

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

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In the Matter of:)	
)	
Golden Eagle, Inc.)	
t/a Al Dente)	
)	Case No.: 19-PRO-00074
Application for Renewal and Petition to)	License No.: ABRA-087728
Terminate a Settlement Agreement)	Order No.: 2019-525
for Retailer's Class CR License)	
)	
at premises)	
3201 New Mexico Avenue, NW)	
Washington, D.C. 20016)	
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Golden Eagle, Inc., t/a Al Dente, Petitioner

Matthew Minora, Counsel, on behalf of the Petitioner

Charles Elkins, Chairperson, on behalf of Advisory Neighborhood Commission (ANC)
3D

BEFORE: Donovan Anderson, Chairperson
Mike Silverstein, Member
James Short, Member
Bobby Cato, Member
Rema Wahabzadah, Member

**ORDER ON SETTLEMENT AGREEMENT AND
WITHDRAWAL OF ANC 3D'S PROTEST**

The official records of the Alcoholic Beverage Control Board (Board) reflect that Golden Eagle, Inc., t/a Al Dente (Petitioner), entered into a Settlement Agreement with ANC 3D and Spring Valley Wesley Heights Citizens Association (SVWHCA) on December 15, 2011, and it was approved by the Board on March 26, 2012. On March 26, 2019, the Petitioner sought to terminate its Settlement Agreement, under D.C. Official Code § 25-446(d). In addition, the Petitioner filed an Application for renewal of its Retailer's Class CR License.

The Petition to Terminate have been protested by the ANC 3D, but not the Application for renewal.

The official records of the Board reflect that the Petitioner and ANC 3D have entered into a Settlement Agreement (Agreement), dated June 12, 2019, that governs the operation of the Petitioner's establishment.

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Petitioner and Chairperson Charles Elkins, on behalf of ANC 3D, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by ANC 3D of the Petition to Terminate Application.

Accordingly, it is this 26th day of June, 2019, **ORDERED** that:

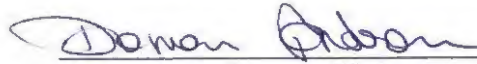
1. The Protest of ANC 3D in this matter is hereby **WITHDRAWN**;
2. The above-referenced Settlement Agreement submitted by the Parties to govern the operations of the Petitioner's establishment is **APPROVED** and **INCORPORATED** as part of this Order, except for the following modification:

Section 4 (Summer Garden) – The fourth sentence shall be modified to read as follows: “Applicant agrees not to apply to the ABC Board for expansion or relocation of the summer garden without affording ANC 3D a minimum of 60 days advance notice of its intention to do so.”

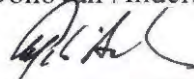
The parties have agreed to this modification.

3. Copies of this Order shall be sent to the Petitioner, ANC 3D, and Matthew Minora, Esq., on behalf of the Petitioner.

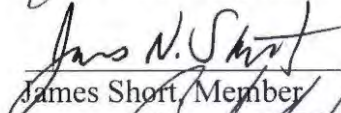
District of Columbia
Alcoholic Beverage Control Board



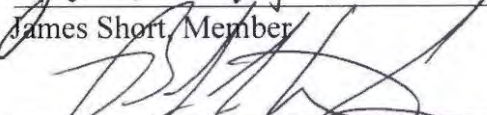
Donovan Anderson, Chairperson



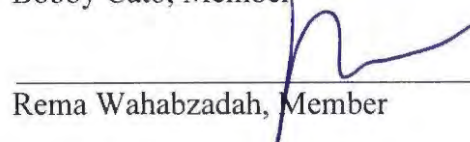
Mike Silverstein, Member



James Short, 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 12th day of June, 2019 by and among Golden Eagle, Inc., t/a Al Dente ("Applicant") and Advisory Neighborhood Commission 3D ("ANC 3D") (together, the "Parties").

