

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

In the Matter of:)	
)	
Micherie, LLC)	
t/a Cheerz)	
)	Case No. 14-PRO-00097
Application for Substantial Change)	License No. ABRA-095178
(Entertainment and Change of Hours))	Order No. 2015-105
to a Retailer's Class CR License)	
)	
at premises)	
7303 Georgia Avenue, N.W.)	
Washington, D.C. 20012)	

Micherie, LLC, t/a Cheerz (Applicant)

Ronald Austin, Chairperson, Advisory Neighborhood Commission (ANC) 4B

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

**ORDER ON SETTLEMENT AGREEMENT AND
WITHDRAWAL OF ANC 4B'S PROTEST**

The Application filed by Micherie, LLC, t/a Cheerz, for a Substantial Change to include an Entertainment Endorsement and change its hours of operation and sales, to its Retailer's Class CR License, located at 7303 Georgia Avenue, N.W., Washington, D.C., having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on December 22, 2014.

The official records of the Board reflect that the Applicant and ANC 4B entered into a Settlement Agreement (Agreement), dated February 25, 2015, 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 and Chairperson Ronald Austin, on behalf of ANC 4B, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by ANC 4B.

Accordingly, it is this 18th day of March, 2015, **ORDERED** that:

1. The Protest of ANC 4B in this matter is hereby **WITHDRAWN**;
2. The above-referenced Settlement Agreement, dated February 25, 2015, submitted by the parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order;
3. This Settlement Agreement replaces and supersedes previous Settlement Agreements between the parties; and
4. Copies of this Order shall be sent to the Applicant and ANC 4B.

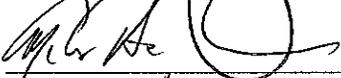
District of Columbia
Alcoholic Beverage Control Board


Ruthanne Miller, Chairperson

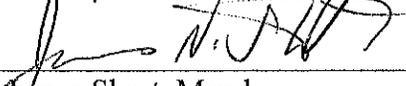

Nick Alberti, Member


Donald Brooks, Member


Herman Jones, Member


Mike Silverstein, Member


Hector Rodriguez, Member


James Short, Member

Pursuant to D.C. Official Code § 25-433, 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.

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) (2004).



Advisory Neighborhood Commission 4B

6856 Eastern Avenue, NW - Suite 314

Washington, DC 20012

202-291-6282 (Office)

Ron Austin, ANC 4B06, Chairperson; Douglass Sloan, ANC 4B09, Vice Chairperson;

Judi Jones, ANC 4B07, Secretary; Frederick Grant, ANC 4B03, Treasurer;

Andre Carley, ANC 4B01; Frank Jones III, ANC 4B02; Brenda Parks, ANC 4B04; Brenda Speaks, ANC 4B05;

March 2, 2015

Hon. Ruthanne Miller
Chairperson
Alcoholic Beverage Control Board
2000 14th Street N.W., Suite 400S
Washington, DC 20009

ABRA-095178, Cheerz, 7303 Georgia Avenue N.W., Settlement Agreement

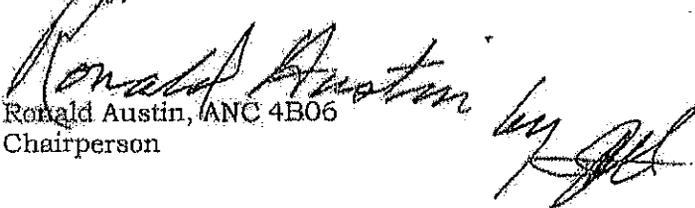
Dear Chairperson Miller:

At its regularly scheduled public meeting on February 23, 2015 (notice of which was properly given, and at which a quorum of seven of eight members was present) Advisory Neighborhood Commission 4B voted (6 yes, 0 no, 1 abstain) to approve an amendment to a settlement agreement with Cheerz.

The resolution adopted by the Commission approving the amendment and the amended agreement are enclosed with this letter.

The Commission submits this resolution and signed agreement under the provisions of DC Code 1-309.10(a) through 1-309.10(h)(1), which require, among other things, that Advisory Neighborhood Commission recommendations be given "great weight" by DC government agencies, that DC government agencies "articulate with particularity and precision the reasons why the Commission does or does not offer persuasive advice under the circumstances. In doing so, the government entity must articulate specific findings and conclusions with respect to each issue and concern raised by the Commission."

