

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

---

In the Matter of:	)	
	)	
Empire DC, LLC	)	Case No.: 22-PRO-00014
t/a Empire Lounge	)	License No.: ABRA-110702
	)	Order No.: 2021-679
Application for a Substantial Change to a	)	
Retailer's Class CT License	)	
	)	
at premises	)	
1909 9th Street, N.W.	)	
Washington, D.C. 20001	)	

---

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

**ALSO PRESENT:** Empire DC, LLC, t/a Empire Lounge, Applicant

Richard Bianco, Counsel, on behalf of the Applicant

Pierson Stoecklein, Designated Representative, on behalf of the Westminster Neighborhood Association, Protestants

Daniel Orlaskey, Designated Representative, on behalf of Advisory Neighborhood Commission (ANC) 1B, Protestant

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 Substantial Change to a Retailer's Class CT License filed by Empire DC, LLC, t/a Empire

Lounge (hereinafter “Applicant” or “Empire”), which requested to expand its operations to the first floor without expanding its occupancy. In order to address reasonable concerns regarding noise and crowd control, the Board approves the request under the following conditions: (1) Empire shall not generate amplified sounds that may be heard in a residence or residential unit so long as the residence has its windows or doors closed; (2) Empire shall keep its windows and doors closed except when in use as an ingress or egress; and (3) Empire shall permit parking in any parking space located in the rear of the premises under the control of Empire while open to the public.

### ***Procedural Background***

The Notice of Public Hearing advertising Empire Lounge’s Application was posted on February 4, 2022, and informed the public that objections to the Application could be filed on or before April 11, 2022. *ABRA Protest File No. 22-PRO-00014*, Notice of Public Hearing [*Notice of Public Hearing*]. The records of the Alcoholic Beverage Regulation Administration (ABRA) indicate that of the Westminster Neighborhood Association and of Advisory Neighborhood Commission (ANC) 1B have filed protests against the Application. *ABRA Protest File No. 22-PRO-00014*, Roll Call Hearing Results.

The parties came before the Board’s Agent for a Roll Call Hearing on May 2, 2022, where all of the above-mentioned objectors were granted standing to protest the Application. On June 8, 2022, the parties came before the Board for a Protest Status Hearing. Finally, the Protest Hearing in this matter occurred on July 20, 2022. The record in this matter was held open for the parties to submit proposed findings of fact and conclusions of law; however, no party filed proposed findings.

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 1B, which indicated that its protest is based on concerns regarding Empire Lounge’s impact on peace, order, and quiet and residential parking and vehicular and pedestrian safety. 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 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. 2022).

## 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. Empire has submitted an Application for a Substantial Change to a Retailer's Class CT License at 1909 9th Street, N.W., Washington, D.C. *Notice of Public Hearing*. Specifically, Empire requested that it be permitted to expand the operations to the first floor without expanding the occupancy, which will remain at 125 persons.
2. ABRA Investigator Rhoda Glasgow investigated the Application and prepared the Protest Report submitted to the Board. *ABRA Protest File No. 22-PRO-00014, Protest Report* (Jul. 2022) [*Protest Report*].
3. The proposed establishment is in an ARTS-2 zone. *Id.* at 5. Fifty-five 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 7.
4. The establishment's hours of operation are as follows: 10:00 a.m. to 2:00 a.m., Sunday through Thursday, and 10:00 a.m. to 3:00 a.m. on Friday and Saturday. *Id.* at 8. The hours of alcohol sales, service, and consumption are the same. *Id.* The establishment's entertainment hours end at the same time but start at 8:00 p.m. *Id.*
5. ABRA investigators visited the establishment on four separate occasions between June 27, 2022, and July 4, 2022. *Id.* at 9. Investigators did not observe any issues with peace, order, and quiet during their monitoring. *Id.* Based on Investigator Glasgow's observations, the neighborhood is an active nightlife destination. *Transcript (Tr.)*, July 20, 2022 at 141.
6. The report discussed public transportation in the neighborhood. *Protest Report*, at 9. There is one metro station nearby and various bus lines. *Id.*
7. The records of the Metropolitan Police Department (MPD) indicate that MPD received 68 calls for service related to the establishment's address between March 16, 2019, and June 21, 2022. *Id.* The records of ABRA's Noise Task Force indicate that between October 2019 and July 2022 there were eight noise complaints related to the establishment. *Id.*
8. Empire's investigative history indicates that the establishment was previously suspended for failing to comply with emergency rules to prevent the spread of the coronavirus disease. *Id.* at 11. Additionally, the establishment paid fines in 2019 for violating its settlement agreement. *Id.* at 11-12. The Board notes that Empire is subject to Board conditions as part of an offer-in-compromise entered into in June 2022 that require the establishment to comply with a security plan, maintain a minimum level of security, confiscate weapons, perform pat downs, and use a

