THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter of:		
ADBHS, LLC t/a Electric Cool-Aid	Case No.: License No:	19-PRO-00006 ABRA-112294
Application for a New Retailer's Class CT License	Order No:	2019-524
at premises 512 Rhode Island Avenue, N.W. Washington, D.C. 20001		

BEFORE: Donovan Anderson, Chairperson
Mike Silverstein, Member
James Short, Member
Bobby Cato, Member

ALSO PRESENT: ADBHS, LLC, t/a Electric Cool-Aid, Applicant

Andrew Kline and Sidon Yohannes, Counsels, on behalf of the Applicant

James Loots, Counsel, and Alexander Padro, Chair, on behalf of Advisory Neighborhood Commission (ANC) 6E, Protestants

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

INTRODUCTION

The Alcoholic Beverage Control Board (Board) approves the Application for a New Retailer's Class CT License (Application) filed by ADBHS, LLC, t/a Electric Cool-Aid. (hereinafter "Applicant" or "Electric Cool-Aid"). Nevertheless, in consideration of the proximity of residents, the lack of a significant enclosed area, and the operation of the venue as an outdoor tavern, the Board denies the application for an entertainment endorsement. The Board further conditions licensure on the Applicant limiting the occupancy of the premises to 225 persons, restricting its hours of operation to 10:30 p.m. during the week and midnight during

the weekend, installing the soundproofing promised at the hearing, and refraining from generating any amplified sounds that may be heard in a residence with its windows and doors closed.

Procedural Background

The Notice of Public Hearing advertising Electric Cool-Aid's Application was posted on December 14, 2018, and informed the public that objections to the Application could be filed on or before January 28, 2019. *ABRA Protest File No. 19-PRO-00006*, Notice of Public Hearing [*Notice of Public Hearing*]. The records of the Alcoholic Beverage Regulation Administration (ABRA) indicate that Advisory Neighborhood Commission (ANC) 6E has filed a protest against the Application. *ABRA Protest File No. 19-PRO-00006*, Roll Call Hearing Results.

The parties came before the Board's Agent for a Roll Call Hearing on February 11, 2019, where the above-mentioned objector was granted standing to protest the Application. On March 13, 2019, the parties came before the Board for a Protest Status Hearing. Finally, the Protest Hearing in this matter occurred on May 8, 2019.

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 6E. 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 Protestants, the Board may only grant the Application if the Board finds that the request will not have an adverse impact on the peace, order, and quiet; residential parking and vehicular and pedestrian safety; and real property values of the area located within 1,200 feet of the establishment. D.C. Code § 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2019).

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. Electric Cool-Aid has submitted an Application for a New Retailer's Class CT License at 512 Rhode Island Avenue, N.W., Washington, D.C. *Notice of Public Hearing*.

2. ABRA Investigator Kevin Puente investigated the Application and prepared the Protest Report submitted to the Board. *ABRA Protest File No. 19-PRO-00006, Protest Report* (Apr. 2019) [*Protest Report*]. The proposed establishment is located in a MU-4 zone. *Protest Report*.

at 2. Twenty-seven licensed establishments are located within 1,200 feet of the proposed location. *Id.* There are no schools, recreation centers, public libraries, or day care centers located within 400 feet of the establishment. *Id.* at 5.

3. According to the public notice, Electric Cool-Aid's proposed hours of operation are as follows: 11:00 a.m. to 2:00 a.m., Sunday through Thursday, and 11:00 a.m. to 3:00 a.m. Friday and Saturday. *Notice of Public Hearing.* The establishment's proposed hours of alcoholic beverage sales, service, and consumption, hours of entertainment, and summer garden hours are the same. *Id.* The establishment is not currently operating at this time. *Protest Report*, at 6.

