

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

In the Matter of:)		
)		
)	Case No.:	13-PRO-00174
Ekho Events, Inc.)	License No:	090250
t/a Echostage)	Order No:	2014-509
)		
Application to Renew a)		
Retailer's Class CN License)		
)		
at premises)		
2135 Queens Chapel Road, N.E.)		
Washington, D.C. 20018)		

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

ALSO PRESENT: Ekho Events, Inc., t/a Echostage, Applicant

Kwamina Williford, of the firm Holland & Knight, on behalf of the Applicant

Karla Butler, Commissioner, on behalf of Advisory Neighborhood Commission (ANC) 5C and A Group of Six Residents and Property Owners (Odunsi Group), Protestants

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

INTRODUCTION

Ekho Events, Inc., t/a Echostage, (hereinafter "Applicant" or "Echostage") has demonstrated to the satisfaction of the Alcoholic Beverage Control Board (Board) that its

operations are not having a negative impact on the community and that the licensee has taken reasonable steps to alleviate any negative impacts that may be caused by the operation of a concert venue at 2135 Queens Chapel Road, N.E., Washington D.C. Therefore, the Board approves the Application to Renew a Retailer's Class CN License filed by Echostage.

Procedural Background

The Notice of Public Hearing advertising Echostage's Application was posted on October 11, 2013, and informed the public that objections to the Application could be filed on or before November 25, 2013. *ABRA Protest File No. 13-PRO-00174*, Notice of Public Hearing [*Notice of Public Hearing*]. The Alcoholic Beverage Regulation Administration (ABRA) received protest letters from Advisory Neighborhood Commission (ANC) 5C and a Group of Six Residents and Property Owners (collectively the "Protestants"). *ABRA Protest File No. 13-PRO-00174*, Roll Call Hearing Results.

The parties came before the Board's Agent for a Roll Call Hearing on December 9, 2013, where all of the above-mentioned objectors were granted standing to protest the Application. On March 5, 2014, the parties came before the Board for a Protest Status Hearing. Finally, the Protest Hearing in this matter occurred on September 10, 2014.

The Board recognizes that an ANC's properly adopted written recommendations are entitled to great weight from the Board. *See Foggy Bottom Ass'n v. District of Columbia Alcoholic Beverage Control Bd.*, 445 A.2d 643, 646 (D.C. 1982); D.C. Code §§ 1-309.10(d); 25-609 (West Supp. 2014). Accordingly, the Board "must elaborate, with precision, its response to the ANC[s]'s issues and concerns." *Foggy Bottom Ass'n*, 445 A.2d at 646. The Board notes that it received a properly adopted written recommendation from ANC 5C. *Resolution*, Advisory Neighborhood Commission 5C (Nov. 20, 2013). The ANC's issues and concerns shall be addressed by the Board in its Conclusions of Law, below.

Based on the issues raised by the Protestants, the Board may only grant the Application if the Board finds that the request will not have an adverse impact on the peace, order, and quiet, residential parking, and vehicular and pedestrian safety of the area located within 1,200 feet of the establishment. D.C. Official Code § 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2014).

FINDINGS OF FACT

The Board, having considered the evidence, the testimony of the witnesses, the arguments of the parties, and all documents comprising the Board's official file, makes the following findings:

I. Background

1. Echostage has submitted an Application to Renew a Retailer's Class CN License at 2135 Queens Chapel Road, N.E., Washington, D.C. *Notice of Public Hearing*.

2. ABRA Investigator Abyie Ghenene investigated the Application and prepared the Protest Report submitted to the Board. *ABRA Protest File No. 13-PRO-00174, Protest Report* (Sept. 2014) [*Protest Report*].

3. Echostage primarily serves as a concert venue. *Transcript (Tr.)*, September 10, 2014 at 30. The establishment is located in a C-M-2 zone. *Protest Report*, at 2. Eleven licensed establishments are located within 1,200 feet of the proposed location. *Id.* at 3. There are no schools, recreation centers, public libraries, or day care centers located within 400 feet of the establishment. *Id.*

4. According to the public notice, Echostage's hours of operation are as follows: 8:00 a.m. to 3:00 a.m., Sunday through Thursday, and 7:00 a.m. to 4:00 a.m. on Friday and Saturday. *Id.* at 4. The establishment's hours of alcoholic beverage sales, service, and consumption run from 8:00 a.m. to 2:00 a.m., Monday through Thursday, 8:00 a.m. to 3:00 a.m., on Friday and Saturday, and 10:00 a.m. to 2:00 a.m., on Sunday. *Id.*

5. The establishment's investigative history shows no violations. *Id.* at 7. Furthermore, the Noise Task Force found no violations at the establishment. *Id.*

6. Investigator Ghenene described the neighborhood. *Tr.*, 9/10/14 at 16. Specifically, there is a dumping station, a concrete company, a taxi cab depot, a day care center, and a bank in the vicinity. *Id.* at 17.

