

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

In the Matter of:

MGH Navy Yard, LLC
t/a Circa at Navy Yard/ El Bebe

Applicant for a New
Retailer's Class CR License

at premises
99 M Street, SE
Washington, D.C. 20003

Case No.: 18-PRO-00068
License No.: ABRA-109955
Order No.: 2018-655

MGH Navy Yard, LLC, t/a Circa at Navy Yard/ El Bebe (Applicant)

Meredith Fascett and Dr. Coralie Farlee, on behalf of Advisory Neighborhood Commission (ANC) 6D

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 COOPERATIVE AGREEMENT AND
WITHDRAWAL OF ANC 6D'S PROTEST**

The Application filed by MGH Navy Yard, LLC, t/a Circa at Navy Yard/ El Bebe (Applicant), for a new Retailer's Class CR License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on October 1, 2018, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant and ANC 6D have entered into a Cooperative Agreement (Agreement), dated October 15, 2018, that governs the operation of the Applicant's establishment.

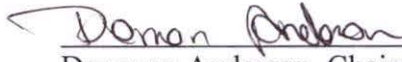
The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant and Chairperson Meredith Fascett and Dr. Coralie Farlee, on behalf of ANC 6D, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by ANC 6D.

Accordingly, it is this 31st day of October, 2018, **ORDERED** that:

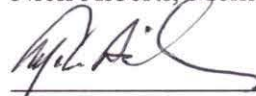
1. The Application filed by MGH Navy Yard, LLC, t/a Circa at Navy Yard/ El Bebe, for a new Retailer's Class CR License, located at 99 M Street, SE, Washington, D.C., is **GRANTED**;
2. The Protest of ANC 6D in this matter is hereby **WITHDRAWN**;
3. The above-referenced Cooperative Agreement submitted 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 Applicant and ANC 6D.

District of Columbia
Alcoholic Beverage Control Board

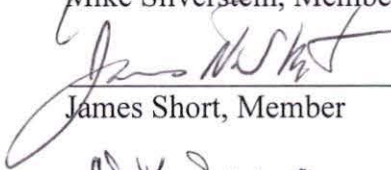


Donovan Anderson, Chairperson

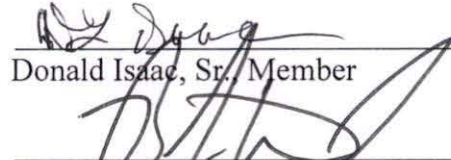
Nick Alberti, Member



Mike Silverstein, Member



James Short, Member



Donald Isaac, Sr., Member



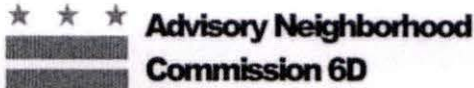
Bobby Cato, Member

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).

MHG Navy Yard, LLC, t/a Circa at Navy Yard/El Bebe,
ABRA#109955, 99 M Street, SE, Washington, DC 20003 and
ANC6D, October, 2018



1101 4th Street SW, Suite W130, Washington, DC 20024
ANC Office: 202 554-1795 office@anc6d.org

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT ("Agreement") is made on this 15th day of October 2018 by and between MHG Navy Yard, LLC t/a Circa at Navy Yard/El Bebe ("Applicant"), at 99 M Street, SE, Washington, DC 20003 ABRA License # 109955 and Advisory Neighborhood Commission 6D ("the ANC"), (collectively, the "Parties").

PREAMBLE

Through this agreement both parties aim to create an environment in which the Applicant may operate as a viable contributing establishment in the ANC6D community.

WITNES ETH

WHEREAS, Applicant has applied for a License On-Premises Retailer's Class CR for a business establishment ("Establishment") serving spirits, wine, and beer, and offering American and Mexican food, indoor space, and two sidewalk cafes, three summer garden areas and an entertainment endorsement, but no dancing or cover charge endorsement located at 99 M Street, SE, Washington, D.C. 20003 ("Premises"); and

WHEREAS, the Applicant is encouraged to work regularly with ANC6D and its representatives, other neighborhood organizations, and residents to ensure that the business operations facilitate the enjoyment of the surrounding neighborhood; and

WHEREAS, in lieu of a protest filing by the ANC, the Parties are desirous of entering into a Cooperative 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 of the establishment within the ANC on (1) peace, order, and quiet, including the noise and litter provisions set forth in §§ 25-725 and 25-726; and (2) residential parking needs and vehicular and pedestrian safety, and to eliminate the need for a Protest Hearing regarding the license application; and

WHEREAS, all parties believe that the statements and provisions contained in this agreement are reasonable and shall become wholly integrated into the day-to-day operation of the Establishment. The Parties agree that any substantial change in operations is considered of great concern to the community which they may bring to the attention of the ABC Board; and

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

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 an Establishment serving spirits, wine, and beer, offering a restaurant-type menu. Two sidewalk cafes and three summer garden areas will be located immediately adjacent to the building as described in #4, below. There may be live entertainment in the interior space. There may be music piped to the sidewalk cafes and summer garden areas with hours as described in #3, below. There shall be no dancing, or cover charge endorsement. Establishment shall not participate in pub crawls. The Establishment shall have no flashing or billboard-type lights; digital LCD screens which project menus, photos of food, and specials may be used. The applicant shall not knowingly permit containers containing alcohol served by the applicant to leave the establishment excepting food and beverages packaged to go.
3. **Hours of Operation and Sales.**

The hours of **operation and selling, serving, and consuming alcohol in the indoor space** shall not exceed:

 - Sunday through Thursday: 8:00 a.m.- 2:00 a.m.,
 - Friday and Saturday: 8:00 a.m.- 3:00 a.m.