magnetic wand or similar device on patrons seeking admittance to the establishment. *In re Empire DC, LLC, t/a Empire Lounge*, 21-CMP-00017, Board Order No. 2022-307, at 2 (D.C.A.B.C.B. Jun. 29, 2022). Empire also received a warning for use of the first floor on January 26, 2022. *Id.* at 206.

9. Investigator Glasgow visited Empire’s premises on July 1, 2022. *Id.* at 143-44. Inside, she observed the space that Empire sought to occupy. *Id.* at 144. The space was formerly occupied by club known as “Sound Bar” and is located adjacent to Empire. *Id.* She noted that from outside it appears to be a separate premise but is part of the same building where Empire is located. *Id.* Empire and the former Sound Bar space have separate entrances on 9th Street, N.W. *Id.* at 151. The Sound Bar space is connected to Empire through a door and has a bar and DJ booth inside. *Id.* at 161, 178.

## **II. Dess Niguisse**

10. Des Niguisse has owned Empire since 2019. *Id.* at 218-19. His plan is to expand the business and occupy the first floor of Empire’s building. *Id.* at 219. His plan is to connect the first floor to the other floors to allow for greater movement inside the premises. *Id.* at 220. He will continue to use the trade name “Sound Bar” for the first floor. *Id.* Empire and Sound Bar will have separate entrances and share an internal door. *Id.* at 221. This will lead to the establishment having two entrances instead of the current one located in the Empire portion of the business. *Id.* at 222. There will be no dance floor on the first floor and the new addition will only have three speakers. *Id.* at 225, 264. There will be a disc jockey booth in the new space. *Id.* at 310. The establishment will have a rear door and parking area for two vehicles. *Id.* at 223. The current occupancy of the premises is 125 persons. *Id.* at 220.

11. Mr. Niguisse has taken steps to address noise at the establishment. *Id.* at 232. Specifically, speakers inside the premises were moved and sealant was applied to reduce noise transmission. *Id.* He further tested the use of speakers on the first floor and determined that at maximum volume noise would not escape from the first floor. *Id.* at 238. He admitted that neither he nor his contractor are licensed sound engineers. *Id.* at 275.

12. Mr. Niguisse also intends to take various steps to ensure security in the new addition to the establishment. *Id.* at 258. In particular, cameras have been installed inside the premises, and the front and back exterior of the building. *Id.* He also intends to hire additional security to operate an additional admission door for the first floor. *Id.* at 260. Security stationed at Empire’s admission points will check identifications, perform appropriate pat downs, searches, and metal detecting wandings. *Id.* at 261.

13. The establishment has space for two vehicles near the rear the establishment. *Id.* at 301-02. The cars are parked sufficiently close to impede exit from the rear of the premises if many people needed to exit the establishment from the rear. *Id.* at 304. The owner also did not indicate any issues with posting a “No Parking” sign at the rear of the premises. *Id.* at 307.

### **III. Bayou Yohannes**

14. Bayou Yohannes was present when Mr. Niguise conducted the sound test inside Empire. *Id.* at 316. He agreed with the owner that no noise could be heard outside the establishment when they conducted the test. *Id.* at 317. Mr. Yohannes admitted that he was not a licensed sound engineer. *Id.* at 318.

