

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

In the Matter of:)
)
Bodega Market, LLC)
t/a Bodega Market)
)
Holder of a)
Retailer's Class A License)
)
at premises)
1136 Florida Avenue, NE)
Washington, D.C. 20002)
)

License No.: ABRA-094621
Order No.: 2018-474

Bodega Market, LLC, t/a Bodega Market (Licensee)

H. Yvonne Buggs, Commissioner, Advisory Neighborhood Commission (ANC) 5D

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
James Short, Member
Donald Isaac, Sr., Member
Bobby Cato, Member
Rema Wahabzadah, Member

ORDER ON SETTLEMENT AGREEMENT

The official records of the Alcoholic Beverage Control Board (Board) reflect that Bodega Market, LLC, t/a Bodega Market (Licensee), and ANC 5D have entered into a Settlement Agreement (Agreement), dated July 9, 2018, that governs the operation of the Licensee's establishment.

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Licensee and Commissioner H. Yvonne Buggs, on behalf of ANC 5D, are signatories to the Agreement.

Accordingly, it is this 1st day of August, 2018, **ORDERED** that:

1. The above-referenced Settlement Agreement submitted by the parties to govern the operations of the Licensee's establishment is **APPROVED** and **INCORPORATED** as part of this Order;
2. This Settlement Agreement replaces and supersedes previous Settlement Agreements between the parties; and
3. Copies of this Order shall be sent to the Licensee and ANC 5D.

District of Columbia
Alcoholic Beverage Control Board


Donovan Anderson, Chairperson



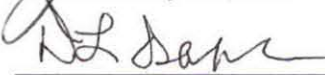
Nick Alberti, Member



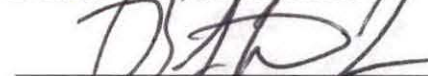
Mike Silverstein, Member



James Short, Member



Donald Isaac, Sr., Member



Bobby Cato, Member



Rema Wahabzadah, Member

Pursuant to D.C. Official Code § 25-433(d)(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, 2000 14th Street, N.W., Suite 400S, Washington, DC 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 (2008) 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).

Community Settlement Agreement

ADVISORY NEIGHBORHOOD COMMISSION 5D AND BODEGA MARKET, LLC

This Settlement Agreement ("Agreement") entered into this 9th day of July, 2018, by and between ~~Bodega Market, LLC trading as Bodega Market~~ ("Applicant"), and Advisory Neighborhood Commission 5D ("Protestant(s)");

Preamble

Through this agreement, both parties aim to create an environment whereby the applicant may operate as a viable contributing business to the ANC 5D community, while concurrently curtailing any adverse effect a business such as the Applicant's could have on the surrounding neighborhood. This agreement applies to Class A liquor licenses that permit retail sales of beer, wine, and spirits for off premises consumption and Class B liquor licenses that permit retail sales of beer and wine for off premises consumption.

The Applicant agrees to collaborate with the ANC SD, neighborhood associations, and residents to ensure the business operations do not adversely affect the surrounding neighborhood. All parties believe the statements and provisions contained herein are reasonable and must be wholly integrated into the day-to-day operations of the business establishment.

Witnessed

Whereas, Applicant's premises is within the boundaries of ANC SD; and

Whereas, Applicant has applied for a substantial change to his Class B license to a Class A license under the D.C. Alcoholic Beverage Control Act for premises located at 1136 Florida Avenue, N.E., Washington, DC; and

Whereas, the change of the Applicant's license was not protested; and

Whereas, the parties have agreed to enter into this Agreement and request that the Alcohol Beverage Control Board approve the change in the Applicant's Retailer's Class B license to a Class A Liquor License at the subject premises conditioned upon the Applicant's compliance with the terms of this written Agreement; and

Whereas, the parties wish to state their mutual intent and commitment to promote the success, peace, order, and quiet of the community; both parties recognize the importance of commercial districts (and limited commercial operations within the residential districts) and their adjacent neighborhoods such that they are safe and clean.

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) Compliance with Law

- A) In addition to the requirements of this agreement, Applicant will operate in compliance with all applicable laws and regulations.
- B) Applicant agrees to abide by all ABRA regulations regarding the ownership and transfer of the license.

3) Hours of Operation for Sales of Alcohol

- A) Applicant shall comply with ABRA approved and regulated hours in the sales of alcoholic beverages.

1) For Class A License holders:

- (a) 7:00 am — 12:00 am Monday — Friday
- (b) 7:00 am — 12:00 am Saturday
- (c) 9:00 am — 10:00 pm Sunday

Should the ABRA regulations change regarding the DC permitted hours; the applicant will be expected to comply with any amended regulated hours.

4) Alcohol Abuse Prevention

- A) Applicant shall not, directly or indirectly, to the best of its knowledge, sell or deliver alcohol to any intoxicated person, to any person of intemperate habits, and/or to any person who appears to be intoxicated. A person of intemperate habits shall be defined as any person arrested or cited for alcohol-related offenses by the District of Columbia (DC) Metropolitan Police Department (MPD) for any alcohol-related crime three times or more in any one year and who has been so identified by the MPD by giving a photo and name to the licensee.
- B) Applicant shall not sell or deliver alcoholic beverages to any person or persons under the age of 21, and will prominently display the fact that such sales are prohibited and that patrons must produce valid proof of age. These specific sales restrictions shall be posted on signs in the establishment.
- C) Applicant shall not allow consumers to break package(s) for the purpose of single sales.
- D) Applicant shall post a notice kept in good repair, and visible from any point of entry, a sign which states:

- 1) The minimum age requirement for purchase of alcohol
 - 2) The obligation of the patron to present a valid identification document in order to purchase alcohol
 - 3) The obligation of patrons over the legal age to purchase alcohol to not provide purchased alcohol to those under the legal age to purchase alcohol
- E) ANC SD agrees to proactively contribute to Applicant's efforts to prevent alcohol abuse through methods such as:
- 1) Working collaboratively with the DC DMV to help Applicant identify individuals who have been digitally captured and recorded while performing an illegal act such as, but certainly not limited to: providing alcohol to any person or persons under the age of 21 ; loitering on the establishment's property continuously after multiple warnings and removals; and disrupting the public peace and establishment's business while intoxicated, etc.

5) Limitations on Sales of Non-Alcohol Retail Items

- A) Applicant shall not sell, give, offer, expose for sale, or deliver "go-cups", solicit back-up drinks, or permit tie-in purchases. "Go-cups" are defined as "a drinking utensil provided at no charge or a nominal charge to a customer for the purpose of consuming alcoholic beverages off the premises of an establishment," per DCMR 25-741, 25-742, and 25742. Applicant may sell disposable cups to customers, provided such cups are prepackaged and contain no less than 12 cups.
 - 1) This clause is void if and when a Tasting License is in effect.
- B) Applicant shall only sell or provide ice to customers in pre-packaged forms containing no less than 5 pounds.
 - 1) This clause is void if and when a Tasting License is in effect
- C) Applicant agrees not to sell, give, offer, expose for sale, or deliver products associated with illegal drug activity. These items are defined as "pipes, needles, mini-scales, nonprepackaged steel wool, small bags," or any other item or product which may be regarded as drug paraphernalia under 21 U.S.C. 863(d).

6) Loitering and Other Criminal Activity

- A) Applicant shall make reasonable efforts to prohibit and prevent public intoxication and criminal activity on or within the immediate environs of the premises, with a mutual understanding between the Applicant and ANC 5D that the activities outlined below require a collaborative effort between all stakeholders inclusive of Applicant, ANC 5D, neighborhood associations, DC MPD, and community residents:
 - 1) Asking loiterer(s) to move on whenever they are observed outside the establishment or upon a patron's complaint of such loiters;
-

- 2) Coordinating with the DC MPD to monitor and remove loiterer(s):
 - (a) If loiterer(s) refuse(s) Applicant's request to move on within ten minutes of the request, or
 - (b) Within ten minutes of patron complaint if Applicant is unable to ask the loiter(s) to disperse directly;
 - 3) Calling the MPD if illegal activity is observed;
 - 4) Keeping a written record of dates and times (i.e. a log) when the MPD has been called for assistance. Applicant's log upon request shall be provided to ABRA.
 - 5) Applicant agrees to the following security plan:
 - (a) Discouraging loitering
 - (b) Discouraging panhandling
 - (c) Contacting DC MPD if criminal activity is observed
 - (d) Maintaining incident log
 - (e) Use of Security Camera
 - 6) Coordinate with property owner to maintain adequate and functional security lighting on building to discourage criminal activity on or within the immediate environs of the premises during business hours.
- B) Applicant agrees to post signs, kept in good repair, in highly visible locations that announce the following:
- 1) Prohibition against selling alcohol to minors;
 - 2) Discouraging loitering, panhandling, and contributing to panhandling;
 - 3) Property being Monitored by Surveillance Camera(s)
- 7) Cleanliness and Conditions of Premises and Immediate Environs:
- A) Applicant shall continue to maintain the establishment and premises in a commercially reasonable condition, including those conditions set forth below.
- 1) Applicant agrees that a commercially reasonable condition includes that which is consistent with a vision towards continued enhancement and improvement of the neighborhood and the commercial operations within the ANC 5D community. Applicant agrees to relay any property and structural concerns to its landlord.
- B) Applicant will maintain the immediate environs of the establishment. As indicated in DCMR 25-726, "The licensee under a retailer's license shall take reasonable measures to ensure that the immediate environs of the establishment, including adjacent alleys, sidewalks, or other public property immediately adjacent to the establishment, or other property used by the licensee to conduct its business, are kept free of litter."

- C) Applicant shall continue to clean any sidewalks to the front of the establishment up to and including the curb, and any alleyway behind or to the side of the establishment on a regular basis.
- D) Applicant shall continue to maintain trash, garbage, and recycling material storage facilities in which all containers have lids that are kept securely closed at all times, which containers shall be sufficient to contain all trash, garbage, and recycled materials generated by the establishment, and to assure that the trash, garbage, and recycled materials are removed regularly.
- E) Applicant shall exercise due diligence to prevent and/or rid vermin infestation in and around said establishment, including following, minimally, the recommendations and guidelines of the Vector Control Division of the Department of Public Works.
- F) Applicant shall remove snow and/or ice from sidewalks fronting (including sidewalks on the other side of buildings that occupy corner lots) within time limits set by the District of Columbia for such snow and/or ice removal.
- G) Applicant shall continue to remove graffiti written on the exterior walls of the property or on any items belonging to the establishment (e.g. dumpster) within thirty days of the first appearance of said graffiti.

8) Renovation and Signage at Premises

- A) Applicant shall repaint the storefront and all exterior walls, if and/or when the quality of the current exterior is no longer in acceptable condition.
- B) Applicant shall not install signage on the front windows so as to obstruct visibility into the establishment.
- C) Applicant agrees that any and all signage displayed or posted on the exterior walls of the establishment will be kept in good repair and professional in appearance.

9) Limitations on Advertising

- A) Applicant agrees not to occupy more than 25% of display space with display signage for alcohol, or tobacco products of the subject establishment. Signage indicating that Applicant sells beer or wine is acceptable for Class B holders, and signage indicating that Applicant sells beer, wine, and liquor is acceptable for Class A license holders.

10) Cooperation with Community and ANC 5D

- A) Applicant is encouraged to attend Single Member District (SMD) 5D06 meetings and Police Service Area (PSA) 506 meetings, if held, to the best of their ability.
- B) Protestant(s) agrees to notify Applicant of such meetings, if held, to the best of their ability via telephone calls, newsletters, and/or e-mail list subscriptions.

11) Enforcement and Notices

- A) In the event of a violation of the provisions of this Agreement, Applicant shall be notified by ANC 5D in writing alleging such violation and given an opportunity to cure such violation or respond to said alleged notice of violation within no more than thirty days, unless there are extenuating circumstances.
- B) Applicant and ANC 5D agree to enter into this agreement. Should any of the conditions of this agreement be breached, it is understood by both parties that ANC SD, shall immediately file a complaint to the ABC Board to enforce the provisions of this Agreement.
- C) Any notices required to be made under this Agreement shall be in writing and mailed by certified mail, return receipt requested, postage prepaid, or hand-delivered, to the other parties to this Agreement. Notice is deemed to be received upon mailing.
- D) This cooperative agreement shall be binding upon and enforceable against the successors of the Applicant will continue in force for any and all subsequent license holders at the subject location.

12) Counterparts

This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first amended and noted above.

APPLICANT:

By: [Signature]
Bodega Market, LLC
1136, Florida Avenue, NE
Washington, DC 20002

Date: 07/08/18

WITNESS:

[Signature]
Advisory Neighborhood Commissioner
Single Member District 5D02

Date: 7/09/2018

Advisory Neighborhood Commission
5D
By: [Signature]
H. Yvonne Buggs, Secretary
Advisory Neighborhood Commissioner
Single Member District (SMD) 5D06

Date: 7/09/2018