

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

In the Matter of:)		
)		
MDM, LLC)	Case No.:	14-PRO-00050
t/a Takoma Station Tavern)	License No:	079370
)	Order No:	2015-020
)		
Application for a Substantial Change to Retailer's Class CT License)		
)		
at premises)		
6914 4th Street, N.W.)		
Washington, D.C. 20012)		

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Mike Silverstein, Member
Hector Rodriguez, Member

ALSO PRESENT: MDM, LLC, t/a Takoma Station Tavern, Applicant

Craig Butler, Counsel, on behalf of the Applicant

Susan Butler, President, Takoma Triangle Community Association
(TTCA), Protestant

Advisory Neighborhood Commission (ANC) 4B, Protestant

Martha Jenkins, General Counsel
Alcoholic Beverage Regulation Administration

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

INTRODUCTION

The Alcoholic Beverage Control Board (Board) hereby approves the Application for a Substantial Change to a Retailer's Class CT License filed by MDM, LLC, t/a Takoma Station

Tavern, (hereinafter “Applicant” or “Takoma Station”) on the condition that the establishment cease operating its summer garden at 11:00 a.m., Sunday through Thursday, and midnight on Friday and Saturday.

Procedural Background

The Notice of Public Hearing advertising Takoma Station Tavern Application was posted on May 23, 2014, and informed the public that objections to the Application could be filed on or before July 7, 2014. *ABRA Protest File No. 14-PRO-00050*, Notice of Public Hearing [*Notice of Public Hearing*]. The Alcoholic Beverage Regulation Administration (ABRA) received protest letters from Advisory Neighborhood Commission (ANC) 4B and the Takoma Triangle Community Association (TTCA). *ABRA Protest File No. 14-PRO-00050*, Roll Call Hearing Results.

The parties came before the Board’s Agent for a Roll Call Hearing on July 21, 2014, where all of the above-mentioned objectors were granted standing to protest the Application. On September 10, 2014, the parties came before the Board for a Protest Status Hearing. Finally, the Protest Hearing in this matter occurred on October 29, 2014.

The Board recognizes that an ANC’s properly adopted written recommendations are entitled to great weight from the Board. *See Foggy Bottom Ass’n v. District of Columbia Alcoholic Beverage Control Bd.*, 445 A.2d 643, 646 (D.C. 1982); D.C. Code §§ 1-309.10(d); 25-609 (West Supp. 2014). 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 4B. 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; vehicular and pedestrian safety; and real property values of the area located within 1,200 feet of the establishment. D.C. Official Code § 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2014).

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. Takoma Station Tavern has submitted an Application for a Substantial Change to a Retailer’s Class CT License at 6914 4th Street, N.W. Washington, D.C. *Notice of Public Hearing*. Takoma Station has proposed to add a summer garden to the establishment. *Transcript (Tr.)*, October 29, 2014 at 25-26.

2. ABRA Investigator Erin Mathieson investigated the Application and prepared the Protest Report submitted to the Board. *ABRA Protest File No. 14-PRO-00050, Protest Report* (Oct. 2014) [*Protest Report*].
3. The proposed establishment is located in a C-2-A zone. *Protest Report*, at 5. Three 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 6.
4. According to the public notice, Takoma Station Tavern's proposed hours of operation and hours of sale, service, and consumption for the summer garden 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. *Notice of Public Hearing*.
5. The proposed summer garden has a seated occupancy of twenty-five people and a total occupancy load of seventy-five people. *Id.* at 26.
6. ABRA Investigators monitored the establishment on sixteen different occasions. *Id.* at 33. Takoma Station is currently operating, but the summer garden had not been built at the time of the investigation. *Id.* Investigator Mathieson observed that the exterior portion of the establishment is clean and free of litter. *Id.* During her visits to the establishment, she did not observe any antisocial behavior or violations of Title 25 of the D.C. Official Code. *Id.* at 33-34. She also did not observe any threats to pedestrians. *Protest Report*, at 9.
7. Investigator Mathieson found that parking in the area is limited. *Tr.*, 10/29/14 at 35. There is metered parking outside the establishment. *Id.* at 35. In addition, the surrounding streets have various parking restrictions. *Id.*
8. The neighborhood has various public transportation resources available. *Protest Report*, at 8. First, there is Metrobus service directly across the street from the establishment. *Id.* Second, the Takoma Park Metro Station is located approximately 449 feet from the establishment. *Id.*
9. Investigator Mathieson described the character of the neighborhood. *Tr.*, 10/29/14 at 37. Based on her observations, the neighborhood appeared more residential in character than commercial. *Id.* at 40. She noted that the commercial establishments in the area are mostly retail that serve the surrounding neighborhood. *Id.*
10. The building where the establishment is located does not suffer from blight. *Protest Report*, at Exhibit Nos. 15, 21-25.

