

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

<b>In the Matter of:</b>	)	
	)	
Mad Hatter CT Ave, LLC	)	
t/a Mad Hatter	)	
	)	
Application for Substantial Change	)	Case No. 10-PRO-00141
to Retailer's Class CT License	)	License No. ABRA-082646
	)	Order No. 2011-141
at premises	)	
1321 Connecticut Avenue, N.W.	)	
Washington, D.C. 20036	)	

Mad Hatter CT Ave, LLC, t/a Mad Hatter ("Applicant")

Will Stephens, Chairperson, on behalf of Advisory Neighborhood Commission (ANC) 2B

Abigail Nichols and Jim Kings, on behalf of A Group of Five or More Individuals  
(approximately 73)

**BEFORE:** Charles Brodsky, Chairperson  
Mital M. Gandhi, Member  
Nick Alberti, Member  
Donald Brooks, Member  
Herman Jones, Member  
Calvin Nophlin, Member  
Mike Silverstein, Member

**ORDER ON AMENDMENT TO VOLUNTARY AGREEMENT AND  
WITHDRAWAL OF PROTEST**

The official records of the Alcoholic Beverage Control Board (Board) reflect that Mad Hatter CT Ave, LLC, t/a Mad Hatter ("Applicant"), has submitted an Application for a Substantial Change to its Retailer's Class CT License, located at 1321 Connecticut Avenue, N.W., Washington, D.C., having been protested, 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, in accordance with D.C. Official Code § 25-601 (2001). The Protest Hearing was scheduled for February 16, 2011.

The Applicant, ANC 2B, and A Group of Five or More Individuals, entered into a Voluntary Agreement (Agreement), dated November 30, 2009, setting forth the terms and conditions by which the Applicant will operate its establishment. This matter comes now before the Board to consider the Parties' Amendment to Voluntary Agreement

**Mad Hatter CT Ave, LLC  
t/a Mad Hatter  
Case No. 10-PRO-00141  
License No. ABRA-082646  
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(Amendment), dated February 14, 2011, in accordance with D.C. Official Code § 25-446 (2001).

The official records of the Board reflect that the Parties have agreed to amend the original Agreement and the Applicant; Chairperson Will Stephens, on behalf of ANC 2B; and Abigail Nichols and Jim Kings, on behalf of A Group of Five or More Individuals; are signatories to the Amendment. The Amendment has been reduced to writing and has been properly executed and filed with the Board. Pursuant to the Amendment, all terms and conditions of the original Agreement not amended by the Amendment shall remain in full force and effect.

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

Accordingly, it is this 23<sup>rd</sup> day of February 2011, **ORDERED** that:

1. The Application filed by Mad Hatter CT Ave, LLC, t/a Mad Hatter ("Applicant"), for a Substantial Change to its Retailer's Class CT License, located at 1321 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 **DISMISSED**;
3. The above-referenced Amendment to Voluntary Agreement by and between Mad Hatter CT Ave, LLC, t/a Mad Hatter located at 1321 Connecticut Avenue, N.W., Washington, D.C.; Chairperson Will Stephens, on behalf of ANC 2B; and Abigail Nichols and Jim Kings, on behalf of A Group of Five or More Individuals, to the existing November 30, 2009 Agreement is **APPROVED** and **INCORPORATED** as part of this Order; and
4. Copies of this Order shall be sent to the Applicant; ANC 2B; and Abigail Nichols and Jim Kings, on behalf of the Group of Five or More Individuals.

