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

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| **In the Matter of:** | | |
| | Case No.: | 25-PRO-00080 |
| Proper Exotic, LLC, | License No.: | ABRA-128697 |
| t/a Proper Exotic | Order No.: | 2026-002 |
| Summary Closure | | |
| at premises<br>313 8th Street, N.E.<br>Washington, D.C. 20002 | | |

**BEFORE:** Donovan Anderson, Chairperson
Silas Grant, Jr., Member
Teri Janine Quinn, Member
Ryan Jones, Member
David Meadows, Member

**PARTIES:** Proper Exotic, LLC t/a Proper Exotic, Applicant

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

David M. Wethington, Chairperson, Advisory Neighborhood Commission (ANC) 6A, Protestant

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## ORDER DENYING ANC 6A'S MOTION FOR RECONSIDERATION

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On August 2, 2025, Advisory Neighborhood Commission (ANC) 6A filed a protest against Proper Exotic, LLC, t/a Proper Exotic, (Applicant) on the grounds of "the effects on residential parking needs[1] and vehicular and pedestrian safety" pursuant to D.C. Official Code § 7–1671.06i. The ANC did not expand on this issue or raise any other concerns in the protest letter. The Board dismissed the protest in Board Order No. 2025-1082. Subsequently, ANC 6A filed a Motion for Reconsideration of Dismissal (Motion) and the Applicant filed an Opposition to ANC 6A's Motion. The Board denies ANC 6A's Motion for Reconsideration and affirms dismissal for the reasons explained below.

[1] Residential parking needs is no longer a viable protest basis under D.C. Official Code § 7–1671.06i. As discussed below, Chapter 16B was amended in 2024 to update the grounds for a medical cannabis protest against standard applicants.

The ANC's motion outlines four main arguments to overturn dismissal of the protest, including that: (1) the Board adopted an extra-statutory pleading requirement without an appropriate rulemaking and that dismissal is arbitrary and capricious; (2) the Board failed to afford the ANC input "great weight" in any meaningful sense; (3) the dismissal motion was unduly delayed; and (4) the Board's dismissal conflicts with the Ninth Emergency Rulemaking. The Board will address each of the arguments below. The Applicant argues that the dismissal for filing a protest without substance was well founded and that there is no requirement to hold a hearing to make this determination.[2]

## I. *The Board did not create an extra-statutory "pleading standard."*

The ANC contends that the Board created a heightened pleading requirement without an appropriate rulemaking or inconsistent with the protest statute, the Board's action is not a permitted interpretive rule, and that the dismissal was arbitrary, capricious, and an abuse of discretion. The Board disagrees. Protest letters must include the "specific grounds for the objection." D.C. Code § 7-1671.06g(b). Furthermore, the Board is instructed to dismiss protests without a hearing if the Board finds that the protest "lacks substance." D.C. Code § 7-1671.06i(c).[3] That is precisely what the Board did here. Specifically, the protest was dismissed because the ANC merely restated the protest statute in their protest letter and provided no other context, information, or explanation for its protest. As such, a protest that merely recites the law cannot be found to have "substance" as required by law as it provides no indication to the Applicant as to the specific matters at issue or what needs to be rebutted. Furthermore, this dismissal is consistent with prior medical cannabis rulings, and the Board's interpretation flows naturally from the language of the statute. *See* Board Order No. 2025-815 (the Board dismissed the protest based on the lack of specificity in the initial notice of the protest letter). Therefore, the Board's action in this case is not an impermissible rule, and dismissal of the ANC protest is warranted in light of the lack of detail contained in the ANC's protest letter.[4]

## II. *The Board properly provided "great weight" to the ANC's Protest.*

The Board also disagrees with the argument that it failed to afford the ANC input "great weight." Pursuant to D.C. Code § 7-1671.06j, "the Board shall accord great weight to input provided by an affected ANC regarding the proposed… location of a retailer when approving or rejecting an application for a license." D.C. Code § 7-1671.06j. "[G]reat weight" implies explicit reference to each ANC issue and concern as such, as well as specific findings and conclusions with

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[2] *Proper Exotic LLC's Opposition to ANC 6A's Motion for Reconsideration* (Dec. 5, 2025).

