

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

In the Matter of:)

Spo-dee-o-dee, LLC)
t/a The Showtime)

Application for Substantial Change)
(Expansion))
to a Retailer's Class CT License)

at premises)
113 Rhode Island Avenue, N.W.)
Washington, D.C. 20002)

Case No.: 16-PRO-00038
License No.: ABRA-089186
Order No.: 2016-654

Spo-dee-o-dee, LLC, t/a The Showtime (Applicant)

Lyle M. Blanchard, on behalf of A Group of Five or More Individuals

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
James Short, Member
Mafara Hobson, Member
Jake Perry, Member

**ORDER ON SETTLEMENT AGREEMENT AND
WITHDRAWAL OF PROTEST**

The Application filed by Spo-dee-o-dee, LLC, t/a The Showtime, for a Substantial Change to increase its occupancy load, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on March 31, 2016, and a Protest Status Hearing on July 13, 2016, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant and the Group of Five or More Individuals entered into a Settlement Agreement (Agreement), dated August 3, 2016, that governs the operation of the Applicant's establishment.

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant and Farid Bosak-Barani Gretta Herrin, Sjawm Wade, David Dryer

and Elizabeth Broadwin, members of the Group of Five or More Individuals, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by the Group of Five or More Individuals.

Accordingly, it is this 16th day of November, 2016, **ORDERED** that:

1. The Application filed by Spo-dee-o-dee, LLC, t/a The Showtime, for a Substantial Change to increase its occupancy load, to its Retailer's Class CT License located at 113 Rhode Island Avenue, N.W., Washington D.C., is **GRANTED**;
2. The Protest of the Group of Five or More Individuals in this matter is hereby **DISMISSED**;
3. The above-referenced Settlement Agreement 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 modifications:

Section 4 (Signage) – The following language shall be removed: “and no neon lights.”

Section 10(a) (Security) – The last sentence shall be modified to read as follows: “Licensee shall notify the DC Metropolitan Police Department of any suspicious activity that he or his employees notice at or near the establishment located at 113 Rhode Island Ave., N.W.”

Section 13 (License Ownership) – The following language shall be removed: “Licensee also intends to be the sole owner of the ABC license.”

Section 13 (License Ownership) – The following terms shall be removed: “assignee” and “contractee.”

Section 16 (Notices and Enforcement before the ABC Board) – The second sentence shall be modified to read as follows: “A material violation of this Agreement or its ABC license by Licensee has not been cured within the cure period; such failure shall constitute cause for any of the Protestants to file a complaint with the ABC Board pursuant to D.C. Official Code § 25-447.”

The parties have agreed to these modifications.

4. Copies of this Order shall be sent to the Applicant and Lyle M. Blanchard, on behalf of A Group of Five or More Individuals.

District of Columbia
Alcoholic Beverage Control Board

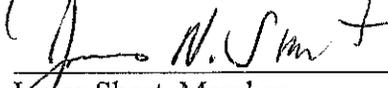
Donovan Anderson, Chairperson



Nick Alberti, Member

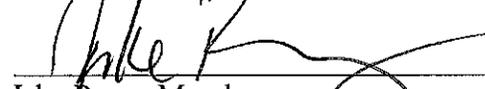


Mike Silverstein, Member



James Short, Member

Mafara Hobson, Member



Jake Perry, Member

Pursuant to D.C. Official Code § 25-433(d)(1), 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).

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made (and for all purposes deemed effective) on this 3rd day of August 2016, by and between Spo-Dee-O-Dee LLC t/a Showtime ("Licensee"), abutting property owner, Dr. Paul Collins of 111 Rhode Island Avenue, NW and a protesting Group of Five or More (the "Neighbors of the 100 block of Rhode Island Avenue, NW") (Dr. Paul Collins and the Group of Five or More residents collectively referred to as the "Protestants", and collectively with the Licensee, the "Parties").

WITNESSETH

WHEREAS, Licensee has applied for a substantial change in operations of its on-premise retailer's license #ABRA-089186, Class C Tavern, consisting of an expansion of its occupancy load to 78 with 46 seats from its current load of 25. The establishment is located at 113 Rhode Island Avenue NW, Washington DC 20001 (the "Premises");

WHEREAS, Protestants filed timely protests against the substantial change application pursuant to D.C. Official Code §§25-601(1) and 25-601(2); and

WHEREAS, the Parties have agreed to the terms of this Agreement and request the Alcoholic Beverage Control Board ("ABC Board") approve the substantial change application conditioned upon the Licensee's compliance with this 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. Hours of Operation. The Licensee's hours of operation and service of alcohol shall be within the following:

Monday - Thursday: 10 a.m. to 2:00 a.m.