II. Gayll Worsley

11. Gayll Worsley serves as Takoma Station's architect and prepared the summer garden drawings for review by the Historic Preservation Review Board (HPRB). *Tr.*, 10/29/14 at 56-57.

12. Takoma Station has not received all required government approvals to build the summer garden at this time. *Id.* at 72. Ms. Worsley admitted that the plans are subject to change based on the review of various government agencies. *Id.* at 72, 74-75, 108-09.

13. As currently planned, the summer garden will have an enclosed and unenclosed portion. *Id.* at 59. The summer garden will be located approximately fifty feet away from the street. *Id.* at 60. The enclosed portion of the summer garden will have a roll-up door that will allow the establishment to create an indoor environment. *Id.* at 62. The occupancy of the rooftop will be seventy five people. *Id.* at 64, 67, 106. It will be located on the establishment's second floor. *Id.* at 77, 92. The residents of the Watkins Condominium building located in the building's mid-floors will be able to see the summer garden from their homes without interference. *Id.* at 78.

14. The HPRB has opposed the use of permanent structures to mitigate noise. *Id.* at 59. Instead, the HPRB has suggested the use of moveable planters on the patio as a means to mitigate sound when the roof is open. *Id.* at 59, 111. Nevertheless, she admitted that this is "not much of a barrier." *Id.* at 111-12.

15. As of the date of the protest, Takoma Station has not sought the services of a certified sound engineer to advise on soundproofing measures. *Id.* at 71-72. Ms. Worsley could not provide the Board with a quantitative measure of the efficacy of the soundproofing installed in the proposed summer garden. *Id.* at 100. Ms. Worsley believed that the majority of the noise generated by the summer garden will emanate from the area where the garage doors are located. *Id.* at 104.

III. Melvin Floreza

16. Melvin Floreza is a co-owner of Takoma Station. *Id.* at 116. He has owned the business for the past twenty-four years. *Id.* Currently, Takoma Station has an occupancy load of 150 people. *Id.* at 127.

17. Mr. Floreza described how the establishment intends to operate the summer garden. *Id.* at 117. First, the establishment will post security in the summer garden area. *Id.* at 116-17; *see also id.* at 193. Second, in accordance with the establishment's current practice, Takoma Station will regularly use a sound measuring application to monitor sound levels outside the establishment. *Id.* Third, Takoma intends to block access to its sound equipment. *Id.* at 118, 128. Fourth, the establishment will not have live music or disc jockeys in the summer garden area; instead, the establishment only intends to play background music and provide television. *Id.* at 119. Mr. Floreza admitted that on one occasion the establishment generated a sound level of sixty five decibels when a live band was playing. *Id.* at 131.

18. Mr. Floreza also discussed the Takoma Station's parking arrangements. *Id.* at 120. Currently, the establishment has a deal with a nearby liquor store to use their parking lot. *Id.* at 120.

IV. David Boyd

19. David Boyd is a co-owner of Takoma Station. *Id.* at 135. He has worked at the establishment since 1985 and owned the establishment since 1989. *Id.* The establishment's business model relies on providing entertainment and food. *Id.* at 187.

20. The establishment filed the Application in order to remain competitive with newer establishments. *Id.* at 135-36. Mr. Boyd indicated that the establishment intends to have the roll up door open in the summer garden area until 1:00 a.m. or 2:00 a.m. *Id.* at 176-77. He also intends to have a security member maintain a clicker to ensure that the establishment complies with its occupancy limits. *Id.* at 193-94.

V. Ricardo Toye

21. Ricardo Toye resides in the Shepard Park neighborhood, approximately ten blocks away from the establishment. *Id.* at 203, 207. Mr. Toye works in the real estate industry. *Id.* at 203-04. He does not believe that the establishment will have a negative impact on property values. *Id.* at 205.

VI. Linda Gray

22. Linda Gray owns property in the same community that Takoma Station is located. *Id.* at 208. Ms. Gray supports the Application. *Id.* at 210.