### **IV. Alex Padro**

15. Alex Padro is the Executive Director of Shaw Main Streets has served in that role since 2004. *Tr.*, 7/20/22 at 37. As part of the organization's work, it organizes a regularly occurring Metropolitan Police Department (MPD) Reimbursable Detail to provide officers for several blocks of 9th Street, N.W. *Id.* at 38. In particular, it contracts with MPD, establishes the hours of the detail, and obtains payment from participating businesses. *Id.* Mr. Padro noted that Empire participates in its reimbursable detail program. *Id.* at 39. The reimbursable detail operates until 3:00 a.m. and 4:00 a.m. on most days. *Id.* He noted that recently MPD has had issues staffing the reimbursable details because of staffing shortages. *Id.* at 39-40. He noted that usually MPD can only provide one or two officers instead of the six requested by his organization since January of 2022. *Id.* at 51.

16. Mr. Padro is aware of car break-ins in the neighborhood, but he believes that they occur on neighboring streets and not 9th Street, N.W., because there is so much activity on 9th Street, N.W., and there are numerous security cameras in the area. *Id.* at 49.

### **V. MPD Sergeant Dale Vernick**

17. MPD Sergeant Dale Vernick works in the nightlife unit that patrols the U Street Corridor, which includes the 1900 block of 9th Street, N.W. *Id.* at 54. He described the 9th Street, N.W., area as hosting several hookah-type bars that attracts "a younger crowd." *Id.* He indicated that some patrons are unruly outside and that his unit addresses fighting, stabbings, shootings, robberies, and other disorderly acts in the streets. *Id.* at 54-55. He noted that the neighborhood attracts crowds from between 8:00 p.m. to 5:00 a.m. on a regular basis. *Id.* at 90.

18. He described his experience related to firearms at the establishment. *Id.* at 59. Specifically, on one occasion a patron discharged a firearm inside the club. *Id.* He noted that during this incident, MPD was contacted about the shooting by one of the establishment's bouncers. *Id.* at 62. He further noted that the establishment was not able to provide video footage of the incident immediately. *Id.* at 63. On another occasion, another patron had a firearm in his possession. *Id.* at 60. Finally, there was a shooting outside Empire in the past year that may have involved an altercation with patrons of Empire. *Id.* at 60-61.

19. Sgt. Vernick indicated that he believed an additional ingress and egress door in the area would aid in crowd control in the streets. *Id.* at 80.

20. Sgt. Vernick noted that the District has instituted a nightlife task force to address issues in the neighborhood. *Id.* at 86. For example, fire marshals are making regular visits to monitor

occupancy, ABRA has provided staff, and steps to control traffic have been taken. *Id.* at 87. In his view, the neighborhood has become safer since the task force was instituted. *Id.*

## **VI. MPD Captain Han Kim**

21. MPD Captain Han Kim served as the Commander of the Third Police District between May 2021 and April 2022. *Id.* at 104-05. He indicated that activity inside establishments was not the main driver of crime or violence in the neighborhood. *Id.* at 107. Instead, during his time in the area, he believes problems regarding crime and violence stemmed from people loitering outside establishments in the area. *Id.* at 107, 123, 129.

22. During his tenure, he is aware that a shooting occurred outside of Empire. *Id.* at 108. Specifically, it occurred in the establishment's admission line outside the establishment. *Id.* He indicated that Empire has been cooperative in the past when MPD has requested that the establishment provide security footage. *Id.* at 110.

23. Captain Kim is aware of a fight involving individuals and MPD officers but did not know why the fight started or whether the fight involved patrons of Empire. *Id.* at 118-19, 123. Nevertheless, no reported injuries occurred and no one filed a police report related to the incident. *Id.* at 119.

## **VII. Kyle Dudzinski**

24. Kyle Dudzinski has lived in the neighborhood since September 2020. *Id.* at 331. In June of 2021, he began hearing music and bass sounds reverberating through his bedroom. *Id.* at 332. He noted that the disturbing noise would occur approximately five days per week. *Id.* at 332-33. The noise would be audible from approximately 9:30 p.m. to 3:00 a.m. *Id.* at 337. He further confirmed that Empire was the source of the noise by walking down the alley behind Empire and listening in or around the establishment's door. *Id.* at 340. In response, he began sleeping in the living room or at the homes of friends and family. *Id.* at 333. Finally, he moved out of the residence but maintained ownership in the hopes that the noise issue would be addressed. *Id.* at 335, 338. He noted that the current tenant of his old residence has complained about noise on various occasions. *Id.* at 344.

