

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

In the Matter of:)	
)	
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

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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 23rd 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.

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District of Columbia
Alcoholic Beverage Control Board



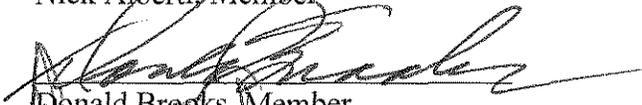
Charles Brodsky, Chairperson



Mital M. Gandhi, Member



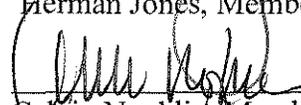
Nick Alberti, Member



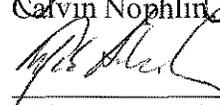
Donald Brooks, Member



Herman Jones, Member



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., 3rd 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 18th 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 18th 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 18th 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 18th 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: _____

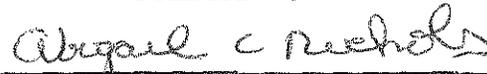
ANC 2B:

By: 

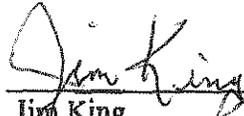
Print Name/Title: Will Stephens, Chair

Date Signed: 2/14/2011

INDIVIDUAL PROTESTANTS:

By: 
Abigail Nichols

Date Signed: Feb 14, 2011

By: 
Jim King

Date Signed: FEB 14, 2011