7. Investigator Ghenene has monitored the establishment frequently over the past year. *Id.* at 18. He noted that the establishment only opens approximately five to six times per month. *Id.* at 18-19. When in operation, the establishment generates a lot of foot and car traffic. *Id.* at 19.

8. He also observed that the establishment regularly hires the Metropolitan Police Department (MPD) Reimbursable Detail to provide security and direct traffic. *Id.* at 19. He noted anywhere between six and fourteen officers present on any given occasion. *Id.*

9. Investigator Ghenene was also impressed by the quality of Echostage's identification checking procedures and security. *Id.* at 20. Specifically, he has conducted multiple identification checks of patrons standing in the establishment's line and has never found an underage patron. *Id.* Furthermore, Echostage does not use glass containers, but rather, only provides patrons with plastic containers. *Id.* at 23; *see also id.* at 227.

10. Echostage also makes efforts to control crowds and reduce crime. *Id.* at 20. For example, the establishment staggers its closing time in order to prevent patrons from exiting the establishment when other clubs in the area are letting out. *Id.* at 20, 44-45. In addition, the establishment's management has cooperated with drug investigations conducted by MPD and hired the reimbursable detail at MPD's request. *Id.* at 20-21, 53, 72, 195; *Protestant's Exhibit No. 14* (email from MPD).¹ The establishment also has an emergency medical team on duty when in operation. *Id.* at 22.

¹ The Board notes that there is no persuasive evidence in the record that supports the conclusion that Echostage's management allows, permits, or tolerates drug use inside the establishment.

11. Echostage also makes efforts to prevent litter and trash from accumulating in the neighborhood. *Id.* at 21. Specifically, when the establishment is open, Echostage has a trash detail clean the area two hours before the establishment opens and two hours after the establishment closes. *Id.* at 21, 51. Investigator Ghenene noted that any trash in the neighborhood could be attributed to the operations of the other establishments in the neighborhood. *Id.* at 49.

12. Echostage also has also made efforts to alleviate any parking problems caused by its operations. *Id.* at 21. First, two parking companies provide approximately 700 parking spaces. *Id.* at 23. The establishment has five parking lots, with one lot next to the establishment, another lot located across from the establishment, and other lots located in the area. *Id.* at 25-26. The establishment also has shuttles run from the parking lots that are farther away from the establishment. *Id.* at 26, 39, 47-48. Second, the establishment has also entered into a contract to provide shuttle service to and from the closest Metro stations. *Id.* at 23; *see also id.* at 223. Third, the establishment provides valet service. *Id.* at 39. Fourth, the establishment is starting to offer parking to customers when they purchase tickets. *Id.* at 47.

13. Investigator Ghenene described the establishment's impact on noise. *Id.* at 49. Specifically, he observed that the establishment's amplified music does not emanate from the establishment when its doors are closed. *Id.* at 49. Generally, the only noise outside the venue comes from patrons waiting outside the establishment. *Id.*

II. Yolanda Odunsi

14. Yolanda Odunsi lives on Franklin Street, N.E., which is approximately five blocks from the bridge that separates a residential neighborhood from the nightclubs in the area. *Id.* at 82-83.

15. Ms. Odunsi complained about the traffic situation in the neighborhood. *Id.* at 83. She noted that when Echostage is in operation there is a lot of traffic in the neighborhood. *Id.* at 84. She has further observed that MPD creates one-way traffic streets to address the high-volume of vehicles that are attracted to the neighborhood. *Id.* at 85. She noted that the traffic occasionally becomes standstill as people try to park. *Id.* at 100. Nevertheless, Ms. Odunsi admitted that she could take an alternative route to get to her home when traffic is bad. *Id.* at 102, 107.

16. Ms. Odunsi has observed that patrons of Echostage park in the residential neighborhood. *Id.* at 86. Nevertheless, Ms. Odunsi admitted that she has her own parking space; as a result, any patrons parking in the neighborhood do not prevent her from parking near her home. *Id.* at 124.

