

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

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In the Matter of:	)	
	)	
Club Cinema of Mazza, Inc.	)	Case No.: 19-PRO-00153
t/a Club Cinema	)	License No.: ABRA-060040
	)	Order No.: 2020-198
Petition to Amend or Terminate	)	
Settlement Agreement	)	
	)	
at premises	)	
5300 Wisconsin Avenue, N.W.	)	
Washington, D.C. 20015	)	

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**BEFORE:** Donovan Anderson, Chairperson  
James Short, Member  
Bobby Cato, Member  
Rema Wahabzadah, Member  
Rafi Aliya Crockett, Member  
Jeni Hansen, Member  
Edward S. Grandis, Member

**ALSO PRESENT:** Club Cinema of Mazza, Inc., t/a Club Cinema, Applicant  
  
Stephen O'Brien, Counsel, on behalf of the Applicant  
  
Jonathan Bender, Commissioner, Advisory Neighborhood Commission  
(ANC) 3E, Protestant  
  
Martha Jenkins, General Counsel  
Alcoholic Beverage Regulation Administration

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**FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND ORDER**

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**INTRODUCTION**

The Alcoholic Beverage Control Board (Board) **GRANTS** the Petition to Terminate the Settlement Agreement (Petition) filed by Club Cinema of Mazza, Inc., t/a Club Cinema hereinafter "Petitioner" or "Club Cinema"). The Board finds termination of the approximately 20 year old agreement warranted where (1) the Petitioner attempted to negotiate an amendment

in good faith; (2) one of the parties to the agreement is no longer available and the settlement agreement law was amended after the agreement was approved creating a change in circumstance; (3) termination of the agreement will not have a negative impact on the community; and (4) concerns that termination will encourage underage drinking at the movie theater are purely speculative.

### ***Procedural Background***

The Notice of Public Hearing advertising Club Cinema's Petition was posted on October 25, 2019, and informed the public that objections to the Petition could be filed on or before December 9, 2019. *ABRA Protest File No. 19-PRO-00153*, Notice of Public Hearing [*Notice of Public Hearing*]. The records of the Alcoholic Beverage Regulation Administration (ABRA) indicate that Advisory Neighborhood Commission (ANC) 3E filed a protest against the Petition. *ABRA Protest File No. 19-PRO-00153*, Roll Call Hearing Results.

The parties came before the Board's Agent for a Roll Call Hearing on December 19, 2019, where the above-mentioned objector was granted standing to protest the Petition. On February 26, 2020, the parties came before the Board for a Protest Status Hearing. Finally, the Protest Hearing in this matter occurred on March 11, 2020.

The Board recognizes that an ANC's properly adopted written recommendations are entitled to great weight from the Board. D.C. Code §§ 1-309.10(d), 25-609; *Foggy Bottom Ass'n v. District of Columbia Alcoholic Beverage Control Bd.*, 445 A.2d 643, 646 (D.C. 1982). Accordingly, the Board "must elaborate, with precision, its response to the ANC[']s issues and concerns." *Foggy Bottom Ass'n*, 445 A.2d at 646. The Board notes that it received a properly adopted written recommendation from ANC 3E. The ANC's issues and concerns shall be addressed by the Board in its Conclusions of Law below.

Based on the issues raised by the Protestant, the Board may only grant the Petition if it satisfies D.C. Official Code § 25-446(d)(1).

### **FINDINGS OF FACT**

The Board, having considered the evidence, the testimony of the witnesses, the arguments of the parties, and all documents comprising the Board's official file, makes the following findings:

#### **I. Background**

1. Club Cinema holds a Retailer's Class CT (Tavern) License at 5300 Wisconsin Avenue, N.W., Washington D.C. *Notice of Public Hearing (Club Cinema)*. Club Cinema has requested the termination of the Settlement Agreement attached to its license, which was approved by the Board on December 8, 1999. *In re Club Cinema of Mazza, Inc., t/a Club Cinema*, Case No. 50018-99079P, 1 (D.C.A.B.C.B. Dec. 8, 1999). Club Cinema's Settlement Agreement indicates that ANC 3E, Jill Diskan, Irv Lieberman, and Marilyn Simon are signatories and parties to the agreement. *Petition* (Answer to Question 13). The Petition indicates that the Applicant met and

discussed the settlement agreement with all parties except Irv Lieberman who no longer resides in the District of Columbia and could not be located. *Id.* (Answer to Question 15-17).