VII. Linda Harper

23. Linda Harper resides on 9th Street, N.W. and supports the Application. *Id.* at 215-16. She admitted that she does not live close to establishment. *Id.* at 221-23.

VIII. Phil Hammond

24. Phil Hammond resides in the neighborhood and supports the Application. *Id.* at 244-45.

IX. Susan Butler

25. Susan Butler has lived in the neighborhood for twenty-seven years. *Id.* at 263. She noted that the first floor of the Watkins Condominium rests at the same level as the proposed summer garden. *Id.* at 264. She noted that the establishment's proposed outdoor seating area will be approximately forty five feet from residents living at the Watkins Condominium. *Id.* at 279, 304.

X. Elaine Chamboos

26. Elaine Chamboos is a resident of the neighborhood and opposes the Application. *Id.* at 230. She has found that patrons going to and from the establishment cause noise in the neighborhood. *Id.* at 232-33. She noted that she is not currently disturbed by Takoma Station's amplified music. *Id.* at 234.

XI. Greg McElhatton

27. Greg McElhatton has lived at the Cedar Crossing Condominium building located at 343 Cedar Street, N.W., since 2011 *Id.* at 331-32. Mr. McElhatton can see Takoma Station's entrance from his living room and bedroom. *Id.* at 332.

28. Mr. McElhatton has observed that music regularly emanates from the establishment, and that the music emanating from the establishment can regularly be heard inside his home. *Id.* at 332, 347. He noted that the noise generated by the establishment generally consists of bass sounds. *Id.* Furthermore, the noise usually occurs around 1:00 a.m. or 2:00 a.m. *Id.* at 333. Indeed, on the Saturday before the Protest Hearing, he heard the establishment's music emanate into his home around 2:15 a.m. *Id.* at 334.

XII. Settlement Agreements

29. ANC 4B has entered into a settlement agreement with Takoma Station. *Id.* at 26. The settlement agreement will end the operations of the summer garden at 1:00 a.m. during the week and 2:00 a.m. during the weekend. *In re MDM, LLC, t/a Takoma Station Tavern*, Case No. 14-PRO-00050, Board Order No. 2014-323, § 3 (D.C.A.B.C.B. Sept. 10, 2014).

30. Since 1998, Takoma Station has also been subject to a settlement agreement with the Watkins Community Association. *In re Sweets & Bitters, Inc., t/a Takoma Station Tavern*, App No. 22904-97108P, 1-2 (D.C.A.B.C.B. Apr. 29, 1998). The agreement requires the establishment to comply with the District of Columbia's noise laws. *Id.* at § 1.

CONCLUSIONS OF LAW

31. The Board may approve an Application for a Substantial Change to a Retailer's Class CT License when the proposed change will not have an adverse impact on the neighborhood. D.C. Official Code §§ 25-104, 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2014). Specifically, the question in this matter is whether the Application will have a negative impact on the peace, order, and quiet; residential parking; vehicular and pedestrian safety; and real property values of the area located within 1,200 feet of the establishment. D.C. Official Code § 25-313(b); 23 DCMR §§ 1607.2; 1607.7(b) (West Supp. 2014).

I. THE ADDITION OF A SUMMER GARDEN IS APPROPRIATE FOR THE NEIGHBORHOOD SO LONG AS THE OUTDOOR SUMMER GARDEN'S HOURS ARE LIMITED TO 11:00 P.M. DURING THE WEEK AND MIDNIGHT DURING THE WEEKEND.

32. The Board finds that the proximity of the establishment to residents and the lack of sufficient soundproofing renders the Application inappropriate unless the summer garden's hours are limited to 11:00 p.m. during the week and midnight during the weekend.

33. 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. Official 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. 2014).

34. The appropriateness test has never been limited to mere compliance with the law. *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.”). It has been said, that each location where an establishment is located is “unique,” which requires the Board to evaluate each establishment “. . . according to the particular circumstances involved.” *Le Jimmy, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 433 A.2d 1090, 1093 (D.C. 1981). Under this test, the Board must consider the “prospective” effect of the establishment on the neighborhood.” *Id.* Among other considerations, this may include the Applicant’s efforts to mitigate or alleviate operational concerns,¹ the “character of the neighborhood,”² the character of the establishment,³ and the license holder’s future plans.⁴ Thus, the appropriate test seeks to determine whether the applicant’s future operations will satisfy the reasonable expectations of residents to be free from disturbances and other nuisances. 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).

a. The Board finds that the granting of full hours would disturb the peace, order, and quiet of residents living at the Watkins Condominium.

