

Rec'd 6/20/05

THE DISTRICT OF COLUMBIA  
ALCOHOLIC BEVERAGE CONTROL BOARD

<u>In the Matter of:</u>	)	
	)	
Pharoah's Rock N' Blues	)	
Bar & Grill, LLC	)	
t/a Pharoah's Rock N' Blues	)	
Bar & Grill	)	
Application for a Retailer's Class CR	)	
License – substantial change	)	Application no.: 71962-05/038P
at premises	)	Order no.: 2005-147
1817 Columbia Road, N.W.	)	
Washington, D.C.	)	
	)	

Pharoah's Rock N' Blues Bar & Grill, LLC, Applicant

Alan J. Roth, Chairperson, on behalf of the Advisory Neighborhood Commission 1C, and  
Matt Forman, President, on behalf of the Kalorama Citizens Association, Protestants

**BEFORE:** Charles A. Burger, Chairperson  
Vera M. Abbott, Member  
Judy A. Moy, Member  
Audrey E. Thompson, Member  
Peter B. Feather, Member  
Albert G. Lauber, Member  
Eartha Isaac, Member

**ORDER ON VOLUNTARY AGREEMENT AND WITHDRAWN PROTEST**

The substantial change application for a change of license class from a Retailer's Class "CR" License to a Retailer's Class "CT" License; for the addition of live music and entertainment between the hours of 8 p.m. and 12 a.m., Monday, between the hours of 8 p.m. and 1 a.m., Thursday, and between the hours of 8 p.m. and 2:30 a.m., Friday and Saturday; and, for a change in the hours of operation, alcohol sales and consumption between the hours of 12 p.m. and 2 a.m., Sunday through Thursday, and between the hours of 12 p.m. and 3 a.m., having been protested, came before the Board on May 25, 2005, in accordance with D.C. Official Code § 25-601 (2001). Alan J. Roth, Chairperson, on behalf of the Advisory Neighborhood Commission ("ANC") 1C, and Matt Forman, President, on behalf of the Kalorama Citizens Association ("KCA"), filed timely opposition by letters dated April 11, 2005 and May 9, 2005, respectively.

The official records of the Board reflect that the parties have reached two (2) separate agreements that have been reduced to writing and have been properly executed

and filed with the Board. The Board notes that as part of the settlement of both agreements, the Applicant has agreed to withdraw its request to change its license class from a Retailer's Class "CR" to a Retailer's Class "CT". The Board also notes that the two (2) agreements are substantively similar, except for provision 3a) in the agreement between the Applicant and the KCA, which specifies the music to be played as "Blues or Classic Rock". This provision was adopted by the Board as it is more restrictive to the licensee. Pursuant to the agreements, dated June 1, 2005, the Protestants have agreed to withdraw their protests, provided, however, the Board's approval of the pending application is conditioned upon the licensee's continuing compliance with the terms of the agreement.

Accordingly, it is this 15<sup>th</sup> day of June 2005, **ORDERED** that:

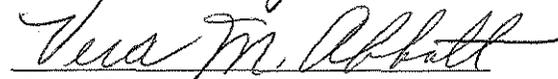
1. The protests of Mr. Roth, Chairperson, on behalf of ANC 1C, and Mr. Forman, President, on behalf of KCA, are **WITHDRAWN**;
2. The substantial change application of Pharoah's Rock N' Blues Bar & Grill, LLC, t/a Pharoah's Rock N' Blues Bar & Grill for a change of license class from a Retailer's Class "CR" License to a Retailer's Class "CT" License is **WITHDRAWN**;
3. The substantial change for the addition of live music and entertainment between the hours of 8 p.m. and 12 a.m., Monday, between the hours of 8 p.m. and 1 a.m., Thursday, and between the hours of 8 p.m. and 2:30 a.m., Friday and Saturday; and, for a change in the hours of operation, alcohol sales and consumption between the hours of 12 p.m. and 2 a.m., Sunday through Thursday, and between the hours of 12 p.m. and 3 a.m., at 1817 Columbia Road, N.W., Washington, D.C. is **GRANTED**;
4. The above-referenced agreements, is **INCORPORATED** as part of this Order;  
and
5. Copies of this Order shall be sent to the Protestants and the Applicant.

