

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

In the Matter of:)	
)	
19th & K, Inc.)	
t/a Ozio Martini & Cigar Lounge)	
)	
Holder of a)	License No. ABRA-023167
Retailer's Class CN License)	Order No. 2011-346
)	
at premises)	
1813 M Street, N.W.)	
Washington, D.C. 20006)	

19th & K, Inc., t/a Ozio Martini & Cigar Lounge (Licensee)

Will Stephens, Chairperson, Advisory Neighborhood Commission (ANC) 2B

Anne Kappel, Vice President, Jefferson Row Condominium Association

BEFORE: Nick Alberti, Interim Chairperson
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ORDER ON VOLUNTARY AGREEMENT

The official records of the Alcoholic Beverage Control Board (Board) reflect that 19th & K, Inc., t/a Ozio Martini & Cigar Lounge (Licensee), ANC 2B, and Jefferson Row Condominium Association entered into a Voluntary Agreement (Agreement), dated July 11, 2011, that govern the operation of the Applicant's establishment.

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant; Chairperson Will Stephens, on behalf of ANC 2B; and Anne Kappel, on behalf of Jefferson Row Condominium Association, are signatories to the Agreement. The Agreement, dated July 11, 2011, replaces previous Voluntary Agreements between the parties.

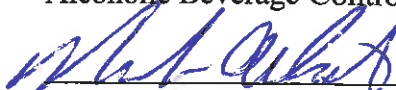
19th & K, Inc.
t/a Ozio Martini & Cigar Lounge
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Accordingly, it is this 27th day of July 2011, **ORDERED** that:

1. The above-referenced Voluntary Agreement submitted by the Applicant, ANC 2B, and Jefferson Row Condominium Association to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order; and
2. Copies of this Order shall be sent to the Applicant, ANC 2B, and Anne Kappel, on behalf of Jefferson Row Condominium Association.

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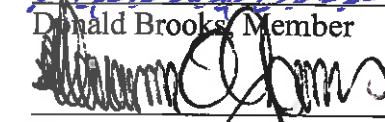
District of Columbia
Alcoholic Beverage Control Board



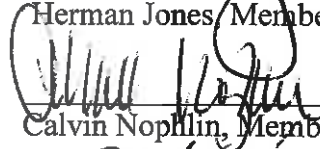
Nick Alberti, Interim Chairperson



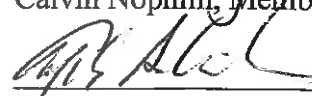
Donald Brooks, Member



Herman Jones, Member



Calvin Nopplin, Member



Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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, 1250 U Street, N.W., Third Floor, Washington, DC 20009.

VOLUNTARY AGREEMENT

This Voluntary Agreement made this 11th day of July, 2011 by and among 19th & K, Inc., t/a Ozio Martini & Cigar Lounge (Applicant) and Advisory Neighborhood Commission 2B (ANC 2B) and Anne Kappel, designated representative of a group of seven residents of the Jefferson Row Condominium, 1830 Jefferson Place, N.W. (collectively Protestants).

RECITALS

WHEREAS, Applicant is the holder of retailer's license ABRA-023167 Class CN for premises located at 1813 M Street, NW; and

WHEREAS, Applicant has constructed a new summer garden space on its third floor level, with said space having an operable skylight roof, and with said space useable year round during all hours that the establishment is open for business; and,

WHEREAS, the new summer garden space will increase the current occupancy load of the establishment by 110 persons; and,

WHEREAS, ANC 2B and certain residents of the Jefferson Row Condominium have protested Applicant's request for a summer garden endorsement to its license for use of its third floor level with an occupancy load of 110 persons; and,

WHEREAS, the parties have agreed to enter into this superseding voluntary agreement, pursuant to DC Code Section 25-446, to resolve the issues raised by Protestants' objections, after a monitoring period under the predecessor voluntary agreement, and to request that the Alcoholic Beverage Control (ABC) Board approve Applicant's request for a summer garden endorsement and increase in occupancy conditioned on Applicant's compliance with the terms of this written agreement.

NOW, THEREFORE, in consideration of the recitals set forth above and the mutual covenants and conditions set forth below, the parties agree as follows:

1. Recitals Incorporated. The recitals set forth above are incorporated herein by reference.
2. The third floor level summer garden space with an operable skylight roof shall have hours of operation consistent with the hours permitted under the ABC license.
3. The occupancy on the third floor level summer garden shall not exceed 110 persons.
4. Applicant acknowledges familiarity with the District of Columbia Noise Control Act of 1977 (Noise Control Act), as amended, and the noise control provisions of District of Columbia laws and regulations, in general, including but not limited to DC Code Section 25-725, and agrees to comply with such provisions as required by law.

5. Applicant shall take appropriate action to control noise levels emanating from the third floor level summer garden so as not to disturb residents in their dwellings. Such action may include, but is not limited to, regulating the sound system and the skylight roof, as necessary.

6. Applicant shall regulate the audio system sound levels, including use of the audio system by contracted musicians, disc jockeys and other vendors, so that it is consistent with the provisions of paragraphs 4 and 5.

7. Protestants and residents of the Jefferson Row Condominium agree to notify Applicant directly by telephone in the event that noise emanating from the summer garden space is heard within their dwellings and is disturbing to the enjoyment of their property. Applicant shall provide Protestants, and other residents of the Jefferson Row Condominium requesting the same information, with a written list of telephone numbers and email addresses of its officers and managerial employees to contact with any complaint, and to update same when staffing changes occur. Applicant agrees to take appropriate action not more than one hour after receiving a complaint by telephone, to reduce the disturbing noise levels.

8. Applicant shall maintain a record of any and all complaints received directly from residents of the Jefferson Row Condominium regarding noise from the summer garden space and actions taken to address such complaints. Applicant shall provide Protestants with copies of such records within seven (7) days of Protestants' request for them.

9. The compliance agreed to hereby is primarily directed at sounds emitted by Applicant's music and entertainment through its audio system control on the third floor summer garden; however, it also includes unreasonable noise attributable to persons' continuing conduct or otherwise emitted from the operation of the third floor summer garden space that is disruptive to residents in their dwellings.

10. **Withdrawal of protest.** Protestants hereby agree to withdraw their protests and join with Applicant in requesting that the ABC Board accept this Agreement as a condition of approval of the summer garden endorsement and increase in occupancy. The withdrawal of Protestants' request is contingent upon the text of this Voluntary Agreement being incorporated in an Order of the Board granting Applicant's summer garden endorsement application and increase in occupancy.


11. **Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all, when taken together, constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature and may be appended to any other counterpart.

12. **Authority.** Representatives executing this Agreement on behalf of the respective parties do hereby affirm that they have the authority to do so.

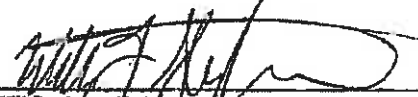
13. **Termination and Replacement of Prior Agreement.** The parties hereby terminate and rescind the Voluntary Agreement adopted by ABC Board Order dated November 17, 2010 subject to the Board's acceptance and issuance of an Order adopting this superseding Voluntary Agreement.

In witness whereof, the parties have executed this Voluntary Agreement as of the day and date first above written.


Applicant: 19th & K, Inc.

By: 
George Christacos, President

Protestants: Advisory Neighborhood Commission 2B

By:  7/11/11
Will Stephens, Chairman

Group of Seven Residents on behalf of Jefferson Row Condominium Association

By:  7/11/11
Anne Kappel, Vice President, Jefferson Row Condominium Association, and Designated Representative of the Group of Seven Residents of the Jefferson Row Condominium Association