2. In pertinent part, the Settlement Agreement requires the Petitioner to provide 3 hours of free parking; ensure that the last movie shown by the theater starts no later than 11:00 p.m.; ensure that alcohol service ends one hour after the start of the last show or midnight, whichever is earlier; limit the service of alcohol to two theaters only; prohibit minors from the area designated for alcohol service and consumption; require identification checking at the entrance to the alcohol service area; prohibit the showing of X rated movies; and ensure that managers take an alcohol training course. *Id.* at §§ 1-2.

## II. ABRA Investigation

3. ABRA Investigator Kevin Puentes investigated the Petition and prepared the Protest Report submitted to the Board. *ABRA Protest File No. 19-PRO-00153, Protest Report* (Mar. 2020) [*Protest Report*]. According to the report, the proposed establishment is located in a MU-7 zone. *Protest Report*, at 4. Seven licensed establishments are located within 1,200 feet of the proposed location. *Id.* There are no schools, recreation centers, or public libraries located within 400 feet of the establishment. *Id.* at 5. The Chevy Chase Plaza Children's Center is located 113 feet away from Club Cinema. *Id.*

4. Club Cinema operates a movie theater on the fourth floor of a large multi-use building. *Id.* The theater has seven movie screens. *Id.* Currently, Club Cinema operates a bar with seating for 15. *Id.* Club Cinema operates and offers alcohol for sale between 10:00 a.m. and midnight. *Id.* at 6.

5. Club Cinema is located near the Friendship Heights Metro Station. *Id.* Four buses also pass the movie theater's address. *Id.* The building that houses Club Cinema has its own underground parking. *Id.* There is also street parking in the vicinity of the establishment. *Id.* at 7.

6. ABRA's records reveal no noise complaints or violations of the District's alcohol laws in Club Cinema's file. *Id.* at 7. There is also no indication that complaints were filed against the establishment during Club Cinema's 21 year operating history. *Id. Transcript (Tr.)*, March 11, 2020 at 34.

7. Club Cinema is located in a building with a garage. *Id.* at 23. The movie theater offers free parking to all patrons. *Id.*

8. Investigator Puentes contacted other movie theaters in the District of Columbia that serve alcohol. *Id.* at 38. He found that some movie theaters in the District require customers to wear wristbands and check identifications in an effort to prevent underage drinking. *Id.* at 38-39. He also looked through ABRA's records and did not find any underage drinking violations associated with a movie theater in the District of Columbia. *Id.* at 41.

### III. Dominick Zarrillo

10. Dominick Zarrillo serves as the Director of Operations for AMC Theatres (AMC). *Id.* at 45. He has worked in the movie theater business for 34 years. *Id.* AMC operates 640 theaters throughout the United States and has 25,000 employees. *Id.* at 46-47. Three-hundred and forty of those theaters hold alcohol licenses. *Id.* at 47.

11. As part of his job responsibilities, Mr. Zarrillo supervises Club Cinema as Director of Operations. *Id.* at 47. Mr. Zarrillo indicated that since the theater opened in 1999 movie goer expectations have changed. *Id.* Guests now expect better seats, reserved seating, and food delivery. *Id.* He indicated that the theater is aging and requires renovation “to stay relevant.” *Id.* AMC would like to add “plush recliner seats” and improve the theaters food and beverage offerings. *Id.* at 48. The renovations would allow for “deliver-to-seat” capabilities and “dine-in experience[s].” *Id.* AMC’s plans will also reduce the occupancy from 1,500 seats to 860 seats because the seats and aisles will require more space. *Id.* at 52. AMC does not believe it is feasible to engage in the renovations without expanding its capacity to sell and serve alcohol. *Id.* at 50. AMC plans to spend approximately \$5 million on the renovations. *Id.* at 52.