WITNESSETH

WHEREAS, Applicant has applied for renewal of an Alcoholic Beverage Control (ABC) Class CR license for a business establishment ("Establishment") located at 3201 New Mexico Avenue, NW, Washington, DC ("Premises"); and,

WHEREAS, the parties and others entered into a December 15, 2011 Voluntary Agreement governing certain aspects of operating of the Establishment; and,

WHEREAS, the Parties are desirous of entering into a superseding Settlement Agreement pursuant to DC Official Code §25-446 for the operation and maintenance of the Establishment in such a manner as to minimize the effect of the Establishment on (i) the peace, order and quiet of the neighborhood and (ii) pedestrian safety and vehicular traffic and to resolve Applicant's pending petition to terminate the 2011 Voluntary Agreement and the ANC's pending protest of that petition; and

WHEREAS, any change in this Agreement shall be considered by the Parties as a substantial change in operation of great concern to residents and shall require prior approval by the Alcoholic Beverage Regulatory Administration ("ABRA");

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 shall manage and operate a 253 interior seat, family-oriented neighborhood serving restaurant with an emphasis on food. No more than 58 of those seats will be in a bar/lounge area, with the balance in main dining or private dining rooms served by waiters or waitresses. No entertainment other than recorded background music will be presented, excepting on Saturday and Sunday brunches (terminating no later than 4:00pm), on occasions when the restaurant is hosting private events not open to the general public (on which occasions operable windows and doors shall remain closed) or on New Year's Eve. Applicant shall in good faith endeavor to cooperate with the neighboring restaurant to the end that any combination of two streams of music do not result in excessive noise as defined in Section 6(a) of this agreement. Patrons arriving to pick up a "take-out" or delivery order, the first 15 minutes of parking on the exterior deck in the rear of the building will be free and prominent mention of such will be displayed on the "Order Online" page of Applicant's

website. In order to discourage casual consumption of alcohol, Applicant will not:

- a. Serve beer by the pitcher;
- b. Conduct any form of “drinking games;” or,
- c. Offer any flat-fee, all-you-can-drink promotions or other drink discounts except for “Happy Hour” offers which shall be limited to the bar area inside the restaurant unless patrons are also being served food.

3. ***Hours of Operation and Sales.*** The Applicant’s hours of operation and for consumption of alcoholic beverages shall be as follows:

Sunday – Saturday 11:30 a.m. – 12:00 a.m.

It is understood that no patrons shall remain on the Premises after 12:00 a.m.; provided that:

(a) on days designated by the DC ABC Board as “Holiday Extension of Hours” applicant may avail itself of the extended hours so provided;

(b) in the event the Council of the District of Columbia or the ABC Board grants licensees in general extended operating hours (such as for Inauguration or World Cup) applicant may avail itself of such extended hours; and

(c) on January 1 of each year applicant may operate until 1:30 a.m.

4. ***Summer Garden.*** Applicant shall operate a 50 seat seasonal summer garden on private property immediately adjacent to the front windows of the Premises; provided, that after 9:30pm daily, no patrons shall remain seated within the covered area immediately adjacent to the entrance to the lobby of the building of which the Premises form a part (that is, beyond an imaginary line extended Northward along the face of the portion of said building occupied by the neighboring restaurant). All summer garden seating shall be at tables – there shall be no bar set up on the summer garden. The borders of the summer garden seating area shall be indicated by clearly visible markers. Applicant will not apply to the ABC Board for expansion or relocation of the summer garden without affording ANC 3D a minimum of 60 days advance notice of its intention to do so. Applicant will not present any form of entertainment on its summer

garden. No music will be played outdoors. No music should be audible beyond the barriers of the Establishment's outdoor seating after 9 PM.

5. ***Parking for Customers and Employees.*** It is a principal concern of ANC 3D that the Applicant's operation of Al Dente does not create or exacerbate parking problems within the immediate neighborhood. To that end, the Applicant shall ensure that its management and employees park legally at all times, and take all reasonable measures to cause its vendors to park legally at all times, all in compliance with the posted parking regulations of the District of Columbia. Pursuant to its lease for the Premises, Applicant's customers and employees may park on the exterior deck to the rear of the building. Parking is free with validation stickers on Saturdays and Sundays and after 5:00 p.m. on Mondays-Fridays. During the hours of 11:00 a.m. to 5:00 p.m. Mondays- Fridays, customers and employees with validation stickers are charged fifty percent (50%) of prevailing parking rates.
6. ***Noise and Privacy.*** The Applicant commits to maintaining neighbor-friendly noise levels inside and outside and will provide its managers and wait staff with strategies for noise control and instruct them to deal promptly with any and all instances of excessive noise.
 - a. Excessive noise is defined as noise that causes neighbors to complain because it is disrupting the peace and quiet inside their homes, or noise that any reasonable person would recognize as not neighbor-friendly, including noise caused by moving outdoor furniture.
 - b. The Applicant further agrees to use additional staff and/or security personnel to help control noise levels, and when appropriate, to caution patrons to be respectful of the neighborhood when exiting the Establishment.
 - c. The Applicant further agrees not to place any speakers or other sound-transmitting equipment in its summer garden and will not add any speakers or amplification equipment at any location outside the restaurant.
 - d. If necessary, Applicant shall take reasonable steps to reduce noise emanating from the opening of the entry or exit doors. Operable windows and doors shall remain closed (except for normal access and egress through doors) during any presentation of live entertainment after 6:00pm.
 - e. Applicant shall strictly comply with D.C. Official Code §25-725
 - f. Applicant shall to the full extent permissible by law discourage loitering in the vicinity of the Premises.
 - g. Indoor music shall be background-level only and low enough in volume to permit normal conversation.
7. Applicant shall not cede control of the Premises to any promoter or other third party and there shall be no cover charges imposed to enter the Establishment.
8. ***Public Space and Trash.*** Applicant shall keep the Sutton Place terrace adjacent to the Premises clean and free of litter, bottles, and other debris in compliance with D.C. Code and Municipal Regulations. Applicant shall police these areas

