

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

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<b>In the Matter of:</b> )	
)	
Edith Mae and Jessie Kittrell, )	License No.: ABRA-001273
t/a Vegas Lounge )	Order No.: 2016-555
)	
Petition to Terminate or Amend a )	
Settlement Agreement )	
)	
at premises )	
1415 P St., N.W. )	
Washington, D.C. 20005 )	
_____ )	

**BEFORE:** Donovan Anderson, Chairperson  
Nick Alberti, Member  
Mike Silverstein, Member  
James Short, Member

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**ORDER DENYING PETITION TO TERMINATE SETTLEMENT AGREEMENT**

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The official records of the Alcoholic Beverage Control Board (Board) reflect that Edith Mae and Jessie Kittrell, t/a Vegas Lounge (Licensee's) submitted a Petition to Unilaterally Amend or Terminate a Settlement Agreement (Petition) on October 6, 2016. The Licensee seeks to unilaterally terminate the settlement agreement between it, Advisory Neighborhood Commission (ANC) 2F, and Richard Pinnell, dated September 2, 2009, and approved by the Board by Board Order on September 9, 2009. *In the Matter of Edity Mae and Jessie Kittrell, t/a Vegas Lounge*, Board Order No. 2009-228 (D.C.A.B.C.B. September 9, 2009).

D.C. Official Code § 25-446(d)(2) provides that "[t]he Board may accept an application to amend or terminate a settlement agreement by fewer than all parties in the . . . (A) [d]uring the licensee's renewal period [and] (B) [a]fter 4 years from the date of the Board's decision initially approving the settlement agreement. D.C. OFFICIAL CODE § 25-446.(D)(2). In the present case, the Licensee's Petition was untimely filed with the Board. The renewal period for Retailer Class CT licenses ended on September 30, 2016. The Licensee, however, did not submit its Petition until October 6, 2016; six days after the filing deadline.

Furthermore, D.C. Official Code § 25-446(d)(4) provides “[t]he Board may approve a request [to unilaterally amend or terminate a settlement agreement by fewer than all of the parties] for good cause [and upon finding of the following]:

- (A)(i) The applicant seeking the amendment has made a diligent effort to locate all other parties to the settlement agreement; or
- (ii) If non-applicant parties are located, the applicant has made a good-faith attempt to negotiate a mutually acceptable amendment to the settlement agreement;
- (B) The need for an amendment is either caused by circumstances beyond the control of the applicant or is due to a change in the neighborhood where the applicant’s establishment is located; and
- (C) The amendment or termination will not have adverse impact on the neighborhood where the establishment is located as determined under § 25-313 or § 25-314, if applicable.”

D.C. OFFICIAL CODE § 25-446(D)(4)

The Licensee’s Petition is devoid of any information which will allow the Board to make a finding as required by D.C. Official Code § 25-446(d)(4). Specifically, the Licensee failed to state whether it met with the signatories to the agreement or if a meeting was refused, and how this was accomplished. *ABRA Licensing File, Petition to Unilaterally Amend or Terminate a Settlement Agreement*, at 2 (*Petition*). The Licensee failed to contact the signatories to the settlement agreement because it believed they no longer reside in the community. *ABRA Licensing File, Petition*, at 1. This may be true as it relates to Mr. Pinnell, but not to ANC 2F, which is still active in the community.

Lastly, the Licensee failed to explain the circumstances or the changes in the neighborhood necessitating a termination of the settlement agreement, and how terminating the settlement agreement would not have an adverse impact on the community pursuant to D.C. Official Code § 25-446(d)(4)(B) and (C). *ABRA Licensing File, Petition*, at 2.

For the aforementioned reasons, the Board denies the Petition to Terminate.

**ORDER**

Therefore, the Board, on this 19<sup>th</sup> day of October 2016, **DENIES** the Petition to Terminate. Copies of this Order shall be sent to the Petitioner.

District of Columbia  
Alcoholic Beverage Control Board

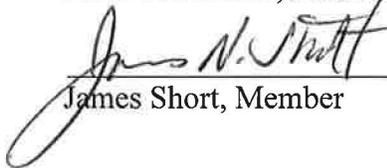


Donovan Anderson, Chairperson



Nick Alberti, Member

Mike Silverstein, Member



James Short, Member

Pursuant to D.C. Official Code § 25-433(d)(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, 2000 14<sup>th</sup> Street, N.W., Suite 400S, Washington, DC 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 (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).