The hours of **Entertainment inside** the premises shall not exceed:

 - Sunday through Thursday: 6:00 p.m. – 2:00 a.m.,
 - Friday and Saturday: 6:00 p.m. – 3:00 a.m.

The hours for **operation and selling, serving, and consuming alcohol in the sidewalk cafes and summer gardens** shall not exceed:

 - Sunday through Thursday: 10:00 a.m. – 12:00 a.m.; and
 - Friday and Saturday: 10:00 a.m. - 1:00 a.m.

The hours for **recorded music piped to the sidewalk cafés and summer gardens** shall not exceed:

 - Sunday through Saturday: 10:00 a.m. – 11:00 p.m.
4. **Floors Utilized and Occupancy.** The Applicant will operate its Establishment on the first floor with two sidewalk cafés and three summer garden areas. There are two sections to the interior area of the Establishment: “Circa at Navy Yard” will be located at the corner of M and First Streets, SE; “El Bebe” will be on First Street, SE only. These areas will be connected internally by an open passageway. Circa’s sidewalk café and El Bebe’s sidewalk café will each be located on First Street, SE and separated by fencing; Circa’s summer garden and El Bebe’s summer garden will each be located on First Street, SE and separated by fencing. Circa’s second summer garden will be located on M Street, SE. Occupancy by patrons shall be limited to the first floor of the interior of the Premises, the sidewalk cafés and the summer garden areas. The Certificate of Occupancy will state the seating and occupant load; however, the Establishment will not exceed a total occupancy of 362, which includes indoor capacity of a maximum of 228 seats (148 in Circa, 80 in El Bebe); two sidewalk cafés with a capacity of a maximum of 26 seats (Circa) and 10 seats (El Bebe); and three summer garden areas with a capacity of a maximum of 24 seats

(Circa, First Street, SE), 14 seats (Circa M Street, SE), and 6 seats (El Bebe, First Street, SE).

5. ***Sidewalk Cafés and Summer Gardens.*** Applicant acknowledges the ANC's requirement for a public sidewalk of a minimum of 10 feet in width on the blocks of First Street, SE and M Street, SE. The sidewalk cafes and summer garden areas shall be delineated by using fencing or other means to separate the sidewalk cafés and summer garden areas from public walkways. The Applicant shall ensure that all furniture, fixtures, equipment, or other property of the Establishment or property belonging to patrons is contained within the sidewalk cafés and summer garden areas and does not extend into the pedestrian walkway. Music may be piped to the sidewalk cafés and summer garden areas with hours as indicated in #3, above.

The "garage doors" between the indoor space and the summer garden areas along First Street SE shall be closed by 11:00 p.m. OR if the garage doors remain open after 11:00 p.m., all amplified sounds, including music and television, both inside and outside, shall be shut down.

The Applicant agrees to monitor sounds from voices and music and other amplified sounds on the sidewalk cafés and summer garden areas and shall ensure that any reasonable concerns raised by nearby occupants are remedied as soon as possible, at a maximum within a ten-day period.

The Parties also agree that if there is an increase in residential dwelling units in the area surrounding the Establishment, they will (a) review and reconsider the noise mitigation plans and (b) potentially adjust the hours of recorded music on or piped to the sidewalk cafés and summer garden areas.

6. ***Parking Arrangements.*** It is a concern of the ANC that the Applicant's operation of the Establishment does not create or exacerbate parking problems within the ANC. The Applicant shall notify patrons (through a website or other means) that there is limited parking in the vicinity and shall provide information about public transportation.
7. ***Noise and Privacy.*** Applicant shall strictly comply with D.C. Official Code § 25-725 and to that end shall use various reasonable means including making architectural improvements to the property, subject to landlord's approval, and take all necessary and reasonable noise mitigation efforts to ensure that music, noise and vibration from the Establishment comply with the provisions of Title 25-725. Options for noise mitigation can include: awnings, shrubbery, cinderblock or wooden walls (perhaps with vines), trees in planters, fountains with running water, or other muting or muffling objects.
- Applicant shall inform its patrons by signage or other means such as on the website that upon exiting the Establishment and walking through the neighborhood the provisions of the "Noise at Night" law prohibit persons "from making unreasonably loud noise between the hours of 10 pm and 7 am that are likely to annoy or disturb one or more persons in their residences."

