

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

In the Matter of:)
)
BMU 14, LLC)
t/a Butter Me Up)
)
Applicant for a New)
Retailer's Class CR License)
)
at premises)
1409 T Street, NW)
Washington, D.C. 20009)
)

Case No.: 21-PRO-00065
License No.: ABRA-118304
Order No.: 2021-756

BMU 14, LLC, t/a Butter Me Up, Applicant

Richard Bianco, Counsel, on behalf of the Applicant

Matthew Holden, Chairperson, Advisory Neighborhood Commission (ANC) 2B

Joan Sterling, President, Shaw Dupont Citizens Alliance, Inc. (SDCA)

Susan Volman, President, Dupont Circle Citizens Association (DCCA)

Elwyn Ferris and Dwight Barbour, Designated Representative, on behalf of a Group of Five or More Individuals

Dwight Barbour, Abutting Property Owner

Elizabeth A. Bezilla, Abutting Property Owner

Joanne Kent and Julian Sanners, Abutting Property Owners

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

**ORDER ON SETTLEMENT AGREEMENT AND
WITHDRAWAL OF PROTESTS**

The Application filed by BMU 14, LLC, t/a Butter Me Up (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 September 14, 2021 and a Protest Stats Hearing on October 6, 2021, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant, ANC 2B, SDCA, DCCA, a Group of Five or More Individuals, and Abutting Property Owners entered into a Settlement Agreement (Agreement), dated November 15, 2021, that governs the operations of the Applicant's establishment.

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant; Chairperson Matthew Holden, on behalf of ANC 2B; Joan Sterling, on behalf of SDCA; Susan Volman, on behalf of DCCA; Elwyn Ferris and Dwight Barbour, on behalf of a Group of Five or More Individuals; Elizabeth A. Bezilla, Joanne Kent, and Julian Sanners, Abutting Property Owners; are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protests filed by ANC 2B, SDCA, DCCA, a Group of Five or More Individuals, and Abutting Property Owners.

Accordingly, it is this 17th day of November 2021, **ORDERED** that:

1. The Application filed by BMU 14, LLC, t/a Butter Me Up, for a new Retailer's Class CR License, located at 1409 T Street, NW, Washington, D.C., is **GRANTED**;
2. The Protests of ANC 2B, SDCA, DCCA, a Group of Five or More Individuals, and Abutting Property Owners in this matter are 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 Parties.

District of Columbia
Alcoholic Beverage Control Board

#Signed via DocuSign DocuSign.com
Donovan Anderson
Key: 264226e976d5f3064973f000d80cc8

Donovan Anderson, Chairperson

#Signed via DocuSign DocuSign.com
James Short
Key: 5476672828ac6e81932e0f2948c2

James Short, Member

#Signed via DocuSign DocuSign.com
Bobby Cato
Key: 25603ead2e4166c714b75bc7917a2c3

Bobby Cato, Member

#Signed via DocuSign DocuSign.com
Rafi Alaya Crockett, Member
Key: 25603ead2e4166c714b75bc7917a2c3

Rafi Crockett, Member

#Signed via DocuSign DocuSign.com
Jeni Hansen, Member
Key: 82c72931c206447491b56bc2a4132f

Jeni Hansen, Member

#Signed via DocuSign DocuSign.com
Edward Grandis, Member
Key: 82c72931c206447491b56bc2a4132f

Edward S. Grandis, 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 II 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 ^{15th} day of ~~NOVEMBER~~ 2021 by and between **BMU 14, LLC**, trading as **Butter Me Up**, License # **ABRA-118304** ("Applicant"), and **Advisory Neighborhood Commission 2B** (hereinafter "ANC 2B"); the **Shaw-Dupont Citizens Alliance (SDCA)**; **Dupont Circle Citizens Association (DCCA)**; **Group of 43 Resident Protestants** (represented by Elwyn Ferris and Dwight Barbour); **Abutting Property Owner #1** (Dwight Barbour); **Abutting Property Owner #2** (Elizabeth Bezilla); and **Abutting Property Owner #3** (Joanne Kent and Julian Sannes), who are listed as parties of record (hereinafter the "Protestants"), ("Protestant"), (collectively, the "Parties").