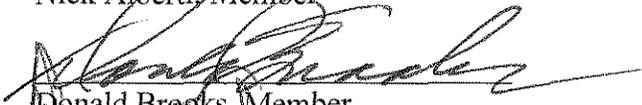
Mad Hatter CT Ave, LLC  
t/a Mad Hatter  
Case No. 10-PRO-00141  
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District of Columbia  
Alcoholic Beverage Control Board

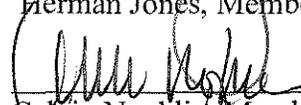
  
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Charles Brodsky, Chairperson

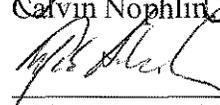
  
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Mital M. Gandhi, Member

  
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Nick Alberti, Member

  
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Donald Brooks, Member

  
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Herman Jones, Member

  
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Calvin Nophlin, Member

  
\_\_\_\_\_  
Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), any Party adversely affected by this Order may file a Motion for Reconsideration within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 1250 U Street, N.W., 3<sup>rd</sup> Floor, Washington, D.C. 20009.

## AMENDMENT TO VOLUNTARY AGREEMENT

THIS AMENDMENT TO VOLUNTARY AGREEMENT (the "Amendment") made this 14th day of February 2011, by and between Advisory Neighborhood Commission 2B ("ANC 2B"), Abigail Nichols and Jim King on behalf of the individual protestants consisting of property owners and residents of the 1300 block of 18<sup>th</sup> Street, NW (collectively the "Protestants") and Mad Hatter CT Ave., LLC ("Applicant").

WHEREAS, Applicant is a holder of a Retailer's License Class CT (the "License") for premises known as 1321 Connecticut Avenue, NW; (the "Establishment");

WHEREAS, Applicant has filed for approval of a substantial change for use of a sidewalk café seating area in the rear of the Establishment which fronts on the 1300 block of 18<sup>th</sup> Street, NW (the "Outside Seating Area") and for an entertainment endorsement ("EE");

WHEREAS, the Protestants have filed before the Alcoholic Beverage Control Board ("ABC Board") a protest opposing the granting of approval of the substantial change for the outside seating area;

WHEREAS, the parties entered into a Voluntary Agreement dated November 30, 2009, in connection with the original issuance of the License;

WHEREAS, the Applicant and the Protestants have reached an agreement concerning the Applicant's operation of the Outside Seating Area sought as part of the substantial change application.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein and other good and valuable consideration, the parties agree as follows:

1. Recitals Incorporated. The recitals set forth above are incorporated herein by reference.

2. Provisions Related to Operation of Outside Seating Area. Applicant agrees that operation of the Outside Seating Area shall be governed by the following:

A. Seating.

During all hours that the Outside Seating Area is in operation, Applicant shall have a hostess on duty to seat patrons in the Outside Seating Area. Patrons shall be discouraged from entering the Outside Seating Area from 18<sup>th</sup> Street. The Outside Seating Area is intended as a seating area. Patrons shall be discouraged from standing/loitering in the Outside Seating Area.

B. Hours.

The maximum hours of operation of the Outside Seating Area shall be 8:00 a.m. to 10:30 p.m., seven days a week.

C. Exiting the Seating Area.

Applicant shall use best efforts to have its patrons exit the Outdoor Seating Area from the interior of the Establishment, and not directly to 18<sup>th</sup> Street.

D. Smokers.

The Outside Seating Area shall not be used as a "smoking area." Smokers shall be directed to the Connecticut Avenue exit from the Establishment.

E. Staff Monitoring.

Staff shall monitor the Outside Seating Area during all hours of operation.

F. Dining Area.

The Outside Seating Area shall be used as an area for dining and not solely for the consumption of alcohol. All patrons seated in the Outside Seating Area shall, upon being seated, be provided food menus.

G. No Music or Entertainment.

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.

H. Entrance.

The rear of the Establishment shall not be used as an entrance to the Establishment. All potential patrons shall be directed to the Connecticut Avenue entrance to the Establishment. Only persons seated in the Outside Seating Area, and employees, shall enter the Establishment from the Outside Seating Area. Under no circumstances shall the participants of any "pub crawl" be permitted to access the Establishment through the Outdoor Seating Area. Applicant shall retain the current double door vestibule configuration in the rear.

