

**DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

**ANYADO GROUP, LLC t/a XO
RESTAURANT & LOUNGE,**

Petitioner,

v.

Appeal No.

**DISTRICT OF COLUMBIA DEPARTMENT
OF CONSUMER & REGULATORY AFFAIRS (“DCRA”),**

Respondent.

NOTICE OF APPEAL OF NOTICE TO REVOKE CERTIFICATES OF OCCUPANCY

COMES NOW, Anyado Group, LLC t/a XO Restaurant & Lounge (“XO”), and appeals from DCRA’s Notice to Revoke Certificate of Occupancy numbers C01502260 and C01601296 issued to XO on or around December 17, 2015 and February 11, 2016. *See Exhibit 1.*¹

Under the District of Columbia Code and the District of Columbia Municipal Regulations, XO appeals the Notice of Revocation as a matter of right. On or around December 17, 2015 and February 11, 2016, certificates of occupancy had been issued to XO with an occupancy description “Bar/Cocktail Lounge Occupant Load 48” and Bar/Cocktail Lounge Occupant Load 45”. On February 21, 2016, DCRA set forth a notice stating that the license would be revoked unless XO appealed its decision.

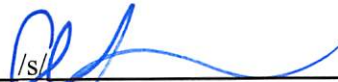
The Notice to Revoke was made in error, was made without proper investigation, was made without proper notice, was made outside of the authority vested with the Department of Consumer and Regulatory Affairs, was set forth under inapplicable law, violates the law and/or regulations of the District of Columbia, and/or is not supported by good cause and for evidence

¹ Petitioner has set forth a separate appeal to the Office of Administrative Hearings to appeal the notice of revocation the basic business license issued to XO. Should this Board seek to hear all related appeals, this Notice of Appeal should be considered notice of appeal of the notice to revoke the basic business license and certificates of occupancy issued to XO. *See Exhibit 2.*

of knowledge and as required under D.C. Code Section 47-2844. Further, the Notice to Revoke does not set forth proper grounds for revocation of the certificates of occupancy. Additionally, no violation of the terms and conditions of those certificates were set forth. Under the District of Columbia Code and the District of Columbia Municipal Regulations, this Notice of Appeal stays revocation of the license pending hearing on the appeal.

XO respectfully requests that the Board reverse the Notice to Revoke as no proper grounds for the license revocation were found or stated in the Notice, as required under the law and regulations of the District. Should the Board not reverse, XO respectfully requests a hearing, an opportunity to conduct discovery on the grounds relied upon, and all rights afforded through this appeal.

Respectfully Submitted,



/s/ Scott H. Rome, Esq. [476677]
Sidon Yohannes, Esq. [1015296]
Christopher L. LaFon, Esq. [483740]
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Attorneys for Petitioner

CERTIFICATE OF SERVICE

I, Christopher LaFon, on March 7, 2018, cause the following Notice of Appeal to be served by hand on the Board of Zoning Adjustment, at 441 4th Street, NW, Suite 200S, Washington, DC 20001. Further, I caused a copy of same to be sent via electronic mail to Jennifer Barbour, Assistant General Counsel of Office of General Counsel of the Department of Consumer and Regulatory Affairs and sent via first-class mail to Charles Thomas, General Counsel of the Department of Consumer and Regulatory Affairs.



Christopher LaFon

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Consumer and Regulatory Affairs
Business and Professional Licensing Administration
1100 4th Street, S.W.,
Washington, D.C. 20024



February 21, 2018

VIA U.S. CERTIFIED MAIL AND
PERSONAL DELIVERY - 4 Total Pages

TO:

Victor Mbanefo, Registered Agent
Anyado Group LLC t/a XO Restaurant & Lounge
1026 Monroe Street, N.E.
Washington, D.C. 20017

and

Anyado Group LLC t/a XO Restaurant & Lounge
1426 L Street, N.W.
Washington, D.C.

