

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

In the Matter of:)
)
Sunshine Bar & Lounge, LLC)
t/a Sunshine Bar & Lounge)
)
Application for a Substantial Change)
To a Retailer's Class CR License)
)
at premises)
7331 Georgia Avenue, N.W.)
Washington, D.C. 20012)
)

License No.: ABRA-085239
Case No.: 10-PRO-00149
Order No.: 2011-198

BEFORE: Nick Alberti, Interim Chairperson
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ALSO PRESENT: Bernard Dietz, Esq., on behalf of the Applicant

Sara Green and Sam Sharpe, Esq., on behalf of the Protestant, Advisory
Neighborhood Commission 4B

Dwayne Toliver and Sam Sharpe, Esq, on behalf of the Protestant,
Advisory Neighborhood Commission 4A

Andre Carley and Sam Sharpe, Esq., on behalf of the Protestant, A Group
of Five or More Individuals

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

Sunshine Bar & Lounge, LLC, t/a Sunshine Bar & Lounge (Applicant), filed an
Application for a Transfer of Ownership with a Substantial Change to a Retailer's Class CR
License. The requested substantial change to the operations of the establishment included an

extension of hours of operation, sales, and service of alcoholic beverages. The Applicant also sought an Entertainment Endorsement in the form of a DJ and the offering of live jazz, hip hop and soul music. The Application came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on November 29, 2010, and a Protest Status Hearing on January 12, 2011.

On November 15, 2010, a protest against the Application was timely filed by Advisory Neighborhood Association (ANC) 4B. ANC 4B was granted standing at the Roll Call Hearing. A second protest was filed by ANC 4A on November 5, 2010. ANC 4A was also granted standing. A protest was also filed by A Group of Five or More Individuals on November 15, 2010, represented by Andre Carley and Sam Sharpe, Esq. They were also granted standing at the Roll Call Hearing.

Pursuant to D.C. Official Code § 25-602(a) (2009), the protest issues are whether the substantial change of the Applicant will adversely impact the peace, order, and quiet of the neighborhood and whether residential parking and vehicular and pedestrian safety will be adversely impacted.

The Parties were unsuccessful in reaching a Voluntary Agreement before the Protest Hearing and, thus, the matter was heard by the Board at a Protest Hearing on March 16, 2011.

At the conclusion of the Protest Hearing, the Board took the matter under advisement. The Board, having considered the evidence, the testimony of the witnesses, the arguments of the parties, the Protestants' Post Hearing Brief, and all documents comprising the Board's official file, makes the following:

FINDINGS OF FACT

1. The Applicant seeks a Transfer of Ownership with a Substantial Change to a Retailer's Class CR License. *See* Alcoholic Beverage Regulation Administration (ABRA) Licensing File No. 85239, ABRA Protest Report, Case Report No. 10-CMP-00149. Specifically, the license is currently held by El Tamarindo Georgia, Inc., t/a El Tamarindo III, and the Applicant for the new license is Sunshine Bar and Lounge. *See* ABRA Licensing File No. 85239, ABRA Protest Report, Case Report No. 10-CMP-00149.
2. The Applicant also seeks to amend the license by extending its hours of operation, sales and service of alcoholic beverages, and offering entertainment. *See* ABRA Licensing File No. 85239, ABRA Protest Report, Case Report No. 10-CMP-00149. Specifically, the Applicant seeks entertainment in the form of a DJ, live jazz, hip hop and soul music. *See* ABRA Licensing File No. 85239, ABRA Protest Report, Case Report No. 10-CMP-00149. Additionally, the Applicant seeks hours of operation on Sunday through Saturday, from 11:00 a.m. to 3:00 a.m.; hours of sale, service and consumption of alcoholic beverages on Sunday through Saturday from 11:00 a.m. to 2:00 a.m. and hours of entertainment on Sunday through Saturday, from 9:00 p.m.

to 3:00 a.m. *See* ABRA Licensing File No. 85239, ABRA Protest Report, Case Report No. 10-CMP-00149.

3. The Applicant's establishment is located at 7331 Georgia Avenue, N.W., and is located within a C2A zone. *See* ABRA Licensing File No. 85239, ABRA Protest Report, Case Report No. 10-CMP-00149. There are five ABC-licensed establishments within 1,200 feet of the Applicant: Silver Sands Restaurant and Lounge (Retailer's Class CR), Charlie's (Retailer's Class CT), Mayfair Liquors (Retailer's Class A) Geranium Market (Retailer's Class B), and Cork N Bottle (Retailer's Class A). *See* ABRA Protest Report, Case Report No. 10-CMP-00149. There are no schools, recreation centers or public libraries within 400 feet of the establishment. *See* ABRA Protest Report, Case Report No. 10-CMP-00149. The Certificate of Occupancy lists a capacity of 140 seats. *See* ABRA Licensing File No. 85239.

