

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

<b>In the Matter of:</b>	)	
	)	
BB240MASS, LLC	)	
t/a Buffalo & Bergen	)	
	)	Case No.: 18-PRO-00080
Application for Substantial Change	)	License No.: ABRA-111227
to Retailer's Class CT License	)	Order No.: 2018-727
	)	
at premises	)	
240 Massachusetts Avenue, NE	)	
Washington, D.C. 20002	)	
	)	

BB240MASS, LLC, t/a Buffalo & Bergen (Applicant)

Stephen O'Neal, Commissioner, Advisory Neighborhood Commission (ANC) 6C

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

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**ORDER ON SETTLEMENT AGREEMENT AND  
DISMISSAL OF ANC 6C'S PROTEST**

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The Application filed by BB240MASS, LLC, t/a Buffalo & Bergen (Applicant), for a Substantial Change, was protested by ANC 6C.

The official records of the Board reflect that the Applicant and ANC 6C entered into a Settlement Agreement (Agreement), dated November 28, 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 Stephen O'Neal, on behalf of ANC 6C, are signatories to the Agreement.

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

Accordingly, it is this 5th day of December, 2018, **ORDERED** that:

1. The Application filed by BB240MASS, LLC, t/a Buffalo & Bergen, for a Substantial Change, is **GRANTED**;
2. The Protest of ANC 6C in this matter is hereby **WITHDRAWN**;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 Applicant and ANC 6C.

District of Columbia  
Alcoholic Beverage Control Board



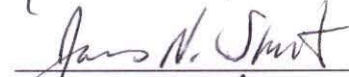
Donovan Anderson, Chairperson

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Nick Alberti, Member



Mike Silverstein, Member



James Short, Member



Bobby Cato, Member

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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 14<sup>th</sup> 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).

## ANC 6C SETTLEMENT AGREEMENT FOR THE BUFFALO & BERGEN

THIS AGREEMENT is made and entered into as of this 28th day of November by and between BB240MASS, LLC, operating under the trade name "Buffalo & Bergen" (hereinafter the "Applicant"), and Advisory Neighborhood Commission 6C, (hereinafter "Protestants").

WHEREAS, Applicant having filed an application with the District of Columbia Alcoholic Beverage Control Board (hereinafter "ABC Board") for its Class C Tavern license for premises of 240 Massachusetts Ave, N.E., Washington, D.C.

WHEREAS, in recognition of the ABC Board's policy of encouraging parties to a protested proceeding to settle their differences by negotiating agreements, the parties hereto being desirous of entering into an agreement whereby, subject to approval of the ABC Board, Applicant will agree to adopt certain measures to address the Protestants' concerns and Protestants' will agree to the issuance of the ABC License and withdraws their Protests.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings memorialized herein, the parties agree as follows:

- 1. Nature of Business:** Applicant will operate at all times as a bona-fide Class C (as such term is defined in ABC statutes and regulations). Applicant will not make its premises available to non-employee promoters for presentation of advertised "parties" or "events" intended to generate profit for such promoters. Applicant will not charge a cover to enter the establishment or any portion of the establishment, except during special events. Applicant will not participate in any "Pub Crawl" promotions. Applicant will not permit dancing, amplified performance of live music, or karaoke. At no time shall there be more than 49 patrons inside the premises and no more than 16 patrons on the sidewalk cafe, unless for special events. The number of Special Events shall be limited to not more than thirty (30) Special Events for every calendar year. Special Events shall be defined as events organized by Applicant for specific occasions that are closed to the general public.
- 2. Hours of Operation:** Applicant's operating hours for inside the premises shall not exceed 6 a.m. to 1 a.m. daily. Applicant's operating hours for the sidewalk café shall not exceed 6 a.m. to 11 p.m. daily. Sale of alcoholic beverages inside the premises shall not exceed 8 a.m. to 1 a.m. daily. Sale of alcoholic beverages on the sidewalk cafe shall not exceed 8 a.m. to 11 p.m. daily. It is understood that after cessation of said "operating hours," no patrons shall remain on the premises. Provided that: (a) on days designated by the DC ABC Board as "Extended Hours for ABC Establishments" applicant may operate for one additional hour (that is, one hour later in the evening); and (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) applicant may avail itself of such extended hours.
- 3. Noise Suppression:** The establishment operation shall at all times be in compliance with the D.C. Noise Control Act and DC Code 25-725. Applicant shall not allow amplified music or amplification of noise on the Sidewalk Café or any exterior areas of the

premises. Applicant will encourage employees and patrons to be considerate of residents in the neighborhood by keeping conversations and other noises at a level that will not disturb the peace, order, quiet and tranquility of residents in the enjoyment of their homes and by departing the vicinity of the premises immediately upon exiting. Applicant will take care to minimize noise during breakdown/set up of the Sidewalk Café.

4. **Deliveries.** Applicant shall make commercially reasonable efforts to require its vendors to make all deliveries of food, beverages, and supplies between the hours of 6:00 A.M. and 7:00 P.M.
5. **Removal of Grease and Oils:** Applicant will provide for the proper (recyclable) removal of grease and oils and will not deposit these substances for removal in dumpsters or trashcans.
6. **Withdrawal of Protest:** Protestants agree to the issuance of the license and the withdrawal of their protests upon execution of this Agreement, provided that this Voluntary Agreement is incorporated into the Board's order issuing, amending or renewing the license, which order is thereby conditioned upon compliance with such Voluntary Agreement.
7. **Right to Seek Redress:** The parties agree that Applicant will be given written notice of any alleged violation of this Agreement and will be afforded ten (10) days in which to investigate and respond to any complaint. The parties agree that if any complaint of violation of this Agreement is not so resolved, then any failure of the Applicant to adhere to the foregoing commitments will constitute a breach of this agreement and grounds for the Protestant to file a complaint pursuant to D.C. Code 25-446(e) in order to enforce the provisions of the Agreement.

**IN WHITNESS WHEREOF**, the Parties place their signatures to this agreement, this 28th day of November, 2018.

**APPLICANT**

  
By: \_\_\_\_\_

**ADVISORY NEIGHBORHOOD COMMISSION 6C**

*Stephen O'Neal*

By: \_\_\_\_\_  
Stephen O'Neal, ANC 6C ABL Committee Chair