RE: Basic Business License Number 931316000083
Certificate of Occupancy Numbers
CO1502260 issued 12/17/2015 and CO1601296 issued 2/11/2016

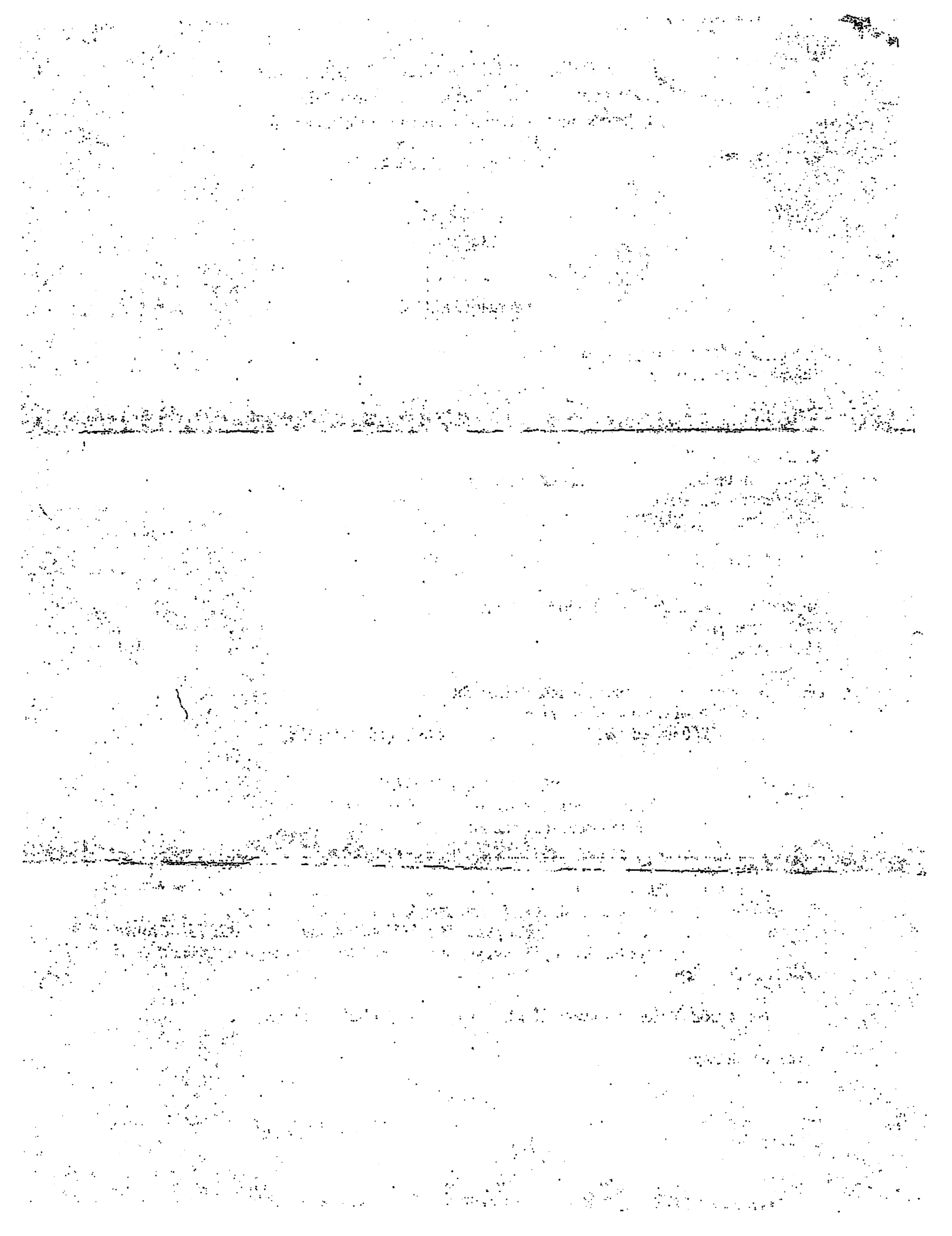
NOTICE TO REVOKE

Basic Business License Number 931316000083 and
Certificate of Occupancy Numbers CO1502260 and CO1601296

This is Official Notice from the Department of Consumer and Regulatory Affairs ("DCRA/District") that Basic Business License No. 931316000083 is revoked effective 10 calendar days and Certificate of Occupancy numbers CO1502260 and CO1601296 is revoked effective 10 business days (excluding Saturdays, Sundays and legal holidays) from the date of service of this notice.

