

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

In the Matter of:)
)
1201 K Street F & B Tenant, LLC)
)
Applicant for a New)
Retailer's Class CR License)
)
at premises)
1201 K Street, NW)
Washington, D.C. 20005)
)

Case No.: 18-PRO-00007
License No.: ABRA-108510
Order No.: 2018-066

1201 K Street F & B Tenant, LLC (Applicant)

John Fanning, Chairperson, Advisory Neighborhood Commission (ANC) 2F

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 AND
WITHDRAWAL OF ANC 2F'S PROTEST**

The Application filed by 1201 K Street F & B Tenant, LLC for a new Retailer's Class CR License, was protested by ANC 2F.

The official records of the Board reflect that the Applicant and ANC 2F have entered into a Settlement Agreement (Agreement), dated February 9, 2018, that governs 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 and Chairperson John Fanning, on behalf of ANC 2F, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by ANC 2F.

Accordingly, it is this 14th day of February, 2018, **ORDERED** that:

1. The Application filed by 1201 K Street F & B Tenant, LLC for a new Retailer's Class CR License, located at 1201 K Street, NW, Washington, D.C., is **GRANTED**;
2. The Protest of ANC 2F in this matter is hereby **WITHDRAWN**;
3. The above-referenced Settlement Agreement submitted by the Parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order, except for the following modifications:

Section 17 (License Ownership) – The language “transferee, assignee, or contractee” shall be replaced with the term “transferee.”

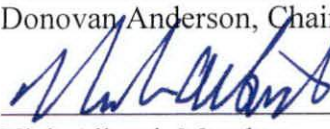
Section 18 (Binding Effect) – The language “and assigns” shall be removed.

The parties have agreed to these modifications.

4. Copies of this Order shall be sent to the Applicant and ANC 2F.

District of Columbia
Alcoholic Beverage Control Board

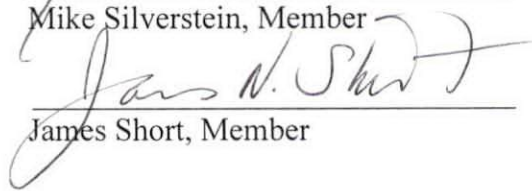
Donovan Anderson, Chairperson



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).

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made on this 9th day of February, 2018, by and between 1201 K Street F&B Tenant LLC ("Applicant") and Advisory Neighborhood Commission 2F ("ANC 2F").

RECITALS

(a) Applicant has applied for a Retailer's Class Hotel License, ABRA-108510, with Sidewalk Café, Summer Garden, Entertainment, and Dancing endorsements (the "License") for a business Establishment ("Establishment") located at 1201 K Street, NW, Washington, DC 20005 (the "Premises"); and,

(b) Applicant desires to cooperate with the ANC in order to mitigate concerns related to the potential impact of operation of the Establishment on the surrounding community; and,

(c) In lieu of contested protest proceedings regarding the application for the License, the Parties wish to enter into a Settlement Agreement pursuant to D.C. Official Code § 25-446 to address such concerns.

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. Nature of the Business. The Applicant will manage and operate the food and beverage outlets within the hotel located at 1201 K Street, NW, Washington, DC 20005 including those on the ground floor and the Sidewalk Café; the second floor event space; and the 10th floor food and beverage outlet and its Summer Garden. Any change from this model shall require prior approval by the ABC Board.
3. Interior Hours. Applicant's hours on the interior premises shall not exceed the following:
 - a. Hours of Operation: Sunday through Saturday: 12:00am—12:00am (24 hours);
 - b. Hours of Alcoholic Beverage Sales, Service, and Consumption:
 - i. Sunday through Thursday: 8:00am—2:00am; and
 - ii. Friday and Saturday: 8:00am—3:00am;
 - c. Exceptions to the standard hours shall be granted for:
 - i. Days designated by the ABC Board as "Extended Hours for ABC Establishments" or "Daylight Savings Time Extension of Hours" - Applicant may sell, serve, and permit the consumption of alcoholic beverages for one additional hour (that is, one hour later);
 - ii. In the event the Council of the District of Columbia or the ABC Board grants licensees in general extended operating hours for specific occasions, such as Inauguration or World Cup, Applicant may avail itself of such extended hours; and
 - iii. On New Year's Eve (January 1) of each year Applicant sell, serve, and permit the consumption of alcoholic beverages until 4:00am.
4. Ground Floor Sidewalk Café. The Applicant may have outside seating in accordance with a Sidewalk Café endorsement to its ABC license and a duly-issued public space permit, and may serve alcoholic

beverages to seated patrons in such area, provided, the total capacity for such Sidewalk Café shall not exceed 20 seats.

- a. Hours of Operations on the Ground Floor Sidewalk Café shall not exceed:
6:00am—12:00am daily; and
- b. Hours of Alcoholic Beverage Sales, Service, and Consumption on the Ground Floor Sidewalk Café shall not exceed: 8:00am—12:00am daily.

Applicant will inspect the Sidewalk Café regularly for compliance.

5. Tenth Floor Summer Garden. The Applicant may have outside seating in accordance with a Summer Garden endorsement on its ABC license; patrons may be served in the Summer Garden area only during the following hours and shall otherwise be free of patrons: 8:00am—1:00am daily. Applicant will inspect the Summer Garden regularly for compliance.

