

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

In the Matter of:)	
The New 7307, Inc.)	Case No.: 22-PRO-00022
t/a Premier Lounge)	License No.: ABRA-120372
Application for a New)	Order No.: 2022-618
Retailer's Class CT License)	
at premises)	
7307 Georgia Avenue, N.W.)	
Washington, D.C. 20012)	

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

ALSO PRESENT: The New 7307, Inc., t/a Premier Lounge, Applicant

Naima Jefferson, Designated Representative, on behalf of a Group of Five or More Residents and Property Owners, 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 filed by The New 7307, Inc., t/a Premier Lounge (hereinafter "Applicant" or "Premier Lounge") with conditions. In this case, the Applicant failed to provide sufficient plans to merit the approval of late-night nightclub activity at the premises. Therefore, the Board will approve the application on the condition that the establishment operate as a restaurant and tavern by (1) not charging a cover charge; (2) only providing entertainment inside

the establishment; (3) not operating the sidewalk café past midnight;¹ and (4) and limiting the hours of operation, sales, service and consumption to 1:00 a.m. during the week and 2:00 a.m. on Friday and Saturday.

Procedural Background

The Notice of Public Hearing advertising Premier Lounge's Application was posted on February 18, 2022, and informed the public that objections to the Application could be filed on or before April 4, 2022. *ABRA Protest File No. 22-PRO-00022*, Notice of Public Hearing [*Notice of Public Hearing*]. The records of the Alcoholic Beverage Regulation Administration (ABRA) indicate that a Group of Five or More Residents or Property owners has filed a protest against the Application. *ABRA Protest File No. 22-PRO-00022*, Roll Call Hearing Results.

The parties came before the Board's Agent for a Roll Call Hearing on April 25, 2022, where the above-mentioned objector was granted standing to protest the Application. On May 18, 2022, the parties came before the Board for a Protest Status Hearing. Finally, the Protest Hearing in this matter occurred on June 29, 2022. The Protestants filed Proposed Findings of Fact and Conclusions of Law after the conclusion of the hearing.²³

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). In addition, the Board will review the character and fitness of the ownership based on the objections raised by the Protestants.

¹ The Board notes that the alleged failure to provide appropriate documentation regarding the sidewalk café does not prevent the Board from approving the request. Instead, ABRA will merely withhold issuing the license with the requested endorsement until the appropriate documentation is received, as noted in 23 DCMR § 1005.1. *Proposed Findings*, at ¶ 173. As a result, the Board may issue the license, but may withhold the endorsement until all required documents are submitted.

² The Board notes that the Proposed Findings filed by the Protestants cites numerous facts and issues that were not properly raised or proven at the hearing. The Board reminds the parties that the purpose of the Proposed Findings is to make arguments based on the issues and facts raised during the hearing. It is not an opportunity to make new arguments or refer to new evidence not properly admitted or made at the hearing. Therefore, to the extent the Board does not address any argument contained in the Proposed Findings, it is because the matter was either not properly raised or supported by evidence during the hearing. For example, it was not established that the current Applicant had any ownership or control over the license before purchasing the business; therefore, any violations or bad acts committed by any prior ownership are not attributable to the current Applicant. *Proposed Findings*, at ¶ 6, *Tr.*, 6/29/22 at 73-74.

³ The Board further reminds the parties that requests for the Board to take administrative or judicial notice have to be made before or during the hearing and cannot first be raised in one's Proposed Findings. 23 DCMR § 1718.2 (West Supp. 2022). During the hearing, the Board took administrative notice of its own records, but did not discuss records related to the District of Columbia Department of Consumer and Regulatory Affairs and other outside records. Therefore, because no formal motion for the Board to take judicial or administrative notice was made during the hearing, none of the references in the Proposed Findings to outside documents outside of ABRA's own records identified during the hearing can be accepted into evidence. *Proposed Findings*, at ¶¶ 4, 150, 165, 206.