12. AMC has company policies related to the sale and service of alcohol and preventing underage drinking. *Id.* at 54, 64. Employees receive training related to the company’s alcohol policies within 14 days of employment. *Id.* at 62. Training occurs online and lasts about 2 hours. *Id.* at 63. AMC also has an additional training for managers that lasts approximately 2 hours as well. *Id.*

13. Every theater operated by AMC is expected to apply the company’s alcohol policies. *Id.* AMC requires all guests, regardless of age, to present identification before purchasing alcohol. *Id.* at 55. AMC has a zero tolerance policy regarding the failure of employees to check patron identifications, which results in employee discipline if an employee is caught not checking identifications. *Id.* Managers are permitted to make exceptions for guests that appear over the age of 40; however, only the manager is given this authority. *Id.* at 68. AMC also uses mystery shoppers to test employees. *Id.* at 68-69, 85-86. AMC generally limits customers to two drinks per transaction and will not deliver alcohol to seats. *Id.* at 56, 60, 72. If managers are making an exception for a customer that fails to present identification, then that person is limited to one drink. *Id.* at 69-70. AMC employees also monitor theaters for inappropriate behavior, intoxication, and illegal alcohol consumption. *Id.* at 58-59. Managers are authorized to check identifications in movie theaters during movies. *Id.* at 60. Finally, underage persons caught with alcohol in their possession will be ejected from theaters, reported to law enforcement, and persons under the age of 18 will have their legal guardians contacted. *Id.* at 60.

14. AMC has no indication that underage drinking is an issue at their theaters. *Id.* at 61. Mr. Zarrillo believes that minors find the theater’s alcohol prices too high, which discourages underage drinking. *Id.* at 62.

#### **IV. ANC Commissioner Jonathan Bender**

15. ANC Commissioner Jonathan Bender serves as the chair of ANC 3E. *Id.* at 90. The ANC would like the theater to implement age identifying wrist bands for patrons and limit alcohol sales to one drink per person. *Id.* at 92. The ANC does not generally oppose the expansion of alcohol sales at the theater. *Id.* He noted that Ward 3 has a large student population. *Id.* at 117.

16. Commissioner Bender is concerned that the AMC will not be able to properly superintend the sale and service of alcohol at the theater. *Id.* at 93. He believes that the dark environment of a theater will make it hard to monitor alcohol consumption by minors. *Id.* at 94. He indicated that other theaters in the District have a one drink limit policy. *Id.* at 95. The ANC would also like to have some movies be alcohol free if rated for younger audiences. *Id.* at 100. The ANC has no objection to striking the parking provision to encourage public transportation use. *Id.*

17. Commissioner Bender is not aware of any complaints regarding the operation of Club Cinema and its impact on the community. *Id.* at 101-02. He also does not believe the Petitioner's proposal would have a negative impact on property values. *Id.* at 103.

18. Commissioner Bender admitted that under the proposed one drink limit, nothing prevents someone from buying a drink, passing it to a minor, and then getting in line for another drink. *Id.* at 114.

#### **V. Anoushka Chander**

19. Anoushka Chander attends Georgetown Day School as a student. *Id.* at 123. The theater is a short walk from the school. *Id.* She noted that many students at her school watch movies at Club Cinema. *Id.* at 124. She is concerned that staff will not observe all persons consuming alcohol. *Id.* at 125-26. She noted that some theaters in D.C. already have a one drink per transaction limit. *Id.* at 127. She believes a one drink limit would discourage underage drinking. *Id.* at 132. She has never observed underage drinking at Club Cinema. *Id.* at 139.

