

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE AND CANNABIS BOARD**

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In the Matter of:	)	
	)	
Elevated Tours LLC	)	Case No.: N/A
t/a Elevated Tours	)	License No.: N/A
	)	Order No.: 2026-685
	)	
No Premises Indicated	)	
_____	)	

BEFORE: Donovan Anderson, Chairperson
Silas Grant, Jr., Member
Teri Janine Quinn, Member
Ryan Jones, Member
David Meadows, Member
James Turner, Member

PARTIES: Aaron Rogers, Owner, on behalf of Elevated Tours LLC, t/a Elevated
Tours, Petitioner

PROPOSED ORDER DENYING MOTION FOR RECONSIDERATION

The Alcoholic Beverage and Cannabis Board (Board) issues the following proposed order denying the motion for reconsideration.¹ The Board will consider any argument, objections, and evidence filed during the reconsideration period. If nothing is filed, then the Board intends to issue an order affirming denial for the reasons stated below.

The Alcoholic Beverage and Cannabis Board received a Petition from Aaron Rogers the owner of Elevated Tours LLC, t/a Elevated Tours, (hereinafter “Petitioner” or “Elevated”) dated June 25, 2026. The Petition requests to convert its previously denied Application for a Medical Cannabis Retailer License at 2428 Wisconsin Avenue NW to a conditional license. In Board Order 2026-665², the Board denied the request where the original application did not request a conditional license, no open application period for medical cannabis licenses were pending, and the late timing of the request for conversion was deemed too long after the Board’s original

¹ This Order does not represent the final opinion of the Board, and has been solely written to inform the Petitioner of the specific facts and law that may support a finding that the petition and motion for reconsideration should be denied in accordance with D.C. Official Code § 2-509(a).

² The Board intends to correct the issuance date in Board Order 2026-665, which incorrectly lists the year as 2025. The correct issuance date of that Order is August 5, 2026.

decision became final for equity consideration. 22-C DCMR § 9723.1 (West Supp. 2026). Subsequently, the Petitioner filed a motion for reconsideration, which the Board addresses as follows:

FINDINGS OF FACT

On September 18, 2024, in a 3-0 vote, the Board voted to deny the application for a new retailer license with delivery endorsement filed by Elevated Tours, LLC, t/a Elevated Tours for 2428 Wisconsin Avenue, NW, Suite 200, and designated ABRA License No. 129725.³ *Alcoholic Beverage and Cannabis Board, Medical Cannabis Licensing Agenda*, Item 5 (Sept. 18, 2024) (*Board Agenda 9-18-24*)⁴. The agenda indicated that the basis was that “The location is within 300 feet of a recreation center.” *Id.* The ABCA Licensing Division notified the applicant of this result by letter dated September 25, 2024. *Letter from Sean Gordy, Chief Licensing Officer, to Elevated Tours LLC* (Sept. 25, 2024) (*Gordy Letter 9-25-24*).

A “Payment Receipt,” dated December 19, 2024, issued by ABCA and directed to Elevated notes the payment of \$8,000. *Payment Receipt* (Receipt No. 104086). The receipt indicates that it was for a “Standard Applicant – Standard Retailer Application Fee.” *Id.* The Board found no other payment receipts in the agency’s records related to Elevated. The fee regulation indicates that the “application filing fee” for a “standard medical cannabis business applicant” that applies for a “Retailer, Internet Retailer, [or] Cultivation Center” license is “\$8,000.” 22-C DCMR § 1302.1 (West Supp. 2026). As result, the receipt shows that Elevated was notified that it was being charged the application fee for a standard retailer license and it paid the invoice for such a filing. The Board did not find a record showing that Elevated paid the fee for a conditional license application.⁵

As a matter of procedure, the Board deems a request to convert an application into a conditional license as an amendment to its initial application.⁶ Otherwise, if it is not an amendment, such a request must be deemed a new application that requires the filing of a new application that is only available during an open application period. 22-C DCMR § 5401.1 (West Supp. 2026).

³ To the extent ABCA has used the license number “129725” in agency documents and communications with the Petitioner, these ministerial actions do not override the Board’s determination to deny the application or not to issue a license in 2024. *Mot. for Recon.*, at 2. Likewise, the statement in the motion that “the Board continues to reference it by that number, including in the Order under reconsideration here” is not supported by the record where Board Order No. 2026-665 lists the license number in the caption as “N/A.” *Id.*; *In re Elevated Tours LLC, t/a Elevated Tours*, Board Order No. 2026-665, 1 (D.C.A.B.C.B. Aug. 5, 2025).

⁴ <https://abca.dc.gov/sites/default/files/dc/sites/abra/publication/attachments/ABC%20Dispositions%20-%20%289-18-2024%29.pdf>.

⁵ The fee for a conditional license for a standard applicant is \$2,000 total, and for a social equity applicant, the fee is \$500 total. 22-C DCMR § 1302.4 (West Supp. 2026).

