

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

In the Matter of:)	Case No.:	N/A
)	License No.:	N/A
Franklin Park)	Order No:	2022-835
)		
Order to Cease and Desist)		
)		
1332 I Street, N.W.)		
Washington, DC 20005)		

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

PARTIES: DowntownDC Business Improvement District
Gerren Price, President
1275 K Street, N.W., Suite 1000
Washington, DC 20005

CEASE AND DESIST ORDER

INTRODUCTION

On October 26, 2022, the Alcoholic Beverage Control Board reviewed compelling evidence that the DowntownDC Business Improvement District (BID) engaged in the illegal sale, service, and consumption of alcohol at Franklin Park on October 8, 2022. In light of this illegal activity, the BID is ordered to cease and desist the sale, service, and consumption of alcohol at Franklin Park, located at 1332 I Street, N.W., and any other location in the District until an appropriate license is obtained.

FINDINGS OF FACT

1. On Saturday, October 8, 2022, Alcoholic Beverage Regulation Administration (ABRA) Investigator Kevin Puente received a complaint and responded to Franklin Park, located at 1332 I Street, N.W. *Case Report*, at 1 (Oct. 8, 022). At around 4:00 p.m., the investigator arrived at the park. *Id.*

2. While inside the park, he observed “a large beer garden, . . . 30 security guards, and an entertainment stage.” *Id.* He further “observed a table selling tickets for alcohol; a beer garden that had alcohol and kegs from City State Brewing; and alcohol infused spirits provided by District Daiquiri. *Id.*

3. A sign indicated that the event provided an area called “Liberation Garden.” *Id.* at Exhibit No. 5. It advertised 1 drink ticket for “\$10” and a 5 ticket drink ticket bundle for “\$40.” *Id.* It further indicated that cash was not accepted and that only credit card was acceptable for payment. *Id.* The sign further advertised various beers such as “Wards IPA”; “Franklin Park Sunny Daze Pilsner”; a “Strawberry Margarita”; and a “Blue Hawaiian.” *Id.*

4. Investigator Puente contacted Latasha Stiger, an employee for the BID. *Id.* at 1. She indicated that the BID had a contract with the National Park Service to sell and distribute alcoholic beverages. *Id.* at 2. The investigator informed Ms. Stiger that the BID was required to obtain an appropriate license or permit. *Id.* She informed the investigator that she believed it was a sufficient to have a licensed manager “on site.” *Id.*

5. Ms. Stiger also provided the contract that the BID had entered into with the National Park Service. *Id.* The contract provides that the BID will “collaborate with the NPS on any required approvals or permits before undertaking activities in NPS sites” and cites “36 CFR 2.50, Special Events, 36 CFR Part 7-Special Regulations. . . and Director’s Order 53 and RM 53.” *Id.* at Exhibit No. 8. The contract states that the BID will apply for “Special Use Permits when appropriate for planned events and activities occurring on NPS sites.” *Id.* The agreement further states that “Approval of [the] Annual Work Plan will serve as issuance of Special Use Permits for all events and activities conducted by Partners in Franklin Park.” *Id.* Finally, the agreement notes that “The sale or service of alcoholic beverages is permitted for activities and events in Franklin Park approved in the Annual Work Plan and otherwise in accordance with NPS regulations.” *Id.*

6. Investigator Puente informed Ms. Stiger that selling alcohol requires a full alcohol license, a one-day temporary license, or a catering license. *Id.* at 2. He further informed her that a manager’s license is not sufficient to authorize the sale and service of alcohol at a location. *Id.*

7. Investigator Puente later contacted James Warner with City State Brewing. *Id.* He said he was informed by the BID that they were contracted with the National Park Service and did not require ABRA approval to sell and serve alcohol. *Id.* He indicated that the beer was sent to the event through a wholesaler and paid for by the BID. *Id.*

8. Investigator Puente next contacted Lieutenant Timothy Van Dyke with the U.S. Park Police. *Id.* He indicated that no Special Permit was issued for the event on October 8, 2022, at Franklin Park. *Id.* He stated the BID and Ms. Stiger were informed by NPS that spirit products were prohibited at Franklin Park. *Id.* He also noted that NPS informed the BID that tickets for alcohol could not be sold on the day of the event and that all alcohol sales should occur before the event. *Id.* Finally, Lt. Van Dyke stated that NPS had informed the BID and Ms. Stiger “numerous times that the contract allows for the service of alcohol but [the] BID still needed to

follow the proper permitting process with NPS and the District of Columbia.” *Id.* There is no indication in ABRA’s records that the event had been authorized by a license or permit issued by ABRA or the Board.

CONCLUSIONS OF LAW

9. Title 25 of the District of Columbia (D.C.) Official Code (Title 25) provides the Board with the authority to order any individual or licensee to immediately cease “. . . violating any provision of . . . [Title 25 when] the violation has caused, or may cause, immediate and irreparable harm to the public . . .” D.C. Official Code § 25-829(a).

I. The Event Violated D.C. Official Code § 25-102.

10. The Board finds that the event on October 8, 2022, violated D.C. Official Code §§ 25-102(a). Under § 25-102(a), “No person shall sell any alcoholic beverage in the District without having first obtained an appropriate license as required by this title.” D.C. Code § 25-102(a). The term sale includes “offering for sale.” D.C. Code § 25-101(45). In this case, Investigator Puente, on October 8, 2022, observed the BID offer various alcoholic beverages for sale at Franklin Park without any type of license or permit issued by ABRA or the Board, which constitutes a violation of § 25-102.

