

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

In the Matter of:)	
Hak, LLC)	
t/a Midtown)	
Application for Substantial Change)	Case No. 12-PRO-00076
(Summer Garden))	License No. ABRA-072087
to a Retailer's Class CN License)	Order No. 2012-443
at premises)	
1219 Connecticut Avenue, N.W.)	
Washington, D.C. 20036)	

Hak, LLC, t/a Midtown (Applicant)

Will Stephens, Chairperson, Advisory Neighborhood Commission (ANC) 2B

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

**ORDER ON AMENDMENT AND SUPPLEMENT TO COOPERATIVE
AGREEMENT AND WITHDRAWAL OF PROTEST OF ANC 2B**

The Application filed by Hak, LLC, t/a Midtown, for a Substantial Change to include a new summer garden with 30 seats, to its Retailer's Class CN License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on October 1, 2012, in accordance with D.C. Official Code § 25-601 (2001). The Protest Status Hearing was scheduled for November 7, 2012.

The Applicant and ANC 2B entered into a Cooperative Agreement (Agreement), dated May 27, 2005, that governs the operation of the Applicant's establishment. This matter comes now before the Board to consider the Parties' Amendment and Supplement to Cooperative Agreement (Amendment), dated October 15, 2012, in accordance with D.C. Official Code § 25-446 (2001).

Hak, LLC
t/a Midtown
Case No. 12-PRO-00076
License No. ABRA-072087
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The Amendment has been reduced to writing and has been properly executed and filed with the Board. The Applicant and Chairperson William F. Stephens, on behalf of ANC 2B, are signatories to the Agreement.

Pursuant to the Amendment, all terms and conditions of the original Agreement, dated May 27, 2005, not amended by the Amendment shall remain in full force and effect.

This Amendment also constitutes a withdrawal of the Protest filed by ANC 2B of this Application.

Accordingly, it is this 7th day of November, 2012, **ORDERED** that:

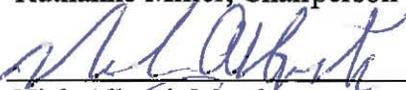
1. The Application filed by Hak, LLC, t/a Midtown, for a Substantial Change to include a new summer garden with 30 seats, to its Retailer's Class CN License, located at 1219 Connecticut Avenue, N.W., Washington, D.C., is **GRANTED**;
2. The Protest of 2B in this matter is hereby **WITHDRAWN**;
3. The above-referenced Amendment and Supplement to Cooperative Agreement, dated October 15, 2012, submitted by the parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order; and
4. Copies of this Order shall be sent to the Applicant and ANC 2B.

Hak, LLC
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District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



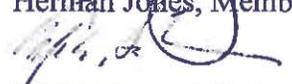
Nick Alberti, Member



Donald Brooks, Member



Herman Jones, 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, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009.



VERITAS

Andrew J. Kline* Director

Veritas Licensing & Legislative Affairs

2012 OCT 18 P 3:07

October 17, 2012

VIA EMAIL AND HAND DELIVERY

Alcoholic Beverage Control Board
c/o Sarah Fashbaugh, Adjudication Assistant
2000 14th Street, NW
4th Floor
Washington, DC 20009

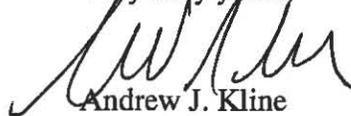
**RE: Case #12-PRO-00076
HAK, LLC t/a Midtown
1219 Connecticut Ave NW
License #ABRA-072087
Retailer CN
Substantial Change (summer garden with 30 seats)**

Dear Sarah:

The parties have reached an agreement in the above-captioned matter. Enclosed is an Amendment and Supplement to Cooperative Agreement in connection with the Applicant's request for a substantial change to include rooftop seating executed by Michael Rehman on behalf of the Applicant and Will Stephens, Chair, on behalf of ANC 2B for the Board's consideration.

