

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

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In the Matter of:	)	
	)	
Spo-dee-o-dee, LLC	)	Case No.: 14-PRO-00095
t/a The Showtime	)	License No: ABRA-89186
	)	Order No: 2015-300
	)	
Application for a Substantial Change to	)	
Retailer's Class CT License	)	
(Sidewalk Café with Six Seats)	)	
	)	
at premises	)	
113 Rhode Island Avenue, NW	)	
Washington, D.C. 20001	)	

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

**ALSO PRESENT:** Andre Barlow, Esq., on behalf of Spo-dee-o-dee, LLC t/a The Showtime,  
Applicant

Dr. Paul Collins, Abutting Property Owner, Protestant

Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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**ORDER AMENDING BOARD ORDER NO. 2015-273**

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**INTRODUCTION**

This Order amends one of the conditions set forth in Board Order No. 2015-273, issued on May 20, 2015 in Case No. 14-PRO-00095, that resulted from the Protest Hearing conducted for the Substantial Change Application filed by the Retailer Class CT license held by Spo-dee-o-dee, LLC t/a The Showtime.

The Alcoholic Beverage Control Board (Board) imposed among other things, the following condition on the Applicant, "there shall be no smoking within twenty-five feet of the

entrance of the establishment.” The Board having been asked to clarify this specific condition, takes the opportunity not only to review the Applicant’s Petition for Clarification, but also to review the entirety of the record.

As a result, the Board has decided to amend this condition as set forth in the original Order. More specifically, this condition shall be amended as follows: “there shall be no smoking within twenty-five (25) feet of the entrance of the establishment nor within the sidewalk café of the establishment.” The Board explains its reasoning for this amendment to its previous Order below.

### ***Procedural Background***

On May 20, 2015, the Board issued Board Order No. 2015-273 in which the Board granted The Showtime (Applicant) a substantial change to its Retailer’s Class CT License by granting its Application for a sidewalk café with six seats. *In re Spo-dee-o-dee, LLC t/a The Showtime*, Case No. 14-PRO-00095, Board Order No. 2015-273 (D.C.A.B.C.B. May 20, 2015).

In order to ensure that this substantial change would not disrupt the peace, order and quiet of the neighborhood, the Board set forth specific conditions of operation. More specifically, the Board ordered that “there shall be no smoking within twenty-five feet of the entrance of the establishment.” *In re Spo-dee-o-dee, LLC t/a The Showtime*, Case No. 14-PRO-00095, Board Order No. 2015-273, (D.C.A.B.C.B. May 20, 2015).

On June 2, 2015, the Applicant filed a Petition for Clarification of Board Order 2015-273. *App. Pet.*, 1. In its Petition, the Applicant requested that the Board clarify whether the establishment is permitted to allow its patrons to smoke within the boundaries of the sidewalk café, which permits six seats. *Id.*

### ***Discussion***

After careful review of the Applicant’s Petition as well as the record, the Board finds that its previous Order did not clearly set forth the conditions that were designed to ensure that the Applicant would operate in a manner that would not disturb the peace, order and quiet of the neighborhood.

In Board Order No. 2015-273, the Board reasoned that based on the proximity of residences and professional offices” it was necessary to impose conditions that would be in the best interest of the locality of the District where the establishment is located. *In re Spo-dee-o-dee, LLC t/a The Showtime*, Case No. 14-PRO-00095, Board Order No. 2015-273, 6 ¶ 17 (D.C.A.B.C.B. May 20, 2015). Accordingly, the Board has decided, in order to achieve the ultimate goal of having an outdoor public space that will not disturb the neighboring residents, this should include the prohibition of smoking in the sidewalk café.

## ORDER

Therefore, the Board, on this 1st day of July 2015, hereby **AMENDS** Board Order No. 2015-273 as follows:

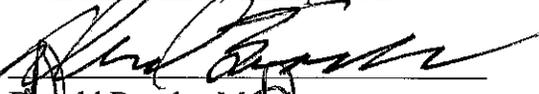
- 1) The condition number (3) that there shall be no smoking within twenty-five (25) feet of the entrance of the establishment is stricken and shall be replaced with (3) there shall be no smoking within twenty-five (25) feet of the entrance of the establishment, including no smoking within the sidewalk café of the establishment.
- 2) The Findings of Fact will include Dr. Paul Collins' complaints regarding second-hand smoke from patrons on the establishment's patio. *Transcript, 3/11/15* at 21, 130-31.

**IT IS FURTHER ORDERED** that all other terms and conditions of Board Order No. 2015-273 shall remain in full force and effect.

The ABRA shall deliver a copy of this order to the Applicant and the Abutting Property Owner.

District of Columbia  
Alcoholic Beverage Control Board

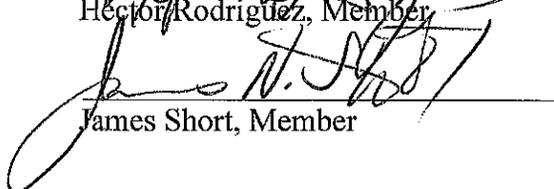
  
Ruthanne Miller, Chairperson

  
Donald Brooks, Member

  
Herman Jones, Member

  
Mike Silverstein, Member

  
Hector Rodriguez, Member

  
James Short, 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, NW, 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, 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).