WITNESSETH

WHEREAS **BMU 14, LLC**, t/a **Butter Me Up** (hereinafter the "Applicant"), has applied for a License Class **CR**, License Number **ABRA-118304**, for a business establishment ("Establishment") located at **1409 T Street, NW**, Washington, D.C. ("Premises");

WHEREAS Protestants are **The Advisory Neighborhood Commission 2B** (hereinafter "ANC 2B"); the **Shaw-Dupont Citizens Alliance (SDCA)**; **Dupont Circle Citizens Association (DCCA)**; **Group of 43 Resident Protestants** (represented by Elwyn Ferris and Dwight Barbour); **Abutting Property Owner #1** (Dwight Barbour); **Abutting Property Owner #2** (Elizabeth Bezilla); and **Abutting Property Owner #3** (Joanne Kent and Julian Sannes), who are listed as parties of record (hereinafter the "Protestants"), who filed timely protests (the "Protest") against the issuance of the Applicant's license application pursuant to D.C. Official Code § 25-601(1) and 601(4), respectively;

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 a Voluntary 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 peace, order, and quiet of the neighborhood, 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.

Nature of the Business. The Applicant will manage and operate a restaurant with an emphasis on food. 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 8 a.m.–2a.m.
Friday and Saturday 8 a.m. – 3 a.m.

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

Sunday through Thursday 8 a.m.– 2 a.m.
Friday and Saturday 8 a.m. – 3 a.m.

Nothing herein shall prohibit the Applicant from participating in extended holiday hours or such other days/events permitting later operations in accordance with applicable law.

4. ***Floors Utilized and Occupancy.*** The Applicant will operate its establishment on the 1st floor(s) of the building. The Establishment will have no more than 60 seats and the maximum occupancy of the Establishment shall not exceed 83 patrons.

6. ***Sidewalk Café.*** Applicant plans to provide sidewalk café seating for 20 patrons. Protestant will not object to the 20-seat patron limit; Applicant agrees that it shall not seek to expand the capacity of the sidewalk café without amendment of this Agreement. Applicant will direct that its employees inspect the sidewalk café at least once each hour to ensure its cleanliness during hours of operation. Movable chairs will either be taken inside or if left outside be secured in some manner (such as by being chained together) at the close of business. The sidewalk café may operate each day of the week as follows:

Sunday – Thursday: open at 8 a.m. to 11 p.m.
Friday and Saturday: open at 8 a.m. to 12 a.m.

7. ***Noise and Privacy.*** Applicant will strictly comply with D.C. Official Code § 25-725 and to that end shall make *commercially reasonable efforts* to ensure that music, noise and vibration from the Establishment are not audible within the adjacent residential properties. ***There will be no loud or live music permitted in the outdoor café.*** Applicant will place a sign in proximity to the exit asking that people be courteous of neighbors by exiting quietly after 10PM.

8. ***Public Space and Trash.*** Applicant shall keep the sidewalk (up to and including the curb), tree box(es), curb, and alley 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 will maintain regular trash/garbage removal service a minimum of four (4)

times per week and will schedule pickups between 8 a.m. to 6 p.m. Applicant shall keep trash and recycling dumpsters indoors, except when moved outdoors for pickup. Applicant shall keep dumpster lids tightly closed and resistant to pests and rodents. Applicant will request and encourage all of its vendors to make deliveries between the hours of 9:00 a.m. and 6:00 p.m. Furthermore Applicant will request and encourage delivery drivers to park their vehicles in designated commercial loading zones.

9. ***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 Protestants. 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.
10. ***License Ownership and Compliance with ABRA Regulations.*** Applicant promises to Protestants 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 Protestants shall have standing to ask the ABC Board to enforce any violations of the agreement. Any reference made to DC laws and regulations in this Agreement is for information only. The parties do not intend for a violation of DC law or regulation to also be considered a violation of this Agreement. The purpose of the preceding sentence is not to limit Protestants' ability to request enforcement action for violations of law, but merely to ensure Applicant will not be penalized twice for a single offense.

In the event of the sale or transfer of this license, this SA will remain in effect, and the existence of this SA will be fully disclosed to any potential transferee, assignee, or contractee.