4. Investigator Bailey was assigned to investigate the Protest to the Application for Transfer of Ownership with a Substantial Change. *Transcript, (Tr.)* 3/16/11 at 13. Investigator Bailey testified that the Protestants were concerned with the Applicant's compliance to the laws and regulations governing ABC-licensed establishments. *Tr.*, 03/16/11 at 13. The Protestants also expressed concern to Investigator Bailey regarding the effect of the establishment on the area parking and the peace, order, and quiet of the neighborhood. *Tr.*, 03/16/11 at 13-14.

5. Investigator Bailey testified as to the availability of parking near the establishment and in the surrounding neighborhood. *Tr.*, 03/16/11 at 14-15. He stated that there is both two hour metered parking and public parking for Zone 4 permit holders. *Tr.*, 03/16/11 at 15. He stated that there is also a bus zone located on the east and west side of Georgia Avenue in that block where the establishment is located. *Tr.*, 03/16/11 at 15-16.

6. Investigator Bailey described the physical attributes of the establishment. *Tr.*, 03/16/11 at 16. The establishment has three floors, two above ground and a basement floor. *Tr.*, 03/16/11 at 16,19-21. The first floor above ground has a bar, and tables and chairs for dining. *Tr.*, 03/16/11 at 16. The second floor above ground has several couches and a bar. *Tr.*, 03/16/11 at 16. The basement floor contains tables and chairs. *Tr.*, 03/16/11 at 16.

7. ABRA investigators monitored the location on ten separate occasions from January 13, 2011 to January 25, 2011. *Tr.*, 03/16/11 at 16. Investigator Bailey conducted a regulatory inspection on January 28, 2011 and determined that all business licenses were valid. *Tr.*, 03/16/11 at 16. ABRA investigators did not observe any issues with regard to trash or noise. *Tr.*, 03/16/11 at 17. Investigator Bailey noted for the Board that there are two pending complaints regarding the establishment's operation after Board-approved hours. *Tr.*, 03/16/11 at 17, 24-25. *See* ABRA Show Cause Case Reports, No. 11-CMP-00031 and No. 11-251-00031.

8. Investigator Bailey testified that the tavern known as Charlie's, located at 7307 Georgia Avenue, N.W., is licensed to operate until 2:00 a.m. on weekdays and 3:00 a.m. on weekends. *Tr.*, 03/16/11 at 27.

9. The Applicant called Alyoush Kindane to testify. *Tr.*, 03/16/11 at 35. Ms. Kindane testified that she bought the El Tamarindo III restaurant in June 2010. *Tr.*, 03/16/11 at 36, 40-42. She serves Mexican, Salvadoran and Ethiopian cuisine at the restaurant. *Tr.*, 03/16/11 at 37. Food and alcoholic beverage service is on the first ground floor. *Tr.*, 03/16/11 at 37. Ms. Kindane testified that her plans for the basement include use for private parties such as birthdays and anniversaries. *Tr.*, 03/16/11 at 37. She has no plans to offer entertainment on the first ground floor or to use the second floor above ground. *Tr.*, 03/16/11 at 38, 43, 47. She stated that she would like to offer entertainment on the basement floor. *Tr.*, 03/16/11 at 46-47.

10. Ms. Kindane testified that she changed the restaurant's name to Sunshine Bar and Lounge because Sunshine is her name in English translated from her native Ethiopian language. *Tr.*, 03/16/11 at 39. She stated that when she first bought the restaurant, she was told that the approved hours were 2:00 a.m. but after she began operating, the hours were reduced to 12:00 midnight. *Tr.*, 03/16/11 at 48-52.¹

11. The Protestants called Andre Carley as its first witness. *Tr.*, 03/16/11 at 52. Mr. Carley testified that he has resided at 7405 9th Street, N.W. for forty years. *Tr.*, 03/16/11 at 53. He stated that the neighborhood around the Applicant's establishment is residential. *Tr.*, 03/16/11 at 54. He recalls that on January 1, 2011, the establishment was open after Board-approved hours. *Tr.*, 03/16/11 at 55. He testified that on that night around 1:30 a.m. or 2:00 a.m., he walked to the corner where the establishment is located and noticed that the lights were on inside the restaurant. *Tr.*, 03/16/11 at 56. He did not observe any patrons entering or exiting the establishment. *Tr.*, 03/16/11 at 70. The following day, Mr. Carley filed an electronic complaint with ABRA. *Tr.*, 03/16/11 at 56, 58; see Protestants' Exhibit C.