[3] *ANC 6A's Motion for Reconsideration of Dismissal,* 2 (Nov. 26, 2025) [Motion]. In its filing, the ANC claims there is a conflict between how the Board addresses alcohol and medical protests. Nevertheless, this argument fails to recognize that the legislation that created the medical cannabis program added the "lacks substance" pleading standard to medical cannabis protests, which is not found in the District's alcohol laws. This difference in language prevents the Board from adopting the same standard in reviewing pleadings in alcohol license protests. As a result, any differences in how the Board addresses alcohol and medical cannabis protests stems directly from the statutes under which the Board must operate.

[4] The ANC's argument that the Board must hold a hearing and allow the development of evidence does not make sense, as the statute specifically allows dismissal "without a hearing." To hold otherwise, would improperly nullify this specific portion of the statute.

respect to each. *Kopff v. District of Columbia Alcoholic Beverage Control Board*, 381 A.2d 1372, 1384 (D.C.1977). The great weight requirement does not require the Board to adopt or accept the views of the ANC's position. Rather, "all that the law demands is that the views of the ANC be specifically addressed and not ignored or overlooked..." *Foggy Bottom Ass'n v. D.C. Bd. of Zoning Adjustment*, 791 A.2d 64, 77 (D.C. App. 2002). Finally, the law "does not require special deference to the views of an ANC but, rather, that an agency address its concerns with particularity." *Committee for Washington's Riverfront Parks v. Thompson*, 451 A.2d 1177, 1194 (D.C.1982). Here, the Board evaluated and considered the ANC's protest letter regarding vehicular and pedestrian safety but found the letter to be insufficient as it did not include any particular information or specific statement that the Board could respond to. As a result, based on the failure to provide any details, the Board's prior order satisfies the great weight requirement by explaining that the recommendation lacked sufficient substance to merit a protest, which is all the great weight standard requires.[5]

**III.** ***The motion to dismiss was timely filed for consideration.***

The ANC claims without citation to authority applicable to these proceedings that because the protest was initially accepted, and it could develop evidence for the protest hearing, it should be permitted to continue with the protest process. Moreover, the ANC further argues that the motion was filed too late in the protest process to merit consideration. Nevertheless, merely because a protest was initially accepted, it does not require the Board to allow the protest to continue if the protest fails to articulate a valid legal basis. Furthermore, nothing in the statute or regulations barred the Applicant from raising the issue in a motion to dismiss for Board consideration before the Protest Hearing. As noted above, protests may be dismissed without a hearing if they do not properly cite specific statutory grounds or are otherwise insubstantial and no time limit is set by the statute.[6] Furthermore, while the ANC cites Rule 12 of the Superior Court Rules of Civil Procedure, this rule does not apply or been adopted in medical cannabis cases. Finally, the motion cannot be said to be untimely or waived, as it was filed before the merits hearing in this matter. As such, the ANC's argument on this ground is unpersuasive.

**IV.** ***The Board's dismissal does not conflict with the Ninth Emergency Rulemaking.***

Finally, the ANC argues that the Board failed to apply the Ninth Emergency Rulemaking and misallocates the burden of proof to the ANC. This is incorrect. Previously, Chapter 16B permitted ANCs to protest on the following grounds: (1) peace, order, and quiet of the relevant area; (2) residential parking needs and vehicular and pedestrian safety; and (3) real property values. D.C. Official Code § 7–1671.06a (2023). The law changed in 2024 to add new standing requirements and protest grounds for protestants that replaced these prior grounds. The new protest grounds for medical cannabis retailers now solely include: (1) a violation of Chapter 16B by the applicant; (2) a violation of civil law by the applicant that is directly related to the operation of the business or establishment for which the license is sought; and (3) vehicular and pedestrian safety.