Do not hesitate to contact me should you have any questions or require further information. Otherwise we look forward to receipt of the Board's Order approving this Amendment and Supplement to Cooperative Agreement.

Very truly yours,



Andrew J. Kline

AJK/jrj

Encl.

cc: Martha Jenkins, General Counsel, ABC Board
La Verne Fletcher, Mediation Specialist, ABRA
Will Stephen, Chair, ANC 2B
Victor Wexler, ANC 2B
Michael Rehman
(All via email w/encl.)

AMENDMENT AND SUPPLEMENT TO COOPERATIVE AGREEMENT

THIS AMENDMENT AND SUPPLEMENT TO COOPERATIVE AGREEMENT (the "Amendment and Supplement") made and entered into this 15th day of October, 2012 by and between Hak, LLC ("Applicant") t/a Midtown and Advisory Neighborhood Commission 2B ("ANC 2B").

WHEREAS, Applicant is the holder of a Retailer's License Class CN, Ap. License No. 75087, for use of premises at 1219 Connecticut Avenue, NW, Washington, DC;

WHEREAS, the parties entered into a Cooperative Agreement Concerning Issuance of License for Sale of Alcoholic Beverages dated May 27, 2005 ("Original Cooperative Agreement");

WHEREAS, Applicant has applied for approval of a substantial change to its premises consisting of the addition of an outdoor seating area on a roofdeck (the "Roofdeck");

WHEREAS, ANC 2B has protested the request for substantial change;

WHEREAS, the parties desire to resolve the protest and enter into this Amendment and Supplement,

NOW, THEREFORE, the parties agreed as follows:

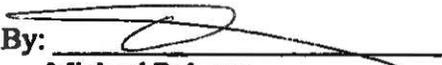
1. Recitals Incorporated. The recitals set forth above are incorporated herein by reference.
2. Noise Mitigation on Rooftop. Upon completion of the Roofdeck outdoor seating, Applicant agrees to conduct sound checks to determine whether noise from the Roofdeck can be heard in, or in areas adjacent to residences located within the neighborhood. Applicant shall use the sound checks to set maximum levels on any music system which might project sound outside the premises. In addition, Applicant shall use the sound checks to undertake such noise abatement measures that shall be adequate to prevent noise from any of the sources identified in DC Code Section 25-725(a) from being heard in any residential premises.
3. Continuing Cooperation Concerning Noise. In the event ANC 2B receives complaints concerning noise from Applicant's premises, Applicant shall undertake noise attenuation measures to mitigate the noise which resulted in the complaint.
4. Withdrawal of Protest. ANC 2B hereby withdraws its protest and joins with the Applicant in requesting that the Alcoholic Beverage Control Board accept this Amendment and Supplement as a condition of approval of the application for substantial change.

5. **Full Force and Effect.** Except as otherwise expressly provided herein, the Original Cooperative Agreement remains in full force and effect and shall continue to be the agreement of the parties, as amended herein.
6. **Counterparts.** This Amendment and Supplement may be executed in simultaneously in two counterparts together which shall constitute one and the same agreement.
7. **Authority.** Representatives executing this Amendment and Supplement on behalf of their respective parties do hereby affirm that they have the authority to do so.

IN WITNESS WHEREOF, the parties have executed this Amendment and Supplement to Cooperative Agreement as of the date and year first above written.

