

Jerry Valbrun and Antonio Womack indicated that earlier in the day they found three individuals inside the premises drinking in the basement of the premises as part of an “after hours drinking” investigation . *Id.* at 1. The officers indicated that the open basement door was blocked by a refrigerator *Id.* at 2. Upon knocking the refrigerator down, the officers observed three Hispanic males drinking alcohol inside the basement. *Id.* Two of the individuals quickly left, but a third male that was “extremely intoxicated” remained. *Id.* at 3. The remaining male refused to cooperate with the investigation by repeatedly providing false contact information for the landlord and changing his story. *Id.* at 3.

3. Investigator Jones entered the basement of 3013 AA Georgia Avenue, N.W., after arriving on the scene. *Id.* at 3. He observed that the small room that constituted the basement was filthy and emanated a foul odor. *Id.* at 3. Indeed, the room was filled with trash, insects, and standing water. *Id.*

4. In addition, Investigator Jones observed a refrigerator “filled with beer.” *Id.* Next to the refrigerator was a trash can and several garbage bags filled with empty beer cans. *Id.* A table and counter inside the room had half empty beer bottles and shot glasses. *Id.* Investigator Jones also saw trash and liquor bottles in the walls. *Id.* Finally, small blue plastic bags were found in the room, which contained a “white rock like substance.” *Id.*

5. MPD identified the intoxicated male as Antonio Arnulfo Mendoza Moreno. *Id.* Mr. Moreno’s criminal record indicates that he has pending charges of cocaine possession and driving under the influence. *Id.*

6. Investigator Jones later interviewed an employee working at Kokeb Ethiopian Restaurant (Kokeb), which operates on another floor of the building. *Id.* The employee indicated that Kokeb does not use the basement of the building. *Id.* Nevertheless, she frequently hears people inside the basement “laughing and being loud” around 9:00 a.m. on a frequent basis. *Id.*

7. Advisory Neighborhood Commission (ANC) 1A Commissioner Rashida Brown filed a complaint regarding this location on February 13, 2016. *Id.* at 4. Residents regularly make calls to 911 related to late night noise, fighting, and other intoxicated behavior in the basement of 3013 AA Georgia Avenue, N.W. and abutting alley. *Id.* She noted that the basement frequently operates between 9:00 p.m. to 7:30 a.m., Thursday to Sunday.

CONCLUSIONS OF LAW

8. Title 25 of the District of Columbia (D.C.) Official Code (Title 25) provides the Board with the authority to order any individual or licensee to immediately cease “. . . violating any provision of . . . [Title 25 when] the violation has caused, or may cause, immediate and irreparable harm to the public” D.C. Official Code § 25-829(a).

I. THE LANDLORD PERMITTED THE SALE OR CONSUMPTION OF ALCOHOL IN VIOLATION OF § 25-102(d).

9. Under § 25-102(a), “[n]o person shall sell any alcoholic beverage in the District without having first obtained an appropriate license as required by this title.” D.C. Official Code §25-102(a). Further, under § 25-102(d)

[n]o person operating any premises where food, nonalcoholic beverages, or entertainment are sold or provided for compensation or where facilities are especially provided and service is rendered for the consumption of alcoholic beverages who does not possess a license under this title shall permit the consumption of alcoholic beverages on the premises.

D.C. Official Code § 25-102(d).

10. In this case, the basement of 3013 AA Georgia Avenue, N.W., constitutes a facility where alcohol related services are provided and where a license is required to permit the consumption of alcoholic beverages. *Supra*, at ¶ 1. Specifically, the premises are being rented out or provided to third parties; the premises do not constitute a private residence; and individuals consume alcohol (and likely illegal narcotics) in the basement on a regular and on-going basis. *Supra*, at ¶¶ 2-7. Moreover, because storage and consumption of alcoholic beverages is addressed by Title 25 of the D.C. Official Code, the large amount of alcohol stored at the site and use of the site as a place to consume alcohol satisfies the provision and “service” element of § 25-102(d). *See* D.C. Official Code §§ 25-101(45) (“keeping for sale”; “trafficking in”), 25-754 (regulating the storage of alcohol), 23 DCMR § 205 (West Supp. 2016). Therefore, because no license has been assigned to this location, the Board finds that the landlord has likely committed numerous violations of § 25-102(d) by permitting the unlicensed consumption of alcohol on the premises on February 5, 2016 and other occasions. *Supra*, at ¶¶ 1-2.