⁶ See *Kingman Park Civic Association et al. v. District of Columbia Alcoholic Beverage Control Board*, No. 11-AA-831, at 7 (D.C. 2012) (unpublished) (“The Board’s acceptance of the amended application . . . was within the ambit of the Board’s discretion.”).

DISCUSSION

The motion argues the following: (1) the Board should grant the request based on Board Order No. 2025-758, where it granted a conversion request made by a different prior applicant; (2) the Board should not consider the availability of an open application period for medical cannabis licenses in this matter; (3) the Board should not consider the fact that Petitioner did not request a conditional license in its initial application; (4) the Board did not cite authority for its conclusion that the request was untimely; and (5) various equity considerations merit granting the request. *Motion for Reconsideration of Order No. 2026-665 In the Matter of Elevated Tours LLC, t/a Elevated Tours License No. 1279725, 1-4 (Mot. for Recon.)*. The Board finds the motion unpersuasive for the following reasons:

I. THE REQUEST IS NOT SUPPORTED BY AUTHORITY.

First and foremost, Elevated identified no statute, regulation, or case law that mandates the Board to permit amendment of its initial application after the initial denial on September 18, 2024, and the subsequent dismissal of its lawsuit. *Mot. for Recon.*, 1-4. As such, the motion for reconsideration is without merit.

II. THE REQUEST IS UNTIMELY.

The Board is not persuaded by Petitioner's argument that the Board's decision to deem the request untimely is not supported by authority. *Mot. for Recon.*, at 3 (See section D).

The Board voted to deny the application on September 18, 2024 and Elevated was notified by letter dated September 25, 2024. *Board Agenda 9-18-24*, at 1; *Gordy Letter 9-25-24*. Once so notified, Petitioner had 10 days to file for reconsideration in accordance with D.C. Official Code § 9723.1 (West Supp. 2026). During this time, it could have made a request to amend its application to deem it a conditional application, but it did not do so until June 25, 2026.⁷ As such, where the motion for reconsideration period has expired and the related litigation has been resolved, the matter is closed.

While Petitioner cites a prior Board case where the Board permitted applicant "Local'D" to convert to a conditional license, this citation is unpersuasive. *Mot. for Recon.*, at 2 (See section A). In the case of "Local'D," the Board denied the request for reinstatement of the Application on June 11, 2025. *In re LOCAL'D, LLC, t/a LOCAL'D*, ABRA License No. 127962, Board Order No. 2025-717 (D.C.A.B.C.B. Jun. 11, 2025). Unlike Petitioner, Local'D filed a request soon after receiving a negative decision from the Board, and the Board agreed to issue a conditional license on July 9, 2025, which resolved the matter in under 30 days from the issuance of the Board's initial ruling while the matter was active at the administrative level. *In re LOCAL'D, LLC, t/a LOCAL'D*, ABRA License No. 127962, Board Order No. 2025-758 (D.C.A.B.C.B. Jul. 9, 2025)

⁷ The Petitioner does not direct the Board to any other prior filing after the Board's initial denial vote that requests consideration of the application as a conditional license. See, e.g., *Appeal of Elevated Tours LLC t/a Elevated Tours*, 1-2 (Oct. 10, 2024).

For this reason, the Board finds it eminently reasonable to characterize and deem the Petitioner's request as untimely.

III. PETITIONER DID NOT APPLY FOR OR PAY FOR A CONDITIONAL LICENSE.

Petitioner, in its motion, does not direct the Board to a specific timely filed application requesting a conditional license from the Board. Likewise, the Board has not been directed to a specific record that proves Petitioner's claim that it has ever paid for a conditional license. *Payment Receipt* (Receipt No. 104086); *Mot. for Recon.*, at 2. As a result, it is reasonable for the Board to conclude that the Petitioner has failed to timely request a conditional license and that the payment of any fees by the Petitioner has no bearing on this matter.

IV. THE LACK OF OPEN APPLICATION PERIOD PREVENTS DEEMING THE REQUEST AS A NEW FILED APPLICATION.

In determining that there is no pending open application period, this forecloses the ability of the Board to deem the request a new application; as a result, the only possible channel to approve the request would be to deem it an amendment to the initial application, as no new applications are permitted as of the date of this Order. Therefore, the Board's consideration of this information is reasonable and warranted under the circumstances.

