

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

In the Matter of:)	
)	
Badsri Incorporated)	Case No.: 18-PRO-00038
t/a 4 Seasons Convenience Store)	License No.: ABRA-109434
)	Order No.: 2018-409
Applicant for a New)	
Retailer's Class B License)	
)	
at premises)	
4975 South Dakota Ave., N.E.)	
Washington, D.C. 20017)	

Bernard Dietz, Counsel, on behalf of Badsri Incorporated, Inc., t/a 4 Seasons Convenience Store, Applicant

Grace Lewis, President, North Michigan Park Civic Association, Protestant

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
James Short, Member
Donald Isaac, Member
Bobby Cato, Member
Rema Wahabzadah, Member

ORDER DENYING NMPCA'S MOTION FOR REINSTATEMENT

Badsri Incorporated, t/a 4 Seasons Convenience Store ("Applicant"), applied for a new Retailer's Class B License. *ABRA Licensing File; License Application*. North Michigan Park Civic Association (NMPCA) filed a protest, challenging the application on the grounds that it would have an adverse impact on the peace, order, and quiet in the community, including noise and trash. *ABRA Protest File, Case No. 18-PRO-00038; NMPCA's Protest Petition*, at 2 (May 18, 2018).

On June 6, 2018, the Alcoholic Beverage Control Board ("Board") dismissed NMPCA's protest because (1) it is not incorporated in the District of Columbia and (2) it failed to provide the Applicant with seven days' notice of its meeting in which the

association voted to protest the application. *In the Matter of Badri Incorporated, Inc., t/a 4 Seasons Convenience Store*, Case No. 18-PRO-00038, Board Order No. 2018-379, at 1 (D.C.A.B.C.B. June 6, 2018).

On June 18, 2018, NMPCA filed a Motion for Reinstatement (Motion) with the Board seeking to have its Protest reinstated. *ABRA Protest File, Case No. 18-PRO-00038; Motion for Reinstatement*, at 1 (June 13, 2018). The Applicant did not file a response to NMPCA's Motion.

The Board finds that NMPCA's Motion fails for two reasons:

First, D.C. Official Code § 25-601 sets forth those persons who may protest an ABC license application. Included among this list are citizens associations. D.C. OFFICIAL CODE § 25-601(3). In pertinent part, the law provides:

“A citizens association *incorporated under the laws of the District of Columbia* located within the affected area [may file a protest], provided that the following conditions are met . . . (B) A resolution concerning the license application has been duly approved in accordance with the association's articles of incorporation or bylaws at a duly call meeting, *with notice of the meeting given to the voting body and the applicant at least 7 days before the date of the meeting.*”

Emphasis add.

In support of its Motion, the NMPCA argues that it has been active in the community since 1957 and that it has had a long standing relationship with the D.C. Federation of Civic Associations, Inc. which is incorporated. *Id.* NMPCA, however, does not contend that it is incorporated in the District. In fact, when the Board's Agent asked the NMPCA's representative, Grace Lewis, if the association is incorporated, she answered, “[n]o, we are not.” *Transcript [Tr.]* at 5.

Secondly, the NMPCA cannot obtain standing as a citizens association because it did not provide the Applicant with seven days' notice of the meeting in which it voted to protest the application. When the Board's Agent asked Ms. Lewis if the NMPCA had provided the Applicant with seven days' notice of the meeting, Ms. Lewis said, “[n]o. *Id.* at 6.

For the reasons stated above, the Board affirms the dismissal of the NMPCA's protest and denies its Motion for Reinstatement.


Accordingly, it is this 27th day of June, 2018, **ORDERED** that:

1. NMPCA's Motion for Reinstatement is **DENIED**.
2. Copies of this Order shall be sent to Counsel for the Applicant and NMPCA, Protestant.

District of Columbia
Alcoholic Beverage Control Board

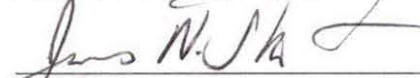


Donovan Anderson, Chairperson

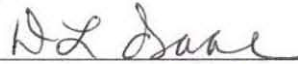


Nick Alberti, Member

Mike Silverstein, Member



James Short, Member



Donald Isaac, Member



Bobby Cato, Member

Rema Wahabzadah, 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, DC 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 (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).