

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

In the Matter of:)	
)	
19th & K, Inc.)	
t/a Ozio Martini & Cigar Lounge)	
)	
Applicant for Substantial Change)	Case No. 10-PRO-00126
to Retailer's Class CN License)	License No. ABRA-023167
at premises)	Order No. 2010-569
1813 M Street, N.W.)	
Washington, D.C. 20006)	
)	

19th & K, Inc., t/a Ozio Martini & Cigar Lounge ("Applicant")

Will Stephens, Chairperson, Advisory Neighborhood Commission (ANC) 2B
("Protestant")

Anne Kappel, on behalf of A Group of Five or More Individuals ("Protestant")

BEFORE: Charles Brodsky, Chairperson
Mital M. Gandhi, Member
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

**ORDER ON VOLUNTARY AGREEMENT AND WITHDRAWAL OF
PROTESTS**

The official records of the Alcoholic Beverage Control Board (Board) reflect that 19th & K, Inc., t/a Ozio Martini & Cigar Lounge (Applicant), has submitted an Application for a Substantial Change to its Retailer's Class CN License located at 1813 M Street, N.W., Washington D.C. The Applicant; Chairperson Will Stephens, on behalf of ANC 2B; and Anne Kappel, on behalf of A Group of Five or More Individuals, have entered into a Voluntary Agreement, dated November 17, 2010, setting forth the terms and conditions that govern the operation of the Applicant's establishment.

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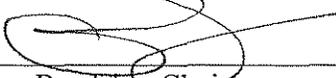
The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant; Chairperson Will Stephens, on behalf of ANC 2B; and Anne Kappel, on behalf of A Group of Five or More Individuals, are signatories to the Agreement. This Agreement constitutes a withdrawal of the Protests filed by ANC 2B and Anne Kappel, on behalf of A Group of Five or More Individuals, of this Application.

Accordingly, it is this 17th day of November 2010, **ORDERED** that:

1. The Application filed by 19th & K, Inc., t/a Ozio Martini & Cigar Lounge (Applicant), for a Substantial Change to its Retailer's Class CN License located at 1813 M Street, N.W., Washington, D.C., is **GRANTED**;
2. The Protests of ANC 2B and Anne Kappel, on behalf of A Group of Five or More Individuals, in this matter are hereby **WITHDRAWN**;
3. The above-referenced Voluntary Agreement submitted by the Parties to govern the operations of the Applicant's establishment are **APPROVED** and **INCORPORATED** as part of this Order; and
4. Copies of this Order shall be sent to the Applicant, ANC 2B, and Anne Kappel, on behalf of A Group of Five or More Individuals.

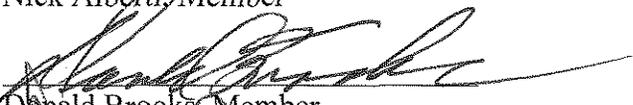
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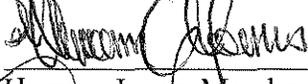
District of Columbia
Alcoholic Beverage Control Board

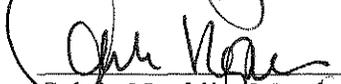

Charles Brodsky, Chairperson

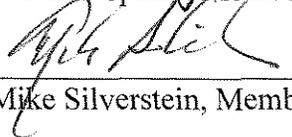

Mital M. Gandhi, Member


Nick Alberti, Member


Donald Brooks, Member


Herman Jones, Member


Calvin Nophlin, Member


Mike Silverstein, 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, 1250 U Street, N.W., Third Floor, Washington, DC 20009.

VOLUNTARY AGREEMENT

This Voluntary Agreement made this ____ day of November, 2010, by and among 19th & K., Inc., t/a Ozio Martini & Cigar Lounge (Applicant) and Advisory Neighborhood Commission 2B (ANC 2B) and Anne Kappel, designated representative of a group of seven residents of the Jefferson Row Condominium, 1830 Jefferson Place, N.W. (collectively Protestants).

RECITALS

WHEREAS, Applicant is the holder of retailer's license ABRA-023167 Class CN for premises located at 1813 M Street, NW; and

WHEREAS, Applicant has constructed a new summer garden space on its fourth floor level, with said space having an operable skylight roof, and with said space useable year round during all hours that the establishment is open for business; and,

WHEREAS, the new summer garden space will increase the current occupancy load of the establishment by 110 persons; and,

WHEREAS, ANC 2B and certain residents of the Jefferson Row Condominium have protested Applicant's request for a summer garden endorsement to its license for use of its fourth floor level with an occupancy load of 110 persons; and,

WHEREAS, the parties have agreed to enter into this voluntary agreement, pursuant to DC Code Section 25-446, to resolve the issues raised by Protestants' objections, and to request that the Alcoholic Beverage Control (ABC) Board approve Applicant's request for a summer garden endorsement and increase in occupancy conditioned on Applicant's compliance with the terms of this written agreement.

NOW, THEREFORE, in consideration of the recitals set forth above and the mutual covenants and conditions set forth below, the parties agree as follows:

1. Recitals Incorporated. The recitals set forth above are incorporated herein by reference.
2. The fourth floor level summer garden space with an operable skylight roof shall have hours of operation consistent with the hours permitted under the ABC license, except that the skylight roof shall be closed at 1 a.m. Sunday through Thursday and at 2 a.m. Friday and Saturday. The parties agree to renegotiate this provision after an interim monitoring period should adjustments be needed. Such renegotiation shall be completed no later than June 30, 2011. Future replacement of the audio control system may occasion amendment to this provision.