17. Ms. Odunsi admitted that while she has seen litter in the community, she has not observed any of Echostage's patrons engage in littering. *Id.* at 87, 105, 139. She noted that there are a lot of broken bottles in the neighborhood. *Id.* at 129.

18. Ms. Odunsi described her concerns regarding noise. *Id.* at 108. Specifically, Ms. Odunsi has concerns about people honking their car horns and yelling. *Id.* at 107. She has never been disturbed by Echostage's amplified music. *Id.* at 118.

III. Andre de Moya

19. Andre de Moya has served as the general manager of Echostage since 2012 when the establishment opened. *Id.* at 211. The establishment is usually open no more than ten days per month. *Id.* at 214. The operations depend heavily on when certain artists are available. *Id.* The venue can host approximately 2,000 people when a popular artist performs. *Id.* at 270.

20. In March 2014, Echostage hosted nine events. On March 7, 2014, Echostage featured Lorde who won a Grammy. *Id.* at 216. On other days that month, the venue hosted various artists and disc jockeys. *Id.* T

21. In April 2014, May 2014, and June 2014, the establishment was only open on eight days per month. *Id.* at 217-18. In July 2014, the establishment only operated on six days, while in August 2014, the establishment only operated for seven days. *Id.* at 218.

22. Echostage also submitted a parking agreement into the record. *Id.* at 220.

23. Mr. de Moya also described the shuttle service provided by Echostage. *Id.* at 225. He noted that the shuttle service provided by Echostage starts one hour before opening and shuttles patrons from two Metro stations to the venue. *Id.* at 225. Once the event is over, the shuttles return patrons to the Metro stations. *Id.* at 225-26. The shuttle buses run every fifteen to twenty minutes. *Id.* at 263. The establishment is not within walking distance of the Metro stops. *Id.* at 262.

24. Echostage also participates in the “Adopt-a-Block” Program on a quarterly basis. *Id.* at 229-30. As part of the program, Echostage has its employees clean the area from Adams Place, N.E., to the bottom of Bladensburg Road, N.E. *Id.* at 230, 237.

IV. Antonis Karagounis

25. Antonis Karagounis owns Echostage and described his efforts to provide parking. *Id.* at 276. He noted that the establishment only has 250 spots dedicated to Echostage, and that the patrons of the other establishments in the area can use the other parking lots. *Id.* at 283, 289-90, 319. The establishment also has verbal agreements with other parking vendors to provide parking during events. *Id.* at 327. Echostage provides shuttle service for patrons using the lot. *Id.* at 279-80. He noted that the parking provided by the establishment is never fully utilized during events. *Id.* at 301. Echostage also directs patrons to the local parking lots on its website. *Id.* at 313.

26. The establishment has also partnered with Uber to provide discounted taxi service for patrons. *Id.* at 321-22.

27. Mr. Karagounis also noted that the Stadium Club, which is nearby, has its own private parking lot. *Id.* at 301.

CONCLUSIONS OF LAW

28. The Board may approve an Application to Renew a Retailer's Class CN License when the proposed establishment will not have an adverse impact on the neighborhood. D.C. Official Code §§ 25-104, 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2014). Specifically, the question in this matter is whether the Application will have a negative impact on the peace, order, and quiet, residential parking, and vehicular and pedestrian safety of the area located within 1,200 feet of the establishment. D.C. Official Code § 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2014).

29. Furthermore, “. . . the Board shall consider whether the proximity of [a tavern or nightclub] establishment to a residence district, as identified in the zoning regulations of the District and shown in the official atlases of the Zoning Commission for the District, would generate a substantial adverse impact on the residents of the District.” D.C. Official Code § 25-314(c).

I. THE ESTABLISHMENT IS APPROPRIATE FOR THE NEIGHBORHOOD.

30. Under the appropriateness test, “. . . the applicant shall bear the burden of proving to the satisfaction of the Board that the establishment for which the license is sought is appropriate for the locality, section, or portion of the District where it is to be located” D.C. Official Code § 25-311(a). The Board shall only rely on “reliable” and “probative evidence” and base its decision on the “substantial evidence” contained in the record. 23 DCMR § 1718.3 (West Supp. 2014).