#### **VI. Jeffrey Houser**

20. Jeffrey Houser is the Chief Financial Officer of the Georgetown Day School (GDS). *Id.* at 142-44. GDS has 1,075 students enrolled in the school. *Id.* at 144. The school currently has two campuses, but in 2020 the school will house all students at the Tenleytown campus. *Id.* He believes many GDS students will attend Club Cinema due to the proximity of the theater to student homes and the school. *Id.* at 151-52.

21. In general, GDS is concerned about the negative impact of underage drinking on its students. *Id.* at 147, 154-55. In order to curb underage drinking, Mr. Houser wants Club Cinema to require a wristband for alcohol purchases in order to make age identification in the theaters easier. *Id.* at 156. In addition, the school wants the theater to maintain a one drink limit to reduce opportunities for drink passing. *Id.*

22. Mr. Houser indicated that he has never observed underage drinking at Club Cinema. *Id.* at 167-68. He also has not heard any students at GDS admit that they engaged in underage drinking at Club Cinema. *Id.* at 168-69.

## VII. Legal Changes

23. In the past year, the District of Columbia repealed the law prohibiting the sale and service of backup drinks, which generally prohibited providing customers with more than one drink at a time. *Alcoholic Beverage Enforcement Amendment Act of 2019*, D.C. Law 23-50, § 2(b)(5) (effective Feb. 20, 2020). The District of Columbia also amended the law to classify movie theaters as legitimate theaters making these types of facilities eligible for multipurpose facility licenses. *Alcoholic Beverage Control Board License Categories, Endorsements, and Hourly and Percentage Rate Amendment Act of 2019*, D.C. Law 23-51, § 2(a)(2) (effective Feb. 21 2020). Under a multipurpose facility license, a theater is not required to obtain an entertainment endorsement. D.C. Code § 23-113a. In addition, a multipurpose facility license is also generally cheaper than a tavern license. D.C. Code § 25-504.

24. Furthermore, in 2013, the District of Columbia added D.C. Official Code §§ 25-446.01 and 25-446.02, which now governs the permissible scope of settlement agreements. *Omnibus Alcoholic Beverage Regulation Amendment Act of 2012*, D.C. Law 19-310, § 2(r) (effective May 1, 2013).

## CONCLUSIONS OF LAW

25. Under D.C. Official Code § 25-446(d)(1), “Unless a shorter term is agreed upon by the parties, a settlement agreement shall run for the term of a license, including renewal periods, unless it is terminated or amended in writing by the parties and the termination or amendment is approved by the Board.” D.C. Official Code § 25-446(d)(1). Accordingly,

The Board may approve a request by fewer than all parties to amend or terminate a settlement agreement for good cause shown if it makes each of the following findings based upon sworn evidence:

- (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 an 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)(A)-(C).

26. The Board shall only rely on “reliable” and “probative evidence” and base its decision on the “substantial evidence” contained in the record. 23 DCMR § 1718.3 (West Supp. 2020). The substantial evidence standard requires the Board to rely on “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Clark v. D.C. Dep't of Employment Servs.*, 772 A.2d 198, 201 (D.C. 2001) *citing Children's Defense Fund v. District of Columbia Dep't of Employment Servs.*, 726 A.2d 1242, 1247 (D.C.1999).

### **I. Attempted Good Faith Negotiation**

27. Under § 25-446(d)(4)(A), in order to terminate or amend a settlement agreement when the other signatories have been located, it must be shown that “the applicant has made a good-faith attempt to negotiate a mutually acceptable amendment to the settlement agreement.” § 25-446(d)(4)(A)(i)-(ii). In this case, the Club Cinema attempted to negotiate an agreement with the other parties. *Supra*, at ¶ 1. Furthermore, the Board is satisfied that the Applicant has met its obligation under the good faith criteria in the case of Mr. Lieberman where the record shows that he no longer resides in the area and cannot be located. *Id.* Therefore, Club Cinema has satisfied the good faith negotiation criteria.