This action is taken pursuant to D.C. Official Code § 47-2844 *et seq.*,

(a) which states:



“The Council of the District of Columbia and Mayor are further authorized and empowered to make any regulations that may be necessary in furtherance of the purpose of this chapter and the Mayor is further authorized and empowered to suspend or revoke any license issued hereunder when, in the Mayor’s judgment, such is deemed desirable in the interest of public decency or the protection of lives, limbs, health, comfort, and quiet of the citizens of the District of Columbia, or for any other reason the Mayor may deem sufficient;”

“(a-1)(1) which states:

“In accordance with § 2-509, the Mayor shall revoke the license of any licensee who knowingly has permitted on the licensed premises:

(A) The illegal sale, negotiation for sale, or use of any controlled substance as that term is defined in Chapter 9 of Title 48, or the Controlled Substances Act of 1970, approved October 27, 1970 (84 Stat. 1243; 21 U.S.C. § 801 et seq.);

(B) The possession, sale, or negotiation for sale of drug paraphernalia in violation of Chapter 11 of Title 48;

(C) An act of prostitution as defined in [§ 22-2701.01(1)], or any act that violates any provision of [§§ 22-2701 through 22-2712 and 22-2718 through 22-2723];”

and

12A D.C. Municipal Regulations §110.5 *et seq.*, §110.5.1 which states:

“Different Occupancy. “Any certificate of occupancy previously issued or issued pursuant to Section 110 shall be revoked by the code official, after notice to the certificate holder, if the actual occupancy does not conform with that which was permitted.”

This Notice is issued pursuant to Title 24, District of Columbia Municipal Regulations (DCMR) § 600.3 “Any license issued under this chapter may be suspended or revoked by the Director for failure of the licensee to comply with the laws or regulations applicable to the licensed business under this chapter” and pursuant to 12 DCMR 110.5.6 *et seq.* “Service of Notice to Revoke a Certificate of Occupancy. The code official shall effect service of a notice to revoke a certificate of occupancy by one of the following methods...” [1-5 enumerated].

The factual bases for the revocations are:

On January 20, 2018 at Anyado Group LLC t/a XO Restaurant & Lounge 1426 L Street, N.W. the D.C. Metropolitan Police Department (MPD) effectuated the criminal arrest of two individuals for Possession with Intent To Distribute Marijuana (PWID).

On January 5, 2018 DCRA received an anonymous telephone call that Anyado Group LLC, also known as XO Restaurant and Lounge was holding cannabis / marijuana sales and parties at 1426 L Street, N.W.

On January 6, 2018, the D.C. Alcoholic Beverage Regulation Administration (ABRA) Investigators, along with MPD conducted a site visit investigation regarding marijuana sales and

parties. DCRA Investigatory Cliff Dedrick reviewed the ABRA filed report, including photographs, which included ABRA and MPD observations noting:

1. Several individuals standing behind vending tables which held display of numerous consumable marijuana goods and products.
2. Several violations including substantial change in operation without Board approval and misuse of the licensed premises.
3. Four to five vendors enter the establishment on the first floor, including vendors breaking down tables and customers exiting down the stairs.
4. On the third floor was the smell of marijuana throughout including ash trays with burnt marijuana "blunts."
5. MPD and ABRA Investigators, upon entering, smelled marijuana and observed various marijuana products displayed on vending tables. Clear jars contained a green and brown weed like substance, including hand rolled marijuana "blunts" which had the appearance and odor consistent with marijuana. The establishment allowed marijuana, marijuana edibles, and marijuana products to be distributed and sold inside the establishment.
6. Based upon appearance and the amounts of cannabis on tables, over 2 ounces of marijuana was present where individuals stood behind the vending tables which displayed marijuana in various forms.
7. ABRA determined approximately 20 patrons on the first floor, approximately 30 patrons on the second floor, and approximately 15 patrons on the third floor, for a total of 65 patrons observed.
8. On January 19, 2018 a follow-up visit as the same premises was conducted by ABRA and MPD and the same layout and vendors with the presence of marijuana was noted, similar to the January 6, 2018 visit.
9. On January 20, 2018 the D.C. Metropolitan Police Department (MPD) effectuated the criminal arrests at the establishment for Possession with Intent To Distribute Marijuana (PWID).

A Basic Business License had been issued for licensure period beginning February 1, 2016 to Anyado Group LLC the purpose of XO Restaurant and Lounge with a Public Health: Retail Food Establishment: Restaurant endorsement. A Certificate of Occupancy had been issued on February 11, 2016 to Anyado Group LLC trading as XO Restaurant and Lounge with a description of occupancy "Bar/Cocktail Lounge Occupant Load 48" and on December 17, 2015 with a description of occupancy "Bar/Cocktail Lounge Occupant Load 45." The licensee engaged in and/or allowed the licensed premises to be utilized for the illegal use and/or sale of marijuana in violation of the stated purpose of the Basic Business License and each Certificate of Occupancy.