31. The appropriateness test has never been limited to mere compliance with the law. *See Panutat, LLC v. D.C. Alcoholic Beverage Control Bd.*, 75 A.3d 269, 277 n. 12 (D.C. 2013) (“However, in mandating consideration of the effect on peace, order, and quiet, § 25-313(b)(2) does not limit the Board’s consideration to the types of noises described in § 25-725.”). It has been said, that each location where an establishment is located is “unique,” which requires the Board to evaluate each establishment “. . . according to the particular circumstances involved.” *Le Jimmy, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 433 A.2d 1090, 1093 (D.C. 1981). Under this test, the Board must consider the “prospective” effect of the establishment on the neighborhood.” *Id.* Among other considerations, this may include the Applicant’s efforts to mitigate or alleviate operational concerns,² the “character of the neighborhood,”³ the character of the establishment,⁴ and the license holder’s future plans.⁵

² *Donnelly v. District of Columbia Alcoholic Beverage Control Board*, 452 A.2d 364, 369 (D.C. 1982) (saying that the Board could rely on testimony related to the licensee’s “past and future efforts” to control negative impacts of the operation); *Upper Georgia Ave. Planning Comm. v. Alcoholic Beverage Control Bd.*, 500 A.2d 987, 992 (D.C. 1985) (saying the Board may consider an applicant’s efforts to “alleviate” operational concerns).

³ *Citizens Ass’n of Georgetown, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 410 A.2d 197, 200 (D.C. 1979).

⁴ *Gerber v. D.C. Alcoholic Beverage Control Bd.*, 499 A.2d 1193, 1196 (D.C. 1985); *Sophia’s Inc. v. Alcoholic Beverage Control Bd.*, 268 A.2d 799, 801 (D.C. 1970).

⁵ *Sophia’s Inc.*, 268 A.2d at 800.

a. Echostage satisfies § 25-313(b)(2).

32. The Board finds that Echostage satisfies § 25-313(b)(2). “In determining the appropriateness of an establishment, the Board shall consider . . . [t]he effect of the establishment on peace, order, and quiet, including the noise and litter provisions set forth in §§ 25-725 and 25-726.” D.C. Official Code § 25-313(b)(2); *see also* D.C. Official Code §§ 25-101(35A), 25-314(a)(4). Among other considerations, the Board is instructed to consider “. . . noise, rowdiness, loitering, litter, and criminal activity.” 23 DCMR § 400.1(a) (West Supp. 2014).

33. Under the appropriateness test, the Board may consider an applicant’s efforts to address or alleviate operational concerns. *Donnelly v. District of Columbia Alcoholic Beverage Control Board*, 452 A.2d 364, 369 (D.C. 1982); *Upper Georgia Ave. Planning Comm. v. Alcoholic Beverage Control Bd.*, 500 A.2d 987, 992 (D.C. 1985).

34. Here, Echostage has taken significant steps to minimize any crime and disorder that might result from the establishment’s operations. First, the establishment has addressed crowd control concerns by regularly hiring the MPD Reimbursable Detail and staggering the release of its patrons at closing. *Supra*, at ¶¶ 7, 10. Second, the Board credits Investigator Ghenene’s observation that the establishment’s identification checking program is effective. *Supra*, at ¶ 9. Third, the establishment ensures the safety of patrons and staff by serving alcohol in plastic containers, rather than glass containers, and hosting an emergency medical team on the premises. *Supra*, at ¶¶ 9-10.

35. Echostage has also made efforts to minimize its impact on trash and litter in the neighborhood. Specifically, Echostage provides a trash detail to regularly clean the area around the establishment and participates in quarterly clean-ups of the neighborhood. *Supra* at ¶¶ 11, 24; *see also* D.C. Official Code § 25-726 (requiring licensees to take reasonable steps to control litter around the establishment).

36. Echostage has also made efforts to minimize noise emanating from the operations of the establishment. Specifically, there is no evidence that amplified music from the establishment disturbs residents in their homes. *Supra*, at ¶ 13; *see also In re Solomon Enterprises, LLC, t/a Climax Restaurant & Lounge*, Case No. 13-PRO-00152, Board Order No. 2014-474, ¶ 32 (D.C.A.B.C.B. Nov. 19, 2014). There is also no evidence that the establishment violates the District noise level limits, otherwise permits noise disturbances as defined in Title 20 of the D.C. Municipal Regulations, or allows noise-related disorderly conduct to occur on a regular basis. *See id.* at ¶ 42; *In re 19th and K, Inc., t/a Ozio Martini & Cigar Lounge*, Case No. 13-PRO-00151, Board Order No. 2014-366, ¶¶ 5, 12, 22 (D.C.A.B.C.B. Oct. 1, 2014).

