petitioners") submitted the Petition for the Establishment of the Moratorium on Issuance of New Retailers Licenses in the Historic 14th and U Street Corridor (Petition) to the Alcoholic Beverage Control Board (Board) on December 10, 2012.

In brief, the Petition requests that the Board impose a five-year, moratorium on the issuance of liquor licenses originating from BCB Properties, LLC, t/a Next Door, holder of a Retailer's Class CT License, ABRA License Number 077567, located at 1211 U Street, N.W., Washington, D.C. Petition, 3. According to the Petition, the Board should create an 1800-foot moratorium zone that

- (1) prohibits the transfer of licenses into the moratorium zone;
- (2) prohibits the issuance of all new licenses, except Retailer Class B Licenses that qualify as full service grocery stores;
- (3) places a cap on the number of CN and DN licenses of zero;
- (4) places a cap on the number of CT and DT licenses of ten;
- (5) prohibits the expansion of existing licensees into adjoining spaces, properties, or lots; and
- (6) holds all pending and future applications for new licenses, expansions, or license class changes in the moratorium zone until the Petitioner's request is resolved.

Petition, 9-11.

The Board first reviewed the Petition to impose a moratorium on the Historic 14th and U Street Corridor on January 9, 2013. In a 4 to 0 vote, the Board decided to hold a public hearing on the Petition. Furthermore, on February 13, 2013, the Board also considered the Petitioner's request to prohibit the Alcoholic Beverage Regulation Administration (ABRA) from accepting additional applications for On-Premise Retailer's Class Licenses or substantial change applications requesting an expansion of an existing Retailer's Class License in the proposed moratorium zone before the completion of the rulemaking process. In a 5 to 0 vote, the Board denied this request, because the Board believed it would be imprudent to take such a drastic step without the input of all of the affected Advisory Neighborhood Commissions, as well as the public.

## **DISCUSSION**

We note that §§ 25-351 and 25-352 of the D.C. Official Code requires the Petitioners to meet specific pleading, location, and standing requirements before the Board may act upon the Petition to institute a moratorium.

First, under § 25-352(a), the Petitioner's pleading must contain the following information:

- (1) The name and address of the individual, group, or business entity seeking the moratorium;
- (2) The area of the District to be covered by the moratorium;
- (3) The class or classes of licenses to be covered by the moratorium; and

(4) A detailed statement of the reasons that the moratorium is appropriate under at least 2 of the appropriateness standards . . . .

D.C. Code § 25-352(a)(1)-(4) (West Supp. 2013). We note that the Petition contains the names and addresses of the Petitioners; identifies the 1800-foot moratorium zone as emanating from 1211 U Street, N.W.; identifies the class of licenses targeted by the moratorium; and states the reasons for the moratorium as peace, order, and quiet; residential parking needs and vehicular and pedestrian safety; and overconcentration. Petition, 2, 3-4, 11, 14, 16. Therefore, the Petition satisfies the pleading requirement described by § 25-352(a).

Second, the requested moratorium area must contain the minimum number of licensed establishments. In this case, where the Petition requests a moratorium area covering 1800 feet, the moratorium zone must have “at least 9 establishments of the same class or 18 establishments of any class or combination of classes.” D.C. Code § 25-352(d)(3) (West Supp. 2013). The records of the ABRA indicate that twenty-eight licensees hold a Retailer’s Class CR License; twenty-six licensees hold a Retailer’s Class CT License; four licensees hold a Retailer’s Class CN License; six licensees hold a Retailer’s Class CX License; five licensees hold a Retailer’s Class A License; eight licensees hold a Retailer’s Class B License; two licensees hold a Retailer’s Class DR License; and one licensee holds a Retailer’s Class DX License. Alcoholic Beverage Regulation Administration (ABRA), Geographic Information System Map: 1211 U Street NW (Feb. 26, 2013). Consequently, the moratorium zone selected by the Petitioners hosts a sufficient number of licenses to merit a moratorium.