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. ABRA Investigator Mark Ruiz

1. Premier Lounge has submitted an Application for a New Retailer's Class CT License at 7307 Georgia Avenue, N.W., Washington, D.C. *Notice of Public Hearing*.
2. ABRA Investigator Mark Ruiz investigated the Application and prepared the Protest Report submitted to the Board. *ABRA Protest File No. 22-PRO-00022, Protest Report (Jun. 2022) [Protest Report]*.
3. The proposed establishment is in a Mixed Use (MU) 4 zone. *Protest Report*, at 3. Three licensed establishments are located within 1,200 feet of the proposed location. *Id.* at 4. There are no schools, recreation centers, public libraries, or day care centers located within 400 feet of the establishment. *Id.* Four bus stops are located within 400 feet of the proposed establishment. *Id.*
4. The establishment's proposed hours of operation are as follows: 7:00 a.m. to 2:00 a.m., Sunday through Thursday, and 7:00 a.m. to 3:00 a.m., on Friday and Saturday. *Id.* at 5. The establishment's proposed hours of alcoholic beverage sales, service, and consumption, and entertainment, are from 10:00 a.m. to 2:00 a.m., on Sunday, 8:00 a.m. to 2:00 a.m., Monday through Thursday, and 8:00 a.m. through 3:00 a.m., on Friday and Saturday. *Id.*
5. ABRA investigators visited the establishment on six separate occasions between March 19, 2022, and June 9, 2022. *Id.* at 6. The establishment was not open regularly during this period. *Id.* The records of the Metropolitan Police Department (MPD) indicate that MPD did not receive any calls for service related to the establishment's address between April 2021 and May 2022. *Id.*
6. The premises are in the middle of the block where the establishment is located. *Transcript (Tr.)*, June 29, 2022 at 26. It is in a two-story building, although the establishment will only occupy the first floor. *Id.* The first floor will have a bar, lounge seating area, a stage, DJ booth, and kitchen. *Id.*
7. Investigator Ruiz is aware that the establishment held events while its application was pending. *Id.* at 38, 41. He believes they may have used a caterer to facilitate the events. *Id.* at 45.
8. On November 26, 2021, Investigator Ruiz visited Premier Lounge. *Id.* at 149. When he arrived, he observed a catered event in operation. *Id.* at 150. While at the event, he met with

Everal Campbell, one of the owners of Premier Lounge, who was facilitating the event. *Id.* at 151. Mr. Campbell first showed him a license issued to a prior tenant of the premises, and then showed him a copy of the caterer's license for District Space and a catering contract. *Id.* Investigator Ruiz noted that the license for the prior tenant was not valid. *Id.* at 153.

9. Mr. Campbell was asked whether anyone from District Space was present, but he admitted that no one from the caterer was present. *Id.* at 152. He then observed patrons dancing, smoking hookah, and consuming alcohol and a bar stocked with alcohol. *Id.* Mr. Campbell admitted that the caterer had provided the alcohol. *Id.*

10. Investigator Ruiz further reviewed social media posts related to events at the establishment. *Id.* at 153. According to the posts, events had occurred at Premier Lounge's location since September 2021 on weekends. *Id.* The social media post noted that the events constituted a soft grand opening of Premier Lounge. *Id.* at 154. Investigator Ruiz believed that two or three of these events occurred based on his observations during his investigations of the caterer. *Id.* at 155-56. He indicated that the violations he found were against the caterer and not the current owners of Premier Lounge. *Id.* at 161.

II. Everal Campbell

11. Everal Campbell is one of the owners of Premier Lounge. *Id.* at 4. Mr. Campbell previously worked as an operations manager in the waste management industry, and this will be his first restaurant business. *Id.* at 64. The business has hired an experienced manager to run the restaurant. *Id.* Mr. Campbell is also licensed as a special police officer in the District of Columbia and holds an ABC Manager's license. *Id.* at 95, 100.