37. Furthermore, the Protestants have failed to make a showing that Echostage’s efforts to minimize its impact on peace, order, and quiet are insufficient. First, the record does not demonstrate that the neighborhood suffers from a crime problem, or that the crime experienced by the neighborhood relates to the operation of licensed establishments. Second, there is no evidence that the trash and litter found by residents results from the operation of Echostage or

otherwise establishes a pervasive litter problem in the neighborhood. *Supra*, at ¶¶ 9, 17. Third, while residents may be disturbed by residents walking to their vehicles, Echostage has made sufficient efforts to deter patrons from entering residential areas by providing shuttle service to the nearby Metro stations and local parking lots. *Supra*, at ¶¶ 12, 23, 25. As a result, the Protestants cannot rebut Echostage's prima facie showing of appropriateness.

b. Echostage satisfies § 25-313(b)(3).

38. The Board further finds that Echostage satisfies § 25-313(b)(3). "In determining the appropriateness of an establishment, the Board shall. . . [t]he effect of the establishment upon residential parking needs and vehicular and pedestrian safety . . ." D.C. Official Code § 25-313(b)(3); *see also* D.C. Official Code §§ 25-101(35A), 25-314(a)(4). Among other considerations, the Board is instructed to consider the availability of both private and public parking, any parking arrangements made by the establishment, whether "[t]he flow of traffic . . . will be of such pattern and volume as to . . . increase the [reasonable] likelihood of vehicular [or pedestrian] accidents . . ." 23 DCMR § 400.1(b), (c) (West Supp. 2014).

39. As noted above, an applicant may satisfy the appropriateness test by making efforts to address or alleviate operational concerns. *Donnelly*, 452 A.2d at 369; *Upper Georgia Ave. Planning Comm.* 500 A.2d at 992. Furthermore, it has been said that applicant may satisfy § 25-313(b)(3) by showing that the ". . . parking facilities are adequate to accommodate the establishment's clientele." *D.C. Council, Bill 6-504, the "District of Columbia Alcoholic Beverage Control Act Reform Amendment Act of 1986,"* Committee on Consumer and Regulatory Affairs, 38 (Nov. 12, 1986).

40. Here, Echostage has made significant efforts to provide parking for its patrons. First, the establishment has at least 250 parking spots available for use by its customers. *Supra*, at ¶ 25. Second, there are approximately 700 parking spots available in the neighborhood. *Supra*, at ¶ 12. Third, the establishment provides shuttle service from the Metro, which encourages patrons to use public transportation. *Supra*, at ¶ 12. Fourth, Echostage offers shuttle service from the surrounding parking lots, which encourages patrons to park in its parking lots, rather than the surrounding community. *Supra*, at ¶ 25. Finally, patrons also have access to private taxis and Uber. *Tr.* at 321, 324, 340.

41. Furthermore, the Protestants have failed to make a sufficient showing that these efforts on the part of Echostage are inadequate to alleviate concerns regarding residential parking or vehicular and pedestrian safety. First, the record does not show that there is insufficient parking to meet the needs of residents. *Supra*, at ¶¶ 16, 25, 27. Second, while traffic problems may be severe, the record does not demonstrate that this situation is unsafe or that all routes available to residents are blocked off. *Supra*, at ¶¶ 15-16. Therefore, the Protestants have not rebutted Echostage's prima facie showing of appropriateness.

c. Echostage's record of compliance with Title 25 merits renewal of the license.

42. Under § 25-315, "[t]he Board shall consider the licensee's record of compliance with this title and the regulations promulgated under this title and any conditions placed on the license

during the period of licensure, including the terms of a settlement agreement.” D.C. Official Code § 25-315(b)(1). Here, Echostage has no record of violations while it has been in operation; therefore, there are additional grounds supporting the Board’s determination to renew the license without conditions. *Supra*, at ¶ 5; *D.C. Council, Bill 6-504, the “District of Columbia Alcoholic Beverage Control Act Reform Amendment Act of 1986”* at 42.