Friday - Saturday: 10:00 a.m. to 3:00 a.m.

Sunday: 3:00 p.m. to 2:00 a.m.

Licensee will be permitted to operate during extended holiday hours upon approval of extended hours application by ABRA but only for New Year's Eve and Memorial Day weekends and must close the establishment at the end of the extended hours for sale and service of alcoholic beverages.

The hours of operation and service of alcohol on the sidewalk cafe (public space) and summer garden shall be within the following:

Monday- Thursday: 10:00 a.m. to 9:00 p.m.

Friday - Saturday: 10:00 a.m. to 10:00 p.m.

Sunday: 3:00 p.m. to 9:30 p.m.

Any change in the above hours will require ABC Board approval.

"Last Call" shall be announced 30 minutes prior to closing, unless the establishment is closed 30 minutes or more prior to the normal closing time for the night in question. In case of early closing, the establishment's staff shall make a good faith effort to announce a "last call"

prior to closing, but the staff are not required to do so. Regardless, service of alcoholic beverages shall cease 30 minutes prior to closing.

3. Occupancy. Licensee shall restrict the maximum capacity inside the Premises to 70 persons (total seated or standing); and outside in the sidewalk café to 6 persons (seating only) — or to lesser numbers if so determined by the D.C. Fire Department. All patrons in the sidewalk café area must be seated unless actively entering or exiting the cafe space. Licensee shall post the Certificate of Occupancy, once obtained, in a prominent and conspicuous location. Licensee may not expand its occupancy (available seating) without amendment of this Agreement.

4. Signage. Licensee shall not hang banners or billboards on the exterior of the premises. There shall be no permanent obscuring of the windows into the building with any ads for alcoholic beverages and no neon lights. Alcoholic beverage signs in windows shall comply with all D.C. Codes and Regulations. Windows in the context of this Agreement shall also include any glass doors of the establishment.

5. Public Space, Trash and Beautification.

a. Licensee agrees to contract with a commercial trash hauler for pickup at least three times per week. Trash shall be kept in sealed rodent-resistant receptacles, which will not be visible from Rhode Island Avenue, NW or First Street, NW. Trash removal shall not occur before 7:00 a.m. or after 6:00 p.m. Licensee will take whatever actions are necessary to ensure trash receptacles do not overflow, including but not limited to, scheduling additional trash pickups, if necessary. Licensee agrees to maintain such receptacles in a locked and

completely closed position, and to ensure all trash is placed inside the receptacles. Glass bottles shall not be placed in outside containers after 9:30 p.m.

b. Should Licensee choose to keep trash and garbage on premises, approval shall be obtained from the DC Health Department regarding the appropriateness of the selected site— especially related to effective rodent and pest control. Should trash be kept off premises, transfer of trash from the premises to offsite receptacles shall involve use of sealed containers.

c. Licensee shall provide for proper retrieval of grease. These materials shall not be deposited in the dumpster/trash containers, garbage disposals, or city sewer lines.

d. Licensee shall monitor the exterior (including any associated sidewalk cafe and summer garden) and sidewalk (up to and including the curb) three times daily for refuse and other materials, including a sweeping and cleaning of the outside area after close, and maintain a clean tidy and professional appearance in these areas. Licensee will inspect and remove all trash that may have accumulated in the front yard of 115 Rhode Island Avenue, NW after closing. Licensee will coordinate with and seek consultation from the Neighbors of the 100 Block of Rhode Island Avenue, NW regarding the beautification and landscaping of the premises and surrounding areas.

e. Licensee will take measures to ensure that patrons who wish to smoke do so within the sidewalk café area directly in front of the establishment and not in front of abutting properties. Smoking shall be allowed only during sidewalk café's hours of operation and when patrons are seated. Measures shall include (a) posting of signage that encourages patrons to smoke only within the sidewalk café area during its hours of operation and not in front of

abutting properties, (b) stationing door staff outside to instruct patrons smoking to move within sidewalk café area, (c) the use of barriers to separate the sidewalk cafe area from the space in front of 111 Rhode Island Avenue and (d) advising disruptive individuals that they are breaking bar rules and will not be served, warning them they may be violating city law and calling police if necessary.