## **VIII. Ewa Sobczynska**

25. Ewa Sobczynska lives in the same building as Mr. Dudzinski. *Id.* at 352-53. She lived in the apartment from 2012 to 2013 and has currently lived in the apartment from October 2021 to present. *Id.* at 353. Her apartment faces 8th Street, N.W. *Id.* at 354. In her experience, the alley by her home is filthy with trash and human excrement on many occasions. *Id.* at 355. She also noted that the alley is very noisy at night. *Id.* at 359. Nevertheless, she could not state definitively that what she observed is caused by Empire. *Id.* at 361.

## IX. Alexandera Overholt

26. Alexandera Overholt lived in the same building as Mr. Dudzinski. *Id.* at 364. She lived there from July 2020 and left in the summer of 2022. *Id.* In July 2020, she noted that a lot of noise was escaping from Empire, which would increase when employees would open the doors. *Id.* at 365. She noted that when Empire was in operation her bedroom floor and other items in her bedroom would shake from the vibrations. *Id.* She further noted that on one occasion the establishment was using a table saw outside at around 3 a.m. *Id.* at 366. She further noted that when she requested the establishment turn down its music, the establishment appeared to raise the volume. *Id.* at 368. Based on her experience, noise issues at Empire occur approximately five days per week from 10:00 p.m. until 3:00 a.m. *Id.* at 367.

### CONCLUSIONS OF LAW

27. The Board may approve an Application for a Substantial Change to a 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. 2022). 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. 2022).

#### I. Empire's Proposed Expansion is Appropriate for the Neighborhood with Conditions.

28. The Board is persuaded that Empire's proposed expansion will not have a negative impact on peace, order, and quiet so long as it abides by conditions related to noise and crowd control.

29. 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. 2022). 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).

30. 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. Empire’s proposed expansion will not have a negative impact on peace, order, and quiet so long as it abides by conditions related to noise and crowd control.**

31. “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. 2022). As noted in *Panutat*, “. . . 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.” *Panutat, LLC v. D.C. Alcoholic Beverage Control Bd.*, 75 A.3d 269, 277 n. 12 (D.C. 2013). Furthermore, it has been recognized that “[t]he government has a substantial interest in protecting its citizens from unwelcome noise . . . .” *In re T.L.*, 996 A.2d 805, 812 (D.C. 2010) (quotation marks removed). This interest is “. . . greatest when [the] government seeks to protect the wellbeing, tranquility, and privacy of the home.” *Id.* As a result, the government has a right to prevent noise so unreasonably loud that it “. . . unreasonably intrude[s] on the privacy of a captive audience or so loud and continued as to offend[] a reasonable person of common sensibilities and disrupt[] the reasonable conduct of basic nighttime activities such as sleep.” *Id.* at 813 (quotation marks removed). Finally, under the District’s disorderly conduct law, “It is unlawful for a person to make an unreasonably loud noise between 10:00 p.m. and 7:00 a.m. that is likely to annoy or disturb one or more other persons in their residences.” D.C. Code § 25-1321(d).

32. In general, the Board is persuaded that Empire’s expansion will not have a negative impact on the neighborhood. In particular, even if granted, the occupancy of the premises will not change and the establishment will gain an additional entrance, which will improve the crowd flow at the establishment. *Supra*, at ¶ 10. Allegations that such an expansion may exacerbate crime, disorder, or trash in the neighborhood are purely speculative and unreasonable when the premises will service the same number of people. Furthermore, the argument that the request

should be denied because of prior violations or a belief that Empire will not abide by occupancy restrictions are not reasonable where the present Application represents an attempt by Empire to come into compliance, the Board only recently addressed these matters in a recent show cause case, and future compliance with the law can be addressed through the enforcement process. *Supra*, at ¶ 8. Finally, it is unclear how violent incidents outside Empire are directly caused by Empire's operations. *Supra*, at ¶ 21.

