

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

In the Matter of:)	
)	
Voyager 888, LLC)	Case No.: 19-251-00157
t/a Assets)	License No.: ABRA-113585
)	Order No.: 2021-703
Holder of a)	
Retailer's Class CN License)	
)	
at premises)	
1805 Connecticut Avenue, N.W.)	
Washington, D.C. 20009)	

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Bobby Cato, Member
Rafi Aliya Crockett, Member
Jeni Hansen, Member
Edward S. Grandis, Member

ALSO PRESENT: Voyager 888, LLC, t/a Assets, Respondent

Richard Bianco, Counsel, on behalf of the Respondent

Stephen Ortiz, Assistant Attorney General
Office of the Attorney General for the District of Columbia

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

ORDER DENYING RESPONDENT'S MOTION TO DISMISS

Voyager 888, LLC, t/a Assets, (Respondent) filed a motion to dismiss the show cause action filed by the Government in Case No. 19-251-00157 on the grounds of laches and D.C. Official Code § 2-509. The basis of the motion is the approximate two-year delay between the 2019 case report that led to the present charges and the execution of the notice of the charges. *Applicant's Contested Motion to Dismiss and Consent Motion to Continue Show Cause Hearing [Mot. to Dismiss]*, at 2-5. The Respondent further claims that the delay has caused prejudice to its defense. *Id.* The motion is opposed by the Government because the delay was caused by the closure of the Government due to the "global pandemic" and related Mayoral emergency orders.

Opposition to Respondent's Motion to Dismiss, at 2-3. The Government further argues that there is no prejudice where the Respondent was aware of the incident due to interactions with ABRA in 2019 and that the District's exhibits related to the incident are available for review. *Id.* at 3.

The Board finds the motion unpersuasive. First, laches is not available as a defense as a matter of law. *Expedia, Inc. v. Dist. of Columbia*, 120 A.3d 623, 639 (D.C. 2015) (“This jurisdiction, however, has accepted the principle of *nullum tempus occurrit reipubliciae* (“no time runs against the state”), by which neither laches nor statutes of limitations will constitute a defense to suit by the sovereign in the enforcement of a public right.”). Even if laches were available as a defense, the Respondent has not stated with specificity as to what witnesses and evidence are unavailable, nor has the Respondent shown that the length of the delay or the reason for the delay are unreasonable. *Powell v. Zuckert*, 366 F.2d 634, 636-639 (D.C. Cir. 1966) (finding a delay of 16 months did not constitute laches under the circumstances); *Duncan v. Summerfield*, 251 F.2d 896, 896 (D.C. Cir. 1957) (finding a delay of two years and eight months did not constitute laches under the circumstances). Therefore, the Board finds that the Respondent's laches defense has no merit.

Second, the Respondent has presented no authority that § 2-509 creates any sort of “speedy trial” defense. Instead, § 2-509 merely creates the right to hearing and the right to contest evidence and argument made at trial, which shall occur at the future Show Cause proceeding in this matter.

ORDER

For these reasons, on this 19th day of October 2022, the Board **DENIES** the motion to dismiss filed by the Respondent. A copy of this Order shall be provided to the parties.

District of Columbia
Alcoholic Beverage Control Board

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Donovan Anderson
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Donovan Anderson, Chairperson

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Donovan Anderson
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James Short, Member

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James Short
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Bobby Cato, Member

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Jeni Hansen, Member

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Edward Grandis, Member
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Edward S. Grandis, 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, Reeves Center, 2000 14th Street, NW, 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, 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 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).