6. Noise and Privacy. As necessary License shall make architectural and acoustical improvements to the property and take all necessary actions to ensure that music, noise and vibrations from the establishment do not rise above levels permitted in DC Code, including sufficient noise abatement and mechanical controls (including governors) on all audio and amplification devices to ensure that the level of any form of amplified sound, noise and/or vibration emanating from inside the establishment complies with the applicable law and this Agreement. Should any sound, noise, or vibration be disruptive to any residential occupants, Licensee will take immediate remedial action.

a. The Licensee shall take special vigilance of noise that may disrupt the peace and tranquility of residences abutting any Summer Garden. This includes but is not limited to shielding the first and second story of such residences from the sight and noise of the Summer Garden through the use of a soundproofing roof or roll like structure, and/or soundproofing walls/landscaping that extend from the ground and provide shelter from noise and smoke for the abutting residences. "Prior to opening a summer garden, modifying the structure of the sidewalk café or increasing capacity of the sidewalk café, the Licensee agrees to file a substantial change application with the ABC Board so that the Protestants can evaluate the potential impacts of a

summer garden and its capacity on the peace, order and quiet, traffic, parking and property values of the neighborhoods. Additionally, prior to the opening a summer garden, modifying the structure of a sidewalk café or increasing the capacity of the sidewalk café, the Licensee shall hire an acoustical engineer to conduct tests to confirm any form of noise and/or vibration from the sidewalk café or any summer garden is not audible in the properties of the Neighbors of the 100 block of Rhode Island Avenue, NW and the properties of the abutting property owners, Richard DiZinno and Sarah Arneson at 115 Rhode Island Avenue, NW and Dr. Paul Collins. The Licensee may request reasonable access to those properties for the purpose of conducting such tests and shall provide each of the Protestants with a copy of the tests.

b. The Licensee will instruct its security staff to ensure that patrons that are either using any Summer Garden or smoking outside will maintain a low volume of conversation and noise. Security staff will also ensure that patrons smoking do not wander in front of the abutting properties and will attempt to corral all smokers to the area directly in front of the establishment. Security staff will also remain outside no less than fifteen (15) minutes after closing or until all patrons have dispersed to ensure that patrons do not loiter outside and make sure they disperse.

c. The Licensee will include wording on its menu, its website and post no less than three (3) signs at all exits to instruct patrons and employees that they are within a residential neighborhood and asking them upon leaving to leave quietly.

d. The Licensee will provide each of the Protestants with the phone number and email of the manager on duty. If the Protestants contact the manager on duty, who is

responsible for compliance with this Agreement, the manager on duty will promptly determine whether the sound levels exceed the requirements of this Agreement and, if so, will promptly lower the sound levels or undertake such measures as may be needed to comply with this Agreement and applicable law, including the removal of disorderly patrons.

7. Deliveries. All deliveries shall be made in front of the premises, on Rhode Island Avenue NW.

8. Parking.

a. In the event that Licensee provides "take out" food service, the Licensee shall make continuing efforts to discourage double parking.

9. Dancing Music and Entertainment.

Licensee will have the use of the following hours for entertainment:

Sunday-Thursday: 6:00 p.m. - 2:00 a.m.

Friday-Saturday: 6:00 p.m. - 3:00 a.m.

Licensee will be permitted to have entertainment during extended holiday hours upon approval of extended hours application by ABRA but only for the holidays specified in Section 2 of this Agreement.

Entertainment shall include but not be limited to a DJ, recorded music, or live music. Licensee will keep all music at a level that from outside the establishment is inaudible, except for brief periods of time when the door is opened to allow the ingress or egress of patrons or staff, and free of any detectable vibrations even during those brief periods of time when the door is opened, the noise shall be kept at such a volume that it is not audible from adjacent and

surrounding properties. No recorded music shall be played outside in the sidewalk café or summer garden areas. There shall be no cover charges.

10. Security.

a. The Licensee shall take reasonable efforts (including formal ABRA training of employees) to ensure that patrons are (1) not underage for consumption of alcoholic beverages and (2) do not become unruly. Licensee shall remove from the establishment any patron who becomes unruly or disorderly. Licensee shall notify the DC Metropolitan Police Department of any suspicious activity that he or his employees notice on the 100 block of Rhode Island Avenue, NW.

b. The Licensee shall provide exterior lighting that serves to illuminate the establishment, its abutting sidewalks and streets, and any Sidewalk Cafe that is part of the establishment to encourage safety in these areas.

c. The Licensee shall make an effort to identify off-street parking for its patrons, including posting such locations and other transportation options on its website.

d. The Licensee and security staff will maintain a written log for every complaint lodged with the establishment for an alleged violation of this Agreement, including, but not limited to, complaints of noise, parking congestion, traffic congestion, security, trash, rodents, violence, crime or operating hours. The log shall include, for each separate complaint, to the extent provided by the complainant, the name of the complainant, the date of the complaint, any contact information provided by the complainant, the nature of the complaint, and the response taken by the Licensee, his employees or the security staff. Every complaint shall be

kept on file in the complaint log for a minimum of three (3) years. Licensee shall make the complaint log available to the ABC Board for inspection and copying upon reasonable request.