4. The Applicant's proposed establishment will be located on a lot that is currently vacant. *Transcript* (*Tr.*), May 8, 2019 at 24. If approved, the Applicant stipulated that it will build a structure with a capacity of eight people, while the exterior summer garden will have a total occupancy load of 217, which will limit the premises to a maximum occupancy of 225. *Id.* at 24, 323. The Applicant currently plans to offer frozen alcoholic beverages, spirits, popcorn, and ice cream. *Id.* at 24-25.

5. The Shaw/Howard University metro station is located nearby. *Id.* at 25, 38. In addition, the G-8 and G-9 bus lines are located in the vicinity. *Id.* at 25-26. No parking lots or public garages are located in the area. *Id.* at 26, 37. Nearby street parking is limited to two hours. *Id.*

6. Four of the twenty-seven establishments near the proposed location have summer gardens, which include BKK Cook Shop, Dacha Beer Garden, Ivy and Coney, and Rito Loco El Techo. *Id.* at 28. All of the establishments are within two to three blocks of the establishment. *Id.* at 30.

7. The Board takes judicial notice of the license held by Daci Enterprises, LLC, t/a Dacha Beer Garden, which holds ABRA License No. 092773. *ABRA License No. 092773.*[1] Dacha may operate from 7:00 a.m. to 2:00 a.m., Sunday through Thursday, and from 7:00 a.m. to 3:00 a.m. on Friday and Saturday. *Id.* Dacha's sidewalk café and summer garden may operate from 7:00 a.m. to 1:30 a.m., Sunday through Thursday, and 7:00 a.m. to 11:59 p.m. on Friday and Saturday. *Id.* It does not have an entertainment endorsement for its outdoor seating areas.

8. The investigator observed that the proposed location has numerous residents. *Id.* at 36. The investigator further noticed that residents live on the 500 block of Rhode Island Avenue, N.W. *Id.* at 37. Some of the residences are currently unoccupied. *Id.* at 42.

I. Benjamin Schwartz

9. Benjamin Schwartz will own and manage the establishment. *Id.* at 80. He has twelve years of experience working in the hospitality industry as a bartender. *Id.* at 81. He currently lives approximately 500 feet from the Applicant's proposed location. *Id.*

[1] In light of testimony referencing Dacha, the Board takes judicial notice of Dacha's license in order to ensure that the Board only considers accurate information. *Transcript* (*Tr.*) May 8, 2019 at 29, 35-36.

10. In preparing to open the business, the Applicant will refurbish the lot by having murals, painted fencing, landscaping, and bathrooms installed on the property. *Id.* at 82, 92. The entrance will face 6th Street, N.W. *Id.* at 92. The business will operate as an open-air bar. *Id.* at 82. Customers will be able to order food from nearby restaurants and packaged food will be available. *Id.* at 82, 98. The establishment will have approximately fifteen employees. *Id.* at 87. He anticipates that two employees will serve as security staff at any given time. *Id.* at 87. He further anticipates providing a large number of long picnic table style seating and that most patrons will sit. *Id.* at 87; *Applicant's Exhibit No. 1.*

11. In order to mitigate noise, the establishment will install an aluminum fence and bamboo around the property. *Tr.* 5/8/19 at 84-85, 88-89. The establishment has applied for an entertainment endorsement. *Id.* at 85. Entertainment may include block parties, a Christmas market, and other forms of live entertainment. *Id.* at 85-86, 115. The establishment will also have amplified music playing. *Id.* at 138.

12. In order to address traffic and parking issues, the Applicant will apply to have mobile taxi services place their pickup and drop-off points on Rhode Island Avenue, N.W. *Id.* at 142.

13. Mr. Schwartz indicated that he had no objection to submitting a security plan, ending entertainment at 11:00 p.m., and prohibiting live bands, except for occasional special events. *Id.* at 144-45.

II. Angela DelBrocoo

14. Angela DelBrocco will be a co-owner of the business and has prior experience in the hospitality industry working as a bartender. *Id.* at 151-52. Ms. DelBrocoo lives approximately 500 feet away from the Applicant's proposed establishment. *Id.* at 149. She noted that the neighborhood is more residential than the 14th Street Corridor. *Id.* at 150.