II. THE CONTINUATION OF OPERATIONS AT THE PREMISES CONSTITUTE AN IMMEDIATE AND IRREPERABLE HARM TO THE PUBLIC.

11. Under the law, § 25-829(a) permits the issuance of a cease and desist order when a violation threatens “immediate and irreparable harm to the public.” D.C. Official Code § 25-829(a). The Council of the District of Columbia provided the Board with a cease and desist power for the purpose of combatting the unlicensed sale and service of alcohol. D.C. Council, Report on Bill 13-449 at 155 (Nov. 20, 2000). The unlicensed sale of alcohol poses a danger to the public for several reasons: (1) the presence of an unlicensed establishment hinders the city’s ability to provide adequate coverage by police and other emergency services, because the city is not on notice that an alcohol establishment is operating on the premises; (2) the staff of an unlicensed establishment may not have adequate training to provide security, address violent or inebriated patrons, or otherwise manage emergencies; (3) an unlicensed establishment is not subject to regular inspections; and (4) the premises have not been adequately vetted to ensure that operations are safe and appropriate for the public. *See* D.C. Official Code §§ 25-113(d)(1) (requirement that nightclubs operate in accordance with security plans); 25-201(c)(4) (duty to

inspect); 25-335(1) (requiring denial based on a violation of the Construction Codes and other public safety rules). Moreover, all violations of Title 25 of the D.C. Official Code constitute a nuisance as a matter of law and cannot be permitted to continue on an ongoing basis. D.C. Official Code § 25-805.

ORDER

Therefore, the Board on this 24th day of February 2016, hereby orders the Landlord and its agents to **CEASE AND DESIST** allowing or permitting the sale, service, and consumption of alcoholic beverages at 3013 AA Georgia Avenue, N.W.

IT IS FURTHER ORDERED, pursuant to D.C. Official Code § 25-115(c) and 23 DCMR § 1003.1, that ABRA shall no longer issue temporary licenses and one-day substantial change licenses for 3013 AA Georgia Avenue, N.W.

IT IS FURTHER ORDERED, pursuant to D.C. Official Code § 25-801(e), that ABRA refer this matter to the Office of the Attorney General for the District of Columbia (OAG) for prosecution. The Board further requests that OAG seek the enforcement of this Order in the Superior Court of the District of Columbia under D.C. Official Code §§ 25-829(f) (cease and desist orders) and 25-805 (nuisance), if necessary.

The Board **ADVISES** Mr. Solosso that a copy of this Order is being forwarded to the Metropolitan Police Department and licensed wholesalers to ensure compliance. If it is found that the sale, service, or consumption of alcohol continues at this location without the approval from the Board, Mr. Solosso may be subject to both civil and criminal penalties.

The Board also **REFERS** this matter to the Department of Health because the sanitary conditions of the basement may threaten the health and safety of the public.

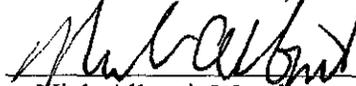
The Board also **REFERS** this matter to the Department of Consumer and Regulatory Affairs because the use of the basement as an illegal nightclub may not be sanctioned by the appropriate business licenses and zoning rules.

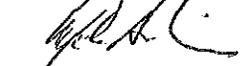
The Board also **REFERS** this matter to the Neighborhood and Victim Services Section for review based on the possible maintenance of a drug nuisance on the property as defined in Chapter 31 of Title 42 of the D.C. Official Code (“Drug-, Firearm-, or Prostitution-Related Nuisance Abatement”).

ABRA shall serve notice by certified mail or personal delivery to Manuel Solosso. ABRA shall also provide a copy of this Order and the Case Report to the Department of Health, Department of Consumer and Regulatory Affairs, and the Neighborhood and Victim Services Section of the District of Columbia Office of the Attorney General.

District of Columbia
Alcoholic Beverage Control Board


Donovan Anderson, Chairperson


Nick Alberti, Member


Mike Silverstein, Member


Ruthanne Miller, Member


James Short, Member

You have the right to request a hearing before the Board conducted in accordance with subchapter I of Chapter 5 of Title 2. Pursuant to D.C. Official Code § 25-829(b)(1), you may submit a written request to the Board for a hearing within fifteen (15) days of service of this Order. Additionally, you also have the option of submitting a written request to the Board for an expedited hearing pursuant to D.C. Official Code § 25-829(c)(1) within ten (10) days of service of this Order. Please note that if you fail to request a hearing, this Order shall be deemed final. D.C. Official Code § 25-829(d).

If you request a hearing, you may appear personally at the hearing, and you and the establishment, may be represented by legal counsel. You have the right to produce witnesses and evidence on your behalf and to cross-examine witnesses. You may examine evidence produced, and have subpoenas issued on your behalf to require the production of witnesses and evidence.

All hearings are conducted in the English language. If you, any corporate officer, or any witnesses to be called are deaf, have a hearing impediment, or cannot readily understand or communicate the spoken English language, an application may be made to the Board for the appointment of a qualified interpreter.

Your failure to appear at the time and place set for the hearing, if requested, either in person or through counsel, or both, will not preclude the Board from proceeding in this matter. Should you have any questions, contact ABRA Adjudication Specialist Danette Walker at 202-442-4418.

Finally, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, District of Columbia 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. 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).