THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE AND CANNABIS BOARD

In the Matter of:		
Sahara Market, LLC t/a Sahara Market	Case No.:	24-PRO-00075 24-PRO-00076
	License No.:	ABRA-128673 ABRA-128674
Application for a New Retailer's Class B and Retailer's Class CR Licenses	Order No.:	2024-780
at premises		
1901 Michigan Avenue, N.E. Washington, D.C. 20018		

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

ALSO PRESENT: Sahara Market, LLC, t/a Sahara Market, Applicant

Jeff Jackson, Designated Representative, on behalf of the Applicant

Stephanie K. Rones, Counsel, on behalf of the Protestant

Martha Jenkins, General Counsel
Alcoholic Beverage and Cannabis Administration

ORDER TO DISMISS PROTESTANT'S MOTION

The Application filed by Sahara Market, LLC, t/a Sahara Market (Applicant), for a new Retailer's B License and Retailer's CR License, having been protested by the Queens Chapel Civic Association, came before the Alcoholic Beverage and Cannabis Board (Board) for a Roll Call Hearing on July 29, 2024. Both parties were present for the Roll Call Hearing. Subsequently, the parties were scheduled for a Protest Status Hearing on August 7, 2024, and Protest Hearings on September 18, 2024, and October 4, 2024, and both parties attended the hearings.

On October 21, 2024, after the close of the record, the Protestant filed a motion requesting the Board to hold a qualification's hearing to determine if the Applicant is of "good character and fit for the responsibilities of licensure" per D.C. Official Code § 25-301(a)(1).[1] The Protestant provided evidence that showed that the Applicant had been debarred by the District's Office of Contracting and Procurement in 2021 from entering into contracts with the District government for six years. *Id.* at *Exhibit No*. 1. The Protestant also argued that the Applicant's failure to provide a complete and thorough license application for the Board's review raises questions about the Applicant's integrity and honesty. *Motion Requesting a Qualification Hearing* at 4. Shortly after, the Applicant filed a response to the Protestant's motion requesting that the Board dismisses the motion on the grounds that the issues raised are beyond the scope of the appropriateness standard enumerated in D.C. Official Code § 25-313.[2] § 25-313 provides several factors in which a party with standing may protest an application and a qualifications hearing is not listed as one of the factors. *Id.*

Having reviewed both arguments, the Board denies the Protestant's motion on procedural grounds and need not address the substantive issues raised. First, the motion was filed on October 21, 2024, three months after the July 8, 2024 deadline to file an objection to the Applicant's application.[3] The Protestant submitted an initial protest letter timely on June 24, 2024, however, the letter did not include any concerns about the Applicant's fitness and character.[4] The information about the Applicant's debarment status had been readily available since 2021 which infers that the Protestant had the opportunity to access the information during the protest period and had ample opportunity to raise this protest issue. The Protestant raising this concern at this late hour in the protest, leads the Board to conclude that the motion is dilatory at this juncture.

Moreover, the Board notes that the decision to undertake a qualifications review by the Board is solely within the discretion of the Board and not subject to challenge by private parties. Nevertheless, in this case, the Board is not persuaded that the debarment ruling merits barring the Applicant from holding an alcohol license or undertaking a qualifications review for several reasons. First and foremost, when the agency with jurisdiction took appropriate action, the Board is entitled to view the matter as settled and appropriately handled by the reviewing agency. Second, the Board is entitled to conclude that additionally penalizing the Applicant by barring the Applicant from holding an alcohol license is too severe; especially, when the debarment will expire in 2026. Third, even if the Protestants were correct that the application is incomplete or contains incorrect information, the Board is further entitled to view such matters as mere mistakes on the part of the Applicant. And finally, the Board notes that to the extent the Application contains any mistakes, the Protestant had ample opportunity to present the correct information through direct evidence or cross-examination during the hearing.

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[1] *ABCA Protest File Nos. 24-PRO-00075, 24-PRO-00076*, Motion Requesting a Qualification Hearing for Emmanuel Irono in Abra – 128673 and Abra – 128674, 3-4 (Oct. 21, 2024)[*Motion Requesting a Qualification Hearing*].
[2] *ABCA Protest File Nos. 24-PRO-00075, 24-PRO-00076*, Denying Motion of Protestant Qualification Hearing (Oct. 21, 2024).
[3] *ABCA Protest File Nos. 24-PRO-00075, 24-PRO-00076.*
[4] Lewis, Charlotte, B., *Resolution Opposing ABRA-128673 & ABRA-128674*, Queens Chapel Civic Association (June 10, 2024).

The Protestant further waived the opportunity to raise this claim as part of the hearing pursuant to D.C. Official Code § 25-602, which requires all issues to be raised during the protest period. [5] Furthermore, on the issue of the Applicant submitting an incomplete application, the Board similarly notes that the incompleteness of the application should have been raised as a protest issue, where the application was available for review during the protest period. Finally, the issue of incompleteness was previously addressed in Board Order No. 2024-620 and nothing in § 500 prevents the agency and the Board from engaging in intermediate non-final steps such as public placarding and reviewing the appropriateness of the application before taking the final action of issuance.[6]

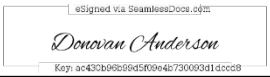
For these reasons, the Board dismisses the Protestant's motion to the Board to hold a qualifications hearing.

ORDER

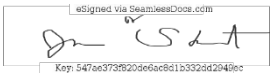
The Board does hereby, on this 30th day of October 2024, **DISMISS** the Protest of the Queens Chapel Civic Association. Copies of this Order shall be sent to the Parties.

[5] D.C. Official Code § 25-602.
[6] The Board notes that the remedy for an incomplete application is permitting the applicant to amend the application, not denial.

District of Columbia
Alcoholic Beverage and Cannabis Board



Donovan Anderson, Chairperson



James Short, Member

Silas Grant, Jr., Member

Teri Janine Quinn

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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).