

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

In the Matter of:

Bartaco Washington DC, LLC
t/a Bartaco Mt. Vernon

Application for a New
Retailer's Class CR License

at premises
1025 5th Street, NW
Washington, D.C. 20001

License No.: ABRA-119567
Order No.: 2021-899

Bartaco Washington DC, LLC, t/a Bartaco Mt. Vernon, Applicant

Rachelle Nigro, Chairperson, Advisory Neighborhood Commission (ANC) 6E

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

ORDER ON SETTLEMENT AGREEMENT

The official records of the Alcoholic Beverage Control Board (Board) reflect that Bartaco Washington DC, LLC, t/a Bartaco Mt. Vernon (Applicant), Applicant for a new Retailer's Class CR License and ANC 6E entered into a Settlement Agreement (Agreement), dated November 5, 2021, in accordance with D.C. Official Code § 25-446 (2001).

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant and Chairperson Rachelle Nigro, on behalf of ANC 6E, are signatories to the Agreement.

Accordingly, it is this 30th day of December 2021, **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; and
2. Copies of this Order shall be sent to the Applicant and ANC 6E.

District of Columbia
Alcoholic Beverage Control Board

eSigned via DocuSign.com
Donovan Anderson
Key: 36422b906601f0e4b79003d1dccc9

Donovan Anderson, Chairperson

eSigned via DocuSign.com
James Short
Key: 547ec173f020e0e3b1b332ca2b49e7

James Short, Member

Bobby Cato, Member

Rafi Crockett, Member

eSigned via SeamlessDocu.com
Jeni Hansen, Member
Key: 021720312659447491b50f6e3e4109f

Jeni Hansen, Member

eSigned via SeamlessDocu.com
Edward Grandis, Member
Key: 5027bda70b06040ee14adeb52541cc5

Edward S. Grandis, Member

Pursuant to 23 DCMR § 1719.1, 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, Reeves Center, 2000 14th Street, N.W., 400S, Washington, D.C. 20009. Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, District of Columbia 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 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).

Finally, in the case of a summary suspension, “A person aggrieved by a final summary action may file an appeal in accordance with the procedures set forth in subchapter I of Chapter 5 of Title 2.” D.C. Code § 25-826(d).

Settlement Agreement

by and between

Bartaco Washington DC, LLC "Bartaco"
and
Advisory Neighborhood Commission 6E

for premises located at
1025 5th Street, N.W, Washington DC 20001

Recitations

WHEREAS, Bartaco consists of a limited liability company organized under the laws of the State of Delaware and is authorized to do business in the District of Columbia; and,

WHEREAS, the premises on 1025 5th Street, N.W is located within Advisory Neighborhood Commission 6E ("ANC 6E"); and,

WHEREAS, the Applicant has filed for a new Class "C" Restaurant license under the D.C. Alcoholic Beverage Control Act ("Application") with the ABC Board; and,

WHEREAS, the Application seeks approval to operate a new full-service Restaurant ("Restaurant") and Summer Garden at 1025 5th Street, N.W, and,

WHEREAS, the Applicant and ANC 6E (collectively, the "Parties") desire to resolve potential issues in the operation of Bartaco located at 1025 5th Street, N.W, ("Restaurant") and enter into this Settlement Agreement ("Agreement") in exchange for ANC 6E's support of the 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. **Interior Hours:**

The Hours of Alcoholic Beverage Sales, Service, and Consumption on the interior premises shall be:
Sunday through Saturday 11am – 12am

The following exceptions apply to the interior operating hours only: provided, however (1) on days designated by the ABC Board as "extended Hours for ABC Establishments" Applicant may operate and serve alcoholic beverages for one additional hour (that is, one hour later); (2) in the event the Council of the District of Columbia or the ABC Board grants licensees in general operating hours for particular dates, holidays or events (e.g. inauguration, World Cup), Applicant may avail itself to such extended hours; (3) on January 1 of each year, Applicant may operate and serve alcoholic beverages until 4:00am and may apply for a One Day Substantial Change to provide Entertainment until 3:00am on January 1 of each year; (4) and on "Daylight Saving Time Extension of Hours" as designated by the ABC Board, Applicant may operate, sell, serve, and permit the consumption of alcoholic beverages for one additional hour later.