RIGHT TO APPEAL

Pursuant to 24 DCMR § 619.2 you have the right to appeal the revocation of your business license within **ten (10) calendar days** (excluding Saturdays, Sundays and legal holidays) of service of this Notice and pursuant to 12A DCMR § 110.5.8 and §110.6 you have

the right to appeal the revocation of your certificate of occupancy within **ten (10) business days** (excluding Saturdays, Sundays and legal holidays) of service of this Notice to: The Office of Administrative Hearings. Should you appeal DCRA's decision, your appeal must be filed to the Office of Administrative Hearings at 441 4th Street, N.W., Suite 450N, Washington, D.C. 20001. Alternatively, you may hand-deliver your appeal for a hearing to the Office of Administrative Hearings at 441 4th Street, N.W., Suite 450N, Washington, D.C. 20001. A copy of your appeal should be emailed to Jennifer Barbour, Assistant General Assistant General Counsel of the Office of the General Counsel The Department of Consumer and Regulatory Affairs at jennifer.barbour@dc.gov and mailed to Charles Thomas, General Counsel - The Department of Consumer and Regulatory Affairs 1100 4th Street, S.W. Suite 5266 Washington, D.C. 20024.

Pursuant to 24 DCMR § 619.3, and 12A DCMR § 110.5.8 and § 110.6 this revocation is effectuated at the expiration of ten (10) calendar days for the business license and 10 business days for the Certificates of Occupancy after service of the notice unless an appeal is taken, without any further written notice.

Date: 2/22/18



Vincent Parker
Administrator

Department of Consumer and Regulatory Affairs

**DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE APPEALS**

**ANYADO GROUP, LLC t/a XO
RESTAURANT & LOUNGE,**

Petitioner,

v.

Appeal No.

**DISTRICT OF COLUMBIA DEPARTMENT
OF CONSUMER & REGULATORY AFFAIRS (“DCRA”),**

Respondent.

NOTICE OF APPEAL OF DCRA NOTICE TO REVOKE OF BUSINESS LICENSE

COMES NOW, Anyado Group, LLC t/a XO Restaurant & Lounge (“XO”), and appeals from DCRA’s Notice to Revoke Business License 931316000083 issued to XO on or around February 21, 2016. *See Exhibit 1.*¹

Under the District of Columbia Code and the District of Columbia Municipal Regulations, XO appeals the DCRA’s Notice of Revocation as a matter of right. On or around February 1, 2016, a Basic Business License had been issued to XO with a Public Health-Retail Food Establishment: Restaurant endorsement. On February 21, 2016, DCRA set forth a notice stating that the license would be revoked unless XO appealed its decision.

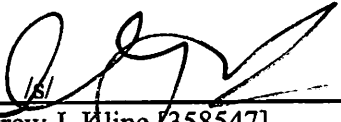
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¹ Petitioner has set forth a separate appeal to the Board of Zoning Adjustment to appeal the notice of revocation of the certificates of occupancy issued to XO, despite the Notice stating that all appeals must be made to the Office of Administrative Hearings. Should this Office seek to hear all related appeals, this Notice of Appeal should be considered notice of appeal of the notice to revoke the basic business license and certificates of occupancy issued to XO. *See Exhibit 2.*

evidence of knowledge and as required under D.C. Code Section 47-2844. Further, the Notice to Revoke does not set forth proper grounds for revocation of the Basic Business License. *See, e.g.*, 24 DCMR §§ 619, 610. Additionally, no violation of the terms and conditions of that License were set forth.

XO respectfully requests that the Office of Administrative Appeals reverse DCRA's Notice to Revoke as no proper grounds for the license revocation were found or stated in the Notice, as required under the law and regulations of the District. Should the Office of Administrative Appeals not reverse, XO respectfully requests a hearing, an opportunity to conduct discovery on the grounds relied upon by DCRA, and all rights afforded through this appeal.

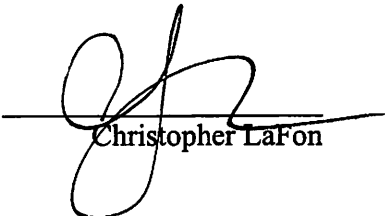
Respectfully Submitted,



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Attorneys for Petitioner

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Christopher LaFon