3. The occupancy on the fourth floor level summer garden shall not exceed 110 persons.

4. Applicant acknowledges familiarity with the District of Columbia Noise Control Act of 1977 (Noise Control Act), as amended, and the noise control provisions of District of Columbia laws and regulations, in general, including but not limited to DC Code Section 25-725, and agrees to comply with such provisions as required by law.

5. Applicant shall operate a sound system and shall maintain its audio control system (audio limiter) at or below maximum level when the skylight roof is closed and within or below midrange level when the skylight roof is open. Such levels have been mutually agreed to by Applicant and Protestants and shall not be modified except by mutual agreement between the parties. The parties agree to re-examine the maximum sound levels based on experience gained during the interim monitoring period and to modify the levels if needed to achieve the same results as those achieved by the initial levels. Such re-examination shall be completed no later than June 30, 2011. The sound system and audio control system are specifically described in Exhibit A attached hereto. Future replacement of the audio control system may occasion amendment to this provision.

6. Applicant shall regulate the audio system sound levels, including use of the audio system by contracted musicians, disc jockeys and other vendors, so that it is consistent with the sound system specifications and volume levels described in paragraph 5.

7. Protestants agree to notify Applicant directly by telephone in the event that noise emanating from the summer garden space is heard within their dwellings and is disturbing to the enjoyment of their property. Applicant shall provide Protestants with a written list of telephone numbers and email addresses of its officers and managerial employees to contact with any complaint, and to update same when staffing changes occur. Applicant agrees to take appropriate action not more than one hour after receiving a complaint by telephone, to reduce the disturbing noise levels, including, closing the sky light roof up to one hour earlier than the designated closing time, if that is the only means to limit the noise's disruption to residents in their dwellings. The parties agree to renegotiate this provision after an interim monitoring period should adjustments be needed. Such renegotiation shall be completed no later than June 30, 2011.

8. Applicant shall maintain a record of any and all complaints received directly from residents of the Jefferson Row Condominium regarding noise from the summer garden space, including actions taken to address such complaints, and shall allow Protestants access to such records and permission to copy them at a mutually agreeable time.

9. The compliance agreed to hereby is primarily directed at sounds emitted by Applicant's music and entertainment through its audio system control on the fourth floor summer garden; however, it also includes unreasonable noise attributable to persons' continuing conduct or otherwise emitted from the operation of the fourth floor summer garden space that is disruptive to residents in their dwellings.

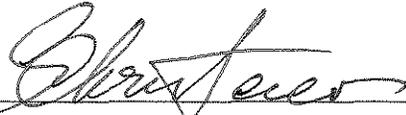
10. Withdrawal of protest. Protestants hereby agree to withdraw their protests and join with Applicant in requesting that the ABC Board accept this Agreement as a condition of approval of the summer garden endorsement and increase in occupancy. The withdrawal of Protestants' request is contingent upon the text of this Voluntary Agreement being incorporated in an Order of the Board granting Applicant's summer garden endorsement application and increase in occupancy.

11. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all, when taken together, constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature and may be appended to any other counterpart.

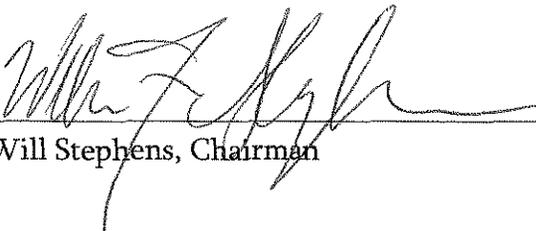
12. Authority. Representatives executing this Agreement on behalf of the respective parties do hereby affirm that they have the authority to do so.

In witness whereof, the parties have executed this Voluntary Agreement as of the day and date first above written.

Applicant: 19th & K, Inc.

By: 
George Christacos, President

Protestants: Advisory Neighborhood Commission 2B

By: 
Will Stephens, Chairman

Group of Seven Residents on behalf of Jefferson Row Condominium Association

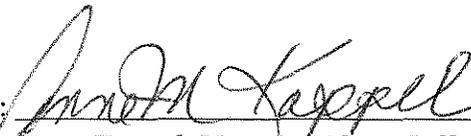
By: 
Anne Kappel, Vice President, Jefferson Row Condominium Association, and Designated Representative of the Group of Seven Residents of the Jefferson Row Condominium Association

EXHIBIT A

SOUND SYSTEM

Summer Garden: 4 Eastern Acoustic Works JFL210 powered by 2 Crown Audio XTI2000 amplifiers (High End Frequencies) and a Crown XTI6000 amplifier (Midrange & Lower Range Frequencies); 2 JBL Professional-4138 SRX728S Dual 18" Subwoofers 1600 Watts each (Low End Speaker) powered by a Crown XTI6000 amplifier.

Smaller Enclosed Sitting Area by Men's Room: 2 Pair of Electro Voice Evid 6.2 Two Way Twin 6" Woofer & 1" Horn Loaded 100 x 90 Tweeter Speakers (High & Midrange Speakers) powered by a Crown Audio XTI2000 amplifier.

AUDIO CONTROL SYSTEM (AUDIO LIMITER)

The Sound System is processed by a dbx DriveRack 260 Complete Equalization and Loudspeaker Management System, and a dbx ZonePro 1260M Digital Zone Processor. This allows values to be setup and protected by a security lockout feature prohibiting any tampering. It also allows for separate individual volume controls to be placed in specific zones (an additional two volume controls for summer garden) besides the output from the DJ mixer.