

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

In the Matter of:

1215 CT, LLC
t/a Rosebar

Application for Renewal of a
Retailer's Class CT License

at premises
1215 Connecticut Avenue, N.W.
Washington, D.C. 20036

Case No. 14-PRO-00014
License No. ABRA-077883
Order No. 2014-486

1215 CT, LLC, t/a Rosebar (Applicant)

Noah Smith, Chairperson, Advisory Neighborhood Commission (ANC) 2B

Carl Nelson, on behalf of A Group of Five or More Individuals

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Mike Silverstein, Member
Hector Rodriguez, Member
James Short, Member

**ORDER ON AMENDMENT TO SETTLEMENT AGREEMENT AND
WITHDRAWAL OF PROTESTS OF ANC 2B AND A GROUP OF FIVE OR
MORE INDIVIDUALS**

The Application filed by 1215 CT, LLC, t/a Rosebar, for renewal of its Retailer's Class CT License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on April 7, 2014, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Alcoholic Beverage Control Board (Board) reflect that a previous holder of a license for the premises and ANC 2B entered into a Voluntary Agreement (Agreement) dated February 28, 2007, and a Second Amendment to Voluntary Agreement dated May 11, 2011. 1215 CT, LLC, t/a Rosebar (Applicant), as the current holder of a Retailer's Class CT license, is required to comply with the terms of the Agreement and Second Amendment that govern the operation of the Applicant's establishment.

On November 10, 2014, the Applicant, ANC 2B, and the Group of Five or More Individuals, as an additional party, entered into an Amendment to Settlement Agreement (Amendment).

The Amendment has been reduced to writing and has been properly executed and filed with the Board. The Applicant; Chairperson Noah Smith, on behalf of ANC 2B; and Carl Nelson, on behalf of the Group of Five or More Individuals; are signatories to the Amendment.

This Amendment constitutes a withdrawal of the Protests filed by ANC 2B and the Group of Five or More Individuals.

Accordingly, it is this 19th day of November, 2014, **ORDERED** that:

1. The Application filed by 1215 CT, LLC, t/a Rosebar, for renewal of its Retailer's Class CT License, located at 1215 Connecticut Avenue, N.W., Washington, D.C., is **GRANTED**;
2. The Protests of ANC 2B and the Group of Five or More Individuals in this matter are hereby **WITHDRAWN**;
3. The above-referenced Amendment to Settlement Agreement, dated November 10, 2014, submitted by the parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order, except for the following modification:

Section 4.a. iv. (Compliance) – The following sentence shall be modified to read as follows: "District Officials have notified the Licensee of noise complaints."

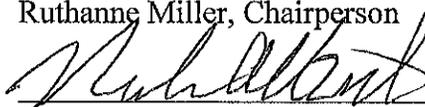
The parties have agreed to this modification.

4. All terms and conditions of the original Agreement and Second Amendment shall remain in full force and effect; and
5. Copies of this Order shall be sent to the Applicant, ANC 2B, and Carl Nelson, on behalf of the Group of Five or More Individuals.

District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



Nick Alberti, Member



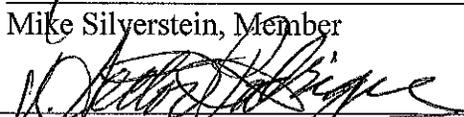
Donald Brooks, Member



Herman Jones, Member



Mike Silverstein, Member



Hector Rodriguez, Member



James Short, Member

Pursuant to D.C. Official Code § 25-433, 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, 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).

NOISE
PROPOSED AMENDMENT TO VOLUNTARY AGREEMENT

"NOISE COMPLIANCE PLAN"

THIS SETTLEMENT AGREEMENT ("Agreement") is by and between, Rose BAR ("Licensee"), the Group of Five Citizens from the Palladium Condominium ("Residents"), [and Advisory Neighborhood Commission ANC2B ("ANC 2B")] (collectively, "Parties"). Any existing Agreement shall remain in force, except that this Agreement shall supersede provisions relating to noise abatement.

