

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

In the Matter of:)
)
)
 Alchemist DC, LLC) Case No.: N/A
 t/a The Alchemist) License No.: ABRA-118276
) Order No.: 2023-366
)
 Holder of a)
 Retailer’s Class CT License)
)
 at premises)
 1334 U Street, N.W.)
 Washington, D.C. 20009)
)

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

ALSO PRESENT: Alchemist DC, LLC, t/a The Alchemist, Applicant

Bryan K. Short, Counsel, on behalf of the Applicant

Martha Jenkins, General Counsel
Alcoholic Beverage and Cannabis Administration

**ORDER DENYING REQUEST FOR HEARING AND TERMINATION OF
SETTLEMENT AGREEMENT**

Alchemist DC, LLC, t/a The Alchemist, (Applicant) filed a substantial change application that contradicts the terms the occupancy term of the settlement agreement attached to the license. In accordance with the agency’s policies and procedures, the agency’s Licensing Division will not submit the agreement for Board review and public notice until the settlement agreement is amended or terminated, as the license is conditioned on “compliance” with the agreement and the agreement is “enforceable by the Board.” D.C. Code § 25-446(c).¹

¹ The Board notes that this decision does not prohibit or is otherwise intended to address the filing of an application for a new license for the expanded space.

Nevertheless, the Applicant reports that one of the parties to the agreement refuses to consider an amendment until and unless the agreement is submitted to the Board for review and publicly noticed as a substantial change contrary to ABCA's practices and procedures. In light of this situation, the Applicant has requested a hearing, the bringing of a show cause action against the refusing party, and the termination of the settlement agreement based on the refusing party's bad faith. Nevertheless, because a show cause action cannot be instituted against a non-licensee and termination or amendment can only occur in accordance with D.C. Official Code § 25-446, none of the requested remedies may be granted as a matter of law. Therefore, the requested hearing on the Applicant's request would serve no purpose and be futile.

On a final note, the Board emphasizes that it disapproves of placarding and subjecting applications to the protest process when the licensee's request would violate the terms of the settlement because (1) it would confuse the public to publicly notice an application that cannot be legally granted at the time of placarding; (2) there is no guarantee that the refusing party would agree to the change of the agreement, even if the substantial change were approved by the Board, rendering the proceedings potentially moot and a waste of time; and (3) the Board cannot properly review the substantial change under such circumstances because the future terms of the agreement remain hypothetical and could be changed in a manner that would invalidate the material facts considered by the Board to justify approval. Consequently, the Board has good reason for not considering an application blocked by a settlement agreement until the parties agree to change the blocking term.

ORDER

Therefore, the Board, on this 28th day of June 2023, **DENIES** the request filed by the Applicant.

The Board **ADVISES** the Applicant that the Board assents to considering this Order as a final agency action denying the substantial change application and denying the request for termination for the purposes of facilitating an appeal.

ABCA shall deliver copies of this Order to the Applicant.

District of Columbia
Alcoholic Beverage and Cannabis Board

eSigned via SeamlessDocs.com
Donovan Anderson

Key: ac430b06b9d5f0b64c730003d1dccc8

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com
James Short

Key: 547ae373f820d66ac8d1b332d2d2948ec

James Short, Member

eSigned via SeamlessDocs.com
Bobby Cato

Key: 256d3fca0d7b6148d7f4b75bd7917d20d

Bobby Cato, Member

eSigned via SeamlessDocs.com
Jeni Hansen, Member

Key: 82172831f2505447491b56f9c2a41889

Jeni Hansen, Member

eSigned via SeamlessDocs.com
Edward Grandis, Member

Key: 5027bda7ff9f0040ec14adeb52541ce5

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 and Cannabis Administration, 2000 14th Street, N.W., Suite 400S, Washington, DC 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 (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).