3. Design of Outdoor Seating Area. The Outdoor Seating Area design shall incorporate the following features:

A. Lighting.

Any lighting used in the Outdoor Seating Area shall be directed downward, toward customer tables.

B. Border.

There shall be a border surrounding the Outdoor Seating Area. The border shall be decorated with plants or other material, to provide a visual and auditory shield.

4. Amendment to and Supplement of Voluntary Agreement. This Agreement shall amend and supplement the terms of the Voluntary Agreement. In the event of a conflict between the terms of this Amendment and the underlying Voluntary Agreement, the terms of this Amendment shall control.

5. Withdrawal of Protest. Protestants agree to the approval of the substantial change request provided that the terms of this Amendment are incorporated into the Board's order approving the substantial change request.

6. Counterparts. This Amendment will be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

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

APPLICANT:

MAD HATTER CT AVE, LLC

By: 

Print Name/Title: MICHAEL F. TOBIN MBR

Date Signed: 2/14/11

ANC 2B:

By: \_\_\_\_\_

Print Name/Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

INDIVIDUAL PROTESTANTS:

By: \_\_\_\_\_  
Abigail Nichols

Date Signed: \_\_\_\_\_

By: \_\_\_\_\_  
Jim King

Date Signed: \_\_\_\_\_

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

APPLICANT:

MAD HATTER CT AVE, LLC

By: \_\_\_\_\_

Print Name/Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

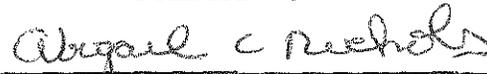
ANC 2B:

By: 

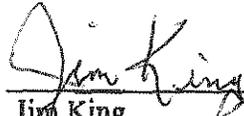
Print Name/Title: Will Stephens, Chair

Date Signed: 2/14/2011

INDIVIDUAL PROTESTANTS:

By:   
Abigail Nichols

Date Signed: Feb 14, 2011

By:   
Jim King

Date Signed: FEB 14, 2011

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

**In the Matter of:** )  
 )  
Mad Hatter CT Ave., LLC )  
t/a Mad Hatter )  
 )  
Application for New )  
Retailer's Class CT License ) License No. 82646  
 ) Order No. 2009-274  
at premises )  
1321 Connecticut Avenue, N.W. )  
Washington, D.C. 20036 )  
 )

Mad Hatter CT Ave., LLC, t/a Mad Hatter, Applicant

Mike Silverstein, Chairperson, Advisory Neighborhood Commission (ANC) 2B

Susan Zubar, Abigail Nicholson, and Meredith Weinberg, on Behalf of a Group of Five or More Individuals - Palladium Condominiums and Residents of 1331 18<sup>th</sup> Street, NW ("Group of Five")

**BEFORE:** Charles Brodsky, Acting Chairperson  
Mital M. Gandhi, Member  
Nick Alberti, Member  
Donald Brooks, Member  
Herman Jones, Member

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

The official records of the Alcoholic Control Board (Board) reflect that Mad Hatter CT Ave., LLC, t/a Mad Hatter, Applicant for a new Retailer's Class CT license located at 1321 Connecticut Avenue, N.W., Washington D.C., ANC 2B, and a Group of Five have entered into a Voluntary Agreement ("Agreement"), dated November 30, 2009, setting forth the terms and conditions that govern the operation of the Applicant's establishment. This Agreement constitutes a withdrawal of the Protest of this Application.

**Mad Hatter CT Ave., LLC**  
**t/a Mad Hatter**  
**License No. 82646**  
**Page Two**

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant; Chairperson Silverstein; and Susan Zuber, Abigail Nichols, and Meredith Weinberg, on behalf of the Palladium Condominiums and residents of 1331 18<sup>th</sup> Street, NW, are signatories to the Agreement.

Accordingly, it is this 9<sup>th</sup> day of December 2009, **ORDERED** that:

1. The Application filed by Mad Hatter CT Ave., LLC for a new Retailer's Class CT license located at 1321 Connecticut Avenue, N.W., Washington, D.C., is **GRANTED**,

2. The Protest in this matter is hereby **WITHDRAWN**,

3. This 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; and

4. Copies of this Order shall be sent to the Applicant, ANC 2B, Susan Zuber, Abigail Nicholson, and Meredith Weinberg.

Mad Hatter CT Ave., LLC  
t/a Mad Hatter  
License No. 82646  
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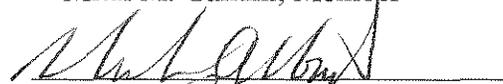
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Alcoholic Beverage Control Board



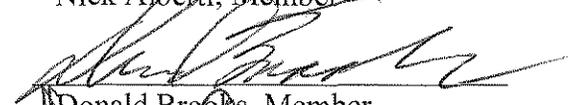
Charles Brodsky, Acting Chairperson



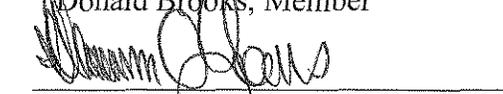
Mital M. Gandhi, Member



Nick Alberti, Member



Donald Brooks, Member



Herman Jones, 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, 941 North Capitol Street, N.E., Suite 7200, Washington, D.C. 20002.

am  
DISTRICT OF COLUMBIA  
ALCOHOLIC BEVERAGE  
REGULATION ADMINISTRATION

**VOLUNTARY AGREEMENT**

and Meredith Weinberg

This Voluntary Agreement ("Agreement"), made this 30<sup>th</sup> day of Nov/2009, by and between ANCOB, and Susan Zubat, and Abigail Nichols on behalf of the individual residents and owners of the Palladium Condominium, 1325 18<sup>th</sup> St., NW, and the residents of 1331 18<sup>th</sup> St., NW, named in Exhibit A ("Protestants") and Mad Hatter CT Ave., LLC ("Applicant").

**WHEREAS**, pending before the District of Columbia Alcoholic Beverage Control Board ("ABC Board") is an application for the issuance of a Retailer Class C Tavern license to Applicant ("CT License") for an establishment at 1321 Connecticut Avenue ("Establishment");

**WHEREAS**, the Protestants have filed before the ABC Board a protest opposing the granting of this license application.

**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 the this license and withdrawal of the protest *provided* that such agreement is incorporated into the Board's order renewing the license, which order is thereby conditioned upon compliance with such agreement.

**WHEREAS**, the Applicant has recently taken or intends to take certain measures designed to ameliorate Protestants concerns.

**WHEREAS**, the Protestants have reached an agreement with Applicant commemorating certain understandings regarding Applicant's operation of the Establishment;

**NOW AGREE THEREFORE**, in consideration of the mutual covenants and undertakings memorialized herein, the Parties hereby agree as follows:

1. Outside Seating. Applicant withdraws its request for approval of outside seating and shall not file any application with ABRA before September, 2010 for approval of an endorsement for summer garden or sidewalk café.
2. 18<sup>th</sup> Street, NW, Access. Applicant shall alarm and secure the door or entryway on the 18<sup>th</sup> Street side of the Establishment. Applicant shall not allow patrons or employees to use the door or entryway on the 18<sup>th</sup> Street side of the Establishment (the "18<sup>th</sup> Street Door") for ingress or egress at any time, except as may be reasonably necessary in connection with outside seating, if approved in the future, for the cleaning of the sidewalk and other outdoor areas, or in case of emergency.
3. Deliveries. Deliveries to the Establishment shall be made only on Connecticut Avenue.
4. Noise control. Applicant recognizes that abating noise emanating from the Establishment is of paramount importance to the Palladium. 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

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prevent emissions of sound, from being heard in any residence, including the Palladium, by any musical instrument or amplification device or other device or source of sound or noise.

- a. Noise attributed to recorded music shall not exceed the restrictions provided by the District of Columbia Noise Control Regulations. Noise attributed to recorded music shall not be audible from the balconies of the Palladium building located at 1325 18<sup>th</sup> Street, NW.
  - b. Speakers that are used inside the Establishment will produce no sound that will propagate into any portion of the Palladium building.
  - c. Low frequency sound from speakers is of particular concern as these low frequency sounds can more easily be heard outside of the Establishment. Applicant shall work with the Palladium to determine the placement and volume for the speakers/jukebox inside the Establishment to ensure that no such noise is heard in the Palladium building.
5. Windows. All windows in the Establishment facing 18<sup>th</sup> Street shall be closed at all times.
  6. 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 measures as may be necessary to eliminate noise or vibration from being heard or experienced in the Palladium building. Applicant shall also install such sound barriers in the windows in the Establishment facing 18<sup>th</sup> Street, on both floors of the Establishment, as may be necessary to prevent noise from being heard in the Palladium.
  7. Lighting and Signage on 18<sup>th</sup> Street. There shall be no lighting except that required for safety on the 18<sup>th</sup> St., side of the Establishment. There shall be no prominent flashing lights emitted from the Establishment onto 18<sup>th</sup> St. Applicant may install signage on the 18<sup>th</sup> Street Side of the Establishment setting forth the name of the Establishment and directing patrons to the entrance on Connecticut Avenue, NW.
  8. 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 18<sup>th</sup> St., NW.
  9. Outside litter and trash. Applicant shall pick up trash and litter, which accumulates on the 18<sup>th</sup> Street sidewalk and street in front of the Establishment and at the close of business each night or before opening for business each day.
  10. Reimbursable Detail. Applicant shall cooperate in and financially contribute to a dedicated police presence during periods of high tavern patronage on the 1300 block of Connecticut Avenue and 18<sup>th</sup> Street, NW, if licensed establishments in the 1300 block of Connecticut Avenue enter into such an arrangement.

ACW

11. 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.
12. Follow-up. A representative of Applicant shall, upon request, attend meetings of ANC 2B at least quarterly so as to be availability to the Commission to discuss problems or concerns arising from the Applicant's business operations.
13. Cooperating. The Palladium Protestants and Applicant agree to work together cooperatively to resolve any issues arising out of any future applications by Applicant to the ABC Board.
14. Binding. This Agreement shall be binding upon and enforceable against the successors and assigns of the Applicant during the terms of the CT License to which this Agreement applies.
15. 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..
16. Withdrawal of protest. Protestant 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.

[SIGNATURES ON FOLLOWING PAGE]

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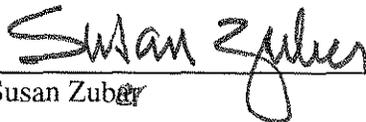
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first written above.

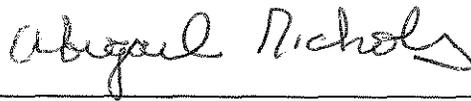
PROTESTANTS:

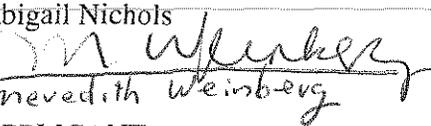
ANC 2B

By:   
Mike Silverstein, Chair

On behalf of individual owners and residents  
of the Palladium Condominium and  
residents of 1331 18<sup>th</sup> Street, NW

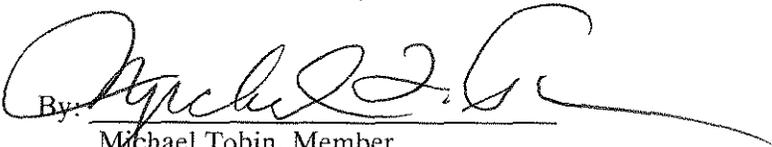
  
Susan Zuber

  
Abigail Nichols

  
Meredith Weinberg

APPLICANT:

MAD HATTER CT AVE., LLC

By:   
Michael Tobin, Member