15. In preparing to open the business, Ms. DelBrocco consulted with a sound engineer. *Id.* at 159. Based on the sound engineer's recommendations, the Applicant has investigated installing plants, speakers, and fencing that could mitigate noise. *Id.* at 159-61. Ms. DelBrocco admitted that a formal study of the location had not been performed as of the date of the hearing. *Id.* at 162. She further committed to installing the soundproofing proposed by the establishment. *Id.* at 183-84.

III. Dane Winkleman

16. Dane Winkleman lives a block away from the Applicant's proposed location on R Street, N.W. *Id.* at 43. He estimates that his home is approximately 200 feet away from the premises. *Id.* at 44. He knows the owners and supports the Application. *Id.* at 44-45. He has observed that they have cleaned the lot in preparation of the opening the business. *Id.* at 45; *see also* at *id.* at 57. He further noted that traffic in the area creates a lot of noise. *Id.* at 47.

IV. Rod Crider

17. Rod Crider lives approximately two blocks away from the proposed location on Marion Street, N.W. *Id.* at 55. He supports the Application. *Id.* at 56.

V. Noele Lewis

18. Noele Lewis lives approximately 300 feet from the establishment. *Id.* at 67. As a longtime resident, he observed that the lot was previously used to sell cars. *Id.* at 68. After the lot was vacated, it then became filled with trash and litter. *Id.* He supports the Application. *Id.* He indicated that there is an issue with illegal double parking in the neighborhood. *Id.* at 73.

VI. Jesse Schwartz

19. Jesse Schwartz is a co-owner of the Applicant's business and will serve as the operations manager. *Id.* at 191. As part of her experience, she has a degree in horticulture and has studied pest management. *Id.* She also has worked on rodent control programs in various major cities. *Id.* at 192. The Applicant will store waste in an on-site dumpster that is secured from vermin. *Id.* The Applicant will also clean the site on a daily basis and remove spilled food and grease from the grounds. *Id.* at 193.

VII. LeRoy Thorpe

20. LeRoy Thorpe lives on 5th Street, N.W., and lives across the alley from the Applicant's proposed location. *Id.* at 198, 218. He can further see the Applicant's proposed premises from his second floor window. *Id.* at 204. As a resident, he is aware that there are at least two other townhouses close to the establishment. *Id.* at 205. He described the community as primarily residential. *Id.* at 206.

21. Mr. Thorpe discussed his concerns regarding crime. *Id.* at 202. In particular, he is concerned that the addition of the Applicant's establishment will encourage public drunkenness, lewdness, urination, and similar offenses in the nearby alley. *Id.* at 202. He is also concerned that the addition of the business will encourage robberies. *Id.*

22. Mr. Thorpe further discussed his concerns regarding noise. *Id.* at 210. He is concerned that patrons will cause noise if they are lined up outside the property. *Id.* Furthermore, he is concerned that amplified sounds will escape the property late at night when people are trying to sleep. *Id.* at 211.

23. Mr. Thorpe indicated that the area has minimal street parking. *Id.* at 212. He is also concerned that the presence of the establishment will decrease property values. *Id.* at 214.

VIII. William McQuillen

24. William McQuillen lives two blocks to the south of the proposed establishment on 5th Street, N.W. *Id.* at 230. He opposes the proposed establishment for several reasons. *Id.* at 231.

