

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

In the Matter of:)		
)		
Trump Old Post Office, LLC, t/a)	Case No.:	19-PRO-00036
Trump International Hotel Washington DC)	License No:	ABRA-100648
)	Order No:	2019-503
Application to Renew a)		
Retailer's Class CH License)		
)		
at premises)		
1100 Pennsylvania Avenue, N.W.)		
Washington, D.C. 20004)		

BEFORE: Donovan Anderson, Chairperson
Mike Silverstein, Member
James Short, Member
Bobby Cato, Member
Rema Wahabzadah, Member

ALSO PRESENT: Trump Old Post Office, LLC, t/a Trump International Hotel Washington DC, Applicant

Stephen J. O'Brien, Counsel, on behalf of the Applicant

Joshua A. Levy, Counsel, on behalf of A Group of Five or More Residents or Property Owners, Protestants

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

ORDER DENYING MOTION FOR A PROTECTIVE ORDER

In Board Order No. 2019-467, the Alcoholic Beverage Control Board ordered the disclosure of the protesting group of residents and property owners' (Group) addresses to the Trump Old Post Office, LLC, t/a Trump International Hotel Washington DC, (Applicant) in order to effectuate the Applicant's rights under 23 DCMR § 1801.6 to challenge the validity of the petition. *In re Trump Old Post Office, LLC, t/a Trump International Hotel Washington DC*, Case No. 19-PRO-00036, Board Order No. 2019-467, 4, 7 (D.C.A.B.C.B. Jun. 12, 2019)

Subsequently, the Group has filed a motion requesting that the “Applicant and its counsel . . . be required, as a condition of its license or otherwise” to refrain from “disclos[ing] the addresses to any third party.” *Mot. for Protective Order*, at 2. In opposition, the Applicant argues that the requested action exceeds the statutory authority of the Board, impedes on its ability to properly investigate the residency of the Group, and is not based on any credible safety concerns. *Opposition*, at 1-2. In reply, the Group further argues that it has a legitimate need for the order, such an order is permitted by § 2-534(a)(2) of the D.C. Freedom of Information Act (FOIA), and that the order can be structured in a manner that permits the Applicant to conduct a proper investigation. *Group Reply*, at 1-3.


The Board rejects the Group’s request for three reasons. First, under § 25-104(e), the use of conditions to restrict truthful communications for the benefit of individual parties does not comply with or relate to the statutory requirement that conditions “be in the best interest of the . . . section . . . of the District where the licensed establishment is to be located.” D.C. Code § 25-104(e). Second, the Board is aware that the Superior Court of the District of Columbia follows Rule 26, which allows parties to petition the Superior Court for protective orders to forbid the disclosure of discovery of certain information “for good cause, [and] issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense” D.C. SUPER. CT. R. CIV. P. 26(c)(1), 26(c)(1)(A). Yet, Title 25 of the D.C. Official Code and Title 23 of the D.C. Municipal Regulations do not contain a similar rule; as a result, the Board lacks the authority to restrict the public disclosure of information provided to a litigant once provided. Third, § 2-534(a)(2) of the FOIA does not authorize the Board to issue the requested protective order, as FOIA contains no specific grant of authority to control the use of any information once given to the recipient.

ORDER

Therefore, the Board, on this 26th day of June 2019, hereby **DENIES** the motion of the Group. The Board further reiterates that its prior order to release the addresses shall remain in full force and effect as described in Board Order No. 2019-467.

The ABRA shall deliver a copy of this order to the parties.

District of Columbia
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson




Mike Silverstein, Member



James Short, Member



Bobby Cato, Member



Rema Wahabzadah, 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. 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. 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).