Applicant shall receive all deliveries of food, beverages, and supplies during hours between 6:00 a.m. and 7:00 p.m. Mondays to Saturdays. No deliveries excepting fresh bread products, fresh produce, and seafood shall be accepted on Sundays.

8. **Public Space and Trash.** The Applicant shall participate in the building's trash removal and storage program. Trash and dumpster areas maintained by the Applicant shall be kept clean. The Applicant shall enclose its dumpsters and keep dumpster lids tightly closed and incapable of being entered by rodents, in order to limit odors and help control pest and rodent population. Applicant shall ensure that the area around the dumpster is kept clean at all times and the dumpster is placed such that it does not encroach on the abutting property owners and so that no garbage is placed on the abutting property. Applicant will provide for the proper (recyclable) removal of grease and oils and will not deposit these substances for removal in dumpsters or trash cans. Applicant will contract for regular rodent and pest (insect) abatement. Applicant shall have the Establishment and the area around the Premises properly cleaned at the end of each night to ensure that there are not garbage and odors present the following morning.
9. **Security Cooperation in Stemming Illegal Drugs and Public Drinking.** Applicant shall take all reasonable steps to minimize problems of illegal drugs and public drinking, including, at all times having a trained employee on site, and without limitation, assure adequate security to control unruly patrons, whether inside or in the immediate outside area of the Establishment; monitoring for and prohibiting known sales or use of illegal drugs within the Establishment; and maintaining contact and cooperating with MPD and other enforcement officials when known or suspected drug activities occur. Applicant shall to the full extent permissible by law discourage loitering in the vicinity of the Premises.
Applicant shall have recording cameras which cover the outside areas and the areas where alcoholic beverages are served in the Establishment. If Applicant is responsible for the video surveillance equipment, the Applicant shall maintain security cameras and:
(a) Ensure the cameras are operational; (b) Maintain footage for a minimum of 30 days; and (c) Make the security footage available within 48 hours upon the request of ABRA or the Metropolitan Police Department.
10. **License Ownership and Compliance with ABRA Regulations.** Applicant promises to the ANC that it shall abide by all Alcoholic Beverage Regulations Administration (ABRA) regulations regarding the ownership of the license and all other provisions applicable to liquor licensees, and agrees that the ANC shall have standing to ask the ABC Board to enforce any violations of the agreement.
11. **Participation in the Community.** Applicant is encouraged to maintain open communication with the ANC and the community for which the ANC acts.
12. **Notice and Opportunity to Cure.** In the event that any of the parties is in breach of this Agreement, it shall be entitled to reasonable notice and opportunity to cure, as a condition precedent to seeking enforcement of the Agreement. Unless the breach is of an

MHG Navy Yard, LLC, t/a Circa at Navy Yard/El Bebe,
 ABRA#109955, 99 M Street, SE, Washington, DC 20003 and
 ANC6D, October, 2018

emergency nature or is a repetition of a prior breach, reasonable notice and opportunity shall provide for a cure within 30 days of the date of such notice. If Applicant or the licensee fails to cure within the 30-day period (or, with respect to a breach which reasonably requires more than 30-days to cure, fails to commence cure of such breach and diligently pursues such cure) failure shall constitute a cause for filing a complaint with the ABC Board pursuant to D.C. Official Code § 25-447.

If to Applicant: MHG Navy Yard LLC t/a Circa at Navy Yard/El Bebe
 99 M Street, SE
 Washington, DC 20003
 Attn: Matthew Carlin, Managing Member, MHG Café Enterprises
 LLC
 Phone: 703-629-4352
 e-mail: mcarlin@eatmhg.com


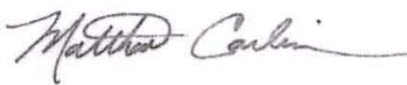
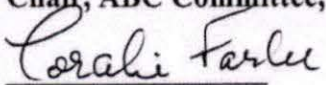
If to Protestant: Advisory Neighborhood Commission 6D
 1101 4th Street, SW, Suite W130
 Washington, DC 20024
 Attn: Chair, ANC
 Phone: (202) 202 554-1795
 e-mail: office@ANC6D.org

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.

- No Protest.** Upon execution of this Agreement by the Parties and its acceptance by the ABC Board, and in reliance thereupon, the ANC shall refrain from filing a protest of the Applicant's pending license application.

The ANC:

APPLICANT:

<p>Chair, ANC6D</p>  <p>_____ Meredith Fascett, SMD07</p> <p style="text-align: right;"><u>10/15/2018</u> Date</p>	<p>MHG Navy Yard, LLC t/a Circa at Navy Yard/ El Bebe</p>  <p>_____ Matthew Carlin, Managing Member MHC Café Enterprises, LLC</p> <p style="text-align: right;"><u>10/25/2018</u> Date</p>
<p>Chair, ABC Committee, ANC6D</p>  <p>_____ Coralie Farlee</p> <p style="text-align: right;"><u>10/25/18</u> Date</p>	<p>_____ Matthew Carlin, Managing Member MHC Café Enterprises, LLC</p>