12. Mr. Carley testified that on January 2, 2011, he heard noise emanating from Sunshine Bar and Lounge. *Tr.*, 03/16/11 at 60-61. He emailed ABRA to register this complaint too. *Tr.*, 03/16/11 at 61. Mr. Carley's complaint indicated that there was a faint sound of music emanating from the premises. *Tr.*, 03/16/11 at 63. Mr. Carley stated that other members of the community share his concern regarding noise. *Tr.*, 03/16/11 at 62. Mr. Carley testified that the noise is attributable to loud voice conversations, remote access key fobs, doors slamming, and car alarms. *Tr.*, 03/16/11 at 65-66.

13. Mr. Carley testified that people who frequent the ABC-licensed establishments, Charlie's and Silver Sands, park on Fern Street, N.W. *Tr.*, 03/16/11 at 67. He testified that there were no concerns with parking and noise before the Applicant took over the restaurant. *Tr.*, 03/16/11 at 67-68. He stated that there is a 24 hour Exxon station located on the corner of Georgia Avenue, N.W., and Geranium Street, N.W., across from the establishment. *Tr.*, 03/16/11 at 68. He has not heard loud noises coming from the Exxon station. *Tr.*, 03/16/11 at 69.

¹ The ABC Board takes administrative notice of its licensing records that when the establishment was placarded for the renewal application, the placard stated that the hours of operation were approved to 2:00 a.m. The Applicant's establishment was placarded a second time with the corrected hours listed on the placard.

14. The Protestants called Diane Robinson as their next witness. *Tr.*, 03/16/11 at 71. Ms. Robinson has lived at 814 Geranium Street, N.W., for approximately 35 years. *Tr.*, 03/16/11 at 72. Ms. Robinson stated that since 2010, she has observed that the establishment is open to customers in the early morning hours. *Tr.*, 03/16/11 at 72. She has noticed a pattern of disturbances occurring between 1:00 a.m. and 2:00 a.m. that include boisterous conversations, altercations, car doors slamming, and beeping car lock remotes. *Tr.*, 03/16/11 at 73. She has also witnessed males urinating against the back wall of the Exxon station across the street. *Tr.*, 03/16/11 at 73.

15. Ms. Robinson testified that on several mornings, she has observed an overflowing trash can. *Tr.*, 03/16/11 at 73. She further stated that in December 2010, the disturbances became more frequent and were occurring between 2:00 a.m. and 6:00 a.m. *Tr.*, 03/16/11 at 73. On December 28, 2010, she was awakened by car doors slamming and watched as the occupants walked toward the direction of Sunshine Bar and Lounge. *Tr.*, 03/16/11 at 73. She called 911 at 2:00 a.m. to report that a car was blocking her driveway. *Tr.*, 03/16/11 at 74. After the police left, she walked outside and noticed that Sunshine Bar and Lounge was lit up. *Tr.*, 03/16/11 at 74.

16. Ms. Robinson stated that on January 3, 2011, she observed that an occupant of a car parked in front of her house, opened the trunk of his car, took a long drink from a clear glass bottle and then walked with his companions in the direction of the Sunshine Bar and Lounge. *Tr.*, 03/16/11 at 74. She also testified that on January 17, 2011, she was awakened by a car alarm that included the horn sounding and the headlights flashing. *Tr.*, 03/16/11 at 74. She watched a man approach the flashing car from the direction of the Sunshine Bar and Lounge. *Tr.*, 03/16/11 at 74. Ms. Robinson stated that these disturbances did not occur before the existence of the Sunshine Bar and Lounge. *Tr.*, 03/16/11 at 75. She stated that her neighbors have reported similar disturbances. *Tr.*, 03/16/11 at 75.

17. Ms. Robinson testified that she has reported some of these incidents to the Metropolitan Police Department (MPD) and to her Advisory Neighborhood Commission, but not to ABRA. *Tr.*, 03/16/11 at 77. The nature of most of her complaints relate to noise. *Tr.*, 03/16/11 at 77. The noise stems from human conversation, altercations, car alarm noises and doors slamming. *Tr.*, 03/16/11 at 78-79. She is concerned that the operations of the establishment disrupt her sleep and affect her physical health. *Tr.*, 03/16/11 at 78-79. Her noise complaints are not related to music. *Tr.*, 03/16/11 at 78.