Sincerely,


Ronald Austin, ANC 4B06
Chairperson

cc: Commissioners, ANC 4B
Mr. Gottlieb Simon, Executive Director, Office of Advisory Neighborhood Commission
Ms. Roxanne Dover
Mr. Marvin Graves
Ms. Deanna Watson
Mr. Kelly Burchell, Esq.

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Advisory Neighborhood Commission 4B
Government of the District of Columbia
6856 Eastern Avenue, NW - Suite 314
Washington, DC 20012

RESOLUTION #15-0204
Approving an Amendment to a Settlement Agreement
With Cheerz, 7303 Georgia Avenue N.W.
Adopted February 23, 2015

Advisory Neighborhood Commission 4B (the Commission) takes note of the following:

- On September 22, 2014, the Commission approved a settlement agreement with Cheerz.
- Further discussions and negotiations have led to the conclusion that the settlement agreement can be amended to permit live entertainment on the premises without prejudicing the peace, order and quiet of the community.

RESOLVED:

That Advisory Neighborhood Commission 4B approves the following amendment to the settlement agreement with Cheerz:

In Section 5, add: *c. Live musical entertainment is allowed on the premises in accordance with Cheerz' operating hours.*

FURTHER RESOLVED:

That Commissioner Andre Carley, ANC 4B01, is hereby authorized to serve as the Commission's representative in all matters relating to this resolution.

FURTHER RESOLVED:

That, in the event the designated representative Commissioner cannot carry out his representative duties for any reason, the Commission authorizes the Chairperson to

designate another Commissioner to represent the Commission in all matter relating to this resolution.

FURTHER RESOLVED:

Consistent with DC Code §1-309, only actions of the full Commission voting in a properly noticed public meeting have standing and carry great weight. The actions, positions and opinions of individual commissioners, insofar as they may be contradictory to or otherwise inconsistent with the expressed position of the full Commission in a properly adopted resolution or letter, have no standing and cannot be considered as in any way associated with the Commission.

ADOPTED by voice vote at a regular public meeting (notice of which was properly given, and at which a quorum of seven of eight members was present) on February 23, 2015, by a vote of 6 yes, 0 no, 1 abstain.

SETTLEMENT AGREEMENT

AGREEMENT made this 27th day of September, 2014, by and between MICHERIE LLC trading as CHEERZ (the Applicant), and ADVISORY NEIGHBORHOOD COMMISSION 4B (ANC 4B), and amended on February 23, 2015.

WITNESSETH:

WHEREAS, the parties desire to enter into an agreement, enforceable by ABRA, regarding how Applicant shall operate the business at 7303 Georgia Avenue, N.W.;

WHEREAS, the premises is within the boundaries of ANC 4B; and

WHEREAS, the Parties are desirous of entering into a Settlement Agreement pursuant to D.C. Official Code § 25-446 for the operation and maintenance of the Establishment in such a manner as to promote the peace, order and quiet of the neighborhood. All parties recognize the importance of business neighborhoods that are safe, clean, and "pedestrian friendly".

NOW, THEREFORE, the Parties agree as follows:

- 1. Recitals Incorporated.** The recitals set forth above are incorporated herein by reference.
- 2. Nature of the Business.** *The Applicant shall manage and operate at the address a place that is regularly used for the sale and service of prepared food and alcoholic beverages.*
- 3. Hours of Operation and Sales.** The Applicant's hours of operation shall be as follows:

Inside Services

Sunday through Thursday 11 AM to 1 AM

Alcohol Service 11 AM to 12:30 PM

Friday and Saturday 10 AM to 2 AM

Alcohol Service 10 AM to 1:30 AM

Sidewalk Services

None

Provided that: (a) on days designated by the ABC Board as "Extended Hours for ABC Establishments" Applicant may operate (including sale and consumption) for one hour later than the hours listed above; (b) in the event that the Council of the District of Columbia or the ABC Board grants licensees in general extended operating hours (such as for the Inauguration), Applicant may avail itself of such extended hours; and (c) on January 1 of each year, Applicant may operate (including sale and consumption) until 3:00 a.m.

4. Floors Utilized and Occupancy. The Applicant will operate its establishment according to the occupancy indicated on the Certificate of Occupancy issued by the Department of Consumer and Regulatory Affairs.

At all times during which alcohol is served on the Premises the applicant shall:

- a. Refuse entry to individuals who are already drunk, who bring their own alcohol to the Premises;
- b. Ask inebriated patrons who have become rowdy to leave the Premises, to eject such patrons to the extent allowed by law, and to call the police if such patrons still refuse to leave;
- c. Assure that wait staff check the identification of patrons suspected of being under-age before serving them; and
- d. Assure that wait staff stop serving patrons who have become inebriated. The employee charged with these responsibilities may perform other job functions as well.