APPLICANT:

Hak, LLC

By: 
Michael Rehman

PROTESTANT:

ANC 2B

By: 
Will Stephens, Chair 10/15/12

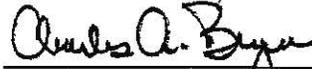
Hak, LLC
t/a Play
Case no. 60936-05/031P
Page two

Accordingly, it is this 6th day of July 2005, **ORDERED** that:

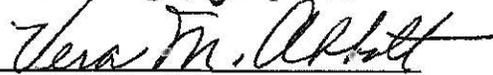
1. The protest of Darren A. Bowie, Chairman, on behalf of Advisory Neighborhood Commission 2B, is **WITHDRAWN**;
2. The protest of the group of five (5) or more individuals, is **DISMISSED**;
3. The new application of Hak, LLC, t/a Play, for a Retailer's Class "CN" License at 1219 Connecticut Avenue, N.W., Washington, D.C., is **GRANTED**;
4. The above-referenced agreement is **INCORPORATED** as part of this Order;
and
5. Copies of this Order shall be sent to the Protestant and the Applicant.

Hak, LLC
t/a Play
Case no. 60936-05/031P
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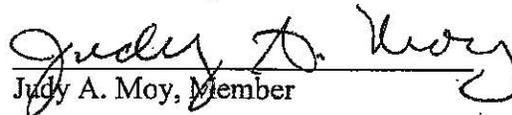
District of Columbia
Alcoholic Beverage Control Board



Charles A. Burger, Chairperson

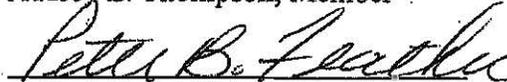


Vera M. Abbott, Member

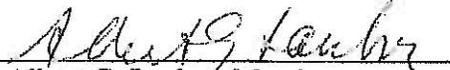


Judy A. Moy, Member

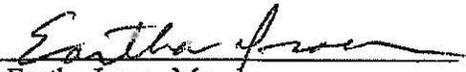
Audrey E. Thompson, Member



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.

JUN -6 P 3 13

**COOPERATIVE AGREEMENT CONCERNING ISSUANCE
OF LICENSE FOR SALE OF ALCOHOLIC BEVERAGES**

ZPC

THIS AGREEMENT, made and entered into this ⁷27 day of May, 2005, by and between HAK, LLC (hereinafter the "Applicant") t/a Play, and Advisory Neighborhood Commission 2B (hereinafter "ANC2B").

WHEREAS, Applicant has filed an application, App. No. 60936, with the District of Columbia Alcoholic Beverage Control Board, for the issuance of a new Class CN License for the premises located at 1219 Connecticut Avenue, N.W., Washington, DC.; and

WHEREAS, in recognition of the Board's policy of encouraging parties to settle their differences by reaching a voluntary agreement, the parties hereto desire to enter into a Voluntary Agreement whereby the Applicant will agree to adopt certain measures to address ANC2B's concerns and to include this agreement as a formal condition of its application, and ANC2B will agree to the issuance of the license provided that such agreement is incorporated into the Board's order; and

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. **Noise/Music/Dancing.** Applicant acknowledges familiarity with and will comply with noise-control provisions of District of Columbia law and regulations, including preventing emissions of sound, capable of being heard outside the premises, by any musical instrument or amplification device or other device or source of sound or noise, in accordance with DCMR 905. The doors and windows of the premises will be kept closed at all times during business hours when music is being played or a sound amplification device is being employed in the premises, except when persons are in the act of using the door for ingress to or egress from the premises. Applicant will provide no live music.

2. **Trash/garbage/rodents.** Applicant shall maintain regular trash garbage removal service, regularly remove trash from the trash and dumpster area, and see that the trash and dumpster area remain clean. Applicant shall deposit trash and garbage only in rodent-proof dumpsters, and shall see that dumpster covers fit properly and remain fully closed except when trash or garbage is being added or removed. Applicant will make every reasonable effort to eliminate food sources for rodents and eliminate the rat population.

3. Exterior including public space.

(a) Applicant shall assist in the maintenance of the alleyway and the space in front of the establishment to at least 18 inches outward from the curb as need to keep them free of trash and to remove snow and ice from the sidewalk and comply with all applicable D.C. laws and regulations in these respects. Applicant shall, either immediately after the close of business each night, or before opening for business each day, pick up trash and litter which might accumulate in the area in front of its premises, so as to keep these areas reasonably free of trash and debris. Applicant shall make every reasonable effort to prevent or disperse loitering or any other source of noise or disturbance in the areas in front or to the rear of the premises during business hours and at closing, and to cause patrons to leave those areas at closing.