First, it is already tough to find parking in the neighborhood. *Id.* at 235-36. Second, he is afraid that amplified music and patron voices will carry throughout the neighborhood, but he has no noise complaints against the beer garden operated by Dacha which is located a few blocks away. *Id.* at 237-38. Third, he is also concerned about crowds on the sidewalk. *Id.* at 239. Fourth, he is afraid that the business will push down property values. *Id.*

IX. Commissioner Alexander Padro

25. ANC Commissioner Alexander Padro represents ANC single member district 6E01. *Id.* at 246. The ANC opposes the proposed establishment for several reasons. *Id.* at 248. First, Commissioner Padro is concerned that there is not a lot of parking in the immediate vicinity of the proposed location, which will lead to competition for parking between residents and non-residents. *Id.* at 250-51. Second, he is concerned that the establishment will generate noise because the venue will not be fully enclosed. *Id.* at 252-53. In fact, in the case of Dacha beer garden, which has a large outdoor seating area, nearby neighbors hear patron voices in their homes. *Id.* at 253. He further noted that many residents surround the proposed location. *Id.* at 259.

X. Chuck Burger

26. Chuck Burger works as a realtor, and is a former Chair of the Alcoholic Beverage Control Board. *Id.* at 285, 300. Based on his research, the proposed location of the establishment is majority residential. *Id.* at 287. He indicated that the current owner of the property appears to be attempting to avoid having the property designated as vacant or blighted. *Id.* at 288. He indicated that he believes that the presence of the establishment will discourage people from buying in the area. *Id.* at 304. Nevertheless, he acknowledged that property values have increased in the neighborhood. *Id.* at 310-11.

CONCLUSIONS OF LAW

27. The Board may approve an Application for a New Retailer's Class CT License when the proposed establishment will not have an adverse impact on the neighborhood. D.C. Code §§ 25-104, 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2019). Specifically, the question in this matter is whether the Application will have a negative impact on the peace, order, and quiet; residential parking and vehicular and pedestrian safety; and real property values of the area located within 1,200 feet of the establishment. D.C. Code § 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2019). Furthermore, in the case of a new application, "the Board shall consider whether the proximity of [a tavern or nightclub] establishment to a residence district, as identified in the zoning regulations of the District and shown in the official atlases of the Zoning Commission for the District, would generate a substantial adverse impact on the residents of the District." D.C. Code § 25-314(c).

I. The Establishment is Appropriate for the Neighborhood Subject to Conditions.

28. 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). 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. 2019). 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).

29. 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 1193, 1196 (D.C. 1985); *Sophia's Inc. v. Alcoholic Beverage Control Bd.*, 268 A.2d 799, 800-801 (D.C. 1970).

a. The Board is satisfied that the Applicant will not have an adverse impact on the peace, order, and quiet of the neighborhood if it operates in accordance with the conditions set by the Board.

30. "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. 2019). In most cases, when an establishment has plans to have outdoor seating near residents, the Board has generally limited outdoor seating hours to 11:00 a.m. during the week and midnight during the weekend. *In re Amduffy, LLC, t/a Duffy's Irish Restaurant*, Case Number 13-PRO-00004, Board Order No. 2013- 343, ¶¶ 21-23 (D.C.A.B.C.B. Jul. 10, 2013). Moreover, the Board "may consider an applicant's efforts to address or alleviate operational concerns." *In re Inner Circle 1223, LLC t/a Dirty Martini Inn Bar/Dirty Bar*, Case No. 13-PRO-00172, Board

Order No. 2014-507, ¶ 34 (D.C.A.B.C.B. Dec. 10,2014). This may include consideration of "the establishment's soundproofing features and noise mitigation practices related to both amplified music and the human voice." *Id.*

31. In this case, the proposed establishment will operate as an outdoor tavern with minimal enclosed space in a highly residential area. *Supra*, at ¶¶ 4, 10, 20, 26. In light of the nature of the business as an open-air tavern, the Applicant cannot provide sufficient guarantees that its soundproofing efforts will be sufficient to protect nearby neighbors from amplified sounds and patron voices at times when residents are trying to sleep. *Supra*, at ¶¶ 19, 25. Moreover, providing outdoor entertainment in a highly residential area is unreasonable outside an area dedicated primarily to entertainment or nightlife. *In re Greenleaf Buzzard, LLC, t/a Buzzard Point Fish House*, Case No. 18-PRO-00083, Board Order No. 2019-448, 8 n. 1 (D.C.A.B.C.B. Jun. 5, 2019) (saying greater outdoor activity is warranted an "entertainment area," like an area containing a stadium). As a result, in light of the proximity of the establishment to residents, the Board will not deem the establishment, as proposed, appropriate, or approve the application for an entertainment endorsement.