Pharoah's Rock N' Blues Bar & Grill, LLC  
t/a Pharoah's Rock N' Blues Bar & Grill  
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District of Columbia  
Alcoholic Beverage Control Board



Charles A. Burger, Chairperson

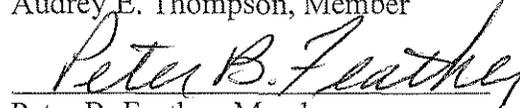


Vera M. Abbott, Member



Judy A. Moy, Member

Audrey E. Thompson, Member



Peter B. Feather, Member

Albert G. Lauber, Member

Eartha Isaac, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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, 941 North Capitol Street, N.E., Suite 7200, Washington, D.C. 20002.

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## COOPERATIVE AGREEMENT CONCERNING LICENSE FOR SALE OF ALCOHOLIC BEVERAGES

**AGREEMENT**, made and entered into this 1st day of June 2005, by and between Pharaoh's Rock N' Blues Bar & Grill, LLC, t/a Pharaoh's Rock N' Blues Bar & Grill (hereinafter the "Applicant") and Kalorama Citizens Association (hereinafter, KCA: the protestants), witnesseth:

**Whereas**, Applicant has filed an Application (No. 60923) with the District of Columbia Alcoholic Beverage Control Board (hereinafter the "Board") for the Substantial Change of Class CR License (No. 71962) located at 1817 Columbia Road, NW, Washington DC.

**Whereas**, protestants have filed before the Board protests opposing the granting of this Application,

**Whereas**, in recognition of the Board's policy of encouraging parties to a protested proceeding to settle their differences by reaching cooperative agreements, the Parties hereto desire to enter into a cooperative agreement whereby (1) Applicant will agree to adopt certain measures to address the protestant's concerns and to include this Agreement as a formal condition of its Application, and (2) protestants will agree to the approval of the Application and withdrawal of the protest *provided* that such Agreement is incorporated into the Board's order approving such Application, which order is thereby conditioned upon compliance with such Agreement,

**Whereas** Applicant has recently taken or intends to take certain measures designed to ameliorate protestant's concerns,

**Now, therefore, in consideration of the mutual covenants and undertakings memorialized herein, the Parties hereby agree as follows:**

### **1. License Class.**

By letter on February 9, 2005, Applicant made request to the Board to change license class from "CR" (Restaurant) to "CT" (Tavern). The request was duly placarded by the Board on April 1, 2005. As part of the settlement of this Cooperative Agreement, Applicant agrees to amend its application by withdrawing the request to change license class and to remain a class "CR". Applicant shall amend its application no later than June 8, 2005.

### **2. Nature of Establishment: Operation.**

At all times, the Applicant shall operate with the primary purpose of food preparation and consumption. Applicant shall maintain a menu featuring, but not limited to, a selection of hot, cooked food items. Menus with food selections will be offered to patrons. The kitchen shall be staffed and maintained, open and operational, with cooked food menu items **available at all times**. Applicant shall keep on hand sufficient food supplies to fulfill menu items, with staff to serve them, at all times when the establishment is open for business. A full menu of salads, appetizers,

entrees and desserts will be available up to 2 hours before closing. From 2 hours before closing until closing, Applicant may feature a "late-night" menu, with a reduced number of food items from the regular menu.

**3. Live Entertainment:**

The parties agree to a one-year trial period for live entertainment at the establishment, with the following conditions:

- a) The Live entertainment featured at the establishment shall consist of no more than 4 musicians playing "Blues" or "Classic Rock", either acoustic, with light amplification, or electric, with amplification.
  
- b) At no time will the Live entertainment at the establishment be presented in such a way as to disturb the tranquility of the neighborhood, or have a negative impact on neighboring businesses and residents due to excessive noise or other disturbance. Should there be noise or other complaints with regard to applicant's presentation of Live entertainment to either ABRA, MPD, or DCRA, or concerns brought to the attention of the protestants by local residents or businesses, representatives of the parties agree to meet and work together on a continuing basis to resolve any such issues and to prevent recurrences. Should the Applicant be cited for a violation of the DC Noise Control Act within the trial period, the Protestants may petition the Board for a Show Cause hearing under the provisions set forth in §25-447. Upon a second such violation, the trial period shall end, with no further Live entertainment to be presented by Applicant at the establishment.
  
- c) The trial period shall begin on June 8, 2005 and continue until June 8, 2006, provided there is no more than one citation for a violation of the DC Noise Control Act.
  
- d) Upon completion of the trial period, with Board approval, and no more than one cited violation of the DC Noise Control Act, the Live entertainment privileges described in this agreement shall become a permanent condition of Applicant's license. Applicant agrees to not apply for any additional Live entertainment privileges, with the exception of those possible under 23DCMR 716, than those described in this agreement for the duration of the trial period.

