

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

In the Matter of:)
)
With Malus Aforethought, LLC)
t/a Capitol Cider House)
)
Applicant for a New)
Retailer's Class CT License)
)
at premises)
3930 Georgia Avenue, NW)
Washington, D.C. 20011)
_____)

License No.: ABRA-108608
Order No.: 2018-036

With Malus Aforethought, LLC, t/a Capitol Cider House (Applicant)

Bennett Hilley, Commissioner, Advisory Neighborhood Commission (ANC) 4C

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 With Malus Aforethought, LLC, t/a Capitol Cider House, Applicant for a new Retailer's Class CT License, located at 3930 Georgia Avenue, NW, Washington, D.C., and ANC 4C have entered into a Settlement Agreement (Agreement), dated December 13, 2017, 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 Bennett Hilley, on behalf of ANC 4C, are signatories to the Agreement.

Accordingly, it is this 31st day of January, 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; and
2. Copies of this Order shall be sent to the Applicant and ANC 4C.

District of Columbia
Alcoholic Beverage Control Board

Donovan Anderson, Chairperson



Nick Alberti, Member



Mike Silverstein, Member



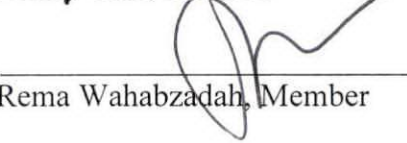
James Short, Member



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).

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made on this 13 day of December, 2017 by and between Capitol Cider House ("Applicant"), and Advisory Neighborhood Commission 4C, (Collectively, the "Parties").

WITNESSETH

WHEREAS, Applicant's application for a liquor license and live entertainment endorsement for premises, 3930 Georgia Ave NW, Washington, DC, 20011, is now pending before the District of Columbia Alcoholic Beverage Control Board (ABC), license number ABRA-108608; and,

WHEREAS, the premises is within the boundaries of the ANC, and,

WHEREAS, the Parties desire to enter into an agreement governing certain understandings regarding the issue of a Retailers' Class "C" Tavern Liquor License, wine pub, a sidewalk cafe, and a live entertainment endorsement at the subject premises; and,

WHEREAS, the Parties are desirous of entering into a Settlement Agreement pursuant to D.C. Official Code § 25-446 for the operation and maintenance of the Establishment in such a manner as to promote the peace, order and quiet of the neighborhood. Both parties recognize the importance of business neighborhoods that are safe, clean, and pedestrian friendly.

NOW, THEREFORE, 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 CT license at the listed address. The license shall have indoor seating of not more than 46, with a Total Occupancy Load of 78 and a sidewalk cafe with 24 seats.

3. Hours of Operation and Sales. The Applicant's hours of operation shall be as follows:
Sunday through Thursday 7 a.m. - 2 a.m., Friday and Saturday 7 a.m.-3 a.m.

Alcohol sales shall be limited to:

Sunday through Thursday 8 a.m. - 2 a.m., Friday and Saturday 8 a.m.-3 a.m. However, alcohol sales will be limited on the sidewalk cafe/outdoor seating area to 8:00am - 12:00am Sunday through Thursday. These limited sidewalk cafe hours may be revised through an amendment to this Settlement agreement after 6 months.

Entertainment hours will be limited to:

Sunday through Thursday, 12 p.m to 10 p.m. and Friday and Saturday, 9 a.m. – 12 a.m.

Provided, however, (1) on days designated by the DC ABC Board as "Extended Hours for ABC Establishments" Applicant may operate and serve alcohol for such hour(s); (2) in the event the Council of the District of Columbia or the DC ABC Board grant licensees in general extended operating hours (such as Inauguration or World Cup) Applicant may avail itself of such extended hours; and (3) on January 1 of each year Applicant may serve alcoholic beverages until 4am in both the indoor and outdoor seating areas.

4. Outdoor Seating. If Applicant chooses to provide seating for patrons in the Establishment's front yard and public space, Applicant will ensure patrons do not block sidewalk passage. Applicant will direct that its employees inspect the sidewalk and front yard area on a regular basis to ensure its cleanliness. Applicant will follow DCRA's regulations on the operation of sidewalk cafes, as provided for in Chapter 24 of Title 3 of District of Columbia Municipal Regulations.

5. Noise and Privacy. Applicant will strictly comply with D.C. Official Code § 25-725 and will make architectural improvements to the property and will take actions, as necessary, to ensure that music, noise and vibration from the Establishment (including patrons, and including both public and private events) are not audible outside the establishment at any time. Applicant agrees to keep its doors closed when music is being played inside the establishment but may open its window panels during such times, provided that the music is not audible beyond the street curbside Applicant will actively work to maintain peace and quiet of patrons after leaving the business and not serving patrons who have a pattern of having produced noise, waste, or unruly behavior.

As stated in the Applicant's building lease agreement, if other tenants of the Building complain about Tenant's invitees creating unreasonable levels of noise, or if Landlord reasonably determines that Tenant is not using its best efforts to curb unreasonable levels of noise generated by Tenant or Tenant's invitees, then Landlord may require that the Operating Hours end at 11 p.m. daily until Tenant has taken effective measures to curb unreasonable levels of noise.

6. Public Space and Trash. Applicant shall keep the sidewalk (up to and including the curb), tree boxes, 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 ensure that refuse and other materials are promptly removed. Applicant will make ongoing efforts to make sure the tree box and sidewalk areas are attractive and enhance the neighborhood.

No entertainment will be provided outside the property. No entertainment will be provided on the sidewalk or in the front yard.

Applicant shall ensure that the area around the dumpster is kept clean at all times and the dumpster is placed such that it does not encroach on the abutting property owners and that no garbage is placed on the abutting property. Applicant will ensure timely disposal no less than

three (3) times per week that is the least disruptive to the neighbors. Commercial trash pickup in residential areas takes place between 7 a.m.-7 p.m.

7. Rats and Vermin Control. The Applicant shall provide rat and vermin control for its property. 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.

8. Security Cooperation in Stemming Illegal Drugs and Public Drinking. Applicant agrees that it shall take all necessary steps to minimize such problems, including, without limitation, designating a sufficient number of employees to assure adequate security and to control unruly patrons, whether inside or in the immediate outside area; monitoring for and prohibiting sales or use of illegal drugs within or about the Premises, maintaining contact and cooperating with MPD and other enforcement officials when known or suspected drug activities occur. Applicant shall to the full extent permissible by law discourage loitering in the vicinity of the Premises.

Applicant will maintain in working order at all times security cameras that entirely cover the interior of the restaurant and the sidewalk and front yard of the property. The footage from these cameras shall be kept for at least 2 weeks and shall be made available to MPD and ABRA within a reasonable timeframe during business hours.

9. Compliance with ABRA Regulations. Applicant promises 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.

In witness whereof, the parties have executed this Settlement Agreement as of the day and date first written above.

Applicant:

Advisory Neighborhood Commission 4C:



Jared Fackrell, Owner, Capitol Cider House



Bennett Hilley, Commissioner, 4C06