33. Nevertheless, the Board is persuaded that Empire has not taken sufficient steps to control noise. Empire's new space raises legitimate concerns regarding noise where the establishment currently causes noise issues; the new space will add new places in the establishment where noise can escape, such as the establishment's new door; and the establishment will be adding additional speakers to the new space. *Supra*, at ¶¶ 10, 24-26. In particular, the Board credits evidence that noise currently escapes the establishment and disturbs residents in their homes. *Supra*, at ¶¶ 24-26. While Empire made attempts to address noise, Empire has not shown that it has resolved the issue where no professional sound engineer was consulted or conducted any commercially reasonable tests related to the establishment, no resident complaining of noise testified that the noise problem had been resolved since the test occurred, and it has not been shown that the steps taken by the establishment will be or are effective when the establishment is in operation. *Supra*, at ¶ 11. Furthermore, while there is no evidence that Empire is the direct cause of antisocial behavior or crowd control issues in the streets, Empire's operations should not exacerbate any disorder that is occurring in the streets. *Supra*, at ¶ 21. In this vein, it is important for Empire to control noise escaping the establishment so that crowds outside the establishment are not encouraged to engage in loud talking or yelling and are able to hear any police commands related to crowd control. Consequently, conditions related to curbing disturbing noise are warranted.

34. The Board is further concerned about the proximity of vehicles to the establishment's rear door. *Supra*, at ¶ 13. As noted in the record, when vehicles are parked behind the establishment in its two spaces, it may impede the ability of people to exit the area if a large number of people attempted to exit the establishment, which may be needed in the event of violence, fire, or other emergency. Therefore, the Board will not approve the use of the new space without conditions ensuring the safety of people attempting to exit the establishment during an emergency.

**b. Empire's proposed change will not have a negative impact on residential parking needs and vehicular and pedestrian safety.**

35. "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. 2022). The Board finds no evidence that the proposed change will have an impact on residential parking or

otherwise threaten the safety of pedestrians or vehicles; therefore, the Board finds in favor of Empire on this ground.

**c. Empire’s proposed change will not have a negative impact on real property values.**

36. 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). There is no indication in the record that the property is blighted or that the proposed change will cause blight; therefore, the Board finds in favor of Empire on this ground.

**II. The Board Imposes Conditions on the License to Address Noise and Crowd Control Issues.**

37. In light of the Board’s findings regarding appropriateness, the Board finds it necessary to impose conditions on the Applicant’s license. *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).

38. The Board first conditions approval on Empire not generating sound that may be heard in a residence and being required to keep its windows and doors closed except when in use. This condition will provide peace and quiet in nearby resident’s homes and potentially help reduce crowd noise and antisocial behavior. The Board next conditions approval on the establishment refraining from using the parking spots located in the rear of the establishment. This condition will help people exit the establishment in the case of an emergency and encourage faster dispersal during let out; thus, preventing additional crowd control issues in the future.

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

39. 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. 2022). 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 5th day of October 2022, hereby **APPROVES** the Application for a New Retailer's Class CT License at premises 1909 9th Street, N.W., filed by Empire DC, LLC, t/a Empire Lounge, subject to the following **CONDITIONS**:

1. Empire shall not generate amplified sounds that may be heard in a residence or residential unit so long as the residence has its windows or doors closed;
2. Empire shall keep its windows and doors closed except when in use as an ingress or egress; and
3. Empire shall not permit parking in any parking space located in the rear of the premises under the control of Empire while open to the public.

**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 SeamlessDocs.com  
*Donovan Anderson*  
Key: ac43cb9ebc9d5f09e4b730093d1dccc8

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com  
*Bobby Cato*  
Key: 256d3f6adfb6146d7f4b75bd7917d20d

Bobby Cato, Member

eSigned via SeamlessDocs.com  
*Rafi Aliya Crockett, Member*  
Key: b560e91845e1f6e4016155ebc12f81cc

Rafi Crockett, Member

eSigned via SeamlessDocs.com  
*Edward Grandis, Member*  
Key: 5027bda7f9f0040ec14adeb52541ce5

Edward S. Grandis, Member

I dissent from the position taken by the majority of the Board.

eSigned via SeamlessDocs.com  
*James Short*  
Key: 547ae373b20de6ac8d1b332d2940ec

James Short, Member

eSigned via SeamlessDocs.com  
*Jeni Hansen, Member*  
Key: 82172931f0509447491b56f9c2a41899

Jeni Hansen, 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).