II. THE RECORD DOES NOT SUPPORT THE IMPOSITION OF CONDITIONS ON ECHOSTAGE.

43. Under § 25-104(e), “[t]he Board, in issuing licenses, may require that certain conditions be met if it determines that the inclusion of the conditions will be in the best interest of the [neighborhood] . . . where the licensed establishment is to be located.” D.C. Official Code § 25-104(e). Among other purposes, the Board uses conditions to address “. . . valid concerns regarding appropriateness that may be fixed through the imposition of specific operation[al] limits or requirements on the license.” *In re Dos Ventures, LLC, t/a Riverfront at the Ball Park*, Case No. 13-PRO-00088, Board Order No. 2013-512, ¶ 49 (D.C.A.B.C.B. Nov. 13, 2013). In this case, the Protestants have only requested the imposition of an “agreement” and the imposition of unidentified restrictions on the license. *Tr.*, 9/10/14 at 345-46. Nevertheless, the Board does not unilaterally impose “agreements” upon parties in a protest case. Furthermore, the Protestants have not proven through substantial evidence that any specific conditions would alleviate any alleged inappropriate impact on the community; therefore, the Board is not persuaded that there is a basis for imposing conditions on the license at this time.

III. THE BOARD REJECTS ANC 5C’S RECOMMENDATION, BECAUSE IT IS NOT SUPPORTED BY SUFFICIENT FACTS.

44. ANC 5C’s written recommendation submitted in accordance with D.C. Official Code § 25-609(a) indicated that its protest was based on concerns regarding Echostage’s impact on peace, order, and quiet; residential parking; and vehicular and pedestrian safety. The Board notes that it specifically addressed these concerns in Section I of this Order. Finally, the Board notes that ANC 5C has failed to establish through substantial evidence that Echostage is the cause of the concerns it raises. Therefore, the Board rejects ANC 5C’s recommendation.

IV. THE APPLICATION SATISFIES ALL REMAINING REQUIREMENTS IMPOSED BY TITLE 25.

45. Finally, the Board is only required to produce findings of fact and conclusions of law related to those matters raised by the Protestants in their initial protest. *See Craig v. District of Columbia Alcoholic Beverage Control Bd.*, 721 A.2d 584, 590 (D.C. 1998) (“The Board’s regulations require findings only on contested issues of fact.”); 23 DCMR § 1718.2 (West Supp. 2014). Accordingly, based on the Board’s review of the Application and the record, the Applicant has satisfied all remaining requirements imposed by Title 25 of the D.C. Official Code and Title 23 of the D.C. Municipal Regulations.

ORDER

Therefore, the Board, on this 14th day of January 2015, hereby **APPROVES** the Application to Renew a Retailer's Class CN License at premises 2135 Queens Chapel Road, N.E. filed by Ekho Events, Inc., t/a Echostage.

While not rising to the level of a condition, the Board **RECOMMENDS** that the Applicant consider offering additional incentives to encourage patrons to use the parking provided by the establishment or other forms of transportation.

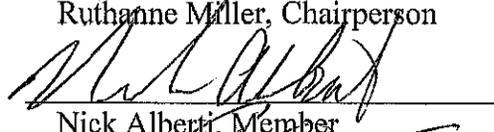
IT IS FURTHER ORDERED that the Board's findings of fact and conclusions of law contained in this Order shall be deemed severable. If any part of this determination is deemed invalid, the Board intends that its ruling remain in effect so long as sufficient facts and authority support the decision.

The ABRA shall deliver a copy of this order to the Applicant, ANC 5C, and the Odunsi Group.

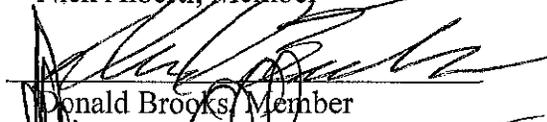
District of Columbia
Alcoholic Beverage Control Board



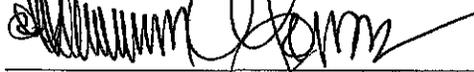
Ruthanne Miller, Chairperson



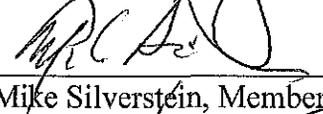
Nick Alberti, Member



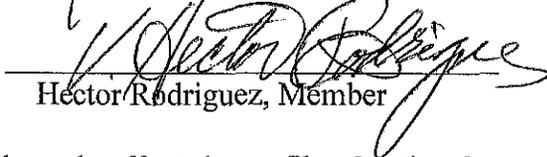
Donald Brooks, Member



Herman Jones, Member



Mike Silverstein, Member



Hector Rodriguez, Member

Pursuant to 23 DCMR § 1719.1, 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, Reeves Center, 2000 14th Street, NW, 400S, Washington, D.C. 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 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).