

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

In the Matter of:)	
)	
Four Five Eight, LLC)	Case No.: 22-PRO-00060
t/a Indigo-Indian Food on the Go)	License No: ABRA-092792
)	Order No: 2022-906
Application to Renew a)	
Retailer's Class CR License)	
)	
at premises)	
243 K Street, N.E.)	
Washington, D.C. 20002)	

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

ALSO PRESENT: Four Five Eight, LLC, t/a Indigo-Indian Food on the Go, Applicant

Matt T. Minora and Stephen J. O'Brien, Counsels, on behalf of the Applicant

Sylvia Sanchez, Abutting Property Owner, Protestant

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

**ORDER GRANTING CONTINUANCE AND REQUIRING THE FILING OF
ADDITIONAL PLEADINGS IN ACCORDANCE WITH 23 DCMR § 1618.1**

Four Five Eight, LLC, t/a Indigo-Indian Food on the Go, (Applicant) has filed a motion for a continuance where it has discovered evidence that the Protestant Abutting Property Owner's property is "under contract" and pending closing. *Mot. for Continuance*, at 1. The Abutting Property Owner admits that she "accept[ed] a very low offer" and that "while my home is under contract, it has not closed." *Response*, at 1. The Alcoholic Beverage Control Board grants the motion for continuance as the present protest cannot go forward until the Protestant

Abutting Property Owner demonstrates to the satisfaction of the Board that she retains standing and intends to maintain standing until the conclusion of the Protest process in accordance with 23 DCMR § 1618 and the instructions provided in the Order section below.

Standing to protest a liquor license application is provided by law to “abutting property owner[s]” in accordance with D.C. Official Code § 25-601(a)(1)(A). The Board has previously written that “a party must retain standing in order to maintain a protest, the issue of standing is a ‘threshold issue,’ and standing may be reevaluated ‘at any time.’” *In re Trump Old Post Office, LLC, t/a Trump International Hotel Washington DC*, Case No. 19-PRO-00036, Board Order No. 2019-656, 2 (D.C.A.B.C.B. Sept. 25, 2019) citing *In re S&A Deli, Inc., t/a Good Hope Deli & Market*, Case No. 14-PRO-00018, Board Order No. 2014-222, 2 (D.C.A.B.C.B. May 15, 2014).

In this case, the uncontested evidence presented by the Applicant is that the Abutting Property Owner has entered a contract to sell her home. While the sale has not closed at present, this may not be the case over the next few months while the matter is pending a decision, which may be released within 90 days after the hearing (or longer if a party requests to file Proposed Findings of Fact, other post-trial motions are filed, or the case is appealed). Nevertheless, the parties have not provided the Board with a timeline as to when the property will be legally transferred to new owners.

The Board considered the Abutting Property Owner’s arguments that the Applicant may be having a negative impact on her property and that she should be permitted to uphold the interests of the new owners. *Response*, at 1.¹ Nevertheless, these arguments are not relevant to the legal requirements of standing. The Board is further aware that the protest hearing was rescheduled; however, this would not resolve the standing issue raised by the Applicant. The Board further considered the argument that the Abutting Property Owner retains ownership of the property and should be permitted to continue with the protest. Nevertheless, the Applicant has made a persuasive and credible argument that the Protestant will not be able to maintain standing while a decision related to this protest is pending and that the transfer of the property may be imminent, which would render the present proceedings futile and invalidate any Order issued by the Board. Therefore, considering the above, the Board agrees with the Applicant that a continuance is warranted for the purposes of investigating the standing of the Abutting Property Owner.

The Applicant has requested a 45-day continuance; nevertheless, the continuance should only be as long as necessary to confirm the standing of the Protestant. Therefore, the Board will decide whether the present matter merits proceeding upon the submission of additional information by the Abutting Property Owner in accordance with 23 DCMR § 1618.

¹ The Board reminds the Protestant that she still retains the right to file complaints with the Department of Public Works regarding any alleged inappropriate handling of trash, trash containers, or trash areas. For more information on the District’s rules and regulations related to trash management, the parties are referred to the following website: <https://dpw.dc.gov/page/solid-waste-sanitation-and-recycling-regulations>.

ORDER

Therefore, the Board, on this 9th day of November 2022, hereby **GRANTS** the motion for continuance requested by the Applicant and the Board **CANCELS** the Protest Hearing scheduled for Thursday, November 10, 2022.

IT IS FURTHER ORDERED, within fourteen (14) days, that the Protestant Abutting Property Owner shall file an affidavit upon the Board and the Applicant's Counsel providing the following information:

1. Whether the property conferring standing in this case will be sold or transferred to a new owner within the next year; and
2. The date of any confirmed, agreed upon, or scheduled closing, related to the property, if any.

The Protestant is also invited to submit any other information relevant to the certainty of the sale or any other information related to the issue of standing in the affidavit. The Board notes that the failure to comply with this order may result in the dismissal of the Protest in accordance with 23 DCMR § 1618.1 ("where an applicant or a protestant . . . fails to file requested pleadings, or fails to comply with a Board Order, the Board shall on its own motion, dismiss the application or protest").

The parties are **ADVISED** that upon submission of the above-requested affidavit the parties are invited to file additional motions on the matter of scheduling, standing, or any other issue deemed pertinent to this protest within seven (7) days of receipt.

The parties are further **ADVISED** that the Applicant is entitled to file a motion to dismiss for lack of standing at any time should the sale be completed while the present Protest is pending.

A copy of this Order shall be provided to the Parties.

District of Columbia
Alcoholic Beverage Control Board

eSigned via SeamlessDocs.com
Donovan Anderson
Key: ac43cb09b0d5f0e4b73009d41cccc8

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com
James Short
Key: 547ae373f820de6ac8c1b332d42948ec

James Short, Member

eSigned via SeamlessDocs.com
Bobby Cato
Key: 256d3fcad7be146d7f4b75bc7917d20b

Bobby Cato, Member

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Rafi Aliya Crockett, Member
Key: b580e91845e189e4016155e5c12f81cc

Rafi Crockett, Member

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Jeni Hansen, Member
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Jeni Hansen, Member

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Edward Grandis, Member
Key: 5027bda7f9f0040ec14adeb52541ce5

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).