[5] In the alternative, if it is found that the Board's prior Order does not satisfy the great weight requirement, then the Board's response would be that the basis of the concern and recommendation provided by the ANC lacks sufficient specificity and is too speculative to merit the imposition of conditions or denial of the application. The Board does not believe more needs to be said under the great weight standard given the paucity of the ANC's recommendation.
[6] Protests may also be dismissed for procedural reasons throughout the protest process.

D.C. Code § 7-1671.06i(a)(1)-(3). The Board is aware that the old grounds of peace, order, and quiet; residential parking needs; and real property values remain in the statute; however, the plain language of D.C. Official Code § 7-1671.06a(i) limits consideration of these factors only to special "unlicensed establishment[s]" that qualified for a limited grace period under the law. D.C. Code § 7-1671.06a(i). Because Proper Exotic is not one of these special unlicensed establishments, the protest factors are limited to the new ones articulated by the D.C. Council in § 7-1671.06i. Indeed, based on the legislation that added § 7-1671.06i to the law, the removal of peace, order, and quiet, residential parking and real property values indicate a legislative intent to exclude these factors from medical cannabis protests against standard medical cannabis license applications.[7] As such, §§ 5403, 5421, 5435 of the Ninth Emergency Rulemaking , which were drafted based on an older version of the statute, now solely apply to unlicensed establishments, and cannot apply to protests against standard applicants, which are limited to the factors listed in § 7-1671.06i.[8] This reading is warranted because regulations that conflict with statutes cannot prevail. *Frazier v. DC Department of Employment Services*, 229 A.3d 131, 139 (D.C. 2020) *citing Hanson v. Dist. of Columbia Rental Hous. Comm'n*, 584 A.2d 592, 595 (D.C. 1991). For this reason, the Board's dismissal of the ANC is not in conflict with the Ninth Emergency Rulemaking as the Board properly applied the correct protest criteria to standard medical cannabis applications as required by law.

**ORDER**

Therefore, the Board, on this 8th day of January 2026, **DENIES** the ANC 6A's Motion for Reconsideration of Dismissal. ABCA shall deliver copies of this Order to the parties.

[7] The Board is not aware of any pending applications that qualify as special unlicensed establishments under the law; therefore, the Board presumes that the old protest factors will not be used again in protests unless the law is amended.
[8] The Board will propose updating the rules in an upcoming rulemaking unless there is an intervening change to the statute.

District of Columbia
Alcoholic Beverage and Cannabis Board


Donovan Anderson, Chairperson

Silas Grant, Jr., Member

*Teri Janine Quinn*

Teri Janine Quinn, Member

Ryan Jones, Member

*David Meadows*

David Meadows, Member

Any party adversely affected may file a Motion for Reconsideration of this decision or other motion permitted by law within ten days of service of this Order. If a motion is filed, the opposing party may file a response within seven days. If a response is filed, the movant may file a reply within three days. All filings should be served on all parties to the matter and delivered to the Alcoholic Beverage and Cannabis Administration, 899 North Capitol Street, N.E., Suite 4200-A, Washington, D.C. 20002, or sent by email to abca.legal@dc.gov. Parties are further advised that the failure to properly serve the other parties or to present all matters of record that have allegedly been erroneously decided in a motion for reconsideration may result in the waiver of those matters being considered by the Board. The Board also reserves the right to summarily deny or not consider multiple and repetitive motions.

In addition to filing a Motion for Reconsideration, pursuant to § 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, a party that is adversely affected may have the right to appeal this Order by filing a petition for review, within 30 days of the date of service of this Order, with the District of Columbia Court of Appeals, located at 430 E Street, N.W., Washington, D.C. 20001. Parties are advised that 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).

Parties are also advised that the Superior Court of the District of Columbia may have jurisdiction to hear appeals in non-contested cases or in matters where that court is specifically provided jurisdiction by law. Finally, advisory neighborhood commissions (ANCs) are advised that their right to appeal or challenge a decision of the Board may be limited by the laws governing ANCs. See e.g., D.C. Code § 1-309