



STATE OF DELAWARE  
**OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER**  
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**CONFORMING ORDER**

WHEREAS, a hearing on a protested application for the above-captioned licensed entity was held on November 18, 2014 (“Hearing”) before former Alcoholic Beverage Control Commissioner John Cordrey; and

WHEREAS, a court reporter attended the Hearing and produced a transcript of the Hearing; and

WHEREAS, the former Commissioner issued a written Decision and Order regarding the application after the Hearing (“Decision”); and

WHEREAS, as a result of the Hearing, the licensee possesses a valid license for a restaurant with Sunday sales, a patio and a patio variance for external speakers; and

WHEREAS, members of the public requested a copy of the Decision; and

WHEREAS, the current Commissioner has engaged in a reasonable and diligent search to locate the Decision, including conducting a thorough search of the Office of the Alcoholic Beverage Control Commissioner files and records; and

WHEREAS, a copy of the written Decision cannot be located; and

WHEREAS, there is a need to reissue the Decision; and

WHEREAS, it is the intent of this Office to issue this Order that conforms to the record and transcript of the Hearing; and

WHEREAS, the transcript provides, in relevant part, that:

1. At the time of the Hearing, the licensee held a valid restaurant license that included Sunday sales.
2. On November 18, 2014, this Office conducted the Hearing to consider the licensee’s application for a patio, and a request for speakers on the patio, located behind the restaurant.
3. The licensee testified that the proposed patio would permit patrons waiting to be seated at a table, or desiring to smoke a cigarette while enjoying an alcoholic beverage, to sit outside.
4. The licensee testified that the request for a patio was not to be able to serve meals outside.

5. The licensee also testified that its request for a variance for outside speakers on the patio would permit the licensee to play soft background music for patrons using speakers that would be the size of a pad of paper.
6. The licensee testified that the speakers could also be used to page patrons when their tables were ready inside.
7. The licensee also testified that his business was closing every night at 10:00 p.m. or may be closing at 9:30 p.m.
8. Witnesses testified that they were not opposed to the patio, but were opposed to the speakers and that the sound would travel to their properties and disturb their quiet enjoyment.
9. The licensee testified the speakers would be installed on the wall of the building, facing the floor. The licensee also testified he would be willing to agree to a minimum noise level for the speakers, and if neighbors concluded the speakers were a nuisance, the licensee would be willing to take them down.
10. After listening to the witnesses and considering the exhibits and the record in its entirety, it was and remains the decision of this Office that the application met the requirements of the statute and regulations to add the patio, and for the variance request to add speakers on the licensed patio so long as the speakers were turned off by 9:30 p.m.
11. The hearing adjourned at 7:15 p.m.

NOW THEREFORE, ON THIS 6 DAY OF May, 2022, in conformance with the record and Hearing transcript in this matter, IT IS SO ORDERED that:

1. Licensee's application for a patio is granted.
2. Licensee's request for variance for speakers on the licensed patio is granted, with the condition that the speakers be turned off by 9:30 p.m.



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The Honorable Jacqueline Paradee Mette, Esq.  
Commissioner