35. The limitation on the request imposed by the Board in this case is necessary in order to protect the residents of the Watkins Condominium from noise.

36. “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. Official Code § 25-313(b)(2); *see also* D.C. Official 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. 2014).

¹ *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).

² *Citizens Ass’n of Georgetown, Inc. v. D.C. Alcoholic Beverage Control Bd.*, 410 A.2d 197, 200 (D.C. 1979).

³ *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, 801 (D.C. 1970).

⁴ *Sophia’s Inc.*, 268 A.2d at 800.

37. The Board has addressed the issue of residents living near outdoor seating areas in a number of prior cases. In *Duffy's Irish Restaurant*, the Board limited the hours of the sidewalk café to 11:00 p.m. during the week and midnight during the weekend based on the presence of residences near the establishment's outdoor seating area. *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). Indeed, in *Ben's Chili Bowl*, the Board enacted the same condition due to a resident being located within 65 feet of the applicant's proposed sidewalk café. *In re 1001 H Street, LLC, t/a Ben's Chili Bowl/Ben's Upstairs*, Case No. 13-PRO-00133, Board Order No. 2014-071, ¶ 46 (D.C.A.B.C.B. Mar. 12, 2014); *see also 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."). In this case, the Watkins Condominium is located forty-five feet away from the establishment and there is no evidence that there are any physical features that provide soundproofing between the two premises. *Supra*, at ¶ 25. Consequently, the Board is persuaded that the precedent set in *Duffy's* and *Ben's Chili Bowl* should apply to this matter as well.

b. Takoma Station has not demonstrated that it has sufficient sound proofing measures to control the emission of noise from the establishment.

38. In this case, the Board deems Takoma Station's efforts to soundproof the roof deck and the establishment insufficient.

39. Under the appropriateness test, the Board may consider an applicant's efforts to mitigate or alleviate operational concerns. *Donnelly v. District of Columbia Alcoholic Beverage Control Board*, 452 A.2d 364, 369 (D.C. 1982); *Upper Georgia Ave. Planning Comm. v. Alcoholic Beverage Control Bd.*, 500 A.2d 987, 992 (D.C. 1985). Thus, the Board is entitled to consider an establishment's efforts to mitigate noise and soundproof the establishment when considering appropriateness.

40. In this case, Takoma Station has proposed to build a roof deck that will be unenclosed when in use. *Supra*, at ¶ 13. Further, the establishment has proposed using planters as a method of sound control. *Supra*, at ¶ 14. In *Romeo & Juliet* and *Ben's Chili Bowl*, the Board found that the use of plants to mitigate noise from an outdoor seating area was not sufficient to prevent noise leakage. *In re 301 Romeo, LLC t/a Romeo & Juliet*, Case Number 13-PRO099136, Board Order No. 2014-045, ¶ 46 (D.C.A.B.C.B. Jan. 29, 2014); *In re 1001 H Street, LLC*, Board Order No. 2014-071 at ¶ 47. Here, Takoma Station has not demonstrated to the satisfaction of the Board that its proposed planters are sufficient to protect nearby residents from noise; therefore, this soundproofing measure is not sufficient to justify the granting of full hours.

41. The record further shows that Takoma Station's current efforts to control noise are not sufficient. The Board credits Mr. McElhatton's testimony that the establishment regularly generates amplified music that may be heard late at night in home located in the Cedar Crossing Condominium. *Supra*, at ¶¶ 27-28. Based on this evidence, the Board is not persuaded that Takoma Station has taken sufficient steps in the past to prevent noise from leaking from the

establishment.⁵ Therefore, the Board is not persuaded that Takoma Station has taken sufficient steps to soundproof the roof deck or guarantee that it will operate the roof deck in a manner that will not disturb nearby residents when they are trying to sleep.

c. Takoma Station satisfies § 25-313(b)(3).

42. The Board finds that the Application will not have a negative impact on residential parking needs or vehicular and pedestrian safety. “In determining the appropriateness of an establishment, the Board shall. . . [t]he effect of the establishment upon residential parking needs and vehicular and pedestrian safety . . .” D.C. Official Code § 25-313(b)(3); *see also* D.C. Official 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. 2014). Here, the record shows that Takoma Station provides parking for its customers. *Supra*, at ¶ 18. Furthermore, the Protestants have not rebutted Takoma Station’s showing of appropriateness by demonstrating that there is a lack of residential parking or that the proposed summer garden threatens the safety of pedestrians and vehicles. Therefore, the Applicant’s request satisfies § 25-313(b)(3).

d. Takoma Station satisfies § 25-313(b)(1).

