

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

In the Matter of:

Mehyar, LLC
t/a Charcoal Town

Applicant for a New
Retailer's Class CR License

at premises
1027 31st Street, N.W.
Washington, D.C. 20007

Case No.: N/A
License No.: ABRA-117535
Order No.: 2021-098

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

ALSO PRESENT: Mehyar, LLC, t/a Charcoal Town, Applicant

Sidon Yohannes, Counsel, on behalf of the Applicant

Tara Sakraida Parker, Board President, Citizens Association of
Georgetown, Protestant

Rick Murphy, Chair, Advisory Neighborhood Commission (ANC)
2E, Protestant

John L. Hopkins, Designated Representative, on behalf of a Group
of Five or More Residents or Property Owners, Protestant

Martha Jenkins, General Counsel, Alcoholic Beverage Regulation
Administration

ORDER DENYING MOTION FOR REINSTATEMENT

On December 4, 2020, the Alcoholic Beverage Control Board provided public notice of the Application filed by Mehyar, LLC, t/a Charcoal Town (Applicant), for a new Retailer's Class CR License. The notice indicated that petitions to protest the Application could be filed on or until February 8, 2021.

A Group of Five or More Residents and Property Owners (Hopkins Group) attempted to file a protest but the group's petition was rejected by agency staff for being filed untimely. *Letter from April R. Randall, Assistant General Counsel, ABRA, to John L. Hopkins*, 1 (Feb. 9, 2021). The Hopkins Group has objected to the dismissal and requests that the Board overrule the agency. *Motion*, at 1.

The Hopkins Group indicates that it placed its protest petition in the agency's drop box before noon on February 8, 2021, and informed the agency's counsel that it did so on the same day. *Id.* Nevertheless, the agency's Licensing Division checked the agency's drop box after 4:12 p.m. on February 8, 2021, and did not find the group's protest petition. *Affidavit of Sean Gordy, Licensing Manager*, ¶¶ 5-6. The agency further conducted additional checks in the morning of February 9, 2021, checked with the security desk, and checked the postal service mailbox on the first floor. *Id.* at ¶ 7.

The Licensing Division further indicates that in the afternoon of February 9, 2021, the agency conducted another check of the agency's drop box and retrieved the group's protest. *Id.* at ¶ 8. The protest was date stamped as being received on February 9, 2021, at 1:09 p.m. *Id.*

Section 25-602(a) of the D.C. Official Code provides that "Any person objecting, under § 25-601, to the approval of an application shall notify the Board in writing of his or her intention to object and the grounds for the objection *within the protest period.*" D.C. Code § 25-602(a) (emphasis added). Therefore, untimely petitions cannot be accepted by the Board.

In this case, the agency conducted multiple checks of the agency's drop box on February 8, 2021, and February 9, 2021, but did not find the Hopkins Group petition in the drop box until 1:09 p.m. on February 9, 2021, which is after the protest deadline in this matter. While the Hopkins Group indicates that it timely filed the petition, this assertion cannot be verified and is not sufficient to merit a finding that the petition was timely filed. The Board notes that had the group sent their petition through certified mail or through another channel that records and verifies delivery then it would have a stronger case that the petition was filed timely. Yet, that is not the case; therefore, the Board is not persuaded that the group's petition was filed in a timely manner pursuant to § 25-602(a).

ORDER

Therefore, the Board, on this 3rd day of March 2021, hereby **DENIES** the motion for reinstatement. Copies of this Order shall be sent to the Parties.

District of Columbia
Alcoholic Beverage Control Board

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Donovan Anderson
Key: ac437699569643f09e4b720093d1eccc8

Donovan Anderson, Chairperson

James Short, Member

eSigned via SeamlessDocs.com
James Short
Key: 256d3fcafb0146d7f6075ed7917d20d

Bobby Cato, Member

eSigned via SeamlessDocs.com
Rema Wahabzadah, Member
Key: bf2ca46b596b74099b19b35b738f16cf

Rema Wahabzadah, Member

eSigned via SeamlessDocs.com
Rafi Aliya Crockett, Member
Key: b560e91845a1f0e4016155e5c12f81cc

Rafi Crockett, Member

eSigned via SeamlessDocs.com
Jeni Hansen, Member
Key: 82172921f0509447491b669c2a41809

Jeni Hansen, Member

eSigned via SeamlessDocs.com
Edward Grandis, Member
Key: 5027bda7f09f0040ec14adeb52541ce5

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, 2000 14th Street, N.W., Suite 400S, Washington, DC 20009.

Also, pursuant to section II 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).