18. The Protestants called Robbie Grishon as their next witness. *Tr.*, 03/16/11 at 80. Ms. Grishon has lived at 7403 9th Street NW for approximately ten years. *Tr.*, 03/16/11 at 81. Ms. Robinson stated that on or about January 8, 2011, between 5:00 a.m. and 5:30 a.m., she was leaving her house when she heard noise and observed two males and one female standing outside their cars. *Tr.*, 03/16/11 at 80. The parties were arguing and cursing. *Tr.*, 03/16/11 at 83. Ms. Grishon stated that she left her house and did not call MPD. *Tr.*, 03/16/11 at 83. She spoke to another neighbor later that day who confirmed that she also had heard the noise and the neighbor called MPD. *Tr.*, 03/16/11 at 84. Ms. Grishon testified that she has not had an experience such

as this before the opening of the Sunshine Bar and Lounge. *Tr.*, 03/16/11 at 85. On cross-examination, Ms. Grishon admitted that she had not observed the two males and one female going to or leaving from the Sunshine Bar and Lounge. *Tr.*, 03/16/11 at 87.

19. The Protestants called their next witness, Vera Carley. *Tr.*, 03/16/11 at 88. Ms. Carley resides at 7405 9th Street N.W. and has lived there for 50 years. *Tr.*, 03/16/11 at 89. Ms. Carley testified that on January 21, 2011, she had to park her car farther from her house than she normally does due to the numerous cars parked on her street. *Tr.*, 03/16/11 at 90. She stated that generally there are not many vehicles parked on her street. *Tr.*, 03/16/11 at 90, 95. She was uncomfortable walking from her car to her home that night. *Tr.*, 03/16/11 at 91. She has not had a similar experience before the opening of the Sunshine Bar and Lounge. *Tr.*, 03/16/11 at 91.

20. Ms. Carley further testified that on January 8, 2011, she was awakened at 5:00 a.m. because she heard people talking, and car doors slamming. *Tr.*, 03/16/11 at 92. She looked out her window and noticed that the people were walking from Georgia Avenue to 9th Street, N.W., to get to their cars. *Tr.*, 03/16/11 at 92. She stated that the people stood in front of her house and continued to talk. *Tr.*, 03/16/11 at 93. When she noted that they were not leaving the neighborhood, she called 911. *Tr.*, 03/16/11 at 93. MPD responded to her call by arriving to the scene and talking to the people. *Tr.*, 03/16/11 at 94. Ms. Carley testified that she could not hear the conversation between MPD and the people, but she saw one of them point toward Georgia Avenue N.W. in the direction of the Sunshine Bar and Lounge. *Tr.*, 03/16/11 at 95.

21. Ms. Carley testified that on October 24, 2010, she was again awakened around 3:00 a.m. by noise from people on their way to parked cars. *Tr.*, 03/16/11 at 80. The people were conversing and slamming their car doors. *Tr.*, 03/16/11 at 97. She drove her car past the Sunshine Bar and Lounge to determine if the people on her street had come from the establishment. *Tr.*, 03/16/11 at 97. When she drove by, she observed people standing in front of the building and cars parked in the establishment's parking area and along Geranium Street, N.W. *Tr.*, 03/16/11 at 98. Ms. Carley testified that she then drove past Charlie's to confirm that the people had not emerged from that ABC-licensed establishment and noted that Charlie's was closed. *Tr.*, 03/16/11 at 98. Ms. Carley stated that she has not experienced this kind of incident before the opening of Sunshine Bar and Lounge. *Tr.*, 03/16/11 at 99.

22. Ms. Carley did not file any complaints with ABRA but she did report her concerns with her MPD Lieutenant at her monthly Public Service Area meeting. *Tr.*, 03/16/11 at 100.

23. The Protestants called their last witness, David E. Stanford. *Tr.*, 03/16/11 at 102. Mr. Stanford resides at 7401 12th Street, N.W., and has lived there for eight years. *Tr.*, 03/16/11 at 102. Mr. Stanford testified that the neighborhood is very quiet and that in the spring and summer, he opens the windows on his house. *Tr.*, 03/16/11 at 107, 110. He stated that he has double paned windows and when they are closed, he can hardly hear anything inside the house, such as traffic on the street. *Tr.*, 03/16/11 at 107, 112-113. He is concerned about what his neighbors who do not have quality windows can hear. *Tr.*, 03/16/11 at 108. Mr. Stanford

testified that he personally has not heard the noise that his neighbors complain about. *Tr.*, 03/16/11 at 112, 114.