11. Rats and Vermin. License shall enter into a pest control contract with a licensed pest control company containing commercially reasonable terms. Contracted control services shall be performed no less than twice per month. Licensee shall make reasonable efforts to keep the establishment rodent and pest free.

12. Participation in the Community. In order to maintain an open dialogue with the community, the Licensee is encouraged to:

a. Attend 2 to 3 meetings per year of the Bloomingdale Civic Association for the purpose of reporting the status of the establishment and to hear related concerns of the residents. Licensee, upon notice from the ANC 5E, is encouraged to attend or send a representative of the establishment to an ANC meeting to discuss and find reasonable ways to resolve any problems associated with Licensee's operations.

b. Periodically attend public meetings of the Metropolitan Police Department District 5D Citizens Advisory Committee.

c. Cooperate with the North Capitol Main Street Program to help support economic development and increase the number of small businesses in the neighborhood.

d. Upon request, attend meetings of the Neighbors of the 100 block of Rhode Island Avenue, NW to both solicit and provide suggestions related to neighborhood improvement, beautification, and safety.

13. License Ownership. The Licensee agrees to abide by all Alcohol Beverage Regulation Administration ("ABRA") laws and regulations regarding the ownership of the license. Licensee also intends to be the sole owner of the ABC license. Licensee further agrees to notify any prospective transferee, assignee or contractee of the existence of this Agreement and to provide them with a copy.

14. Binding Effect. This Voluntary Agreement shall be binding upon and enforceable against the successors and assigns of the Licensee.

15. Agreement Available Upon Demand. A copy of this Agreement shall be kept on the premises and made available to law enforcement officers and Alcoholic Beverage Regulation Administration investigators immediately upon request.

16. Notices and Enforcement before the ABC Board. In the event of a violation of the provisions of this Voluntary Agreement, Licensee shall be notified in writing by the person alleging such violation and given an opportunity to cure such violation within fourteen (14) days thereafter before action against Applicant of such violation may be undertaken, unless the violation be of such a nature that more immediate action is required as with excessive noise or disturbance, in which case the period for opportunity to cure shall be reduced to 72 hours or such shorter period as may be reasonable under the circumstances to immediately restore peace, order and quiet (such 14-day or shorter period is hereinafter referred to as the "cure period"). A material violation of this Agreement or its ABC license by Licensee has not been cured within the cure period; such failure shall constitute cause for any of the Protestants to file a complaint seeking a Show Cause Order from the ABC Board pursuant to D.C. Official Code, see.

25-466(e). Any notices required to be made under this Agreement shall be in writing and mailed by certified mail, return receipt requested, postage prepaid, or hand-delivered, to any and all other parties to this Agreement.

17. Notice. Notice under this Agreement shall be in writing and may be given by mail, email or by hand-delivery. Mail notice shall be deemed effective as of three days after mailing or if by email or hand delivery upon actual delivery. Notices may be addressed as follow:

If to Applicant:

Paul Vivari 113 Rhode Island Ave., NW, Wash., DC 20001, vivari@gmail.com

If to Neighbors of the 100 block of Rhode Island Avenue, NW:

Farid Bosak-Barani, 109 Rhode Island Ave., NW, Wash., DC 20001,

fbosakbarani@gmail.com

Gretta Herrin, 109 Rhode Island Ave., NW, Wash., DC 20001, grettaherrin@gmail.com

Sjawn Wade, 105 Rhode Island Ave., NW, Wash., DC 20001, sjawnwade@gmail.com

David Dryer, 109 Rhode Island Ave., NW, Wash., DC 20001, daviddryer@gmail.com

Elizabeth Broadwin, 109 Rhode Island Ave., NW, Wash., DC 20001,

elizabethbroadwin@gmail.com

Richard DiZinno, 115 Rhode Island Ave., NW, Wash., DC 20001, rdizinno@gmail.com

Sarah Arneson, 115 Rhode Island Ave., NW, Wash., DC 20001,

sarah.arneson@gmail.com

If to Abutting Owner:

Dr. Paul Collins, 111 Rhode Island Ave., NW, Wash., DC 20001, ~~pcollins@earthlink.net~~

With a copy to Protestants' legal representative:

Lyle M. Blanchard, Esq., 1620 L Street, NW, #900, Wash., DC 20036, ~~lmb@williams.com~~

Either party may change its notice address by written notice to the other party. Failure to give notice shall not constitute waiver or acquiescence to the violation.

