

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

In the Matter of:)	
)	
Sequential, LLC)	Case No.: 24-PRO-00033
t/a Green Theory)	License No.: ABRA-126813
)	Board Order: 2024-281
Applicant for a New)	
Medical Cannabis Retailer License)	
)	
at premises)	
4828 Macarthur Boulevard, N.W., First Floor)	
Washington, D.C. 20007)	
)	

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Silas Grant, Jr., Member

ALSO PRESENT: Sequential, LLC, t/a Green Theory, Applicant
Caroline Wolverton, Designated Representative, Non-Party

ORDER DENYING MOTION FOR STAY AND RECONSIDERATION

The Application filed by Sequential, LLC, t/a Green Theory (Applicant), for a New Medical Cannabis Retailer License (hereinafter “Application”), resulted in a protest letter being filed with the Alcoholic Beverage and Cannabis Board (Board) by a group of individuals represented by Caroline Wolverton (Wolverton Group). The Applicant subsequently filed a motion to dismiss for lack of standing, as Title 7 of the D.C. Official Code only grants standing to protest medical cannabis businesses to elected advisory neighborhood commissions. *In re Sequential, LLC, t/a Green Theory*, Case No. 24-PRO-00033, Board Order No. 2024-177, at 1 (D.C.A.B.C.B. Apr. 11, 2024). The Board granted the motion and affirmed the dismissal of the group at the Roll Call Hearing that took place on April 8, 2024. *Id.* at 4.

The Wolverton Group subsequently filed a motion for stay alleging that the Board and ABCA violated the Open Meetings Act by failing to publish notice of the approval of the license in violation of D.C. Official Code § 2-576 by failing to post notice of the action on the Board’s agenda within 48 hours of the approval action. *Emergency Motion for Stay of License ABRA-126813*, at 1. The group further requests a stay on the grounds that that license should not be approved or issued pending the resolution of any motions for reconsideration and the resolution of a complaint filed with the Office of Open Government.

The Board denies the request for a stay for several reasons. First, the Open Meetings Act (OMA) does not mandate the voiding of all actions taken in violation of the OMA. As noted in § 2-579(d), “Actions shall not be declared void unless the court finds that the balance of equities compels the action or the court concludes that the violation was not harmless.” D.C. Code § 2-579(d). In this case, the Board’s approval of the license was a ministerial act and a wholly internal intermediate step that communicates to the Alcoholic Beverage and Cannabis Administration’s Licensing Department that the license may be physically issued upon satisfaction of any remaining requirements. Furthermore, the present application actions should not be a surprise to the public when the Board published notice of the application and public placards on February 2, 2024. More importantly, based on the lack of a lawful protest, the public had no standing, ability, or right to challenge an internal agency action such as the approval or issuance of the license. It should also be noted that the approval had no bearing on the Wolverton Group from attempting to unlawfully protest the license or the Board from addressing its filings.¹ Finally, the balance of equities do not support voiding the action as it could be financially damaging and severely disruptive to the Applicant’s business and the Applicant had no control over the agency’s actions. As a result, even if the action on March 27, 2024, violated the OMA, it was at best harmless error and does not merit voiding under the OMA.

Second, the motion is moot as the Board republished the approval and issuance action on April 23, 2024, and reapproved the approval and issuance on April 25, 2024. As a result, the stated reasons for the stay are moot and there are no grounds under the OMA for voiding the Board’s actions in this case, to the extent any such grounds even existed, as the prior action has been superseded and replaced.

Third, the Applicant provides no legal basis for mandating that the mere filing of a complaint with the Office of Open Government merits the stay of a related agency action.

Fourth, the Board is not obligated to stay the approval or issuance of the license pending consideration of any reconsideration motion. Section § 9720 contains no requirement that the Board stay any action subject to a motion for reconsideration. Furthermore, this is explicitly stated in § 9723.2 where it states that “The filing of a post hearing motion shall not stay the final order unless the stay is specifically ordered by the Board.” 22-C DCMR § 9723.2. As a result, there is no good reason to stay the present proceedings.

Finally, the Board also received a motion for reconsideration from the Wolverton Group. Nevertheless, the motion does not meaningfully address the specific administrative law and statutory standing issues discussed by the Board in its prior Order that prevent the group from being authorized to protest the license. As a result, the Board affirms its prior Order denying standing.

¹ And had an affected ANC lawfully attempted to the protest the license, the approval action would not have impacted the ANC’s hypothetical protest as the license would not be issued until the lawful protest was resolved.

ORDER

Therefore, the Board does hereby, on this 1st day of May 2024, **DENIES** the motion for stay and reconsideration filed by the Wolverton Group. Copies of this Order shall be sent to the Parties.

District of Columbia
Alcoholic Beverage and Cannabis Board

eSigned via SeamlessDocx.com
Donovan Anderson
Key: ac43c0b06c045f09e4b730093d1dccc8

Donovan Anderson, Chairperson

eSigned via SeamlessDocx.com
James Short
Key: 547ae3f36820decae8d1b3323d2048ec

James Short, Member



Silas Grant, Jr., Member

Pursuant to D.C. Official Code § 25-433(d)(1) (applicable to alcohol matters) or 22-C DCMR § 9720 (applicable to medical cannabis matters), 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 and Cannabis 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 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 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).