

more than \$ 100 in outstanding debt to the District as a result of the items specified in § 47-2862(a)(1) through (9), subject to the exceptions specified in § 47-2862(b).

D.C. Code § 25-301(b). Section 47-2862(b) provides that

(b) For purposes of this section, if: (A) the amount of outstanding debt over \$100 is subject to dispute, (B) the applicant has properly and timely appealed the infraction, assessment, tax, or basis for the alleged debt, and (C) the appeal is pending, then the outstanding debt shall not be cause for the District government to deny the issuance or reissuance of any license or permit pursuant to subsection (a) of this section. Nothing in this section shall be construed as allowing the nonpayment of any tax, fee, fine, penalty, or any other debt owed to the District government for which payment is required by other law.

D.C. Code § 47-2862(b).

The Applicant currently avers that it is in negotiations with the D.C. Office of Tax and Revenue (OTR) in order to resolve alleged unpaid taxes. *Mot. for Declaratory Order*, at 4. After receiving notice of the amount owed, the Applicant states that it filed for reconsideration of the amount. *Id.* At this time, the Applicant alleges that is awaiting a response on its request for reconsideration filed with OTR. *Id.* At the fact finding on October 9, 2019, it was further averred that OTR has denied the reconsideration request.


In considering the Applicant's request, the Board notes that the Applicant cites no authority showing that alleged delays by a coordinate agency in issuing a required certificate or permit are grounds for waiving the clean hands requirement or extending any statutory deadline under Title 25 of the D.C. Official Code. Moreover, the Board is not convinced that the mere filing of a reconsideration motion constitutes an "appeal."

If the Applicant believes OTR's inaction has caused any untoward delay, nothing prevents the business from initiating a mandamus action or filing an appropriate appeal in with the courts.

ORDER

Based on the foregoing, the Board, on this 9th day of October 2019, hereby **DENIES** the request for a declaratory order. A copy of this Order shall be sent to the Applicant.

District of Columbia
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson



James Short, Member



Bobby Cato, Member

Rema Wahabzadah, Member



Rafi Crockett, Member

Under 23 DCMR § 1719.1 (2008), 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, under 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration under 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).