

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

In the Matter of:)

Agave Mexican Restaurant, Inc.)
t/a Agave Mexican Restaurant)

Applicant for a New)
Retailer's Class CT License)

License No.: ABRA-110928
Order No.: 2018-687

at premises)
3217 Georgia Avenue, NW)
Washington, D.C. 20010)

Agave Mexican Restaurant, Inc., t/a Agave Mexican Restaurant (Applicant)

Kent C. Boese, Commissioner, Advisory Neighborhood Commission (ANC) 1A

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 Agave Mexican Restaurant, Inc., t/a Agave Mexican Restaurant (Applicant), and ANC 1A have entered into a Settlement Agreement (Agreement), dated October 20, 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 Commissioner Kent C. Boese, on behalf of ANC 1A, are signatories to the Agreement.

Accordingly, it is this 7th day of November, 2018, **ORDERED** that:

1. 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 2 (Nature of the Business) – The language “Mexican food” shall be replaced with the language “hot and cold food.”

Section 3 (Hours of Operation and Sales) – Where appears, the language “provide entertainment” shall be removed.

Section 3 (Hours of Operation and Sales) – At the end of this Section, add the following language: “The ANC will not object to the licensee applying for an one-day substantial change permit to allow it to offer entertainment past its Board-approved hours on those days in which the Council or the Board grants licensees extended hours.”

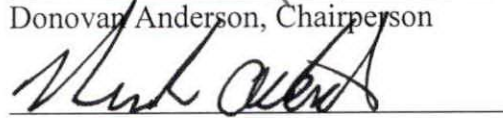
The parties have agreed to these modifications.

2. Copies of this Order shall be sent to the Applicant and ANC 1A.

District of Columbia
Alcoholic Beverage Control Board



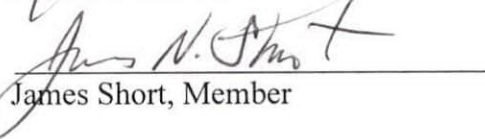
Donovan Anderson, Chairperson



Nick Alberti, Member

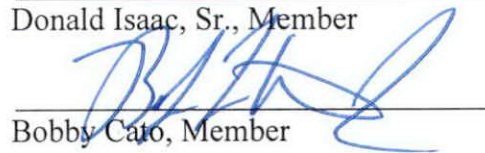


Mike Silverstein, Member



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).



1A ADVISORY NEIGHBORHOOD COMMISSION 1A

SMD 1A01 – Valerie Baron
SMD 1A04 – Sadaf Mortezavi
SMD 1A07 – Sharon Farmer
SMD 1A10 – Rashida Brown

SMD 1A02 – Vickey A. Wright-Smith
SMD 1A05 – Christine Miller
SMD 1A08 – Kent C. Boese
SMD 1A11 – Dotti Love Wade

SMD 1A03 – Zach Rybarczyk
SMD 1A06 – Angelica Castañon
SMD 1A09 – Bobby Holmes
SMD 1A12 – Margaret Hundley

SETTLEMENT AGREEMENT

THIS AGREEMENT (“Agreement”) is made on this 20th day of October 2018, by and between Agave Mexican Restaurant, Inc. (the “Applicant”), and Advisory Neighborhood Commission 1A (“Protestant”), (collectively, the “Parties”).

WITNESSETH

WHEREAS, Applicant has applied for a Retailers License Class “C” Tavern for a business establishment located at 3217 Georgia Avenue, NW, Washington, D.C. (the “Premises”);

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 an 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) the peace, order, and quiet of the neighborhood and (ii) pedestrian safety and vehicular traffic, and 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. **Nature of the Business:** The Applicant will manage and operate a tavern that will be serving Mexican food and providing live entertainment. Any change from this model shall be considered by both Parties to be a substantial change in operation of great concern to residents and requires prior approval by the ABC Board.
3. **Hours of Operation and Sales:** The Applicant’s hours of operation shall be as follows;

Sunday through Thursday 6:00 am – 2:00 am,
Friday and Saturday 6:00 am – 3:00 am

Advisory Neighborhood Commission 1A
3400 11th Street NW #200
Washington, DC 20010

The Applicant's hours for selling and serving alcohol for inside premise shall be as follows:

Sunday through Thursday 10:00 am – 2:00 am
Friday and Saturday 10:00 am – 3:00 am

The Applicant's hours for selling and serving alcohol on the Summer Garden shall be as follows:

Sunday through Thursday 10:00 am – 12:00 am
Friday and Saturday 10:00 am – 12:00 am