sufficiently to assure that refuse and other materials are promptly removed. Applicant shall regularly monitor conditions in the Summer Garden to keep the area free of litter.

9. ***Trash Pickup/Deliveries.*** All trash/garbage pick-ups and vendor deliveries shall be made between 8:00 a.m. and 6:00 p.m., Monday thru Friday, and 9:00 a.m. and 6:00 p.m. on Saturdays. No trash/garbage pick-up or vendor deliveries will be permitted on Sundays.
10. ***Rats and Vermin Control.*** Applicant shall keep those areas adjacent to the trash dumpster and rear access areas reasonably clean and free of garbage, grease, objectionable odors, and litter. Applicant shall provide rat and vermin control for its property and shall provide proof of its rat and vermin control contract upon the request of the Board. Applicant shall ensure that there are not odors from the trash dumpster.
11. ***License Ownership and Compliance with ABRA Regulations.*** Applicant promises to ANC 3D 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 ANC 3D shall have standing to ask the ABC Board to enforce any violations of this Agreement. Applicant acknowledges that failure to adhere to the foregoing commitments will constitute grounds for ANC 3D to petition the ABC Board for issuance of an Order to Show Cause, pursuant to DC Code §25-447 (2001), to gain Applicant's compliance with the terms of this Agreement and ABRA regulations.
12. ***Notice and Opportunity to Cure.*** The Parties to this Agreement agree to work together to resolve matters of community concern relating to the Establishment. To this end, the Parties agree that each will notify the other as soon as reasonably possible of any complaint about the establishment and attempt a cooperative resolution of such complaint as the first recourse. Unless a breach of this Agreement is of an emergency nature, the Party in breach shall provide for a cure within 30 days of the notice of such breach. If Applicant 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), such failure shall constitute a cause for seeking a Show Cause Order from the ABC Board pursuant to DC Official Code §25-447. Notices required to be made under this Agreement shall be in writing and mailed to the addresses identified in this Agreement via certified mail, return receipt requested, postage prepaid, or hand-delivered, to other Parties to this agreement. Notice shall be deemed given as of the time of receipt or refusal of receipt. Notwithstanding the foregoing, nothing herein shall preclude the ANC from contacting an ABRA enforcement official or the District of Columbia police to promptly report a complaint concerning the establishment.

13. This Settlement Agreement supersedes and replaces the 2011 Voluntary Agreement (as to the parties hereto), shall be considered part of the Applicant's license and must be assigned to and assumed by any successor to the Applicant. Upon approval of this Agreement by the ABC Board, Applicant's petition to terminate the 2011 Voluntary Agreement (as to ANC 3D) and the protest thereof by the ANC, or any pending protest of renewal of the Applicant's ABC license shall be deemed withdrawn.

[Signatures on Next Page]

ADVISORY NEIGHBORHOOD COMMISSION 3D:

By: Charles Elkins 6/12/19
Charles Elkins, Chair
Advisory Neighborhood Commission 3D
P.O. Box 40486
Palisades Station
Washington, D.C. 20016

APPLICANT:

GOLDEN EAGLE, INC.

By: Hakan Ibar
Hakan Ibar, President
c/o Golden Eagle, Inc. t/a Al Dente
3201 New Mexico Avenue, NW
Washington, D.C. 200126