(b) Applicant shall in good faith work with ANC 2B and other nearby businesses to develop a plan so that said businesses, including Applicant, will contribute equitably to hire staff to pick up trash and litter that accumulates in the immediate neighborhood.

4. **Bar/Pub Crawls.** Applicant agrees not to promote or participate in bar or pub "crawls."

5. **Crowd Control and ID Checking.** In the event a crowd of more than ten (10) prospective patrons congregate outside of Play, or that Play is unable to accommodate within its leased space prospective patrons so that more than ten (10) people are delayed entry, Applicant will implement crowd control measures in order to maintain a clear public right of way on the sidewalk in front of its establishment. In addition, Applicant agrees to perform necessary identification checks at the ground floor vestibule, prior to prospective patrons gaining access to the stairs leading to the upper floors.

6. **Consideration.** Applicant will encourage employees and patrons to be considerate of neighboring residents at all times.

7. **Modification.** This agreement can be modified only by the ABC Board, or by mutual agreement of all the parties with the approval of the ABC Board. In the case of ANC2B, if Applicant desires to modify the terms of this agreement, prior to implementing the changes, Applicant shall receive written agreement from

ANC2B after a majority of the commissioners shall have voted in favor of changes at a full public meeting.

8. **Withdrawal of Protest.** The ANC, Protestant, hereby withdraws its protest of this application in light of the execution of this Agreement.

APPLICANT: HAK, LLC

ADVISORY NEIGHBORHOOD
COMMISSION 2B (ANC2B)

By 
Michael Robinson
HAK, LLC

By  5/27/05
Darren A. Bowie
Chair, ANC 2B

LAW OFFICES
MARGOLIUS, MALLIOS & RIDER, LLP

1828 L STREET, N.W. - SUITE 500

WASHINGTON, D.C. 20036
(202) 296-1000

FACSIMILE (202) 296-6400

THE DISTRICT OF COLUMBIA
PUBLIC BEVERAGE
777 ADMINISTRATION

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ZPC

9200 BASIL COURT
SUITE 300
LARGO, MD 20774
(301) 925-4900
FAX (301) 925-9752

JAMES L. RIDER (DC, VA)
DIMITRI P. MALLIOS (DC, MD)
PHILIP N. MARGOLIUS (DC, MD)
GARY A. STEIN (DC, MD)
SHARON M. GOLEY (DC, MD, VA)
GEORGE P. LEVENDIS (DC)
GAL N. KAUFMAN (DC, MD)
KENNETH A. GELFARB (DC, MD)
LAURA G. MOLDOWAN (DC, VA)
MELISSA S. POLITO (DC, MD)
NAT N. POLITO (DC, MD)
STEPHEN C. LEWIS (DC, VA)
JENNIFER J. MCCASKILL (VA)

June 2, 2005

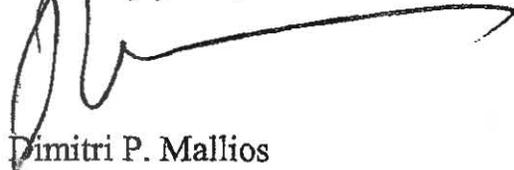
District of Columbia
Alcoholic Beverage Control Board
941 North Capitol Street NE
Washington, D.C. 20002

Re: Lic. No. 72087
HAK, LLC
t/a Play
1219 Connecticut Avenue NW
Class CN License

Dear Chairman Burger and
Members of the Board:

Enclosed herewith is a Cooperative Agreement signed by all parties, which includes Paragraph 8, Withdrawal of Protest.

Sincerely yours,



Dimitri P. Mallios

DPM:js

Enclosure