

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

In the Matter of:

Privateer 4400, LLC

Applicant for a New
Retailer’s Class CT License

at premises
4400 Jenifer Street, NW
Washington, D.C. 20015

Case No.: 22-PRO-00013
License No.: ABRA-119655
Order No.: 2022-246

Privateer 4400, LLC, Applicant

Jonathan Bender, Chairperson, Advisory Neighborhood Commission (ANC) 3E, Protestant

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Bobby Cato, Member
Rafi Aliya Crockett, Member
Jeni Hansen, Member
Edward S. Grandis, Member

**ORDER ON SETTLEMENT AGREEMENT AND
WITHDRAWAL OF ANC 3E’S PROTEST**

The Application filed by Privateer 4400, LLC (Applicant), for a new Retailer’s Class CT License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on March 14, 2022, and Protest Status Hearing on April 6, 2022, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant and ANC 3E have entered into a Settlement Agreement (Agreement), dated May 18, 2022, that governs the operations 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 Jonathan Bender, on behalf of ANC 3E, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by ANC 3E.

Accordingly, it is this 25th day of May 2022, **ORDERED** that:

1. The Application filed by Privateer 4400, LLC, for a new Retailer's Class CT License, located at 4400 Jenifer Street, NW, Washington, D.C., is **GRANTED**;
2. The Protest of ANC 3E in this matter is hereby **WITHDRAWN**;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; and
4. Copies of this Order shall be sent to the Parties.

District of Columbia
Alcoholic Beverage Control Board

eSigned via SeamlessDocs.com
Donovan Anderson
Key: 424205181693f9e4e7200041d5c08

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com
James Short
Key: 547ac73f826c6a9b11c702a22543ee

James Short, Member

eSigned via SeamlessDocs.com
Bobby Cato
Key: 256d3fcadfb6146d7f7b75bd7017d20d

Bobby Cato, Member

eSigned via SeamlessDocs.com
Rafi Alaya Crockett, Member
Key: b550ba91845e1f0e4016135e5c1281cc

Rafi Crockett, Member

eSigned via SeamlessDocs.com
Jeni Hansen, Member
Key: #2172031f5006447401e556f3a41805

Jeni Hansen, Member

eSigned via SeamlessDocs.com
Edward Grandis, Member
Key: 5027bda7f890040ec143de652541ce5

Edward S. Grandis, 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 II 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).

THIS SETTLEMENT AGREEMENT (“Agreement”) is made on this 18 day of May, 2022, by and between Privateer 4400, LLC t/a TBD, ABRA License 119655 (“Applicant”), and Advisory Neighborhood Commission 3E (“Protestant”), (collectively, the “Parties”).

WITNESSETH

WHEREAS, Applicant has applied for a Retailer’s Class “C” Tavern #119655 for a business establishment (“Establishment”) located at 4400 Jenifer Street NW, Washington, DC 20015 (“Premises”);

WHEREAS, Applicant expects the vast majority of patrons of the Establishment to be sit-down customers and, although Applicant may offer carry-out and curbside takeout service (“Takeout”), at this time Applicant expects Takeout to comprise a relatively modest portion of its business;

WHEREAS, the Parties have agreed to enter into this Agreement and request that the Alcoholic Beverage Control Board (“ABC Board”) approve the Applicant’s license application conditioned upon the Applicant’s compliance with the terms of this written Agreement; and

WHEREAS, the Parties are desirous of entering into a Settlement Agreement pursuant to D.C. Official Code § 25-446 for the operation and maintenance of the Establishment in such a manner as to minimize the effect on (i) peace, order, and quiet of the neighborhood and (ii) to eliminate the need for a Protest Hearing regarding the license application.

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) ***Noise and Privacy.*** Applicant will strictly comply with D.C. Official Code § 25-725. Applicant further agrees that windows and doors will remain closed, except for ingress and egress, when live music is being played inside.
- 3) ***Parking.*** Applicant will post prominent signs inside and outside the establishment directing patrons not to stop or park in the bike lane on Jenifer Street or in travel lanes, or otherwise to illegally stop or park, to visit the Establishment. The signage shall furthermore encourage patrons to use public transit or ridesharing companies, including but not limited to taxicabs, Uber and Lyft, and direct patrons to use nearby paid parking rather than parking in the neighborhood. The signage will also contain the Notice (see Par. 4) for customers who elect to do Takeout. Applicant will include the same instructions on the business’ website, anywhere that directions to the establishment are mentioned and in any food ordering functionality featured in or linked to from the website.
- 4) ***Pick Up/Drop Off.*** Applicant will instruct (1) Uber, Lyft, and any other significant ride sharing company Applicant becomes aware of, and (2) any food or drink delivery service (e.g., Door Dash)

that the Establishment does business with, to use only the yellow no parking spaces (that permit standing) on Jenifer Street (“Jenifer Standing Zone”), any pick up/drop off (“PUDO”) spaces DDOT may designate in the future, metered parking spaces, or garage parking to pick up or drop off customers and/or goods. Applicant agrees to include a notice in any food carry-out confirmation email (“Notice”) instructing curbside service customers to wait in their car in one of the following legal spaces for stopping: 1) metered parking, 2) Jenifer Standing Zone (or PUDO spaces if DDOT has established them) or 3) the garage located in the building; the Notice will further provide that customers who wish to temporarily park and leave their cars for pickup must use only metered parking or garage spaces. The Notice will provide in bolded lettering, for avoidance of doubt, that customers must not block bicycle or travel lanes or crosswalks at any time. Applicant will provide information consistent with the Notice to all customers who order for carryout or curbside service by phone.

- 5) **Communication with ANC.** If Applicant becomes or the ANC become aware that illegal stopping and/or parking appears to have become a problem, Applicant agrees to work and meet in good faith with the ANC to address the issue.
- 6) **Transit Benefits.** Applicant will comply with all requirements of the DC Commuter Benefits Law even if the number of Applicant’s employees falls below the statutory minimum.
- 7) **Withdrawal of Protest.** Upon execution of this Agreement by the Parties and its acceptance by the ABC Board, the Protestant shall withdraw the protest.

PROTESTANT:

Advisory Neighborhood Commission 3E

Jonathan
Bender
By: Jonathan Bender, ANC 3E03

Digitally signed by Jonathan Bender
DN: cn=Jonathan Bender, o, ou,
email=jbender@businesslawyer.co
m, c=US
Date: 2022.05.19.20:33:46 -04'00'

APPLICANT:

Privateer 4400, LLC
t/a TBD


By: Anna Valero