


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

In the Matter of:)	
)	
Mary Morgan)	Case No.: N/A
t/a Morgan Investment Associates, LLC)	Registration No.: N/A
)	Order No.: 2022-611
Applicant for a)	
Medical Cannabis Registration)	
)	
Mailing Address:)	
)	
)	
)	
)	

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

ALSO PRESENT: Mary Morgan, t/a Morgan Investment Associates, LLC Applicant

John McGowan and Meredith Kinner, Counsels, on behalf of the Applicant

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

ORDER DENYING EXTENSION OF ANC COMMENT PERIOD

The Alcoholic Beverage Control Board has received a request from Mary Morgan Investment Associates, LLC (MMIA), an applicant for a medical cannabis facility registration, to extend the Advisory Neighborhood Commission (ANC) thirty (30) day comment period

As of the date of this Order, a competitive application process for limited available medical cannabis facility registrations is currently underway. Specifically, there is currently a 30-day ANC comment period open that allows for affected ANCs to submit comments on medical cannabis facility applications and have their comments considered as part of the competitive scoring process.

Under the medical cannabis regulations,

5402.5 To be considered eligible for further review, an application must have at least one hundred and fifty (150) points prior to the ANC review. The panel shall set forth through consensus comments the basis of the scoring decision for each criterion.

5402.6 Prior to seeking ANC review, the panel shall calculate a provisional score based upon the then available points. Each applicant's provisional score shall be calculated by discarding the highest and lowest panel member scores, adding up the remaining scores, and dividing that total by the number of scores that remain. The provisional scores shall be ranked from highest to lowest and the Panel shall provisionally select not more than the fifteen (15) highest ranking cultivation center applicants, not more than the fifteen (15) highest ranking dispensary applicants, and not more than fifteen (15) highest ranking testing laboratories for ANC review. The provisional selection decision shall be made in writing to the successful applicants

5402.7 The applications provisionally selected by the panel shall be placarded by the Board with notice given to each ANC in the affected Ward and shall state that the ANCs must submit their comments to the Board not later than thirty (30) days after receiving the notice.

5402.8 The ANC comments received during the comment period shall then be forwarded to the panel, which shall have thirty (30) days to evaluate and score the ANC comments. Only the official comments of the ANC that were voted upon and approved by the ANC as a whole shall be accepted by the panel for scoring. *All affected ANCs that do not timely submit comments shall be scored by the panel as if the ANCs submitted neutral comments.* The ANC comments shall be worth up to thirty (30) points of the total scoring for each provisionally selected applicant.

22-C DCMR § 5402.5 – 5402.9 (West Supp. 2022) (emphasis added).

In its letter, MMIA indicates that the ANC where it intends to locate its operation does not intend to meet or file comments until October 2022; thus, such comments will likely not be filed in a timely manner or considered as part of the current scoring process. As a result, MMIA argues the current timeline is prejudicial.

The Board disagrees for several reasons. First, the current medical cannabis regulations provide no legal means to extend the thirty (30) day ANC comment deadline once triggered by the receipt of the notice.¹ Second, there is no unfair result in this case where the regulations contemplate in § 5402.8 that an ANC comments will not submit comments for one reason or another, and provide a process for judging such an application. Third, even if permitted or possible to enact through rulemaking, the Board would not do so because such a request is unfair to other applicants that have not been provided notice of the request, and because other

¹ Unlike the alcoholic beverage regulations, which provide for ANC comment extensions in 23 DCMR § 1705.5 in the non-competitive alcoholic beverage licensing process.

applications may be prejudiced by additional delays to the application process (e.g., additional lease payments).

ORDER

For these reasons, the Board, on this 10th day of August 2022, the request to extend the ANC comment period is **DENIED**. A copy of this Order shall be provided to MMIA.

District of Columbia
Alcoholic Beverage Control Board

eSigned via SeamlessDocs.com
Donovan Anderson
Key: ac43cb9eb9d45f09e4b730093d1dccc8

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com
James Short
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James Short, Member

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).