5. Noise.

- a. Absent any exclusion provided by law, Applicant shall not produce any sound, noise, or music of such intensity that it may be heard in any premises other than the licensed establishment by the use of any:

1. Mechanical device, machine, apparatus, or instrument for amplification of the human voice or any sound or noise;
2. Bell, horn, gong, whistle, drum, or other noise-making article, instrument, or device; or
3. Musical instrument.

b. Applicant will also adhere to all noise control provisions required under D.C. Municipal Regulations Title 20 Chapter 27.

c. Live musical entertainment is allowed on the premises in accordance with Cheerz' operating hours.

6. Public Space and Trash.

a. Applicant shall keep its entire property and the sidewalk (up to and including the curb), curb, and alley clean and free of litter, bottles, and other debris in compliance with D.C. Code and Municipal Regulations. Applicant shall clean these areas daily to assure that refuse and other materials are promptly removed.

b. Applicant shall ensure that the area around the dumpster is kept clean at all times and the dumpster is placed such that it does not encroach on the abutting property owners and that no garbage is placed on the abutting property. Applicant shall ensure that no trash is placed outside the establishment other than in a fully closed dumpster. Applicant shall ensure that the lids on all dumpsters are fully closed at all times. Applicant shall not place trash in its dumpster in any manner that would prevent the full closure of the dumpster. Applicant shall ensure that all dumpsters used are properly maintained and replaced when damaged.

c. Applicant shall ensure that all grease is placed in a secure well-maintained container inside the property where possible. Any grease leak shall be cleaned up promptly and all containers shall be properly maintained and replaced when damaged or leaking.

d. Commercial trash and recycling pick-up shall take place between 7 a.m.-7 p.m., Monday through Friday. Applicant shall not allow its trash or recycling to be picked up outside of those hours. Glass or other

potentially noisy materials that need to be recycled shall be stored inside the Applicant's establishment until 7 am.

7. **Rats and Vermin Control.** The Applicant shall provide rat and vermin control for its property. Applicant shall have the Establishment and the area around the Premises properly cleaned at the end of each night to ensure that there are no garbage and odors present the following morning.
8. Applicant will have thirty (30) days to remedy any complaints brought by ANC4B.
9. Applicant will cooperate with MPD and other enforcement officials with regard to issues concerning peace, order, and quiet.
10. Applicant will encourage patrons to park on Georgia Avenue.
11. If any provision of this Agreement is deemed unenforceable or is found to conflict with applicable law, the remaining provisions shall stay in effect; and the Parties agree to abide by current District of Columbia laws, rules, and regulations.
12. **Cancellation of previous Agreements.** Except as otherwise explicitly provided herein, this Agreement shall have full force and effect when ratified by the Alcoholic Beverage Control Board and shall constitute the agreement between the parties, specifically, Advisory Neighborhood Commission 4B and the Applicant. This agreement may only be modified by written agreement of the parties or their successors, or otherwise in accordance with law

IN WITNESS WHEREOF, the parties have affixed hereunto their hands and seals on the day and year first above written.

MICHERIE LLC

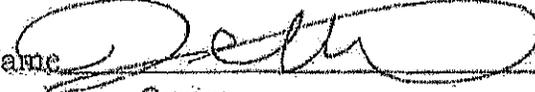
Print Name Roxanne Dover

Sign Name _____

Title Owner

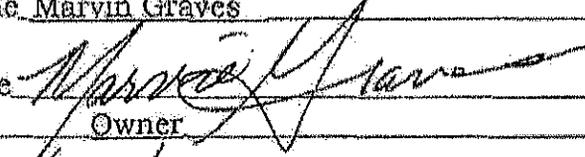
Date R

Print Name Deanna Watson

Sign Name 
Title Owner

Date 2/26/15

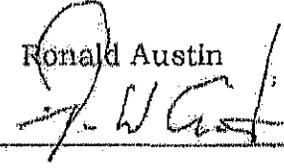
Print Name Marvin Graves

Sign Name 
Title Owner

Date 2/26/15

ADVISORY NEIGHBORHOOD COMMISSION 4B

Print Name: Ronald Austin

Sign Name 

Title: Chair, Advisory Neighborhood Commission 4B

Date 2.25.15