24. At the conclusion of the witness testimony, the Board granted the admission of Protestant's Exhibit A and Exhibit C into the record. *Tr.*, 03/16/11 at 122.

25. The Protestants filed a Post Hearing Brief arguing that the Applicant had not met its burden of proving that it satisfies each of the elements set forth in 23 DCMR 400.1 and D.C. Official Code § 25-323(b) and, thus, is not entitled to the extended operating hours and the entertainment endorsement. Specifically, the Protestants argue that the Applicant put on no evidence and that the Protestants, though not required to do so, presented witnesses and credible evidence regarding the adverse impact of the application on the peace, order and quiet, and the residential parking of the neighborhood.

CONCLUSIONS OF LAW

26. Pursuant to D.C. Official Code § 25-313(a), an Applicant must demonstrate to the Board's satisfaction that the establishment for which an ABC-license is sought is appropriate for the neighborhood in which it will be located. Under D.C. Official Code § 25-313, to qualify for the issuance, renewal, transfer of a license to a new location, or approval of a substantial change in operation as determined by the Board, an applicant shall demonstrate that the establishment is appropriate for the area where it will be located. In making its determination, the Board shall consider all relevant evidence, including the effect of the establishment on peace, order, and quiet, noise, and parking and pedestrian safety. Having considered the evidence upon which this determination must be made and the findings of fact adduced at the Protest Hearing, the Board concludes that the Applicant has demonstrated that Transfer of Ownership with a Substantial Change to its Retailer's Class CR License, with certain limitations set forth below, is appropriate for the area in which the establishment is located.

27. The Board recognizes that pursuant to D.C. Official Code § 1-309.10(d) (2010) and D.C. Official Code § 25-609 (2001), an ANC's properly adopted written recommendations are entitled to great weight from the Board. See Foggy Bottom Ass'n v. District of Columbia ABC Bd., 445 A.2d 643 (D.C. 1982). Accordingly, the Board "must elaborate, with precision, its response to the ANC issues and concerns." Foggy Bottom Ass'n, 445 A.2d at 646. Here, ANC 4B filed a protest by letter, dated November 11, 2010, and a resolution, dated October 25, 2010. By letter, dated November 5, 2011, ANC 4A indicated its support of ANC 4B's resolution in opposition to the Sunshine Bar and Lounge's Application. Both of the actions by ANC 4A and 4B were given great weight by the Board.

28. With regard to the issue of residential parking, the Board must determine whether the Transfer Application with Substantial Change will have an adverse effect on residential parking needs pursuant to D.C. Official Code § 25-313(b)(3). The Board recognizes that the Protestants witnesses testified that parking on their residential street has increased since the operations of the

establishment. However, there was no direct correlation between the increased parking difficulty and the licensed establishment. Although the Protestants raised parking as a concern, they offered no testimony to support the suggestion that patron parking usurps residential parking or that cars blocking private drives were owned by the establishments' patrons. Moreover, inasmuch as the establishment was already operating as an ABC-licensed entity, it is absurd to assume that residential parking will only worsen with the newly named establishment operating under different management. As a result, pursuant to D.C. Official Code § 25-313(b)(3) (2008 Supp.), the Board finds when looking at the evidence as a whole, that transfer of the establishment's license and an increase in its hours of sale and entertainment for the inside, will not have an adverse effect on the residential parking needs and vehicular and pedestrian traffic.

29. With regard to the issues of peace, order, and quiet, the Board found nothing in the Protestants testimony to support a finding that the Applicant's request for an increase in the hours for the sale and service of alcoholic beverages and for an Entertainment Endorsement with certain limitations, should not be granted. On the contrary, the Board credits the testimony of ABRA Investigator Bailey to support a finding by the Board that granting this aspect of the Application will not affect the neighborhood nor alter its quiet nature. Additionally, the Applicant testified that she does not plan to use the second floor or to offer entertainment on the first ground floor. Thus, the Board will not grant approval for use of the second floor, or for entertainment on the two floors above ground.

30. At no point did Investigator Bailey nor other ABRA investigators observe loitering, excessive noise or other ABRA violations. The Board's finding that the Transfer Application with Substantial Change to the operations of the establishment will not affect the peace, order, and quiet of the neighborhood is also supported by the testimony of the Applicant and even the testimony of the Protestants' witnesses. Specifically, more than one Protestant's witness testified that the nature of the disturbances was related to noise in the form of human conversation, car alarms, and doors slamming.