3. Summer Garden

a.) Summer Garden Hours of Operation and Hours of Alcoholic Beverage Sales, Service, and Consumption: Sunday through Saturday: 11:00am to 11:00pm.

b.) No amplified sound, entertainment, live music, or karaoke shall be permitted on the Summer Garden outside the Restaurant.

4. Public Space and Trash. Applicant shall take reasonable measures to maintain the cleanliness of the premises and ensure the Summer Garden and adjacent public property is free of trash/waste, including the sidewalk in front of the Restaurant. Applicant shall cause extermination services to be provided to the Restaurant by a reputable exterminator on at least a monthly basis.

5. Noise. Applicant shall keep closed all doors and windows, except for the purposes of entering and exiting, outside the hours of Sunday through Saturday: 11:00 am to 11:00 pm. Noise emanating from the licensed premises that is audible in any residential premises is prohibited. Applicant will comply with all aspects of D.C. Official Code §25-725 including, but not limited, to:

(a) The licensee under an on-premises retailer's license shall not produce any sound, noise, or music of such intensity that it may be heard in any premises other than the licensed establishment by the use of any:

- (1) Mechanical device, machine, apparatus, or instrument for amplification of the human voice or any sound or noise;
- (2) Bell, horn, gong, whistle, drum, or other noise-making article, instrument, or device; or
- (3) Musical instrument.

6. Construction of Agreement. Any reference to specific laws and regulations in this Agreement is meant for informational purposes only. ANC 6E does not intend for a violation of any DC law or regulation to also be considered a violation of this Agreement.

7. Notice and Opportunity to Cure. In the event that either party is in breach of this Agreement, the breaching party shall be entitled to reasonable notice and opportunity to cure in the form of thirty (30) days' notice before the non-breaching party can seek enforcement of the Agreement. If the breaching party fails to cure within thirty (30) days, (or, within respect to a breach which reasonably requires more than thirty days to cure, fails to commence cure of such breach and diligently pursues such cure), then the non-breaching party shall be entitled to file a complaint with the ABC Board pursuant to D.C. Official Code §25-447.

If to Applicant: Bartaco
 1025 5th Street, N.W
 Washington, DC 20001
 Attn: Nicole Quist
 Email: nquist@bartaco.com
 Phone: 301-213-4206

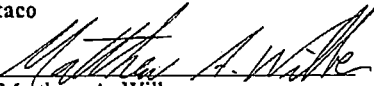
With a copy to: Holland & Knight LLP
800 17th Street NW, Suite 1100
Washington, DC 20009
Attn: Jessica L. Farmer
Email: Jessica.Farmer@hklaw.com
Phone: 301-580-4529

If to ANC: Advisory Neighborhood Commission 6E
P.O. Box 93020, Brentwood Station
Washington, DC 20090
Attn: Rachelle Nigro, ANC 6E Chair
Email: 6E04@anc.dc.gov

Failure to provide notice shall not constitute waiver or acquiescence to the violation, but rather notice shall be a prerequisite to the filing of a complaint with the ABC Board or any other enforcement action.

10. **No Protest.** Upon execution of this Settlement Agreement and its acceptance by the ABC Board, ANC 6E agrees to support Applicant's pending ABC license Application and forthcoming Stipulated License request and shall refrain from filing a protest against Applicant's pending license application.

In witness thereof, the Parties, acting through their authorized representatives, have agreed to and signed this Settlement Agreement.

Bartaco
By: 
Matthew A. Wilber
Chief Financial Officer / Chief Operating Officer

Date: 11/4/21

Advisory Neighborhood Commission 6E
By: 
Rachelle Nigro, Chair

Date: 11/5/2021