**4. The Hours of Operation shall be:**

Sunday: 11:00 am - 11:00 pm  
Monday-Wednesday: 11:00 am - 12:30 am  
Thursday: 11:00 am - 2:00 am  
Friday & Saturday: 11:00 am - 3:00 am

It is understood between the parties that the 11:00 am opening time is not a requirement, but may be used at the discretion of the Applicant as business develops.

Applicant agrees to amend its application to reflect a requested opening time of 11:00 am.

**a) The Days and Hours for presentation of Live entertainment shall be:**

Sunday, Tuesday and Wednesday: None.

Monday: 8:00 pm – 12:00 midnight

Thursday: 8:00 pm\* – 1:00 am

Friday & Saturday: 8:00 pm – 2:30 am

*\*From 8:00 pm - 10:00 pm, Thursday, only acoustic, lightly amplified performance shall be permitted.*

Along with the amended application previously referred to under “1. License Class” above, Applicant agrees to amend its application to reflect a request for live entertainment between the hours of 8:00 pm - 10:00 pm, as shown above.

Last call will be announced ½ hour prior to closing, each night of operation.

**b) Hours of Operation for Sidewalk Café/Summer Garden**

10:00 am – 11:00 pm, seven days a week.

All patrons at the sidewalk café/summer garden will be seated.

Applicant agrees to maintain current its annual Certificate of Use for the sidewalk café/summer garden.

The sidewalk café/summer garden area shall never be used as a space to form a line for entry into the establishment.

**5) Seating.**

Interior seating capacity will not exceed the interior seating capacity as specified in the Certificate of Occupancy: 75 seats.

Sidewalk Café/Summer Garden: 14 seats.

**6. Noise/Music/Dancing.**

Applicant acknowledges familiarity with and will comply with all applicable noise-control provisions of District of Columbia law and regulations, including, but not limited to:

a) Preventing emissions of sound, capable of being heard outside the premises, by any musical instrument or amplification device or other device or source of sound or noise, in accordance with D.C. Official Code § 25-725 (2001). Further, the Applicant agrees to abide by all relevant provisions of the D.C. Noise Control Act of 1977 (D.C. Law 2-53), including 20DCMR, Chapters 27 and 28, as amended.

b) The doors and windows of the premises will be kept closed at all times during business hours when music is being played, or a sound amplification device is being employed in the premises, except when persons are in the act of using the door for ingress to or egress from the premises.

- c) Applicant and Protestants agree that any live music performances will be for the benefit and enjoyment of the establishment's dining and bar patrons. As such there shall be no cover charge.
- d) Applicant agrees not to place outside in the public space any loudspeaker, tape player, CD player or other similar device, or to place any inside speaker in such a way that it projects sound into the public space.
- e) Music from inside will not be audible at surrounding residential housing areas.

#### **7. Trash/Garbage/Rodents.**

- a) Applicant shall maintain regular trash/garbage removal service, regularly remove trash from the trash and dumpster area, and see that the trash and dumpster area remain clean. Applicant shall deposit trash and garbage only in rodent-proof dumpsters, and shall see that dumpster covers fit properly and remain fully closed except when trash or garbage is being added or removed. Applicant will make every reasonable effort to eliminate food sources for rodents and help eliminate the rat population.
- b) Applicant agrees to segregate and recycle bottles and glass refuse apart from trash and agrees to make all reasonable efforts to minimize noise associated with the disposal of bottles and glass refuse in the outside trash dumpsters or recycling containers by refraining from dumping recyclables between the hours of 11:00 pm and 8:00 am.
- c) Applicant agrees not to place or cause to be placed any fliers, handbills or other similar advertisement in the public space, specifically on lampposts, street signs or any vehicle parked in the public space.
- d) Applicant will provide for the proper removal of grease and fatty oils from the establishment and will not deposit grease or fatty oils in the trash dumpsters. Applicant agrees to provide protestants with a copy of the contract for removal of grease and fatty oils from the establishment.

#### **8. Exterior including public space.**

Applicant shall assist in the maintenance of the alleyway behind and the space in front of the establishment to at least 18 inches outward from the curb as needed to keep them free of trash and to remove snow and ice from the sidewalk and comply with all applicable D.C. laws and regulations in these respects. Applicant shall make every reasonable effort to prevent or disperse loitering or any other source of noise or disturbance in the areas in front or to the rear of the premises during business hours and at closing, and to cause patrons to leave those areas quietly at closing.

#### **9. Third Party Events**

Applicant agrees to operate the establishment under the terms of its license and will not rent out the establishment to third parties for events where the owner/manager is not present and managing the business.