II. THE CONTINUED OPERATION OF THE PREMISES FOR UNLICENSED PARTIES CREATES IRREPERABLE HARM TO THE PUBLIC.

11. The Board finds that the continued operation of alcohol events at an unlicensed location causes irreparable harm to the public by allowing the facilitators to maintain a continuing nuisance that threatens the safety and welfare of the public. All violations of Title 25 are deemed nuisances pursuant to § 25-805. D.C. Official Code § 25-805; *see also Com. ex rel. Preate v. Danny's New Adam & Eve Bookstore*, 625 A.2d 119, 122 (1993) (It is well-settled that even a lawful business may be enjoined from operation if it is shown that, under the particular circumstance, its operation constitutes a public nuisance); *Camp v. Warrington*, 227 Ga. 674, 674, (1971) (“where it is made to appear with reasonable certainty that irreparable harm and damage will occur from the operation of an otherwise lawful business amounting to a continuing nuisance, equity will restrain the construction, maintenance or operation of such lawful business.”). In this case, permitting the proprietors to continue to illegally operate without approval would allow them to maintain and benefit from the operation of a continuing nuisance and to continue to endanger the public.

12. Furthermore, the Board is convinced that the circumvention of the licensing process threatens the health, safety, and welfare of the public. The misuse of alcohol encourages crime, disorder, and other antisocial behavior. The licensing process keeps those who cannot be trusted to superintend a licensed event, such as criminals, individuals with a history of repeated violations of the District’s alcohol laws, and those without sufficient knowledge and training, from obtaining a license. Therefore, additional alcohol events cannot be allowed to occur at the park until an appropriate alcohol license is obtained.

ORDER

Therefore, the Board, on this 26th day of October 2022, hereby orders the BID to cease distributing, purchasing, selling, serving, or otherwise permitting the consumption of alcoholic beverages, or otherwise allowing third parties to engage in such activities at 1332 I Street, N.W., and any other location in the District until an appropriate license is obtained.

IT IS FURTHER ORDERED, pursuant to D.C. Official Code § 25-115(c) and 23 DCMR § 1003.1, that ABRA shall no longer issue temporary licenses and one-day substantial change licenses for the above-mentioned address until this matter is resolved to the satisfaction of the Board.

IT IS FURTHER ORDERED, pursuant to D.C. Official Code § 25-801(e), that ABRA refer this matter to the Office of the Attorney General for the District of Columbia (OAG) for prosecution. The Board further requests that OAG seek the enforcement of this Order in the Superior Court of the District of Columbia under D.C. Official Code §§ 25-829(f) (cease and desist orders) and 25-805 (nuisance) should it be deemed necessary.

Please be **ADVISED** that a copy of this Order is being forwarded to the Metropolitan Police Department to ensure compliance. If it is found that you are continuing to sell, serve, or permit the consumption of alcoholic beverages without approval from the Board, you and all other persons involved may be subject to both civil and criminal penalties.

ABRA shall serve notice by certified mail or personal delivery on the parties.

District of Columbia
Alcoholic Beverage Control Board

eSigned via SeamlessDocs.com
Donovan Anderson
Key: ac43cb9eb9d5f09e4b730093d1dccc8

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com
James Short
Key: 54f7ae373f820de6ac8c1b332d42949ec

James Short, Member

eSigned via SeamlessDocs.com
Bobby Cato
Key: 256d3fcaadfb6e146d7fb75bd7917d2bd

Bobby Cato, Member

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Rafi Aliya Crockett, Member
Key: b560e91845e1f9e4016155e5c12f81cc

Rafi Crockett, Member

Jeni Hansen, Member

eSigned via SeamlessDocs.com
Edward Grandis, Member
Key: 5027bda7f9f0040ec14adeb52541ce5

Edward S. Grandis, Member

You have the right to request a hearing before the Board conducted in accordance with subchapter I of Chapter 5 of Title 2. Pursuant to D.C. Official Code § 25-829(b)(1), you may submit a written request to the Board for a hearing within fifteen (15) days of service of this Order. Additionally, you also have the option of submitting a written request to the Board for an expedited hearing pursuant to D.C. Official Code § 25-829(c)(1) within ten (10) days of service of this Order. Please note that if you fail to request a hearing, this Order shall be deemed final. D.C. Official Code § 25-829(d).

If you request a hearing, you may appear personally at the hearing, and you and the establishment, may be represented by legal counsel. You have the right to produce witnesses and evidence on your behalf and to cross-examine witnesses. You may examine evidence produced, and have subpoenas issued on your behalf to require the production of witnesses and evidence.

All hearings are conducted in the English language. If you, any corporate officer, or any witnesses to be called are deaf, have a hearing impediment, or cannot readily understand or communicate the spoken English language, an application may be made to the Board for the appointment of a qualified interpreter.

Your failure to appear at the time and place set for the hearing, if requested, either in person or through counsel, or both, will not preclude the Board from proceeding in this matter. Should you have any questions, contact ABRA Adjudication Specialist Danette Walker at 202-442-4418.

Finally, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, District of Columbia 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, 500 Indiana Avenue, 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).