V. THE BOARD DOES NOT WAIVE CLAIM PRECLUSION.

The Board's consideration of this petition should not be deemed to waive the right to raise claim preclusion in future litigation related to this matter. In particular, Elevated's claim was discussed in the memorandum opinion dismissing Elevated's lawsuit against the District where the Superior Court of the District of Columbia found that Elevated was not coerced or required to close its business. *Elevated Tours, LLC v. Pamela A. Smith et al.*; *AR Logistics, LLC v. District of Columbia, et al.*, Case Numbers 2024-CAB-7417. 2024-CAB-7419, 15 (Super. Ct. May 27, 2026) ("Memorandum Opinion and Order"). In its opinion, the court cited the complaint's assertions that "ABCA never issued [Elevated Tours] a Conditional License, for which Plaintiff provided payment, and thus, ABCA still owes Plaintiff its Conditional License." *Elevated Tours, LLC*, Case Numbers 2024-CAB-7417. 2024-CAB-7419 at 6 n. 10.⁸ Nevertheless, this litigation was unsuccessful.

Under these circumstances, the request appears barred by claim preclusion. As noted in *Carr*,

a plaintiff has. . . only one bite at the apple against a particular defendant for all grievances arising out of a cause of action. If unsuccessful, a second action is precluded [I]t is a fundamental purpose of the doctrine to prevent the relitigation of claims that plaintiffs have already had a full and fair opportunity to litigate, thereby protecting adversaries from expensive and vexatious multiple lawsuits, conserving judicial resources, and minimizing the likelihood of inconsistent outcomes Such policy

⁸ The Board does not agree with this claim based on a review of the agency's records.

considerations may require dismissal of a second action even though the substantive issues have not been tried, especially if the plaintiff has failed to avail himself of opportunities to pursue his remedies in the first proceeding

Carr v. Rose, 701 A.2d 1065, 1071 (D.C. 1997) (citations and quotation marks removed).

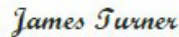
Under the doctrine of *res judicata*, or claim preclusion, a prior judgment on the merits raises an absolute bar to the relitigation of the same cause of action between the original parties or those in privity with them The doctrine bars relitigation not only as to every ground of recovery *or defense* actually presented in the action, *but also as to every ground which might have been presented*

Shin v. Portals Confederation Corp., 728 A.2d 615, 618 (D.C. 1999) (citations and quotation marks removed). As such, where Elevated had an opportunity to raise, advance, and seek redress of its claim regarding any failure of ABCA to provide it with a conditional license during active litigation with the District, but did not take advantage of that opportunity, it cannot now re-raise it at this time.

ORDER

Therefore, the Board, on this 16th day of September 2026, hereby **PROPOSES TO DENY** the Motion for Reconsideration. The Board further notes that any argument not addressed by the Board in this Order is deemed to have no bearing or relevance to the matter under contention. The ABCA shall deliver copies of this Order to the Petitioner.

The Petitioner is **ADVISED** that the Board intends to review the matter on the papers if Elevated challenges the Proposed Order. Elevated shall submit: (1) a written brief explaining its position; (2) any relevant testimony should be made by sworn affidavit; and (3) Elevated should provide any supporting exhibits. After reviewing the submissions, the Board may schedule a hearing if further inquiry is warranted, if material factual disputes remain, or if the Board has questions requiring oral examination or additional evidence. All required materials shall be submitted within 15 days of the date of this Order, or by another deadline established in coordination with the Agency's Legal Division.

OFFICIAL VOTE OF THE DISTRICT OF COLUMBIA ALCOHOLIC BEVERAGE AND CANNABIS BOARD		
Board Members	Decision	Signature
Donovan Anderson (Chairperson)	Approve	
Silas Grant, Jr.	Approve	
Teri Janine Quinne	Approve	
Ryan Jones	Approve	
David Meadows	Approve	
James Turner	Approve	
Additional Comments: N/A		

NOTICE

Any party adversely affected may file a Motion for Reconsideration of this decision or other motion permitted by law within ten days of service of this Order. If a motion is filed, the opposing party may file a response within seven days. If a response is filed, the movant may file a reply within three days. All filings should be served on all parties to the matter and delivered to the Alcoholic Beverage and Cannabis Administration, 899 North Capitol Street NE, Suite 4200-B, Washington, DC 20002, or sent by email to abca.legal@dc.gov. Parties are further advised that the failure to properly serve the other parties or to present all matters of record that have allegedly been erroneously decided in a motion for reconsideration may result in the waiver of those matters being considered by the Board. The Board also reserves the right to summarily deny or not consider multiple and repetitive motions.

In addition to filing a Motion for Reconsideration, pursuant to § 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, a party that is adversely affected may have the right to appeal this Order by filing a petition for review, within 30 days of the date of service of this Order, with the District of Columbia Court of Appeals, located at 430 E Street, N.W., Washington, D.C. 20001. Parties are advised that the timely filing of a Motion for Reconsideration 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).

Parties are also advised that the Superior Court of the District of Columbia may have jurisdiction to hear appeals in non-contested cases or in matters where that court is specifically provided jurisdiction by law. Finally, advisory neighborhood commissions (ANCs) are advised that their right to appeal or challenge a decision of the Board may be limited by the laws governing ANCs. *See e.g.*, D.C. Code § 1-309.10(g).