

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

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In the Matter of: )	
)	
Notta Tav Urne, LLC )	License No.: 076754
t/a PI Pizzeria Wine Bar )	Order No.: 2011-444
)	
Application for a Substantial Change to a )	
Retailer's Class CR License )	
at premises )	
2309 18th Street, N.W. )	
Washington, D.C. 20009 )	
_____ )	

BEFORE:            Nick Alberti, Interim Chairperson  
                      Donald Brooks, Member  
                      Herman Jones, Member  
                      Calvin Nophlin, Member

ALSO PRESENT:    Notta Tav Urne, LLC, t/a PI Pizzeria Wine Bar, Applicant

                      Richard J. Bianco, Esq., Paul Strauss & Assoc., P.C., on behalf of  
                      the Applicant

                      Martha Jenkins, General Counsel  
                      Alcoholic Beverage Regulation Administration

**ORDER GRANTING APPLICANT'S MOTION FOR RECONSIDERATION**

On June 29, 2011, the Board denied the Application for a Substantial Change to a Retailer's Class CR License (Application) filed by Notta Tav Urne, LLC, t/a PI Pizzeria Wine Bar (Applicant), because we found that the Application conflicted with the establishment's Voluntary Agreement, dated November 12, 2004. *See Applicant's Motion for Reconsideration, Attachment A, Attachment B.*

The Applicant filed a Motion for Reconsideration pursuant to 23 DCMR § 1719.3 and argued that the Voluntary Agreement, in fact, permits the Application. We agree with the Applicant. *See ABRA Licensing File No. 076754.*

The Applicant has applied for a sidewalk café with 10 seats on the basement level of the establishment and a summer garden with 35 seats on the establishment's rear deck. *Applicant's Motion for Reconsideration, 1.*

Section 2 of the Voluntary Agreement states:

Applicant shall not seek to expand the restaurant beyond the basement and first floor as described in this agreement. Applicant shall not apply to expand the size of the building to the rear except for the purpose of applying for a raised deck on the first floor level that is approved by the normal permit application standards, but shall maintain the rear yard at ground level for the purpose of employee parking and storage of trash, waste and recycling items. Any such rear deck shall be seasonal and shall not be enclosed. See ABRA Licensing File No. 076754, Voluntary Agreement, Section 2.

Here, the Voluntary Agreement permits the Applicant to have a summer garden on its summer deck. The restriction on expanding the rear of the establishment is tempered by the phrase: "except for the purpose of applying for a raised deck on the first floor level that is approved by the normal permit application standards." Id. As such, it is clear that the Voluntary Agreement permits the establishment to operate the summer garden on its raised deck.

Furthermore, we find that the Voluntary Agreement permits the establishment to operate a sidewalk café on the basement level of the establishment. The agreement specifically states that the "Applicant shall not seek to expand the restaurant beyond the basement and first floor . . . ." As such, Section 2 of the Voluntary Agreement does not prohibit the establishment from operating a sidewalk café on the establishment's basement level.

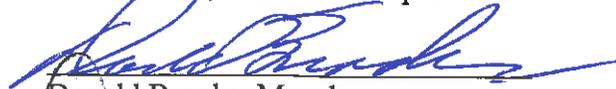
Therefore, we grant the Motion for Reconsideration and overturn our denial of the Application. We further find that the Application is substantial in accordance with D.C. Official Code § 25-404. Therefore, we require that the Application be placarded.

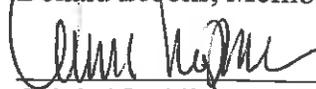
### **ORDER**

Based on the foregoing, the Board, on this 5th day of October 2011, **GRANTS** the Motion for Reconsideration filed by Notta Tav Urne, LLC, t/a PI Pizzeria Wine Bar. The Application shall be placarded in accordance with D.C. Official Code § 25-404(b)(1). Copies of this Order shall be sent to the Applicant.

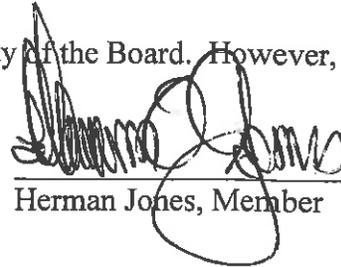
District of Columbia  
Alcoholic Beverage Control Board

  
\_\_\_\_\_  
Nick Alberti, Interim Chairperson

  
\_\_\_\_\_  
Donald Brooks, Member

  
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Calvin Nophlin, Member

I concur with the position taken by the majority of the Board. However, I dissent from the Board's decision to placard the establishment.

  
\_\_\_\_\_  
Herman Jones, Member

Pursuant to 23 DCMR § 1719.1 (2008), 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. 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).