

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

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| In the Matter of: |) | |
| |) | |
| Colin Unlimited, LLC |) | License Number: 081909 |
| t/a Saki |) | Case Number: 10-PRO-00180 |
| |) | Order Number: 2011-087 |
| Application for a Substantial Change to a |) | |
| Retailer's Class CT License |) | |
| at premises |) | |
| 2477 18th Street, N.W. |) | |
| Washington, D.C. 20009 |) | |

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

ORDER DENYING MOTION TO RE-PLACARD NOTICE OF APPLICATION

An Application for a Substantial Change to a Retailer's Class CT License (Application) was filed by Colin Unlimited, LLC, t/a Saki, (Applicant) at premises 2477 18th Street, N.W., Washington, D.C. The Notice of Public Hearing was posted on November 5, 2010 and lists the Petition Date as December 20, 2010, and the Hearing Date as January 3, 2011. The Board notes that two corrected Notices of Public Hearing were posted by the Alcoholic Beverage Regulation Administration (ABRA) during the protest period. Furthermore, all three notices were properly and timely published in the D.C. Register. See 57/45 D.C. Reg. 582211 (Nov. 5, 2010); 57/46 D.C. Reg. 596082 (Nov. 12, 2010); and 57/48 D.C. Reg. 609856 (Nov. 26, 2010).

The Kalorama Citizens Association (KCA), represented by Denis James, contends in a letter, dated December 27, 2010, that the Board should have extended the protest period because the Notices of Public Hearing posted by ABRA allegedly contain "significant difference[s]." The Applicant disagrees and contends that the proper notice procedures were followed in a letter dated January 10, 2011.

The Board finds that the notice requirement contained in D.C. Code § 25-423 (2001) was properly satisfied.

Section 25-423(b) states that the notice shall contain “the legal name and trade name of the applicant, the street address of the establishment for which the license is sought, the class of license sought, . . . a description of the nature of the operation the applicant has proposed or the proposed change in operation,” and the “hours of sales or service of alcoholic beverages.” D.C. Code § 25-423(1); *see also* D.C. Code § 25-421(b) (2001). The notice must also contain the “final day of the protest period;” the “date, time, and place of the administrative review; and” the “telephone number and mailing address of ABRA. § 25-423(2)-(4).

KCA complains that the Notices of Public Hearing posted by ABRA are confusing and should be re-placarded. The only difference is the description of the proposed change. The first two Notices of Public Hearing state that the Applicant seeks to:

Expand the licensed premises to include the entire building at 2477 18th Street, N.W. This expansion will include the space at 2473 18th Street, N.W. which is currently occupied by District Lounge & Grille which will cease to operate after approval of the expansion. This expansion will add an additional 120 seats for dining space as well as create 25 seats for summer garden space.

The third Notice of Public Hearing states that the Applicant has a:

Request to expand the licensee premises to include 2473 18th Street NW. This expansion will add an additional 120 seats of dining space as well as create 25 seats of summer garden space.

Here, there is no substantive difference between the two descriptions of the proposed change contained in the Notices of Public Hearing. They all inform the public that the Applicant seeks to expand the space located at 2473 18th Street, N.W., and that the Applicant seeks an additional 120 seats for dining space and an additional 25 seats for a summer garden. As such, any differences are clearly *de minimis* and do not require ABRA to re-placard the establishment because the pertinent information regarding the Applicant’s plans remained unchanged throughout all three notices.

The Board finds that all of the other notice requirements have been fulfilled. The Board also finds that denying the request to re-placard is in the best interest of the parties. The KCA voted to protest the Application on November 18, 2010, but was denied standing because it failed to file its protest before the December 20, 2010, deadline. Clearly, KCA had sufficient notice of the Applicant’s substantial change in order to vote to protest the Application. It is not the Applicant’s fault that KCA chose to wait over a month to file its protest and it would be grossly unfair to punish the Applicant for KCA’s failure.

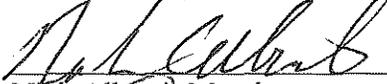
Therefore, on this 26th day of January 2011, the Board hereby **DENIES** the Motion to Re-Placard filed by the Kalorama Citizens Association.

District of Columbia
Alcoholic Beverage Control Board

Charles Brodsky, Chairperson



Mital Gandhi, Member



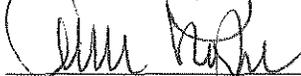
Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member



Calvin Nophlin, Member



Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (2008), 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, 1250 U Street, N.W., 3rd Floor, 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 (2008) 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).