

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE AND CANNABIS BOARD**

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| In the Matter of: |) | | |
| |) | | |
| N/A |) | Case No.: | N/A |
| t/a Lifted Lounge |) | License No.: | N/A |
| |) | Order No.: | 2024-691 |
| Order to Cease and Desist |) | | |
| |) | | |
| at premises |) | | |
| 406 Florida Avenue, N.W. |) | | |
| Washington, D.C. 20001 |) | | |

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Silas Grant, Jr., Member

PARTIES: N/A, t/a Lifted Lounge
406 Florida Avenue, N.W.
Washington, D.C. 20001

ORDER TO CEASE AND DESIST

INTRODUCTION

On October 9, 2024, the Alcoholic Beverage and Cannabis Board reviewed compelling evidence that the illegal sale, service, and consumption of alcohol occurred at 406 Florida Avenue, N.W., on September 27, 2024. In light of this illegal activity, N/A t/a Lifted Lounge (Respondent) is ordered to cease and desist the sale, service, and consumption of alcohol at the property, and any other location in the District of Columbia until an appropriate license is obtained.

FINDINGS OF FACT

The following statements represent the Board’s findings of fact based on the evidentiary record.

1. The Board incorporates by reference the case report written by ABCA Investigator George Garcia dated September 27, 2024. *Case Report, Lifted Lounge*, at 1 (Sept 27, 2024).
2. On September 27, 2024, ABCA Supervisory Investigator Mark Brashears discovered that the Respondent was advertising a grand opening at 406 Florida Avenue, N.W., which included the sale of alcoholic beverages. *Id. at Exhibit 1*. ABCA Investigators George Garcia and Mikea Nelson visited the licensed establishment with a joint task force comprised of the Department of Licensing and Consumer Protection (DCLP), Fire and Emergency Medical Services (FEMS) and the Metropolitan Police Department (MPD). *Id. at 1, Exhibit 2*.
3. During a walkthrough of the establishment, Investigators Garcia and Nelson observed alcohol readily available to patrons as well as patrons consuming the alcohol. *Id. at Exhibits 8-9*. On the second floor of the premises, Investigator Garcia observed a fully operable bar set-up, as well as numerous patrons consuming alcoholic beverages. *Id. at 2*. On the third floor of the premises, Investigator Garcia observed a DJ set-up with a stage and a live performance. *Id. at 2*.
4. Investigator Garcia spoke to an individual by the name of Jeremy Theo Beaver who identified himself as the owner of the establishment. *Id. at 2*. When questioned, Mr. Beaver told Investigator Garcia that he was informed that because it was a private party, he was not required to obtain a license from ABCA. *Id. at 2*. Investigator Garcia advised Mr. Beaver otherwise, as well as explaining the multiple violations identified by DCLP, FEMS and MPD. *Id. at 2*.
5. Investigator Garcia reviewed ABCA records and the agency's licensing database to confirm that the venue did not have a Board-approved license for the sale, service and consumption of alcoholic beverages. *Id. at 2*. He further determined that no licensing application was pending for 406 Florida Avenue, N.W. *Id. at 2*.

CONCLUSIONS OF LAW

6. Title 25 of the District of Columbia (D.C.) Official Code (Title 25) provides the Board with the authority to order any individual or licensee to immediately cease “. . . violating any provision of . . . [Title 25 when] the violation has caused, or may cause, immediate and irreparable harm to the public . . .” D.C. Official Code § 25-829(a).

I. THE EVENTS VIOLATED D.C. OFFICIAL CODE § 25-102.

7. The Board finds that the event on July 14, 2024 and other advertised events, violated D.C. Official Code §§ 25-102(a) and (d). D.C. Official Code § 25-102(a) prohibits the sale of alcohol without a license. Likewise, under § 25-102(d), “No person . . . where facilities are especially provided and service is rendered for the consumption of alcoholic beverages who does not possess a license under this title shall permit the consumption of alcoholic beverages on the premises.” D.C. Code § 25-102(d). Title 25 defines a sale or selling as, among other things,

offering for sale, keeping for sale, manufacturing for sale, soliciting orders for sale, trafficking in, importing, exporting, bartering, delivering for value or in any way other

than by purely gratuitously transferring. Every delivery of any alcoholic beverage made otherwise than purely gratuitously shall constitute a sale.

D.C. Code § 25-101(45).

8. In this case, the Respondent offered alcohol for sale and offered space to consume alcohol. *Supra*, at ¶¶ 1-4. Specifically, on September 27, 2024, alcohol was sold for \$10.00 and other food and drinks were for sale. Moreover, the advertising makes clear that the establishment operated as nightclub. It is irrelevant that the ownership held itself out as a private club. Under these circumstances, the Board finds that a clear violation of § 25-102(a) and (d) occurred.