### **II. The Unavailability of One of the Parties to the Settlement Agreement and the Amendment to the Settlement Agreement Law Constitutes Sufficient Changes in Circumstance to Merit Termination.**

28. The Board finds the change in circumstance factor has been satisfied where one of the parties is no longer available and the settlement agreement law was significantly changed after the approval of the agreement. Under § 25-446(d)(4)(B), in order to terminate or amend the settlement agreements, Club Cinema must show “[t]he 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.” § 25-446(d)(4)(B). The Board deems the unavailability of a party to a settlement agreement as grounds for termination because it unfairly prevents the voluntary modification of the agreement. The Board has also previously determined that a change to the liquor law, which has a nexus to the settlement agreement satisfies § 25-446(d)(4)(B). *In re Leeds the Way, LLC t/a Hank's Oyster Bar*, Board Order No. 2012-319, at ¶¶ 57-63.

29. In this case, the settlement agreement has four individual parties: ANC 3E, Jill Diskan, Irv Lieberman, and Marilyn Simon. *Supra*, at ¶ 2. Without the agreement of all the parties, no voluntary modifications may be made because such a change requires the consent of all the parties. § 25-446(d)(1). Furthermore, without the consent of all of the parties, the possibility of change will only arise during a small window during Club Cinema's renewal period. § 25-446(d)(2). This is patently unfair and merits the termination of the agreement. To hold

otherwise turns a settlement agreement into a cumbersome limit on the business. This undermines the legislative purpose of encouraging negotiation and compromise with the community, as an unavailable party cannot be consulted or negotiated with.

30. Furthermore, since the approval of Club Cinema’s settlement agreement in 1999, the District of Columbia has enacted laws governing the scope of settlement agreements, which are found at D.C. Code §§ 25-446.01 and 25-446.02. These provisions include prohibitions on settlement agreement terms that restrict the age of patrons or prohibitions on “applying for changes to licensed operation procedures.” D.C. Code § 25-446.02(1)(E), (G). These provisions have a nexus to the agreement because they directly impact all settlement agreements. In light of these additions, it is patently unfair to hold Club Cinema to an agreement made under a different regulatory regime and suffer a competitive disadvantage vis-à-vis more recent businesses entering the market with updated settlement agreements. Therefore, for these reasons, the Board finds that Club Cinema satisfies the change in circumstance factor.<sup>1</sup>

### **III. The Petition Will Not Have a Negative Impact on the Neighborhood.**

31. The burden is on the Petitioner to show that “[t]he amendment or termination will not have an adverse impact on the neighborhood where the establishment is located as determined under § 25-313 or § 25-314, if applicable.” § 25-446(d)(4)(C).

32. Under the appropriateness test, “the applicant shall bear the burden of proving to the satisfaction of the Board that the establishment for which the license is sought is appropriate for the locality, section, or portion of the District where it is to be located . . . .” D.C. Code § 25-311(a). In determining appropriateness, the Board must consider whether the applicant’s future operations will satisfy the reasonable expectations of residents to be free from disturbances and other nuisances—not just whether the Application complies with the minimum requirements of the law. D.C. Council, Bill 6-504, the “District of Columbia Alcoholic Beverage Control Act Reform Amendment Act of 1986,” Committee on Consumer and Regulatory Affairs, 38 (Nov. 12, 1986); *see Panutat, LLC v. D.C. Alcoholic Beverage Control Bd.*, 75 A.3d 269, 277 n. 12 (D.C. 2013) (“However, in mandating consideration of the effect on peace, order, and quiet, § 25-313(b)(2) does not limit the Board’s consideration to the types of noises described in § 25-725.”). As part of its analysis, the Board should evaluate each “unique” location “according to the particular circumstances involved” and attempt to determine the “prospective” effect of the establishment on the neighborhood. *Le Jimmy, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 433 A.2d 1090, 1093 (D.C. 1981). Furthermore, the analysis may also include the Applicant’s efforts to mitigate or alleviate operational concerns, the “character of the neighborhood,” the character of the establishment, and the license holder’s future plans. *Donnelly v. District of Columbia Alcoholic Beverage Control Board*, 452 A.2d 364, 369 (D.C. 1982) (saying that the Board could rely on testimony related to the licensee’s “past and future efforts” to control negative impacts of the operation); *Upper Georgia Ave. Planning Comm. v. Alcoholic Beverage Control Bd.*, 500 A.2d 987, 992 (D.C. 1985) (saying the Board may consider an applicant’s efforts to “alleviate” operational concerns); *Citizens Ass’n of Georgetown, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 410 A.2d 197, 200 (D.C. 1979); *Gerber v. D.C. Alcoholic Beverage Control Bd.*, 499 A.2d