12. The business will be licensed as a tavern and operate as a restaurant, bar, and lounge with a focus on "finger foods." *Id.* at 63. The business will also offer entertainment, such as comedy and jazz shows, and charge a cover charge. *Id.* at 63-64, 76-77. The tavern will have a maximum seating capacity of 55 and maximum occupancy load of 75 persons. *Id.* at 81. The tavern intends to hire security when providing entertainment. *Id.* at 95. There will also be an outdoor sidewalk café. *Id.* at 81. The business will solely occupy the first floor of the building. *Id.* at 87.

13. The tavern shares the building with a barbershop. *Id.* at 85. The barbershop will operate on the second floor. *Id.* The barbershop will have its own entrance and will be separated by a door that can be closed. *Id.* Based on the separate entranceway, barbershop patrons will not be able to enter the tavern without exiting the premises. *Id.* at 86.

III. Justin Allen

14. Justin Allen is a co-owner of Premier Lounge. *Id.* at 120. He will be providing security services for Premier Lounge through his company Executive Security Services. *Id.* at 120-21.

IV. Jackson Carnes

15. Jackson Carnes has lived in the Shepard Park neighborhood for approximately five years. *Id.* at 138. He previously worked in a D.C. Councilmember’s office and was the executive director of Georgia Avenue Main Street. *Id.* at 139. Mr. Carnes indicated that Georgia Avenue, N.W., suffers from a litter problem. *Id.* at 140-41. He also believes that licensed establishments have been detrimental to the quality of life in the area. *Id.* at 141.

CONCLUSIONS OF LAW

16. 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. 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). Furthermore, in the case of a new application for licensure or transfer to a new location, “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.

17. 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).

18. 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 Applicant failed to present sufficient evidence that the venue is appropriate for nightclub activity.

19. In this case, the Applicant failed to present sufficient evidence that the establishment is appropriate for nightclub activity where insufficient information was provided that such activity can occur without disturbing the peace, order, and quiet of the neighborhood.

20. “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). In prior cases, the failure to present firm information regarding its business plans may lead to a negative appropriateness determination. *In re Stephens, David J.W. t/a Saloon 45*, Case No. 14-PRO-00040, Board Order No. 2014-334, ¶¶ 51 (D.C.A.B.C.B. Sept. 23, 2014).

21. In this case, the Applicant has applied for a license that will permit late night nightclub activity by authorizing the sale of alcohol without minimum food requirements, authorize the use of a dance floor, the provision of entertainment, and the use of a cover charge. Nevertheless, the Applicant did not provide sufficient information to evaluate its plans to prevent community disturbances, such as soundproofing plans, specific security and crowd control plans, admission line management, plans for security cameras, and other means of preventing disturbances.

22. Nevertheless, the Board is not persuaded that the total denial of the license is warranted. There is no evidence in the record provided by either party that the establishment’s operation as a restaurant, the mere provision of entertainment, or operation as a tavern will be detrimental to the neighborhood or nearby residents. There is also no evidence that the operation of the establishment will cause trash or litter where patrons do not generally leave taverns with food or beverages or otherwise sell products like a grocery or convenience store that are conducive to generating litter. Furthermore, it is unreasonable to presume that entertainment provided in the interior of the premises will cause disturbing noise. Consequently, the Board will impose conditions to prevent the establishment from morphing into a full nightclub but refrain from denying the license.

b. The Applicant will not have a negative impact on residential parking needs and vehicular and pedestrian safety.

23. “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). In this case, there is no evidence that the operations of the establishment will have a negative impact on residential parking or vehicular and pedestrian safety. The establishment is also located near various bus stops, which suggests that the establishment has access to sufficient public transportation. *Supra*, at ¶ 3. Therefore, the Applicant satisfies this appropriateness factor.

c. The Applicant will not have a negative impact on real property values

24. 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). As noted in the photographs of the premises contained in the record, there is no evidence that the operation of the establishment will cause blight or that the property is otherwise blighted. Therefore, the Applicant satisfies this appropriateness factor.

II. The Board Imposes Conditions on the License.

25. 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).

26. As indicated above, in order to ensure the peace, order, and quiet of the neighborhood, the Board will impose conditions to prevent the operation of a full nightclub. In that vein, the Board will not approve the issuance of an entertainment endorsement with permission to charge a cover charge, will limit entertainment to the interior, will prohibit entertainment on the sidewalk café, will require the sidewalk café to close at midnight, and will limit the hours to 1:00 a.m. during the week and 2:00 a.m. on Friday and Saturday.

III. The Applicant is Qualified for Licensure.

27. Under D.C. Official Code § 25-301(a), the Board must determine whether the Applicant “is of good character and generally fit for the responsibilities of licensure.” D.C. Code § 25-301. As noted in case law, “[t]he burden of proof to demonstrate good character and fitness rests with the applicant. *Citizens Ass'n of Georgetown, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 288 A.2d 666, 671 (D.C. 1972). In that regard, it was further said that “the Board must satisfy itself that the individual will not abuse or misuse, the privileges of the license if granted, and that a man's past record, as disclosed by his application, and his appearance before the Board, may furnish a sufficient basis for the Board's conclusion.” *Citizens Ass'n of Georgetown, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 288 A.2d 666, 672 (D.C. 1972) (Chief J., Hood concurring).

28. In this case, the Applicant has adequately demonstrated the qualifications of the owners for licensure where one of the owners has business experience, is licensed as a special police officer and ABC Manager, and another is involved in a business that provides security. Moreover, to the extent the Protestants attempted to demonstrate bad character, such evidence was not adequate to prove bad character, was not relevant, or otherwise sufficiently severe to merit prohibiting the Applicant from holding a license. Indeed, nothing presented by the Protestants demonstrate a propensity for violence, an unwillingness to comply with the law, or repeated severe liquor law violations, such as repeat underage drinking related violations. Finally, even if the Applicant did engage or participate in a violation of the District's alcohol laws prior to the hearing, the mere commission of a violation is not sufficient to merit the denial of the license. *Proposed Findings*, at 33. Instead, the Board must weigh the severity, egregiousness, and repetitiveness of the violation, which in this case, the Board does not view as sufficient to merit denial. Therefore, the Applicant satisfies D.C. Official Code § 25-301(a)(1).

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

29. 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 31st day of August 2022, hereby **APPROVES** the Application for a New Retailer's Class DN License at premises 7307 Georgia Avenue, N.W., filed by Premier Lounge with the following **CONDITIONS**:

1. Premier Lounge shall not charge a cover charge;
2. Premier Lounge shall only provide entertainment in the interior of the establishment;

3. Premier Lounge shall not provide entertainment on the sidewalk café;
4. Premier Lounge shall cease the operation of its sidewalk café at midnight; and
5. Premier Lounge shall not operate past 1:00 a.m. during the week, Sunday through Thursday, and 2:00 a.m. on Friday and Saturday.

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 SeamlessDoc.com
Donovan Anderson
Key: 2542302110418048270001811238

Donovan Anderson, Chairperson

eSigned via SeamlessDoc.com
Bobby Cato
Key: 2561910110418048270001811238

Bobby Cato, Member

eSigned via SeamlessDoc.com
Rafi Alyn Crockett, Member
Key: 256001840170401015000120801

Rafi Crockett, Member

eSigned via SeamlessDoc.com
Edward Grandis, Member
Key: 262700110418048270001811238

Edward S. Grandis, Member

I abstain from the determination made by the majority in this case.

eSigned via SeamlessDoc.com
James Short
Key: 26700110418048270001811238

James Short, Member

I dissent from the determination made by the majority of the Board and would vote to deny the Application.

eSigned via SeamlessDoc.com
Jeni Hansen, Member
Key: 262700110418048270001811238

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).