

## Notice of Proposed Disciplinary Action

**To:** 3294175 Nova Scotia Limited  
 Timber Lounge

**From:** John R. MacDonald, Executive Director, Alcohol, Gaming, Fuel and Tobacco  
 Service Nova Scotia  
 2712 Agricola Street, Halifax, Nova Scotia  
 Beverage Room Liquor License #003177

**Date:** November 16, 2017

**Subject:** Notice of Disciplinary Action Against 3294175 Nova Scotia Limited  
 2712 Agricola Street, Halifax, Nova Scotia

### Current Situation

This office is in receipt of Infraction Report Nos. 4108, 4803 and 4804 issued by Compliance Officers Dennis Purcell and Kris Hebert; Alcohol, Gaming, Fuel & Tobacco Division, with respect to alleged violations of the Liquor Licensing Regulations, which occurred on September 30, 2017; October 26, 2017 and November 8, 2017 at Timber Lounge, 2712 Agricola Street, Halifax, Nova Scotia, Beverage Room Liquor License #003177.

An investigation of the alleged violation has concluded and it has been determined that disciplinary action is warranted regarding the following violations:

*NS Liquor Control Act section 47B(1)* which state:

**47B(1)** Where the licensee fails to comply with the terms and conditions of a license, has contravened this Act or the regulations or is convicted of an offence under the *Criminal Code* or a quasi-criminal statute, the Executive Director may, in accordance with the process prescribed in the regulations,

(a) Take any action set out in clauses 47(1)(b), (c) and (d);

The office of the Executive Director, Alcohol and Gaming Division, Service Nova Scotia, has considered the matter and issued a Notice of Disciplinary Action on November 16, 2017, pursuant to section 47B of the *Nova Scotia Liquor Control Act*.

### Objection Process

The licensee may object in writing to the above proposed action in accordance with section 81A subsections (3) and (4) of the Liquor Licensing Regulations. To object to a proposed action, the

permanent licensee on whom the notice of proposed action was served must file a written notice of objection with the Executive Director prior to December 1, 2017.

A notice of objection may be in any form, but it must be in writing and include all of the following:

- (a) the name, address and phone number of the permanent licensee;
- (b) a copy of the notice of proposed action; and
- (c) the reason the permanent licensee objects to the proposed action.

After considering any objection to a notice of proposed action, the Executive Director must do one of the following:

- (a) take the proposed action;
- (b) rescind the notice of proposed action;
- (c) vary the proposed action, but only if the action taken is permitted by clause 47(1)(b), (c) of the *Liquor Control Act*; or
- (d) refer the matter to the Review Board in accordance with subsection 47B(1)(b) of the Act.


#### Notice of Action

The office of the Executive Director, Alcohol, Gaming, Fuel and Tobacco Division, Service Nova Scotia has concluded that the following conditions of license will be added to Beverage Room Liquor License #003177:

**Live amplified entertainment and percussion instruments are prohibited at the premises.**

**Background entertainment, and live unamplified entertainment with acoustics is permitted. Only vocals are permitted to run through the main sound board and house PA system.**

**Unless otherwise approved by AGFT, except for New Year's Eve, entertainment must cease at or before 11 pm.**

  
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 John R. MacDonald  
 Executive Director, Alcohol, Gaming, Fuel and Tobacco  
 Service Nova Scotia

DECISION AND ORDER

2019 NSUARB 68  
M08626  
M08627  
M08443

**NOVA SCOTIA UTILITY AND REVIEW BOARD**

**IN THE MATTER OF THE LIQUOR CONTROL ACT**

- and -

**IN THE MATTER OF THE QUIET ENJOYMENT COMPLAINTS** by **MARGARET ANDERSON AND CANDACE DAYE**, made pursuant to s. 29 of the *Liquor Licensing Regulations*, and referred to the Board by the Executive Director, Alcohol, Gaming, Fuel & Tobacco, pursuant to s. 47(3) of the *Liquor Control Act*

- and -

**IN THE MATTER OF AN APPEAL** by **3294175 Nova Scotia Limited O/A THE TIMBER LOUNGE** of a Decision on Disciplinary Action of the Executive Director of the Alcohol, Gaming, Fuel & Tobacco Division (AGFT) dated December 1, 2017

**BEFORE:**



Richard J. Melanson, LL.B., Member

**DECISION AND ORDER**

**WHEREAS** on December 14, 2017, pursuant to s. 81C (1) of the *Liquor Licensing Regulations (Regulations)*, 3294175 Nova Scotia Limited, operating as the Timber Lounge (Timber Lounge), appealed a decision of the Executive Director (M08443);

**AND WHEREAS** on April 1, 2018, pursuant to s. 47 (3) of the *Regulations*, the Executive Director, AGFT, referred quiet enjoyment complaints made by Margaret Anderson and Candace Daye pursuant to s. 29 of the *Regulations* (M08626; M08627);

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**AND WHEREAS** matter M08443, which was scheduled to be heard starting on Thursday April 12, 2018, was adjourned without day at the request of Timber Lounge;

**AND WHEREAS** a hearing into matters M08626 and M08627 began on October 2, 2018;

**AND WHEREAS** during the hearing, the parties advised that a settlement had been reached. The hearing was adjourned without day to enable the parties to reduce the settlement agreement to writing;

**AND WHEREAS** a copy of signed Minutes of Settlement was filed with the Board by email dated March 25, 2019;

**AND WHEREAS** in a decision letter dated March 29, 2019, the Board accepted the Minutes of Settlement as a reasonable disposition of all the matters before it relating to Timber Lounge;

**AND WHEREAS** item three of the Minutes of Settlement required the following:

3. Timber Lounge will send to Ms. Anderson and Ms. Daye a letter in which Timber Lounge indicates that it has read the HRM Noise By-Law and understands the By-Law including the penalties which can be levied pursuant to it.

**AND WHEREAS** the Board is satisfied item three of the Minutes of Settlement has been fulfilled;

**IT IS ORDERED THAT:**

- 1) The Minutes of Settlement, attached as Schedule "A" hereto, be and are hereby accepted by the Board;
- 2) The Complaints of Margaret Anderson and Candace Daye are hereby deemed to be withdrawn and matters M08626 and M08627 are hereby discontinued;

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- 3) Timber Lounge's appeal of the decision of the Executive Director, AGFT, is hereby deemed to be withdrawn and the proceeding in matter M08443 is hereby discontinued.

**DATED** at Halifax, Nova Scotia, this 27th day of May, 2019.

  
Bruce A. Kiley  
Chief Clerk of the Board

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**Schedule "A"**NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE NOVA SCOTIA LIQUOR CONTROL ACT and  
THE NOVA SCOTIA LIQUOR LICENSING REGULATIONS

-and-

IN THE MATTER OF the Quiet Enjoyment Complaints of Margaret Anderson and  
Candace Daye, made pursuant to s. 29 of the Liquor Licensing Regulations,  
and referred to the Board by the Executive Director, Alcohol, Gaming, Fuel &  
Tobacco, pursuant to s. 47(3) of the Liquor Control Act

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 MINUTES OF SETTLEMENT
 

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WHEREAS Alcohol, Gaming Fuel & Tobacco ("AGFT") referred quiet enjoyment complaints from  
Margaret Anderson and Candace Daye (the "Complainants") to the Nova Scotia Utility and  
Review Board on April 9, 2018;

AND WHEREAS the scope of the quiet enjoyment complaints related to events beginning at  
the time that Timber Lounge received its license through the spring of 2018;

AND WHEREAS the parties attended a Board hearing on October 2, 2018;

AND WHEREAS with this settlement, the parties intend the resolve the quiet enjoyment  
complaint issues in dispute between them;

## IT IS AGREED AS FOLLOWS:

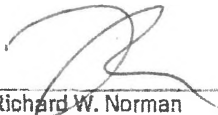
1. The Complainants will withdraw their quiet enjoyment complaints (File Nos. M08626  
& M08627);
2. Timber Lounge will withdraw its appeal of AGFT's disciplinary action (File No. M08443);  
and

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Nova Scotia  
Utility and Review Board

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3. Timber Lounge will send to Ms. Anderson and Ms. Daye a letter in which Timber Lounge indicates that it has read the HRM Noise By-Law and understands the By-Law including the penalties which can be levied pursuant to it.




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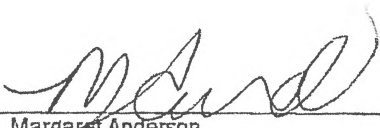
*Counsel for the Licensee, 3294175 Nova Scotia Limited o/a The Timber Lounge*




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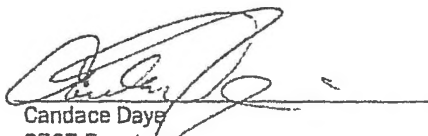
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*Counsel for the Alcohol, Gaming, Fuel & Tobacco Division*




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