6. Entertainment Endorsement. Applicant may provide live entertainment on the interior premises during the following hours:

- a. Sunday through Thursday: 8:00am—2:00am; and
- b. Friday and Saturday: 8:00am—3:00am.

The ANC will not object to the Applicant applying for a One-Day Substantial Change, in accordance with District law, so that it may offer Entertainment for an additional hour on days designated by the ABC Board as "Extended Hours for ABC Establishments" or "Daylight Savings Time Extension of Hours" and until 4:00am on January 1 of each year.

7. Noise. Applicant shall adhere to DC Code 25-725 with respect to emanation of noise from the Establishment. Applicant shall undertake such measures as reasonably are required to preclude unreasonable disturbance to occupants of abutting residential properties from emanation of noise or vibration from the Establishment, including from patrons at, entering, or exiting the Establishment.

8. Public Space and Trash. Applicant shall keep the sidewalk (up to and including the curb), tree boxes and alley free of litter, bottles, chewing gum, trash, and other debris in compliance with D.C. Code and Municipal Regulations. Applicant shall police these areas daily for refuse and other materials.

10. Rat and Vermin Control. Applicant will maintain a contract with a professional, licensed rat, pest, and vermin control company to provide for routine control for the interior and exterior of the premises as needed to control pests.

11. Patrons. Applicant shall take reasonable steps to prevent its patrons from causing unreasonable noise or disturbances in front of, or immediately adjacent to, the Establishment during the hours of operation and as they depart at closing.

14. Agreement Available Upon Demand. A copy of this Agreement shall be kept on the premises and made available to law enforcement officers and Alcoholic Beverage Regulatory Administration inspectors immediately upon request.

15. Compliance with ABRA Regulations. Applicant shall abide by applicable Alcoholic Beverage Administration (ABRA) regulations regarding ownership of the License.

16. Participation in the Community. Applicant is encouraged to send a representative from time to time to meetings of the ABRA Policy Committee of ANC 2F. Participation in such meeting promotes open lines of communication, neighborhood involvement, and awareness of current ABRA issues. Dates and times can be found at www.ANC2F.org.

17. License Ownership. Applicant agrees not to transfer or sell the license to any other entity before obtaining approval from the Alcohol Beverage Control Board. Applicant agrees to specifically notify any prospective transferee, assignee, or contractee of the existence of this Agreement and to provide them with a copy.

18. Binding Effect. This Agreement shall be binding upon and enforceable against the successors and assigns of the Applicant.

19. 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.

20. Notice and Opportunity to Cure. In the event that either party believes that the other materially breached any obligations under this Agreement, such party shall give written notice to the other of the existence of the breach and the specific nature thereof. The party alleged to be in breach shall have fourteen (14) days from the receipt of notice to cure the alleged breach (or if the breach shall relate to excessive noise or disturbance, the lesser of 72 hours or such shorter period as may be reasonable under the circumstances to immediately restore peace, order and quiet). If the breach is not cured within the notice period—or, with respect to a breach which reasonably requires more than fourteen (14) days to cure, efforts to cure the breach have not been commenced—failure shall constitute a cause for seeking a Show Cause Order from the ABC Board pursuant to D.C. Official Code § 25-447. In the case of a continuing violation, no notice or opportunity to cure need be provided for subsequent violations of this Agreement, following the initial provision of notice. Any notices required to be made under this Agreement shall be in writing and sent either via e-mail or U.S. mail, postage prepaid, to the parties to this Agreement at the addresses below. Notice shall be deemed given as of the time of receipt or refusal of receipt.

If to Applicant: 1201 K Street F&B Tenant LLC
1201 K Street, NW, Washington, DC 20005
Attention: Sunny Makhni
Email: sunny.makhni@plandosee.com

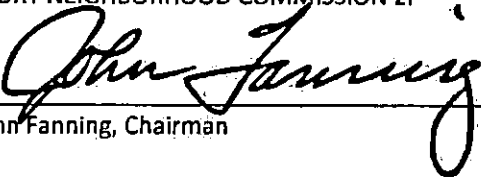
With copy to: C/O Doran Kianmahd
6255 W. Sunset Boulevard, Suite 1050
Los Angeles, CA 90028
Email: doran.kianmahd@plandosee.com

If to the ANC: Advisory Neighborhood Commission 2F
5 Thomas Circle, NW Washington, DC 20005
ANC2FOffice@gmail.com

Either party may change its notice address by written notice to the other. Failure to give notice shall not constitute waiver or acquiescence to the violation, but notice shall be a prerequisite to the filing of a complaint with the ABC Board or any other enforcement action.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year stated below.

ADVISORY NEIGHBORHOOD COMMISSION 2F

By:  02/09/2018
John Fanning, Chairman Date

APPLICANT

1201 K Street F&B Tenant LLC

By: PDS DC F&B Partner LLC, Managing Member

By: Plan Do See America, Inc., Sole Member

By: _____
Imran Shahab, Chief Operating Officer Date

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year stated below.

ADVISORY NEIGHBORHOOD COMMISSION 2F

By: _____
John Fanning, Chairman Date

APPLICANT

1201 K Street F&B Tenant LLC
By: PDS DC F&B Partner LLC, Managing Member
By: Plan Do See America, Inc., Sole Member

By:  _____
Imran Shahab, Chief Operating Officer Date 2/5/2018