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<sup>1</sup> In light of the Board’s reasoning, the additional reasons for finding a change in circumstance raised by the Petitioner do not require discussion at this time.



1193, 1196 (D.C. 1985); *Sophia's Inc. v. Alcoholic Beverage Control Bd.*, 268 A.2d 799, 800-801 (D.C. 1970).

**1. The termination of the settlement agreement will not have a negative impact on the community's peace, order, and quiet.**

33. “In determining the appropriateness of an establishment, the Board shall consider . . . [t]he effect of the establishment on peace, order, and quiet, including the noise and litter provisions set forth in §§ 25-725 and 25-726.” D.C. Code § 25-313(b)(2); *see also* D.C. Code §§ 25-101(35A), 25-314(a)(4). Among other considerations, the Board is instructed to consider “noise, rowdiness, loitering, litter, and criminal activity.” 23 DCMR § 400.1(a) (West Supp. 2020).

34. Club Cinema’s operating history reveals no prior violations of the District’s alcohol laws. *Supra*, ¶ 6. There is also no evidence that Club Cinema operates in a manner that disturbs its neighbors. *Supra*, at ¶¶ 6.

35. The Board considered the ANC’s primary concern that permitting termination without additional conditions would encourage underage drinking; nevertheless, these fears are purely speculative. As noted in the record, Club Cinema is part of a larger chain that provides alcohol service training to all employees and managers, regularly tests its staff’s compliance with those policies, requires staff to regularly monitor movie goers in theaters, and requires staff to engage in strict identification checking requirements. *Supra*, at ¶ 13. Additionally, these policies appear effective and thorough in deterring underage drinking where there is no evidence in the record that Club Cinema or any AMC theater in the U.S. has issues with preventing underage drinking. *Supra*, at ¶¶ 10, 14, 17, 19-20. As a result, it is reasonable to believe that Club Cinema has the capability to prevent underage drinking throughout the facility.

36. Without evidence of an existing underage drinking problem, placing conditions on a licensee that has operated for many years without an issue is unreasonable for several reasons. First, the Board understands the ANC’s concern that drinks will be passed to minors as customers move about the facility or sit in theaters. Yet patrons are similarly mobile and engage in similar behavior at concerts, nightclubs, and sporting events in the District, and with the elimination of the backup drink rule, no such mandatory requirements limiting drinks to one per purchase exists for these facilities. *Supra*, at ¶ 23. Second, in the Board’s experience wristbands are not always effective where minors can evade the requirement by finding a discarded one. Third, the Board sees no purpose in barring alcohol from certain theaters where the Board has never found that the “mere sight of adults” possessing or consuming alcohol is harmful to children. *In re All Souls, LLC, t/a All Souls*, Case Number 11-PRO-00090, Board Order No. 2012-278, ¶ 36 (D.C.A.B.C.B. Jun. 20, 2012). Indeed, if the Board agreed that such an activity was harmful then it would force the Board to ban children from eating dinner with their parents at a restaurant if the parents ordered a bottle of wine or attending any sporting event where beer could be consumed in the stands. Finally, the mere fact that other facilities in the District have enacted various restrictions or practices does not mean that Club Cinema should be legally forced to engage in the same practices. As a result, the Board has no reasonable basis in which

to believe the termination of the agreement will have a negative impact on the peace, order, and quiet of the community.