Finally, under § 25-351, “Any group with standing under § 25-601 may request the Board to issue regulations . . . declaring [a] moratorium” that either limits the number of licenses to be issued or declares a moratorium on the approval of substantial changes in the moratorium zone. D.C. Code § 25-351(a), (b) (West Supp. 2013). Under § 25-601, “A citizens association incorporated under the laws of the District of Columbia located within the affected area” may request a moratorium. D.C. Code §§ 25-351(b), 25-601 (West Supp. 2013). Under § 25-601, to obtain standing as a citizens association, the association’s membership must be “open to all residents of the area represented by the association” and the association must pass “A resolution concerning the [petition, which must be] duly approved in accordance with the association’s articles of incorporation or bylaws at a duly called meeting, with notice of the meeting being given at least 10 days before the date of the meeting.” § 25-601(3)(A)-(B).

Relying on § 25-601, we find that the Coalition does not have standing to request a moratorium. The records of the District of Columbia Department of Consumer and Regulatory Affairs (DCRA) show that the agency has revoked the entity status of the Residential Action Coalition. District of Columbia Department of Consumer and Regulatory Affairs (DCRA), Residential Action Coalition, Initial File Number 871590. As a result, the Coalition does not have standing to request a moratorium, because it is not properly incorporated under the law of the District of Columbia.

On the other hand, the records of the DCRA show that the Alliance is properly incorporated under the laws of the District of Columbia. DCRA, Shaw-Dupont Citizens Alliance, Inc., Initial File Number N00004532731. The bylaws of the Alliance show that the

Alliance is “open to all residents” that live within the organization’s boundaries. Shaw-Dupont Citizens Alliance Bylaws, §§ II, III (Jul. 9, 2012). The agenda and minutes of the Alliance show that the group unanimously voted on August 16, 2012, in favor of submitting the Petition to the Board in accordance with the organization’s bylaws. Shaw-Dupont Citizens Alliance, Draft Agenda (on file with ABRA); Shaw-Dupont Citizens Alliance, Minutes, 2 (Aug. 16, 2012) (on file with ABRA). Furthermore, Joan Sterling, the President of the Alliance, has averred in an email that notice of the August 16, 2012, meeting was posted on the group’s website at least ten days before the meeting. Email from Joan Sterling, President, Shaw-Dupont Citizens Alliance, to Jonathan Berman, Assistant Attorney General, ABRA, 1 (Mar. 8, 2013) (on file with ABRA). Finally, the records of the ABRA show that the Alliance, located at 1233 S Street, N.W., is within the moratorium zone. ABRA, Geographic Information System Map: 1524 T Street NW and 1233 S Street NW (Mar. 7, 2013). Consequently, we find that the Alliance has standing to request a moratorium under §§ 25-351 and 25-352.

### **ORDER**

Therefore, on this 20th day of March 2013, the Board deems the Petition submitted by the Shaw-Dupont Citizens Alliance, Inc., as **VALID** under D.C. Official Code §§ 25-351 through 25-354.

**IT IS FURTHER ORDERED** that the Residential Action Coalition shall be dismissed and struck from the Petition. The Board notes that the Residential Action Coalition may still participate in the Board’s moratorium proceedings as a member of the public.

**IT IS FURTHER ORDERED** that the ABRA shall schedule a public hearing on the Petition for May 22, 2013, at 1:30 p.m.

**IT IS FURTHER ORDERED** that the ABRA shall provide public notice of the Petition in accordance with §§ 25-353, 25-354, and 25-421. The Board formally invites all Councilmembers whose wards are located in the proposed moratorium zone; all affected Advisory Neighborhood Commissions located in or abutting the proposed moratorium zone; the Assistant City Administrator for Economic Development; the Office of Planning; and all District Commanders of the Metropolitan Police Department whose districts overlap with the proposed moratorium zone, as well as the public, to provide oral testimony and submit written comments on the Petition.

**IT IS FURTHER ORDERED** that the ABRA shall provide notice to all license holders and Advisory Neighborhood Commissions located within the moratorium zone in accordance with § 303.2 of Title 23 of the District of Columbia Municipal Regulations.

The ABRA shall deliver copies of this Order to the Petitioners.

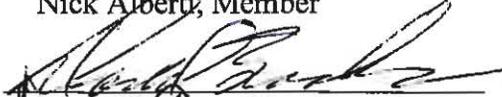
District of Columbia  
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



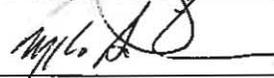
Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member



Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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 (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).