

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

In the Matter of:)

Roadside Deli Projects, LLC)
t/a DGS Delicatessen)

Applicant for a New)
Retailer's Class CR License)

at premises)
1317 Connecticut Avenue, N.W.)
Washington, D.C. 20036)

Case No. 12-PRO-00021
License No. ABRA-088831
Order No. 2012-158

Roadside Deli Projects, LLC, t/a DGS Delicatessen (Applicant)

William Stephens, Chairperson, Advisory Neighborhood Commission (ANC) 2B

Abigail Nichols, on behalf of A Group of Five or More Individuals

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member
Jeannette Mobley, Member

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

The Application filed by Roadside Deli Projects, LLC, t/a DGS Delicatessen, for a new Retailer's Class CR License, was protested; however, a Roll Call Hearing scheduled for April 9, 2012, was not held, because the Parties submitted a Voluntary Agreement before the hearing.

The official records of the Board reflect that the Applicant, ANC 2B, and the Group of Five or More Individuals have entered into a Voluntary Agreement (Agreement), dated April 6, 2012, 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; Chairperson William Stephens, on behalf of ANC

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2B; and Abigail Nichols, on behalf of the Group of Five or More Individuals, are signatories to the Agreement.

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

Accordingly, it is this 25th day of April, 2012, **ORDERED** that:

1. The Application filed by Roadside Deli Projects, LLC, t/a DGS Delicatessen, for a new Retailer's Class CR License, located at 1317 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 The Protests of ANC 2B and the Group of Five or More Individuals in this matter are hereby **WITHDRAWN**;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 Voluntary 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 8 (Regulations) – The following language shall be removed:
“Applicant shall notify the Palladium Protestants and ANC 2B within two days of any application it files with the ABCB or ABRA to expand the Establishment to the third floor of the premises of 1317 Connecticut Avenue.”

Section 9 (Notice of Changes) – The following language shall be removed: “...and shall notify the Palladium and ANC 2B within two days of any intention to sell, transfer, renew, or alter the CR license for the Establishment.”

Section 26 (Entertainment Endorsements) – The following sentence shall be modified to read as follows: “Applicant shall not offer or permit at the Establishment any: (1) live entertainment; (2) live disc jockey; or (3) karaoke performance (i.e., an amateur singer or singers singing along with recorded music on microphone.”

The parties have agreed to these modifications.

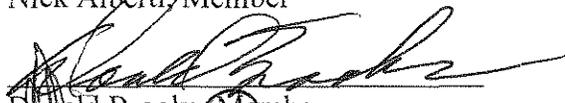
4. Copies of this Order shall be sent to the Applicant, ANC 2B, and Abigail Nichols, on behalf of the Group of Five or More Individuals.

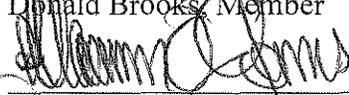
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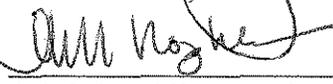
District of Columbia
Alcoholic Beverage Control Board

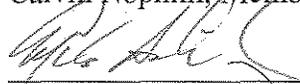

Ruthanne Miller, Chairperson,

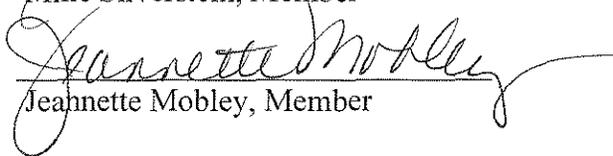

Nick Alberti, Member


Donald Brooks, Member


Herman Jones, Member


Calvin Nophlin, Member


Mike Silverstein, Member


Jeannette Mobley, 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, 2000 14th Street, N.W., Suite 400S, Washington, DC 20009.

VOLUNTARY AGREEMENT

1. This Voluntary Agreement ("Agreement"), made this 6th day of April, 2012, by and between ANC 2B and Abigail Nichols on behalf of the individual residents and owners of the Palladium Condominium, 1325 18th St., NW, named in Exhibit A ("Protestants") and Roadside Deli Projects, LLC (DGS Delicatessen) at 1317 Connecticut Avenue, NW ("Applicant").
2. **WHEREAS**, pending before the District of Columbia Alcoholic Beverage Control Board ("ABC Board") is an application for the issuance of a Retailer Class C Restaurant license ("CR License") to Applicant for an establishment at 1317 Connecticut Avenue ("Establishment");
3. **WHEREAS**, the Protestants have filed before the ABC Board a protest opposing the granting of this license application.
4. **WHEREAS**, in recognition of the Board's policy of encouraging parties to a protested proceeding to settle their differences by reaching voluntary agreements, the Parties hereto desire to enter into a voluntary agreement whereby (1) Applicant will agree to adopt certain measures to address the Protestants' concerns and to include this agreement as a formal condition of its application, and (2) Protestants will agree to the issuance of this license and withdrawal of the Protest *provided* that such agreement is incorporated into the Board's order issuing the license, which order is thereby conditioned upon compliance with such agreement.
5. **WHEREAS**, the Applicant has recently taken or intends to take certain measures designed to ameliorate Protestants' concerns.
6. **WHEREAS**, the Protestants have reached an agreement with Applicant commemorating certain understandings regarding Applicant's operation of the Establishment;
7. **NOW AGREE THEREFORE**, in consideration of the mutual covenants and undertakings memorialized herein, the Parties hereby agree as follows:

GENERAL AGREEMENTS

8. **Regulations.** In addition to the foregoing, Applicant will operate in compliance with all applicable laws and regulations. Applicant shall notify the Palladium Protestants and ANC 2B within two days of any application it files with the ABCB or ABRA to expand the Establishment to the third floor of the premises of 1317 Connecticut Avenue.
9. **Notice of changes.** In recognition of the fact that residents of the Palladium do not see placards posted on Connecticut Avenue, the Applicant will post any public notices on 18th St, as well as Connecticut Avenue and shall notify the Palladium and ANC 2B within two days of any intention to sell, transfer, renew, or alter the CR license for the Establishment.

10. Cooperating. The Palladium Protestants and ANC 2B and Applicant agree to work together cooperatively to resolve any issues arising out of any future applications by Applicant to the ABC Board.
11. Binding. This Agreement shall be binding upon and enforceable against the successors and assigns of the Applicant during the terms of the CR License to which this Agreement applies.
12. Modification of terms. The terms of this Agreement can only be modified by mutual written agreement of all parties, or as otherwise allowed by applicable statutes and regulations.
13. Complaints. Applicant shall designate a representative to receive complaints concerning its business operations and provide a current telephone number to ANC 2B. Complaints or inquiries shall be responded to within 24 hours

OVERALL OPERATIONS

14. Entrance to Premises. The applicant shall encourage its patrons to enter and exit the establishment, including entry to any Outside Seating Area on 18th St., on Connecticut Avenue by always referring to the address of DGS Delicatessen as 1317 Connecticut Avenue, Washington, DC 20036 on any DGS related media. After closing the Outside Seating Area, the applicant shall place a sign of applicant's design stating that the Outside Seating Area is closed and directing them to the Connecticut Avenue entrance. Under no circumstances shall the participants of any "pub crawl" be permitted to access the Establishment through the Outdoor Seating Area.
15. Deliveries. Deliveries to the Establishment shall be made only on Connecticut Avenue.
16. Smokers. The Outside Seating Area shall not be used as a "smoking area." When possible, Smokers shall be directed to the Connecticut Avenue exit from the Establishment.
17. Vacating Premises. Applicant shall shut down and completely vacate the Establishment by closing time each night, except for routine maintenance, cleanup and any activities necessary for the culinary operation in the space. Aside from the foregoing, there shall be no after-hours activity at the Establishment.
18. Trash/Garbage/Rodents. Applicant shall maintain regular trash garbage removal service from Connecticut Avenue only. No garbage, trash, or recyclable storage or removal shall be allowed on 18th St., NW.
19. Outside litter/Trash/Snow. Applicant shall promptly remove snow and trash from the sidewalk on 18th street at the back of the Establishment, including trash removal at the close of business each night and before opening each business day.

20. Pest control. Applicant shall obtain pest control services from a licensed provider as required to eliminate vermin and vectors cause by Applicant's disposal of trash in and from the Establishment.
21. False alarms. Applicant shall make every reasonable effort to prevent false emergency alarms (e.g., false fire or burglar alarms) in the Establishment.

OPERATION INSIDE BUILDING

22. Hours of Operation inside the Establishment. The hours of inside operation of the Establishment shall be 8 a.m. to 12:00 a.m. Sunday through Thursday; 8 a.m. to 1:00 a.m. Friday and Saturday. The hours of sale and service of alcoholic beverages inside the establishment shall be the same as the hours of operation. Provided, however, that (a) on days designated by the ABC Board as "Extended Hours for ABC Establishments" or "Daylight Savings Time Extension of Hours" Applicant may operate for one additional hour (that is, one hour later); (b) in the event the Council of the District of Columbia or the ABC Board grants licensees in general extended operating hours (such as for Inauguration), Applicant may avail itself of such extended hours; and (c) on January 1 of each year Applicant may operate until 4:00 a.m.
23. Windows Closed. All windows in the Establishment facing 18th Street shall be closed at all times.
24. Noise control. Applicant recognizes that abating noise emanating from the Establishment is of paramount importance to the Palladium. Low frequency sound from speakers is of particular concern as these low frequency sounds can more easily be heard outside of the Establishment. Accordingly, Applicant acknowledges familiarity with, and will comply with, noise-control provisions of District of Columbia law and regulations at 25-275 and all amendments to all laws that substitute. The Applicant agrees to prevent emissions of sound, capable of being heard outside the premises, by any musical instrument or amplification device or other device or source of sound or noise.
25. Sound-Proofing. Applicant, at Applicant's sole expense, shall build out the Establishment to insulate and soundproof the Establishment. This work, at Applicant's expense, shall include any insulation necessary to eliminate noise or vibration heard on the sidewalk on the west side of 18th St. or in the Palladium building.
26. Entertainment endorsements. Applicant shall not seek, offer, or permit at the Establishment any: (1) live entertainment; (2) live disc jockey; or (3) karaoke performance (i.e., an amateur singer or singers singing along with recorded music on microphone).