II. THE CONTINUED OPERATION OF THE PREMISES FOR UNLICENSED PARTIES CREATES IRREPARABLE HARM TO THE PUBLIC.

9. The Board finds that the continued operation of unlicensed business causes irreparable harm to the public by allowing the facilitators to maintain a continuing nuisance that threatens the safety and welfare of the public.

10. The Board further notes that all violations of Title 25 are deemed nuisances pursuant to § 25-805. D.C. Official Code § 25-805; *see also Com. ex rel. Preate v. Danny's New Adam & Eve Bookstore*, 625 A.2d 119, 122 (1993) (It is well-settled that even a lawful business may be enjoined from operation if it is shown that, under the particular circumstance, its operation constitutes a public nuisance); *Camp v. Warrington*, 227 Ga. 674, 674, (1971) (“where it is made to appear with reasonable certainty that irreparable harm and damage will occur from the operation of an otherwise lawful business amounting to a continuing nuisance, equity will restrain the construction, maintenance or operation of such lawful business.”). In this case, permitting the proprietors to continue to illegally operate without approval would allow them to maintain and benefit from the operation of a continuing nuisance.

11. Finally, the Board is convinced that the circumvention of the licensing process threatens the health, safety, and welfare of the public. The misuse of alcohol encourages crime, disorder, and other antisocial behavior. The licensing process keeps those who cannot be trusted to superintend a licensed event, such as criminals, individuals with a history of repeated violations of the District’s alcohol laws, and those without sufficient knowledge and training, from obtaining a license. Therefore, the sale or consumption of alcohol cannot be allowed to occur at this location until an appropriate alcohol license is obtained.

ORDER

Therefore, the Board, on this 9th day of October 2024, hereby orders N/A t/a Lifted Lounge to cease distributing, purchasing, selling, serving, or otherwise permitting the consumption of alcoholic beverages, or otherwise allowing third parties to engage in such activities at 406 Florida Avenue, N.W., and any other location in the District until an appropriate license is obtained.

IT IS FURTHER ORDERED, pursuant to D.C. Official Code § 25-115(c) and 23 DCMR § 1003.1, that ABCA shall no longer issue temporary licenses and one-day substantial change licenses for the above-mentioned address until this matter is resolved to the satisfaction of the Board.

IT IS FURTHER ORDERED, pursuant to D.C. Official Code § 25-801(e), that ABCA refer this matter to the Office of the Attorney General for the District of Columbia (OAG) for prosecution. The Board further requests that OAG seek the enforcement of this Order in the Superior Court of the District of Columbia under D.C. Official Code §§ 25-829(f) (cease and desist orders) and 25-805 (nuisance) should it be deemed necessary.

Please be **ADVISED** that a copy of this Order is being forwarded to the Metropolitan Police Department to ensure compliance. If it is found that you are continuing to sell, serve, or permit the consumption of alcoholic beverages without approval from the Board, you and all other persons involved may be subject to both civil and criminal penalties.

ABCA shall serve notice by certified mail or personal delivery to the parties.

District of Columbia
Alcoholic Beverage and Cannabis Board

eSigned via SeamlessDocx.com
Donovan Anderson
Key: ac43cb9bb9d5f69e4b7396693d1dccc8

Donovan Anderson, Chairperson

eSigned via SeamlessDocx.com
James Short
Key: 547ae373f920de6ac8d1b3325d2049ec

James Short, Member



Silas Grant, Jr., Member

You have the right to request a hearing before the Board conducted in accordance with subchapter I of Chapter 5 of Title 2. Pursuant to D.C. Official Code § 25-829(b)(1), you may submit a written request to the Board for a hearing within fifteen (15) days of service of this Order. Additionally, you also have the option of submitting a written request to the Board for an expedited hearing pursuant to D.C. Official Code § 25-829(c)(1) within ten (10) days of service of this Order. Please note that if you fail to request a hearing, this Order shall be deemed final. D.C. Official Code § 25-829(d).

If you request a hearing, you may appear at the virtual hearing unless other instructions to appear are provided, and you and the establishment, may be represented by legal counsel. You have the right to produce witnesses and evidence on your behalf and to cross-examine witnesses. You may examine evidence produced, and have subpoenas issued on your behalf to require the production of witnesses and evidence.

All hearings are conducted in the English language. If you, any corporate officer, or any witnesses to be called are deaf, have a hearing impediment, or cannot readily understand or communicate the spoken English language, an application may be made to the Board for the appointment of a qualified interpreter.

Your failure to appear at the time and place set for the hearing, if requested, either in person or through counsel, or both, will not preclude the Board from proceeding in this matter. Should you have any questions, contact ABCA Adjudication Specialist Danette Walker at 202-442-4418.

Finally, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, District of Columbia Official Code § 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 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).