

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

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In the Matter of:)	
)	
Shabuy, Inc.)	
t/a Tabaq Bistro)	
)	
Application for an)	
Entertainment Endorsement)	License No. 70707
and to Renew its)	Case No. 60757-08/026P
Retailer's Class "CT" License)	Order No. 2008-213
at premises)	
)	
1336 U Street, N.W.)	
Washington, D.C.)	
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Shabuy, Inc. t/a Tabaq Bistro, Applicant

Thomas KD Smith, Chair, on behalf of Advisory Neighborhood Commission, 1B, and
Aileen Johnson, on behalf of A Group of Five or More Individuals, Protestants

BEFORE: Peter B. Feather, Chairperson
Judy A. Moy, Member
Mital M. Gandhi, Member

ORDER ON VOLUNTARY AGREEMENT AND WITHDRAWN PROTEST

The Application filed by Shabuy, Inc. t/a Tabaq Bistro, for an Entertainment Endorsement to offer live entertainment, and to renew its Retailer's Class "CT" license, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call hearing on January 16, 2007, in accordance with D.C. Official Code § 25-601 (2001). Thomas K.D. Smith, Chair, on behalf of Advisory Neighborhood Commission, (ANC) 1B, filed a timely protest by letter dated December 7, 2007. Aileen Johnson, Sarah Goldfrank, Saskia Mooney, Dan Wittles and Guy Podgornik, (A Group of Five or More Individuals), filed a timely letter of opposition dated December 28, 2007.

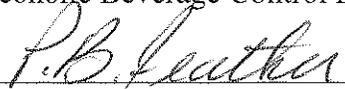
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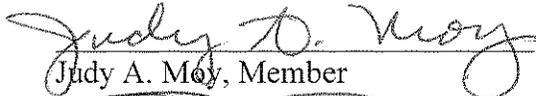
The official records of the Board reflect that the Parties have reached an agreement which has been reduced to writing and has been properly executed and filed with the Board. Pursuant to the Agreement, dated May 1, 2008, the Protestants have agreed to withdraw their protests, provided, however, the Board's approval of the pending application is conditioned upon the licensee's continuing compliance with the terms of the Agreement.

Accordingly, it is this 5th day of June 2008, **ORDERED** that:

1. The protests of ANC 1B and the Group of Five or More Individuals are **WITHDRAWN**;
2. The Application filed by Shabuy, Inc. t/a Tabaq Bistro, to offer live entertainment and to renew its Retailer's Class "CT" license, at 1336 U Street, N.W., Washington, D.C., is **GRANTED**;
3. The above-referenced Agreement is **INCORPORATED** as part of this Order;
and
4. Copies of this Order shall be sent to the Applicant and to the Protestants.

District of Columbia
Alcoholic Beverage Control Board


Peter B. Feather, Chairperson


Judy A. Moy, Member


Mital M. Gandhi, 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.

VOLUNTARY AGREEMENT
License #70707 Shabuy Inc. t/a Tabag Bistro

This Voluntary Agreement (“Agreement”) is made this 1st day of May, 2008, by and among Shabuy Inc. t/a Tabag (Applicant) and Advisory Neighborhood Commission 1B (Protestant), and Aileen Johnson, Sarah Goldfrank, Saskia Mooney, Dan Wittels and Guy Podgornik (“Protestants”), (collectively, the “Parties”).

RECITALS

WHEREAS, Applicant has filed an application to the District of Columbia Alcohol Beverage Control (ABC) Board (“Board”), for renewal of a Class CT03 license, and has additionally applied for an entertainment endorsement, for a business establishment located at 1336 U Street, NW, Washington, D.C. (“Premises”); and

WHEREAS, Protestants are Advisory Neighborhood Commission 1B, and Aileen Johnson, Sarah Goldfrank, Saskia Mooney, Dan Wittels and Guy Podgornik who filed a timely protest (the “Protest”) against the renewal of the Applicant’s license and the Applicant’s entertainment endorsement pursuant to D.C. Official Code Section 25-601(1) and 601(4), respectively; and

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 and have agreed to enter into this Voluntary Agreement pursuant to DC Official Code Section 25-446 (2001 ed.), to resolve the issues raised by Protestants’ objections, 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 applications, and (2) Protestants’ will agree to the issuance of the renewal of the license and the entertainment endorsement and withdrawal of the Protests, provided that such Agreement is incorporated into the Board’s order renewing license #70707, which order is thereby conditioned on Applicant’s compliance with the terms of 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 Live Entertainment.*** Hours when live entertainment provided by DJ(s), bands, musicians or other means (“Live Entertainment”) shall be allowed:

Sunday through Thursday	6:00PM	to	2:00AM
Friday & Saturday	6:00PM	to	3:00AM

3. ***Noise and Music.*** Applicant acknowledges familiarity with and will strictly comply with noise control provisions of District of Columbia law and regulations, and D.C. Official Code Section 25-725, including preventing emissions of sound capable of being heard outside

the premises, which are generated by employees or patrons or generated by any musical instrument or amplification device or source of sound or noise, in accordance with DCMR 905. Music and/or Live Entertainment will not be directed to any outdoor area. The doors and windows of the premises will be kept closed at all times during business hours when Live Entertainment is being played, except when persons are in the act of using the door for ingress to or egress from premises. Applicant specifically agrees to prevent front entry door from being propped open during Live Entertainment. Live Entertainment shall not be played or amplified to the top floor greenhouse space when the retractable roof is open. Live Entertainment also shall not be played or amplified in any space where windows or doors are open. Ambient or background music that is not Live Entertainment will not be played in the greenhouse space beyond 1:00 AM when the retractable roof is open. Applicant will pay particular attention to noise levels in the top floor greenhouse space at all times. Applicant agrees to restrict all events to those run by the restaurant and will not contract the restaurant for any special events to be operated by outside promoters. Applicant will regulate volume of performance so as not to interfere with ability of abutting businesses to conduct normal business. Applicant will regulate volume of performance so as to ensure that music, noise, and vibration for the Establishment are not audible to neighboring Protestants. Applicant agrees to installation of sufficient sound proofing if or when it is shown that emissions of amplified sounds are excessive. Excessive noise will be determined by comparing any complained of noise levels against a noise analysis to be paid for and completed by the Applicant, with participation by the Protestants. Applicant acknowledges the immediate proximity of residences to the south (rear) of location, and will both train staff and install signage for staff requiring that this area should be quiet after 10PM weekdays and 11PM on weekends. Applicant shall make every reasonable effort to prevent or disperse loitering or any other source of noise or disturbance in the areas in the front or to the rear of the Establishment during business hours or at closing, and to encourage patrons and employees to promptly leave those areas at closing.

4. *Trash/Garbage/Rodents and Vermin Control.* Applicant will increase the frequency of its trash/dumpster pickup by a commercial hauler to a daily trash pick-up (seven days a week). Applicant shall maintain regular trash and recyclables service to assure that the trash holding area behind the property remains clean and secure. Applicant shall deposit trash and garbage only in rodent-proof dumpsters, and shall ensure that dumpster covers fit properly and remain fully closed except when trash and garbage is being added or removed. At no time will the trash containers be over filled so as to prevent their lids from being completely closed. All trash shall be properly bagged. Wherein proper bagging includes placing trash in bags and completely sealing said bags, before placing them trash containers. Applicant shall provide rat and vermin control for its Establishment and surrounding property. Specifically, Applicant shall make every reasonable effort to eliminate food sources for rodents to help eliminate the rat population by entering into a contract for extermination services that provides for extermination services at least twice per month or every 15 days, and will make a copy of such contract available to the Protestants. Applicant shall provide proof of its rat and vermin control contract upon the requests of the Protestants. No trash or recycle containers shall be placed in public space. Dumping of trash and recycles will be coordinated so as not to disturb the peace and quiet of neighboring residents.

Applicant shall provide for the proper removal of grease and fatty oils from the Establishment and will not deposit grease or fatty oils in the dumpsters. Applicant further agrees that under no circumstances will any waste of any kind be discharged into the alley behind the premises of the Establishment, including but not limited to water from car washing, excess mop water, or grease or fatty oils. Applicant shall keep the alley behind the premises of the Establishment free of litter, bottles, and other debris. Applicant shall police this area sufficiently to assure that refuse is promptly removed.

5. *Internal Security.* Applicant shall provide internal security as defined by the Tabaq Security Plan during evening hours when Live Entertainment occurs. Applicant shall supply ABC Board with a description of businesses security plan to be placed in the ABRA files.

6. *Notice and Opportunity to Cure.* In the event that any of the Parties is in breach of this Agreement, it shall be entitled to reasonable notice and opportunity to cure, as a condition precedent to seeking enforcement of the Agreement. Unless the breach is of an emergency nature or is a repetition of a prior breach, reasonable notice and opportunity shall provide for a cure within 30 days of the date of such notice. If Applicant or the licensee fails to cure within the 30-day period (or, with respect to a breach which reasonably requires more than 30 days to cure, fails to commence cure of such breach and diligently pursues such cure) failure shall constitute a cause for seeking a Show Cause Order from the ABC Board pursuant to DC Official Code 25-447. Unless otherwise noted above, any notices required to be made under this Agreement shall be in writing and mailed via certified mail, return receipt requested, postage prepaid, or hand delivered, to the other Parties to this agreement at the following addresses. Notice shall be deemed given as of the time of receipt or refusal of receipt:

If to licensee:	Omer Buyukbayrak Tabaq Bistro 1336 U Street NW Washington, DC 20009
If to Protestant:	ANC1B PO Box 73710 Washington, DC 20056
If to Protestant	Aileen Johnson, 1343 Wallach Place NW, WDC 20009
If to Protestant	Sarah Goldfrank, 1343 Wallach Place NW, WDC 20009
If to Protestant	Saskia Mooney 1344 Wallach Place NW, WDC 20009
If to Protestant	Dan Wittels, 1325 Wallach Place NW, WDC 20009
If to Protestant	Guy Podgornik, 1323 Wallach Place NW, WDC 20009

Applicant may change the notice address listed above by written notice to the signatories hereto. Applicant shall provide a written response to any notification under this Agreement within five business days. Failure to give notice shall not constitute waiver or acquiescence to the violation, but notice shall be concurrent with the filing of a complaint with the ABC Board.

7. **License Ownership and Compliance with ABRA Regulations.** Applicant promises to Protestants that it shall abide by all Alcoholic Beverage Administration (ABRA) regulations regarding the ownership of the license and all other provisions applicable to liquor licensees, and agrees that the Protestants shall have standing to ask the ABC Board to enforce any violations of the Agreement.

8. **Modification.** This Agreement can only be modified only by the ABC Board or through the mutual agreement of all of the Parties with the approval of the ABC Board.

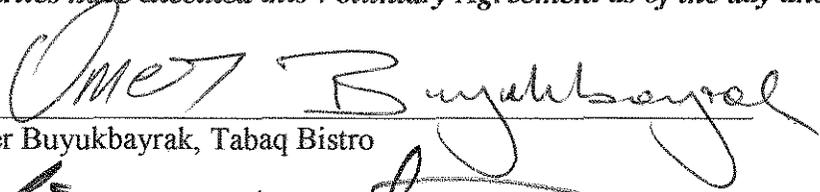
9. **Withdrawal of Protest.** Protestants' agree to the issuance of the renewal of the license and entertainment endorsement and withdrawal of their Protest, provided that this Voluntary Agreement is incorporated into the Board's order renewing the license, which order is thereby conditioned upon compliance with such Voluntary Agreement.

11. **Authority.** Representatives executing this agreement on behalf of the respective Parties do hereby affirm that they have the authority to do so.

12. **Availability of Voluntary Agreement.** Applicant agrees to keep available at all times a copy of this Agreement at his Establishment and to familiarize all his employees with its conditions.

In witness whereof, the Parties have executed this Voluntary Agreement as of the day and date first above written.

Applicant



Omer Buyukbayrak, Tabaq Bistro

Protestant



Chairman ANCIB,



SMD Commissioner for ANCIB02

Protestant

Aileen Johnson 

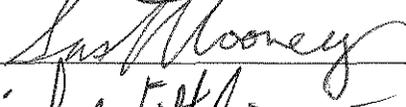
Aileen Johnson

Protestant

Sarah Goldfrank 

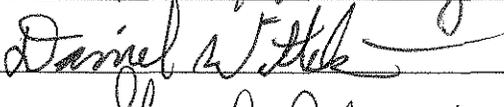
Sarah Goldfrank

Protestant

Saskia Mooney 

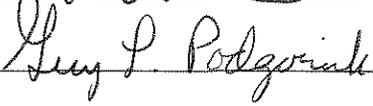
Saskia Mooney

Protestant

Dan Wittels 

Dan Wittels

Protestant

Guy Podgornik 

Guy Podgornik