12. ***Notice and Opportunity to Cure.*** If any of the parties is in breach of this Agreement, that 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 an 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 seeking a Show Cause Order from the ABC Board pursuant to D.C. Official Code § 25-447. 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 the Applicant:

If to Applicant:

BMU 14, LLC t/a Butter Me Up

1409 T Street, NW

Washington, DC 20009
Attn: Andre McCain
andre@halfsmoke.com

If to ANC:
DuPont Circle ANC2B
9 DuPont Circle
Washington, DC 20036
Attn: Chairman (as named on website)

If to SDCA:
President, Shaw-DuPont Citizens Alliance, Inc
PO Box 73153
Washington, DC 20056

If to DCCA:
President, Dupont-Circle Citizens Association
9 Dupont Circle
Washington, DC 20009

If to Group of 43:
Elwyn Ferris and Dwight Barbour
1417 T Street NW
1413 T Street NW / C-4
Washington, DC 20009

If to Abutting property Owner #1:
Dwight Barbour
1413 T Street NW / C-4
Washington, DC 20009

If to Abutting Property Owner #2:
Elizabeth Bezilla
1413 T Street NW
Washington, DC 20009

If to Abutting Property Owner #3:
Joanne Kent and Julian Sannes
1413 T Street NW
Washington, DC 20009

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.

14. ***Withdrawal of Protest.*** Upon execution of this Agreement by the Parties and its

acceptance by the ABC Board, Protestants shall withdraw the Protest.

IN WITNESS WHEREOF, the Parties place their signatures to this agreement, this 15TH day of NOVEMBER 2021.

APPLICANT:

BMU 14, LLC / trading as: Butter Me Up

By: _____
Andre McCain

PROTESTANT GROUPS:

The Advisory Neighborhood Commission 2B ("ANC 2B")

By: _____
Matthew Holden, Chair

Shaw-Dupont Citizens Alliance

By: _____
Joan Sterling, President

Dupont Circle Citizens Association

By: _____
Susan Volman, President

Group of 43 Residents

By: _____ and DW Barbour
Elwyn Ferris Dwight Barbour

Abutting Property Owner #1

By: DW Barbour
Dwight Barbour

Abutting Property Owner #2

acceptance by the ABC Board, Protestants shall withdraw the Protest.

IN WITNESS WHEREOF, the Parties place their signatures to this agreement, this 15TH day of NOVEMBER 2021.

APPLICANT:

BMU 14, LLC trading as: Butter Me Up

By: _____
Andre McCain

PROTESTANT GROUPS:

The Advisory Neighborhood Commission 2B ("ANC 2B")

By: _____
Matthew Holden, Chair

Shaw-Dupont Citizens Alliance

By: Joan Sterling
Joan Sterling, President

Dupont Circle Citizens Association

By: Susan Volman
Susan Volman, President

Group of 43 Residents

By: Elwyn Ferris and _____
Elwyn Ferris Dwight Barbour

Abutting Property Owner #1

By: _____
Dwight Barbour

Abutting Property Owner #2

acceptance by the ABC Board, Protestants shall withdraw the Protest.

IN WITNESS WHEREOF, the Parties place their signatures to this agreement, this 15TH day of ~~NOVEMBER~~ NOVEMBER 2021.

APPLICANT:

BMU 14, LLC / trading as: Butter Me Up

By: _____
Andre McCain

PROTESTANT GROUPS:

The Advisory Neighborhood Commission 2B ("ANC 2B")

By: Matthew Holden
Matthew Holden, Chair

Shaw-Dupont Citizens Alliance

By: _____
Joan Sterling, President

Dupont Circle Citizens Association

By: _____
Susan Volman, President

Group of 43 Residents

By: _____ and Dwight Barbour
Elwyn Ferris Dwight Barbour

Abutting Property Owner #1

By: Dwight Barbour
Dwight Barbour

Abutting Property Owner #2

By: _____
Elizabeth Bezilla

Abutting Property Owner #3

By: Joanne Kent 2/10/13 and Julian Sannes 2/10/13
Joanne Kent Julian Sannes

acceptance by the ABC Board, Protestants shall withdraw the Protest.

IN WITNESS WHEREOF, the Parties place their signatures to this agreement, this ____ day of October ____ 2021.

APPLICANT:

BMU 14, LLC / trading as: Butter Me Up

By: Andre McCain

Andre McCain

PROTESTANT GROUPS:

The Advisory Neighborhood Commission 2B ("ANC 2B")

By: _____

Matthew Holden, Chair

Shaw-Dupont Citizens Alliance

By: _____

Joan Sterling, President

Dupont Circle Citizens Association

By: _____

Susan Volman, President

Group of 43 Residents

By: _____

Elwyn Ferris

and _____

Dwight Barbour

Abutting Property Owner #1

By: _____

Dwight Barbour

Abutting Property Owner #2

By: 
Elizabeth Bezilla

Abutting Property Owner #3

By: _____ and _____
Joanne Kent Julian Sannes