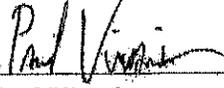
18. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed as original but all of which together shall constitute one and the same instrument.

19. Withdrawal of Protest. Protestants agree to the issuance of the ABC License and withdrawal of their protest, provided that the present Settlement Agreement is incorporated into the Board's order approving the license, which is hereby conditioned upon compliance with such Settlement Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first written above.

(signatures on the following page)

LICENSEE,



Paul Vivari
for Spo-Dec-O-Dec LLC t/a Showtime

GROUP OF FIVE OR MORE [Neighbors of 100 block of Rhode Island Avenue]

Farid Bosak-Barani,
109 Rhode Island Avenue, NW

Gretta Herrin
109 Rhode Island Avenue, NW

Sjawn Wade
105 Rhode Island Avenue, NW

David Dryer
109 Rhode Island Avenue, NW

Elizabeth Broadwin
109 Rhode Island Avenue, NW

Richard DiZinno
115 Rhode Island Avenue, NW

Sarah Arneson,
115 Rhode Island Avenue, NW

ABUTTING PROPERTY OWNER

RECEIVED

Paul Vivari

Paul Vivari
for Spo-Dec-O-Dec LLC t/a Showtime

GROUP OF FIVE OR MORE [Neighbors of 100 block of Rhode Island Avenue]

[Signature] 3 Aug 2016

Farid Bosak-Barani,
109 Rhode Island Avenue, NW

Greta Herin
109 Rhode Island Avenue, NW

Shawn Wade
105 Rhode Island Avenue, NW

David Dyer
109 Rhode Island Avenue, NW

Elizabeth Broadwin
109 Rhode Island Avenue, NW

Richard DiZinno
115 Rhode Island Avenue, NW

Sarah Arneson
115 Rhode Island Avenue, NW

ADJUTING PROPERTY OWNER

LICENSOR

[Handwritten Signature]
Paul Wynn

for Spin-Down-ONE LLC (a Subsidiary)

GROUP OF FIVE OR MORE (Neighbors of 100 block of Rhode Island Avenue)

Paul Downs Moran,
101 Rhode Island Avenue, NW

[Handwritten Signature]
Greta Heron
100 Rhode Island Avenue, NW

Steven Wirth
105 Rhode Island Avenue, NW

David Fryer
109 Rhode Island Avenue, NW

Elizabeth Broadwin
109 Rhode Island Avenue, NW

Richard DiZanno
113 Rhode Island Avenue, NW

Sarah Arneson
115 Rhode Island Avenue, NW

ADJOINING PROPERTY OWNER

LICENSEE



Paul Vivari

for Spo-Dec-O-Dec LLC t/a Showtime

GROUP OF FIVE OR MORE [Neighbors of 100 block of Rhode Island Avenue]

Farid Bosak-Barani,
109 Rhode Island Avenue, NW

Gretta Herrin
109 Rhode Island Avenue, NW



Sjawn Wade
105 Rhode Island Avenue, NW

David Dryer
109 Rhode Island Avenue, NW

Elizabeth Broadwin
109 Rhode Island Avenue, NW

Richard DiZinno
115 Rhode Island Avenue, NW

Sarah Arneson
115 Rhode Island Avenue, NW

ABUTTING PROPERTY OWNER

LLC AS TO:

Paul Vivant

Paul Vivant

for Spo-Dec-G-Dec LLC (a Showroom)

GROUP OF FIVE OR MORE (Neighbor - 1 month - 2017 - 2018 - 2019)

Ferd Havak-Bayan
109 Rhode Island Avenue, NW

Gretta Herin
109 Rhode Island Avenue, NW

Shawn Wade
105 Rhode Island Avenue, NW

David Dyer
David Dyer
109 Rhode Island Avenue, NW

Elizabeth Broadwin
Elizabeth Broadwin
109 Rhode Island Avenue, NW

Richard D'Zurro
116 Rhode Island Avenue, NW

Sarah Adams
115 Rhode Island Avenue, NW

GRITTING PROPERTY OWNER

2017-2018

Dr. Paul Collins,
111 Rhode Island Avenue, NW