31. Likewise, the Board is not persuaded by the Protestants' contention that approving the substantial change in operations will create or exacerbate noise problems. The Board recognizes that the property is located in a commercial zone. Here again, the Protestants' witnesses, while recording detailed noise incidents in the neighborhood, could not tie the conversational noise and car alarms directly to patrons of the Sunshine Bar and Lounge. At best, the testimony provided by the Protestants stated that the people in the street came from the direction of the licensed establishment.

32. However, the Board is not unsympathetic to the Protestants with regard to noise generated by departing patrons. As such, the Board's Order will include an additional requirement for the Applicant that should assist in curtailing the impact on the community. Namely, the Applicant will exercise due diligence to discourage patrons from disturbing the community. Specifically, the Applicant will be required to post signage near the exit doors of its establishment reminding patrons to keep the noise levels down as they depart and make their way to their parked cars. Additionally, the Board would remind the Protestants, that with the

recently passed Disorderly Conduct Amendment Act of 2010, they should contact 911 to report any noise complaints between 10:00 p.m. and 7:00 a.m. and MPD will respond and address unreasonably loud noises accordingly.

33. With regard to the Protestants' argument that the two complaints filed against the Applicant for allegedly operating after-hours are indicative of the Applicant's operations, the Board cannot consider these matters as they are pending with the Office of the Attorney General and have not yet been adjudicated.

34. Thus, the Board disagrees with the Protestants and finds that the Applicant has demonstrated that the Transfer of Ownership with a Substantial Change to its Retailer's Class CR License, with certain limitations set forth below, is appropriate for the location and does not adversely impact the peace, order, and quiet of the neighborhood, residential parking, or pedestrian or vehicular safety.

35. Lastly, the Board notes that in its correspondence, ANC 4A indicated its support for a working group consisting of ANCs, the community, and the owners to attempt to resolve differences and establish a fair and equitable voluntary agreement. While time may have passed to submit a voluntary agreement before the hearing, the Board heartily supports any and all efforts by community members and the Applicant to work to resolve their differences before it becomes necessary to engage MPD or ABRA's Enforcement Division.

ORDER

Therefore, it is hereby **ORDERED** on this 25th day of May, 2011, that the Transfer Application with a Substantial Change to Retailer's Class CR License filed by Sunshine Bar and Lounge LLC, t/a Sunshine, at 7331 Georgia Avenue, N.W., to include an extension of its hours of operation, sales, and service, and for an Entertainment Endorsement be and the same hereby is **GRANTED** with the conditions set forth below:

- 1) The request of the Applicant to transfer the Retailer's Class CR license is **GRANTED**,
- 2) The request of the Applicant for a Substantial Change to extend the hours of sale, service, and operations for the interior of the establishment Sunday through Thursday from 11:00 a.m. until 2:00 a.m. is hereby **GRANTED**,
- 3) The request of the Applicant for a Substantial Change to extend the hours of sale, service and operations for the interior of the establishment on Friday and Saturday from 11:00 a.m. until 3:00 a.m. is hereby **GRANTED**,
- 4) The request of the Applicant for an Entertainment Endorsement to offer entertainment for the interior of the establishment in the basement floor only,

Sunday through Thursday from 9:00 p.m. until 12:00 a.m. is hereby **GRANTED**, and

- 5) The request of the Applicant for a Substantial Change to offer entertainment for the interior of the establishment in the basement floor only, on Friday and Saturday from 9:00 p.m. until 3:00 a.m. is **GRANTED**.

It is **FURTHER ORDERED** that the Applicant shall post a sign in a location conspicuous to exiting patrons that states: "Please be respectful of the residential community when you are leaving and keep noise to a minimum."

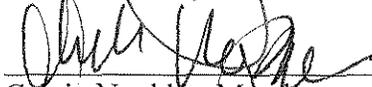
It is **FURTHER ORDERED** that the Applicant shall limit the offering of entertainment to the floor level below the ground level (the basement), and that no entertainment will be offered on the two floors above ground, nor shall the second floor above ground be licensed for the sale, service or consumption of alcoholic beverages.

District of Columbia
Alcoholic Beverage Control Board


Mick Alberti, Interim Chairperson


Donald Brooks, Member


Herman Jones, Member


Carvia Nophlin, Member


Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (2008), 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, 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. 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 (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).