43. The Board finds that the Application will not have a negative impact on real property values. 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. Official 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). Here, there is no evidence in the record that the property is blighted. Furthermore, the Protestants have not independently shown that the addition of outdoor seating will have a negative impact on the property values. Therefore, the Applicant’s request satisfies § 25-313(b)(1).

II. THE BOARD RESTRICTS THE HOURS OF THE SUMMER GARDEN IN ORDER TO RESOLVE THE NOISE CONCERNS RAISED BY THE PROTESTANTS.

44. In light of the Board’s findings regarding appropriateness, the Board finds it necessary to restrict the hours of the proposed summer garden. *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

⁵ Takoma Station should be advised that during prior renewal proceedings the Board has ordered other establishments to cease playing amplified music in a manner that may be heard in nearby residences. *See e.g., In re Inner Circle 1223, LLC, t/a Dirty Martini Inn Bar/Dirty Bar*, Case No. 13-PRO-00172, Board Order No. 2014-507, 2 (D.C.A.B.C.B.-Dec. 10, 2014).

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. Official Code § 25-104(e). The Board is also empowered to reduce the hours of the Application under D.C. Official Code § 25-724.

45. In this case, based on the proximity of the establishment to residents and the inadequacy of Takoma Station’s sound proofing measures, the Board limits the hours of the summer garden to 11:00 a.m., Sunday through Thursday, and midnight on Friday and Saturday. *Supra*, at ¶¶ 32-41. The Board is not persuaded that the establishment merits further use of the enclosed portion of summer garden based on evidence that the establishment has failed to control the emanation of amplified music from the establishment on a regular basis. *Supra*, at ¶ 28. Nevertheless, the Board finds that operating until 11:00 a.m. during the week and midnight during the weekend is not unduly burdensome on nearby residents. Therefore, the Board is not inclined to deny the entire proposal.

III. THE BOARD HAS SATISFIED THE GREAT WEIGHT REQUIREMENT BY ADDRESSING ANC 4B’S ISSUES AND CONCERNS.

46. ANC 4B’s written recommendation submitted in accordance with D.C. Official Code § 25-609(a) indicated that its protest was based on concerns regarding Takoma Station Tavern’s impact on peace, order, and quiet. *Advisory Neighborhood Commission 4B, Resolution #14-0603* (Jun. 23, 2014). The Board notes that it specifically addressed these concerns in Paragraphs 32 through 41 of this Order.

IV. THE APPLICATION SATISFIES ALL REMAINING REQUIREMENTS IMPOSED BY TITLE 25.

47. 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. 2014). 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

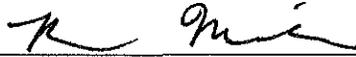
Therefore, the Board, on this 21st day of January 2015, hereby **APPROVES** the Application for a Substantial Change to a Retailer’s Class CT License at premises 6914 4th Street, N.W., filed by MDM, LLC, t/a Takoma Station Tavern subject to the following condition:

- a. The hours of operation of the establishment’s summer garden shall end at 11:00 p.m., Sunday through Thursday, and midnight 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 Applicant, ANC 4B, and the TTCA.

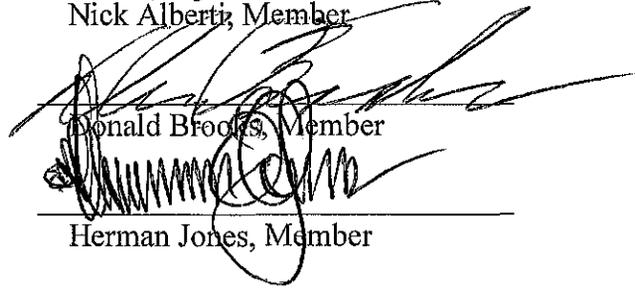
District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



Nick Alberti, Member

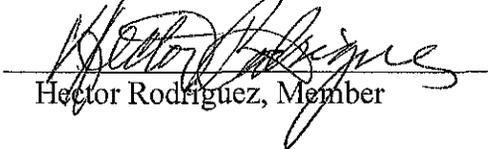


Donald Brooks, Member



Herman Jones, Member

Mike Silverstein, Member



Hector Rodriguez, Member

Pursuant to 23 DCMR § 1719.1, 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. Official Code § 2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). 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).