WHEREAS, Licensee has applied for a renewal of license Class CT for a business establishment ("Establishment");

WHEREAS, the Residents [and ANC 2B] filed timely protest against the renewal of Licensee's license pursuant to D.C. Official Code § 25-601(4);

WHEREAS, the Parties have agreed to the terms of this Agreement and request that the Alcoholic Beverage Control Board ("ABC Board") approve the renewal of said license conditioned upon the Licensee's compliance with this Agreement;

WHEREAS, the Parties desire to settle the protest pursuant to D.C. Official Code § 25-446 for the operation and maintenance of the Establishment; Compliance:

WHEREAS, the levels of amplified sound emanating from District of Columbia nightclubs individually and collectively has risen in recent years to the point that local residents are complaining that the noise is entering their homes, interfering with the quiet enjoyment of their homes, disturbing their sleep, and negatively impacting their property values;

WHEREAS, the District of Columbia Noise Control Act and regulations at section 25-725, as amended, requires nightclubs to contain amplified sound;

WHEREAS, the Licensee is familiar with and will comply with All DC noise Control Laws and Regulations and will take reasonable measures to ensure compliance;

WHEREAS, Licensee recognizes that compliance with the Noise Control Act is of paramount importance to current and future residents, and is essential to the District's plan to increase mixed use and population density;

NOW, THEREFORE, the Parties agree as follows:

1. Noise abatement: Licensee agrees to employ sufficient noise abatement measures to ensure that the level of amplified music produced by the establishment (if any) complies with applicable law and cannot be heard outside the club within 75 feet.
2. Doors and windows: Licensee will make reasonable efforts to keep doors and windows closed, and implement procedures and mitigation measures to prevent noise from escaping from doors when patrons enter and leave.

ABRA - 077883

3. Outdoor spaces: Licensee agrees to minimize amplified music in outdoor spaces so that it cannot be heard by residents. Licensee has moved its outdoor speakers and changed some to control the sound from echoing to residence; has installed quiet brace on the outside wall, has installed peace maker 6.4 mm on outside walls, has installed mineral wool batting inside the exterior slat walls; has installed final layer of sheeting on outside wall; and thus far has spent over \$30,000 in sound proofing the outdoor area.
4. Compliance: Licensee agrees that:
 - a. Licensee agrees to promptly lower amplified sound levels when it determines, or is informed, that sound levels are too high. The Licensee will be on notice that sound levels are too high if any of the following situations occurs:
 - i. Amplified music can be heard 75 feet from the establishment;
 - ii. Music can be heard inside residences;
 - iii. Residents have complained;
 - iv. District Officials have notified the Licensee of complaints.
5. Continuing cooperation:
 - a. Licensee will provide the Parties the name and phone number of the general manager, who is responsible for compliance. If residents contact this person, he/she will immediately determine whether sound levels are too high – and if so, promptly lower sound levels as needed to comply with this Agreement and the Noise Control Act. The Licensee will have 24 hours to respond to any noise complaints. The Licensee shall have thirty (30) days to cure sound level problems by establishing lower levels, adding additional sound abating materials, and/or developing policies to ensure ongoing compliance with this Agreement.
 - b. Licensee will make good faith efforts to cooperate with other establishments to ensure that collective noise levels comply with the Noise Control Act.
6. Counterparts: This Agreement may be executed in counterparts, each of which shall be deemed as original, but all together shall constitute the same instrument.
7. Withdrawal of protest: upon execution of this Agreement and its acceptance by the ABC Board, the protest of the Licensee's application for license filed by the Parties hereto shall be deemed withdrawn.

Executed on this date, September ~~10~~ 10, 2014

By: _____ Date: _____

ABBA - 077883

_____, Owner
By: DAVID KARIM Date: 10/31/14

[Signature] Owner

By: Carl Nelson Date: 10/31/14

Carl Nelson, Group of Five Citizens from the Palladium Condominium

By: Noah Smith Date: 11/10/14

Noah Smith, Advisory Neighborhood Commission ANC2B

1215 CT
T/A ROSEBAR
AREA- 077885