**2. The termination of the settlement agreement will not have a negative impact on residential parking needs and vehicular and pedestrian safety.**

37. “In determining the appropriateness of an establishment, the Board shall consider . . . [t]he effect of the establishment upon residential parking needs and vehicular and pedestrian safety . . . .” D.C. Code § 25-313(b)(3); *see also* D.C. Code §§ 25-101(35A), 25-314(a)(4). Among other considerations, the Board is instructed to consider the availability of both private and public parking, any parking arrangements made by the establishment, whether “[t]he flow of traffic . . . will be of such pattern and volume as to . . . increase the [reasonable] likelihood of vehicular [or pedestrian] accidents . . . .” 23 DCMR § 400.1(b), (c) (West Supp. 2020).

38. Club Cinema is located in a building with a parking garage and offers free parking to customers in the building. *Supra*, at ¶ 7. Club Cinema is also located above the Friendship Heights Metro Station. *Supra*, at ¶ 5. There is no evidence that pedestrians and vehicles in the neighborhood face any specific dangers. There is also no evidence that Club Cinema’s patrons have or will compete with residents for parking. Finally, the parking garage is a permanent part of the building; therefore, there is little risk that Club Cinema will suddenly lose access to parking. Under these circumstances, the Board finds in favor of Club Cinema on this ground.

**3. The termination of the settlement agreement will not have a negative impact on real property values.**

39. In determining whether an establishment is appropriate, the Board must examine whether the establishment is having a negative effect on real property values. D.C. Code § 25-313(b)(1). The Board has noted in the past that the presence of blight may have a negative impact on property values. *In re Historic Restaurants, Inc., t/a Washington Firehouse Restaurant, Washington Smokehouse*, Case No. 13-PRO-0031, Board Order No. 2014-107, ¶ 48 (D.C.A.B.C.B. Apr. 2, 2014) *citing In re Rail Station Lounge, LLC, t/a Rail Station Lounge*, Case No. 10-PRO-00153, Board Order No. 2011-216, ¶ 62 (D.C.A.B.C.B. Jun. 15, 2011). In this case, there is no evidence that Club Cinema is a source of blight in the community. Therefore, the Board finds in favor of Club Cinema on this ground.

**IV. The Petition Satisfies All Remaining Requirements Imposed by Title 25.**

40. Finally, the Board is only required to produce findings of fact and conclusions of law related to those matters raised by the Protestants in their initial protest. *See Craig v. District of Columbia Alcoholic Beverage Control Bd.*, 721 A.2d 584, 590 (D.C. 1998) (“The Board’s regulations require findings only on contested issues of fact.”); 23 DCMR § 1718.2 (West Supp. 2020). Accordingly, based on the Board’s review of the Petition and the record, the Applicant has satisfied all remaining requirements imposed by Title 25 of the D.C. Official Code and Title 23 of the D.C. Municipal Regulations.

## **ORDER**

Therefore, the Board, on this 29th day of April 2020, hereby **APPROVES** the termination of the settlement agreement.

**IT IS FURTHER ORDERED** that the Board's findings of fact and conclusions of law contained in this Order shall be deemed severable. If any part of this determination is deemed invalid, the Board intends that its ruling remain in effect so long as sufficient facts and authority support the decision.

The ABRA shall deliver a copy of this order to the Parties.

District of Columbia  
Alcoholic Beverage Control Board

eSigned via SeamlinesDocs.com  
*Donovan Anderson*  
Key: a130f420593509446750703d1dc08

Donovan Anderson, Chairperson

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James Short, Member

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Key: 5027bda789f0040ecl4adae52541ce5

Edward S. Grandis, 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 St. 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).