27. Dancing. Applicant will not provide a dance area in the Establishment nor allow patrons or employees to move furniture to create a dance area in the Establishment, and will in fact discourage all dancing in the Establishment.
28. Recorded music. The only musical entertainment offered by Applicant at the Establishment will be recorded music.
29. Lighting and Signage on 18th Street. Lighting for the 18th St. Outside Seating Area shall be the minimum required to light the Outside Seating Area and should be sited so as not to beam into the Palladium. There shall be no prominent flashing lights emitted from the Establishment onto 18th St.
30. Occupancy. The Establishment shall be in compliance with all applicable DC regulations regarding occupancy, whether patrons are seated or standing.

OPERATION OF OUTSIDE SEATING AREA

The applicant will minimize the effects of the Outside Seating Area on 18th St. and agrees to take the following actions to do so:

31. Hours of operation for the Outside Seating Area (And hours for the sale of alcoholic beverages on the Outside Seating Area). The hours of operation for the Outside Seating Area (and the hours during which alcoholic beverages may be served on the Outside Seating Area) shall be 8:00 a.m. to 10:30 p.m., Sunday through Saturday ("all days").
32. Monitoring. Staff shall monitor the Outside Seating Area during all hours of operation.
33. Dining Area. The Outside Seating Area shall be used as an area for table service dining. If the Outside Seating Area has table service, all patrons seated in the Outside Seating Area shall, upon being seated, be provided food menus.
34. Border. There shall be an attractive border surrounding the Outdoor Seating area. The border shall be decorated with plants or other material to provide a visual and auditory shield.
35. No Music on the Outside Seating Area. Under no circumstances shall any entertainment or recorded music be provided in the Outside Seating Area at any time. Applicant shall not install speakers in the Outside Seating Area.
36. Lighting. Any lighting used in the Outdoor Outside Seating Area seating area shall be directed downward, toward customer tables.
37. Outside Seating Area occupancy. Except for the occasional private parties described below, there shall be no occupancy of the Outside Seating Area except the 12 persons using the 12 seats applied for in the liquor license application and any necessary staff members.

Voluntary Agreement, DGS Delicatessen, 1317 Connecticut Avenue, NW,

There will be no more than five private parties a year on the Outside Seating Area; the occupancy of the Outside Seating Area for such parties shall not exceed 20 people.

WITHDRAWAL OF PROTEST

38. Withdrawal of protest. Protestants agrees to the issuance of license to the license and the withdrawal of their protest *provided* that the present Voluntary Agreement is incorporated into the Board's order granting the license, which order is thereby conditioned upon compliance with such Voluntary Agreement.

SIGNATURE PAGE TO FOLLOW

Voluntary Agreement, DGS Delicatessen, 1317 Connecticut Avenue, NW,

39. Signatures,

APPLICANT:

DGS Delicatessen



By:

David Wiseman

(Owner's Name)

DGS Delicatessen

Owner, (Name of Business)

04/06/2012

Date:

PROTESTANTS:

FOR PALLADIUM RESIDENTS

By:

ANC2B

By:

ANC 2B Chairman

Date:

Voluntary Agreement, DGS Delicatessen, 1317 Connecticut Avenue, NW,

39. Signatures:

APPLICANT:

DGS Delicatessen

By:

David Wiseman

(Owner's Name)

DGS Delicatessen

Owner, (Name of Business)

04/06/2012

Date:

PROTESTANTS:

FOR PALLADIUM RESIDENTS

By:

ANC2B

By:



ANC2B Chairman

William F.
Stephens

A/6/2012

Date:

19. Signatures.

APPLICANT:

DGS Delicatessen

By:

David Wiseman

(Owner's Name)

DGS Delicatessen

Owner, (Name of Business)

04/06/2012

Date:

PROTESTANTS:

FOR PALLADIUM RESIDENTS

By:

Abigail C. Nichol

April 12, 2012

Date:

ANC2B

By:

ANC 2B Chairman

Date: