

App File

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

In the Matter of:)
)
Cadillac Enterprises, Inc.)
t/a Sportsman's Wine and Liquors)
Holder of a Retailer's License)
Class A at premises)
3249 Mt. Pleasant Street, N.W.)
Washington, D.C.)
)
Licensee)
_____)

Application no.: 1837
Order no.: 2005-184

Advisory Neighborhood Commission 1E, the Mount Pleasant Neighborhood Alliance,
and Cadillac Enterprises, Inc., Signatories

BEFORE: Charles A. Burger, Chairperson
Vera M. Abbott, Member
Judy A. Moy, Member
Audrey E. Thompson, Member
Peter B. Feather, Member
Albert G. Lauber, Member
Eartha Isaac, Member

ORDER ON AMENDMENT TO VOLUNTARY AGREEMENT

On December 1, 2004, the Alcoholic Beverage Control Board ("Board") held a fact finding hearing to consider the written request of the Mount Pleasant Neighborhood Alliance ("MPNA") to renew the single sales moratorium provision contained in the voluntary agreements of nine (9) off-premises licensees located in the Mount Pleasant area (collectively "Affected Licensees"), including paragraph E of the Licensee's November 21, 2001 agreement with MPNA and Advisory Neighborhood Commission ("ANC") 1E, for a four (4) year period. The written request of MPNA to extend the single sales moratorium provision for a four (4) year period was also supported at the December 1, 2004 hearing through the submission of written comments from Ward One Councilmember Jim Graham, the Metropolitan Police Department ("MPD"), Terrance Lynch, Executive Director, on behalf of the Downtown Cluster of Congregations, and residents of the Mount Pleasant community.

The testimony received by the Board from MPD, including written testimony from MPD Commander Larry McCoy and oral testimony from then MPD Inspector Diane Grooms revealed that since the implementation of the single sales moratorium provision there has been a steady and significant reduction in the total number of calls for

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police service to Mount Pleasant Street, N.W., especially in the number of disorderly calls for police service, and that MPD officers within Patrol Service Area 301 have made fewer alcohol-related arrests. Specifically, the statistical data presented by MPD revealed that the number of calls for police service to Mount Pleasant Street, N.W., has decreased from one thousand, four hundred and twenty-three (1,423) calls in 2000 to eight hundred and thirty-four (834) calls in 2004. Furthermore, the number of disorderly calls for police service to Mount Pleasant Street, N.W., has decreased from four hundred and eighty-six (486) calls in 2000 to two hundred and forty (240) calls in 2004. The testimony of Laurie Collins, Marika Torok, and Joan Gordon, on behalf of MPNA, revealed that the Mount Pleasant neighborhood has experienced a dramatic quality of life improvement since the single sales moratorium provision took effect as there has been noticeably less public consumption of alcoholic beverages, public urination, public intoxication, panhandling, and a significant reduction in the amount of litter scattered throughout the surrounding streets, alleyways, tree boxes, and front yards of neighborhood residences.

The testimony of Affected Licensees Deanna Bayer, Miceal Dedros, David Hwank, and Dale Park revealed that they were not opposed to a renewal of the single sales moratorium provision; however, each expressed concern that their establishments have undergone a severe financial impact as a result of the subsequent statutory change in the closing time of Retailer's License Class "A" and Class "B" establishments including from midnight to 10:00 p.m. for Class "B" retailer's establishments. The Board also heard testimony from other Affected Licensees in opposition to MPNA's request to renew the single sales moratorium provision for a four (4) year period. The testimony of Affected Licensees Chong Lee and Berouz Rakani revealed that on a monthly basis their establishments experience a monetary loss because of the single sales moratorium provision and that other ABC establishments within close proximity, but outside of the Mount Pleasant area, are able to profit from the single sales moratorium provision because the provision only applies to the Affected Licensees. The Board originally rendered a decision on this matter on December 15, 2004 and found the written request of MPNA, based upon the testimony and comments it received, to warrant the renewal of the existing single sales moratorium provision contained in the voluntary agreements of the Affected Licensees for a four (4) year period. Additionally, based upon comments expressed by some of the Affected Licensees regarding the economic loss that has been suffered due to the statutory change in the closing time of Retailer's License Class "A" and Class "B" establishments, the Board found it appropriate to amend the Licensee's existing voluntary agreement by deleting paragraph F, which prohibits each Affected Licensee from selling alcoholic beverages prior to 9:30 a.m. The Board notes that Mount Pleasant resident Laurie Collins did not object to this change.

On December 27, 2004, the Board received a Motion for Reconsideration of the Board's December 15, 2004 decision from ANC 1D, which indicated that ANC 1D did

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not receive written notice of the December 1, 2004 fact finding hearing regarding MPNA's request to renew the Mount Pleasant area single sales moratorium provision. The Board found that ANC 1D was not notified of the December 1, 2004 hearing and granted the Motion for Reconsideration and held another fact finding hearing on April 20, 2005 in an effort to receive comments from ANC 1D. The Board recognizes that pursuant to D.C. Official Code § 1-309.10(d) (2001) and D.C. Official Code § 25-609 (2001), an ANC's properly adopted written recommendations are entitled to great weight from the Board. During the April 20, 2005 hearing, the testimony of Jack McKay, Chair, on behalf of ANC 1D, revealed that on April 2, 2005 a resolution was passed by ANC 1D requesting the ABC Board "to extend the moratorium on specific single sales containers of alcohol, and to use this extension period to examine and study the overall impact, importance and extent the moratorium has played in changing the social landscape of Mount Pleasant Street, and to provide the legally required proof of the continuing need for the moratorium in Mount Pleasant." The Board notes that during the April 20, 2005 hearing it received a copy of the April 2, 2005 ANC 1D resolution and that prior to the end of the comment period, which expired on April 30, 2005, it received written comments from four (4) Single Member District Commissioners within ANC 1D and Najiya Shana'a, Executive Director, Neighbors' Consejo, explaining that their individual support for an extension of the Mount Pleasant moratorium is contingent upon a study being conducted to analyze the overall effects of the moratorium. On April 20, 2005, the Board also received testimony from Gregg Edwards, Chair, on behalf of All-Ways Mount Pleasant ("AMP"), requesting that the Board notify and invite testimony from a larger range of civic associations including ANC 1D, AMP, the Mount Pleasant Business Association, the Mount Pleasant Main Street, MPNA, and Neighbors' Consejo, regarding alcoholic beverage control issues. At the conclusion of the April 20, 2005 hearing, the Board took the matter under advisement.

The Board is satisfied that the testimony and evidence presented by MPD, MPNA, and several Mount Pleasant residents warrants the renewal of the Mount Pleasant single sales moratorium provision contained in paragraph E of the Licensee's voluntary agreement. However, the Board is renewing the single sales moratorium provision contained in the voluntary agreements of the Affected Licensees for a three (3) year period instead of the four (4) year period sought by MPNA. Specifically, testimony and comments submitted by ANC 1D and AMP revealed that the social and economic landscape of the Mount Pleasant area has changed significantly over the last four (4) years, creating a need to re-evaluate, over the course of the three (3) year moratorium period, whether such changes will render the moratorium necessary for the future. ANC 1D also requested that the Board conduct a study of the effects of the moratorium. While the Board believes that ANC 1D's request for a study on the effects of the Mount Pleasant moratorium would prove useful, the Board, as a matter of practice cannot and does not have the appropriate resources to perform such a study. However, the Board

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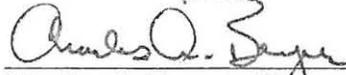
would welcome and give consideration to all relevant information that is obtained from any future studies performed pertaining to this issue. Additionally, in an effort to alleviate some of the economic hardship experienced by the Affected Licensees, the Board is repealing the restriction that prohibits each Affected Licensee from selling alcoholic beverages prior to 9:30 a.m. As a result, the Affected Licensees may begin selling alcoholic beverages at 9:00 a.m., on those days that they are approved to sell alcoholic beverages.

Accordingly, it is this 5th day of October 2005, **ORDERED** that:

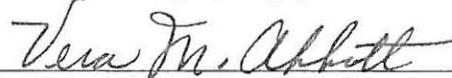
1. Paragraph E of the Licensee's existing voluntary agreement, approved on November 21, 2001, prohibiting the sale of single beers or malt liquors, is **CONTINUED** for a three (3) year period, expiring on October 4, 2008;
2. The Licensee's existing voluntary agreement, approved on November 21, 2001, is **AMENDED** by deleting paragraph F, which prohibited the Licensee from selling alcoholic beverages prior to 9:30 a.m.; and,
3. Copies of this Order shall be sent to the Signatories of the voluntary agreement.

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District of Columbia
Alcoholic Beverage Control Board



Charles A. Burger, Chairperson



Vera M. Abbott, Member



Judy A. Moy, Member



Audrey E. Thompson, Member



Peter B. Feather, Member



Albert G. Lauber, Member



Eartha Isaac, 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.

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

In the Matter of:)
)
Cadillac Enterprises, Inc.)
t/a Sportsman's Wine and Liquors)
)
Application for a Retailer's Class)
A License (renewal))
at premises)
3249 Mt. Pleasant Street, N.W.)
Washington, D.C.)
)

Case no. 1837-01/035P

James Whitman, Chair, on behalf of the Advisory Neighborhood Commission 1E and Marika Torok, President, on behalf of the Mount Pleasant Neighborhood Association, Protestants

Anastasuis G. Vondas, President, on behalf of the Applicant

BEFORE: Roderic L. Woodson, Esquire, Chair
Vera Abbott, Member
Charles Burger, Member
Laurie Collins, Member
Judy Moy, Member
Ellen Opper-Weiner, Esquire, Member
Audrey E. Thompson, Member

ORDER A WITHDRAWN PROTEST AND VOLUNTARY AGREEMENT

The application, having been protested, came before the Board June 13, 2001 in accordance with D.C. Official Code Title 25, Section 601 (2001 Edition), which provides for protestants to be heard. James Whitman, Chair, on behalf of the Advisory Neighborhood Commission 1E, and Marika Torok, president, on behalf of the Mount Pleasant Neighborhood Alliance, filed timely protest letters.

The official records of the Board reflect that the parties have reached an agreement that has been reduced to writing and has been properly executed and filed with the Board. Pursuant to the agreement, dated November 20, 2001, the protestants have agreed to withdraw the opposition, provided, however, the Board's approval of the pending application is conditioned upon the licensee's continuing compliance with the terms of the agreement.

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Accordingly, it is this 19th day of December 2001, **ORDERED** that:

1. The opposition of James Whitman, chairperson, on behalf of the Advisory Neighborhood Commission 1E and Marika Torok, president, on behalf of the Mount Pleasant Neighborhood Alliance, be, and the same hereby, is **WITHDRAWN**;
2. The application of Cadillac Enterprises, Inc. t/a Sportsman's Wine and Liquors for a retailer's class A license (renewal) located at 3249 Mt. Pleasant Street, N.W., Washington, D.C., be, and the same hereby, is **GRANTED**;
3. The above-referenced agreement between the parties, be, and the same hereby, is **INCORPORATED** as part of this Order; and
4. Copies of this Order shall be sent to the Protestants and the Applicant.

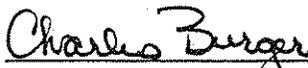
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Roderic L. Woodson, Esquire, Chair



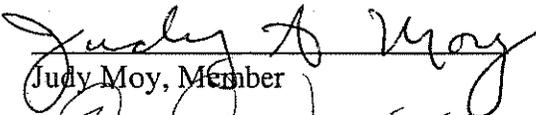
Vera Abbott, Member



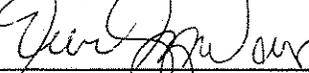
Charles Burger, Member

not voting

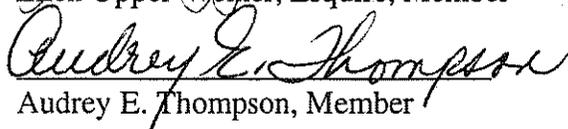
Laurie Collins, Member



Judy Moy, Member



Ellen Opper-Weiner, Esquire, Member



Audrey E. Thompson, Member

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**FIRST ADDENDUM TO VOLUNTARY AGREEMENT
BETWEEN CADILLAC ENTERPRISES, INC. (T/A SPORTSMAN'S WINE & LIQUOR),
THE MOUNT PLEASANT NEIGHBORHOOD ALLIANCE, and ANC 1-E**

This Agreement, made this 20th day of November, 2001, by and between Cadillac Enterprises, Inc. (t/a Sportsman's Wine & Liquor) and the Mount Pleasant Neighborhood Alliance ("MPNA"), and ANC 1-E.

WHEREAS Cadillac Enterprises, Inc. and MPNA signed a voluntary agreement on May 5, 1999,

WHEREAS, MPNA and ANC 1-E have each filed a protest to the renewal of the license,

WHEREAS, the parties have discussed the concerns of the neighborhood and have reached an understanding relating to the operation of the establishment,

NOW THEREFORE, in consideration of the agreements set forth herein, MPNA and ANC 1-E agree to withdraw their protest and Licensee agrees to comply with the terms of the original voluntary agreement signed May 5, 1999, except for Section (O), as well as with the terms of this Addendum as set forth herein:

- A. That in addition to MPNA, the ANC 1-E is made a party to this Agreement;
- B. That Licensee will notify MPNA and ANC IE of any application to transfer the license when filing such application with the Alcohol Beverage Control Board;
- C. That Licensee will comply with DC law and regulation concerning advertising and signage, including historic preservation regulations and guidelines;
- D. That licensee will not, directly or indirectly, knowingly sell or deliver alcoholic beverages to any intoxicated person, or to any person of intemperate habits, or to any person who appears to be intoxicated, and will cooperate with the Metropolitan Police and health and social service agencies to identify such persons. A person of intemperate habits shall be defined as any person arrested or cited for alcohol-related offenses by the Metropolitan Police for any alcohol-related offense three times or more in any one year and who has been so identified to the licensee by the Metropolitan Police by giving a photo and name to Licensee;
- E. For a period through the license period (April 1, 2001 to approximately March 31, 2003), or until the license renewal process is completed, Licensee shall not sell beer or malt liquor in single containers of any size. If the Board votes to eliminate the prohibition on single sales by the neighborhood Licensees, which are set to expire November 14, 2002, then this section shall no longer be in force and effect as of the same date the single sales ban expires or terminates for the other neighborhood licensees pursuant to the ABC Board's determination thereof;
- F. That Licensee will agree not to sell alcoholic beverages before 9:30 A.M. Notwithstanding the foregoing, the parties acknowledge that the Licensee has in the past and does currently open at 10:00 AM;
- G. This Voluntary Agreement will be posted in the licensee's establishment along with the license granted by the Alcoholic Beverage Control Board.;
- H. The licensee, as well as the ANC 1-E and MPNA shall promote the positiveness of having reached this agreement and licensee's compliance thereto within the Mount Pleasant community.

ANC 1E and MPNA further agree:

- I. ANC 1E and MPNA will support renewal of the Licensee's ABC license in consideration of agreement to these provisions.
- J. ANC 1E and MPNA will work with the Metropolitan Police to assure protection of licensee against any action by any patron denied service.
- K. ANC 1E and MPNA will work with the Metropolitan Police to eliminate illegal alcohol sale and consumption and loitering in the Commission's jurisdiction.
- L. ANC 1E and MPNA will provide the signs referred to in Provision I, above.
- M. ANC 1E and MPNA will meet with the Licensee at Licensee's request to discuss and resolve matters of mutual concern.
- N. Licensee shall not advertise alcohol prices on the front window.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year stated below.

For Cadillac Enterprises, Inc.

BY: Constantin Vondas
Name: PRES
Title:
Date: 11/15/01

For the Mount Pleasant Neighborhood Alliance:

BY: [Signature]
Name: Marika Torok
Title: President
Date: 20 - Nov - 2001

For Advisory Neighborhood Commission 1E:

BY: [Signature]
Name: JAMES WHITMAN
Title: CHAIR
Date: 11/19/2001

2001-12-5-006

Mount Pleasant Neighborhood Alliance

P.O. BOX 21554 • WASHINGTON, DC • 20009
PHONE: (202) 246-5113 • FAX: (202) 265-4032

November 20, 2001

Mr. Roderick Woodson, Chair
Alcoholic Beverage and Control Board
Business Regulation Administration
Department of Consumer and Regulatory Affairs
941 North Capitol Street, NE, Room 700
Washington, DC 20001

DEC 5 AM 10 38

Re: Cadillac Enterprises t/a Sportsman 's Wine & Liquor
3249 Mt. Pleasant St., N.W.
Application for Renewal of Class A License

Dear Ladies and Gentlemen:

The Advisory Neighborhood Commission 1-E and the Mt. Pleasant Neighborhood Alliance have reached a final agreement regarding the renewal of the above referenced license. Therefore, in consideration of the above, both MPNA and ANC will support the renewal of the referenced license.

Enclosed please find the fully executed copy of the agreement. We look forward to your review and approval.

If you should have any questions in this regard, please do not hesitate to contact me on Tel. 202/246.5113 or Jim Whitman, ANC 1-E Chair on Tel. 202/777-5000.

Sincerely,


Marika Torok
President

Enclosure

cc: Jim Whitman, ANC 1-E Chair (via hand delivery)
Paul Pascal, Pascal & Weiss (via facsimile 544-5839)
Leo Vondas, Cadillac Enterprises (via hand delivery)
Fred Moosally, Corporation Counsel (via facsimile 727-9685)