The Applicant's hours of live entertainment for inside premise shall be as follows:

Sunday through Thursday 6:00 pm – 2:00 am
Friday and Saturday 6:00 pm – 3:00 am

The Applicant's hours of live entertainment for the summer garden shall be as follows:

Sunday through Thursday 10:00 am – 10:00 pm
Friday and Saturday 10:00 am – 10:00 pm

Provided, however, (1) on days designated by the DC ABC Board as "extended Hours for ABC Establishments" Applicant may serve alcoholic beverages and provide entertainment for one additional hour (that is, one hour later in the morning) or later hours as authorized; (2) in the event the Council of the District of Columbia or the DC ABC Board grant licensees in general extended operating hours Applicant may avail itself of such extended hours; (3) on January 1 of each year Applicant may serve alcoholic beverages and provide entertainment until 4 am.

4. **Floors Utilized and Occupancy:** The Applicant will operate its establishment on the ground floor of the building and the summer garden. The Establishment will have no more patrons than permissible by DC Code and Fire regulations.
5. **Noise, Entertainment, and Privacy:** Applicant will strictly comply with D.C. Official Code § 25-725 and to that end shall make architectural improvements to the property and take all reasonably necessary actions to ensure that music and noise from the Establishment are not audible within the adjacent residential properties. Doors and windows will be closed after 9:00 p.m. except as needed for the purpose of patrons to enter and exit. "Entertainment" means live music or any other live performance by an actual person, including live bands, karaoke, comedy shows, poetry readings, and disc jockeys. The Applicant shall configure any and all speaker systems such as to minimize sound from being heard in the adjacent residential area. In the event there shall be a violation of this subsection, the Applicant shall take all steps necessary to prevent the repetition of such violation. The Applicant will notify performers of the terms of the Entertainment endorsement, including hours on the

Summer Garden, as necessary to maintain peace, order, and quiet in the surrounding residential area.

6. **Public Space and Trash:** Applicant shall keep the sidewalk, tree box(es), alley and abutting public spaces clean and free of litter, bottles, and other debris in compliance with D.C. Code and Municipal Regulations. Applicant shall police these areas twice daily to assure that refuse and other materials are promptly removed. The Applicant agrees to obtain a dumpster(s) to be placed in the rear of the building. Applicant shall ensure that the area around the dumpster(s) is kept clean at all times and the dumpster(s) is placed such that it does not encroach on the abutting property owners and so that no garbage is placed on the abutting property.
7. **Rats and Vermin Control:** The Applicant shall provide rat and vermin control for its property. Applicant shall provide proof of its rat and vermin control contract upon the request of the Board. Applicant shall have the Establishment and the area around the Premises properly cleaned at the end of each night to ensure that there is not garbage and odors present the following morning.
8. **License Ownership and Compliance with ABRA Regulations:** Applicant promises to Protestants that it shall abide by all Alcoholic Beverage Regulation Administration (ABRA) regulations regarding ownership of the license and all other provisions applicable to liquor licensees, and agrees that Protestants shall have standing to ask the ABC Board to enforce any violations of the agreement.
9. **Participation in the Community:** Applicant agrees to seek to maintain open communication with the Protestants, and the community for which the ANC acts.
10. **Notice and Opportunity to Cure:** In the event that any of the parties is in breach of this Agreement, the party 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 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 the ANC to file a complaint with the ABC Board pursuant to D.C. Official Code § 25-446(e) in order to enforce the provisions of the Agreement. Unless otherwise noted above, any notices required to be made under this Agreement shall be in writing and mailed via certified mail, return receipt requested, postage prepaid, or hand-delivered, to the other parties to this Agreement at the following addresses. Notice shall be deemed given as of the time of receipt or refusal of receipt.


If to Applicant:
Agave Mexican Restaurant, Inc.

3217 Georgia Ave., NW
Washington, DC
Attn: Samuel Trejo
(301) 526-3910

If to Protestants:
Advisory Neighborhood Commissions 1A

3400 11th Street, NW
Washington, DC
Attn: Kent Boese, Chairman
(202) 944-8111

Agave Mexican Restaurant, Inc.

Signature:  _____

Print Name: Samuel Trejo _____ (Owner)


Signature:  _____

Print Name: Nestali Vasquez _____ (Owner)

Signature:  _____

Print Name: Maria M. Fernandez De Trejo (Owner)

ANCI

Signature:  _____

Print Name: Kent C. Boese