32. In light of these findings, the Board finds it necessary to impose conditions on the Applicant's license to alleviate potential impact on the peace, order, and quiet of the neighborhood. *See In re Dos Ventures, LLC, t a Riverfront at the Ball Park*, Case No. 092040, Board Order No. 2014-512, ¶ 49 (D.C.A.B.C.B. Nov. 13, 2013) (saying "[i]n practice, the Board has imposed conditions when it is shown that there are valid concerns regarding appropriateness that may be fixed through the imposition of specific operational limits and requirements on the license"). Under § 25-104(e), the Board is granted the authority to impose conditions on a license when ". . . the inclusion of conditions will be in the best interest of the [neighborhood] . . . ." D.C. Code § 25-104(e).

33. The Board imposes several conditions on the license. First, the Board limits the capacity of the premises to 225 persons based on the stipulation of the Applicant. *Supra*, at ¶ 4. Second, the Board limits the hours of the premises to 10:30 p.m. during the week and midnight during the weekend, because late night outdoor use conflicts with the residential nature of the neighborhood and is inappropriate for an establishment that lacks any significant indoor space. Third, in light of the establishment's proximity to residents, the Board conditions licensure on the Applicant preventing noise from disturbing residents in their homes and installing the soundproofing promised at the hearing.

b. The Applicant has adequately demonstrated that the issuance of a license will not have a negative impact on residential parking needs and vehicular and pedestrian safety.

34. "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. 2019). In this case, the Board does not find that approval of the Application will have a detrimental impact on residential parking based on the availability of public transportation. *Supra*, at ¶ 5. The Board also does not find any reasonable basis for concluding that the presence of the Applicant will threaten the safety of pedestrians or vehicles in the vicinity. Therefore, the Board finds in favor of the Applicant on this issue.

c. The Applicant has adequately demonstrated that the issuance of a license will not have an adverse impact on real property values.

35. 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, the Board is not persuaded that it is reasonable to presume that the mere presence of the Applicant's establishment will threaten nearby property values. Moreover, there is no indication that the Applicant will allow the property to become blighted or otherwise fail to maintain it. *Supra*, at ¶ 19. Therefore, the Board finds in favor of the Applicant on this issue.

II. The Board Has Satisfied the Great Weight Requirement by Addressing ANC ANC 6E's Issues and Concerns.

36. ANC 6E's written recommendation submitted in accordance with D.C. Code § 25-609(a) indicated that its protest was based on concerns regarding Electric Cool-Aid's impact on peace, order, and quiet; residential parking and vehicular and pedestrian safety; and real property values. The Board notes that it specifically addressed these concerns in its Conclusions of Law.

III. The Application Satisfies All Remaining Requirements Imposed by Title 25.

37. 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. 2019). Accordingly, based on the Board's review of the Application 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 26th day of June 2019, hereby **APPROVES** the Application for a New Retailer's Class CT License at premises 512 Rhode Island Avenue, N.W., filed by ADBHS, LLC, t/a Electric Cool-Aid, subject to the following **CONDITIONS**:

1. The maximum occupancy of the premises shall be no greater than 225 persons:

2. The operational hours shall not exceed 10:30 p.m. between Sunday and Thursday, and midnight on Friday and Saturday;

3. The license holder shall not allow or permit any amplified sounds from being heard in a residence with its windows and doors closed; and

4. The license holder shall construct and maintain on the premises a barrier of plants and fencing to mitigate noise.

IT IS FURTHER ORDERED that the request for an entertainment endorsement is **DENIED**.

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

Donovan Anderson, Chairperson

Mike Silverstein, Member

James Short, Member

Bobby Cato, 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, 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. 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. 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) (2004).