

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

In the Matter of:)
)
Communal Restaurant, LLC)
t/a Communal Restaurant)
)
Applicant for Renewal of a)
Retailer's Class CR License)
)
at premises)
917-919 5th Street, NW)
Washington, D.C. 20001)
_____)

Case No.: 19-PRO-00028
License No.: ABRA-108392
Order No.: 2019-655

Communal Restaurant, LLC, t/a Communal Restaurant, Applicant

Andrew Kline, Counsel, on behalf of the Applicant

Alexander Marriott, Chairperson, Advisory Neighborhood Commission (ANC) 6E

James M. Loots, on behalf of the Protestant ANC 6E

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Bobby Cato, Member
Rema Wahabzadah, Member
Rafi Crockett, Member

**ORDER ON AMENDMENT TO SETTLEMENT AGREEMENT
AND WITHDRAWAL OF ANC 6E'S PROTEST**

The Application filed by Communal Restaurant, LLC, t/a Communal Restaurant (Applicant), for renewal of its Retailer's Class CR License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on May 20, 2019, and a Protest Status Hearing on June 26, 2019.

The official records of the Alcoholic Beverage Control Board (Board) reflect that a previous holder of a license for the premises and ANC 6E entered into a Settlement

Agreement (Agreement), dated January 11, 2013, that governs the operations of the Applicant's establishment.

This matter comes now before the Board to consider the Parties' Amendment to Settlement Agreements (Amendment), dated September 17, 2019, in accordance with D.C. Official Code § 25-446 (2001).

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


This Amendment constitutes a withdrawal of the Protest filed by ANC 6E of this Application.

Accordingly, it is this 18th day of September, 2019, **ORDERED** that:

1. The Application filed by Communal Restaurant, LLC, t/a Communal Restaurant, for renewal of its Retailer's Class CR License, located at 917-919 5th Street, NW, Washington, D.C., is **GRANTED**;
2. The Protest of ANC 6E in this matter is hereby **WITHDRAWN**;
3. The above-referenced Amendment to Settlement Agreement submitted by the parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order;
4. All terms and conditions of the previous Agreements not amended by the Amendment, shall remain in full force and effect; and
5. Copies of this Order shall be sent to the Applicant and ANC 6E.

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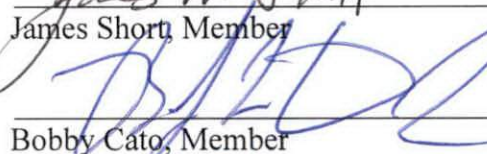
District of Columbia
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson



James Short, Member



Bobby Cato, Member

Rema Wahabzadah, Member



Rafi Crockett, 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).

AMENDMENT TO SETTLEMENT AGREEMENT
By and Between ANCOE and Communal Restaurant LLC
ABRA License # 108392

THIS FIRST AMENDMENT ("Amendment") to a certain Settlement Agreement dated January 11, 2013 ("Settlement Agreement") by and between Communal Restaurant, LLC v/a Communal Restaurant ("Licensee"), at 917-919 5th Street, NW, Washington, DC 20001 and Advisory Neighborhood Commission 6E (the "ANC"), (collectively, the "Parties") is hereby made between the Parties as of the date last set forth below and shall become effective upon its approval by the District of Columbia Alcoholic Beverage Control Board (the "Board"):

WHEREAS, Licensee holds a Retailer's Class "C" License, ABRA License # 108392, for a restaurant establishment (the "Establishment") located at 917-919 5th Street, Washington, DC 20001 (the "Premises"); and

WHEREAS, the Parties entered into the Settlement Agreement on January 11, 2013, which was approved by the Board on February 5, 2013; and

WHEREAS, subsequent to the Settlement Agreement Licensee applied for and was granted a substantial change in use for the Establishment, pursuant to which it now holds a Summer Garden endorsement, pursuant to which it is permitted to offer alcoholic beverages for sale as more specifically described in the License; and

WHEREAS, the Parties have agreed to this Amendment and request that the Board approve the Licensee's renewal application conditioned upon the Licensee's compliance with the terms of this written Amendment as well as the original Settlement Agreement.

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. Settlement Agreement: Except as otherwise provided herein, the terms and conditions of the previously executed Settlement Agreement are expressly reaffirmed and remain in full force and effect.
3. Summer Garden: Balcony Terrace
 - a. Balcony Terrace defined: The Balcony Terrace is that portion of the Summer Garden marked and identified on the attached Exhibit "A" to this Amendment, and incorporated herein by reference.
 - b. Hours of Operation: The hours of operation/sales/service on the Balcony Terrace shall not exceed the following:

Sunday - Thursday	10:00 A.M. to 11:00 P.M.
Friday - Saturday	9:30 A.M. to 11:00 P.M.

- c. There shall be no amplified music or speakers on the Balcony Terrace.
 - d. There shall be no entertainment on the Balcony Terrace, including but not limited to no dance floor, karaoke or live music performances, acoustic or otherwise.
 - e. Licensee shall maintain a fixed wall and closable door between the Balcony Terrace and any remaining portion of the Summer Garden (partially enclosed) and shall use its best efforts to cause doors between the enclosed portion of the Establishment (including any enclosed portion of the Summer Garden) and the Balcony Terrace to remain closed (except for access and egress) at all times when the Summer Garden is in operation.
 - f. The Licensee shall install and maintain acoustic baffles, sound absorbing materials, plantings, and/or other structures and fixtures around Balcony Terrace that a qualified sound engineer determines would be reasonably effective to deflect away from the street and/or absorb noise generated by the Summer Garden.
4. Contact Information. The Licensee shall provide the ANC with the email address and telephone number for a manager or designated representative responsible for addressing community concerns, and shall periodically update this information as reasonably necessary due to change in personnel or position.
5. Notice and Opportunity to Cure. In the event that the ANC reasonably believes Licensee to be in breach of the Settlement Agreement, as amended, then prior to making formal complaint to the Board seeking investigation and/or enforcement the ANC agrees to provide Licensee with not less than ten (10) business days' written notice (at the address set forth below for Licensee, and to provide Licensee opportunity to cure the alleged breach or, if not capable of immediate cure, to commence cure and diligently pursue same. This requirement of notice shall not apply to situations in which the ANC reasonably believes there is imminent danger to public health or safety, or if there have been repeated previous notices to Licensee of the same condition or alleged breach.
- 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 Board or any other enforcement action.
6. No Protest. Upon execution of this Agreement by the Parties and its acceptance by the Board, and in reliance thereon, the ANC shall withdraw its protest of renewal of the License.

[Signatures appear on following page]

IN WITNESS WHEREOF, the parties have agreed to and executed this Amendment as of the date and year last set forth below:

Licensee:
Communal Restaurant
919 5th Street
Washington, DC 20001
e-mail: hidol10@gmail.com

Signature: 
Eric Heiderberger, Member

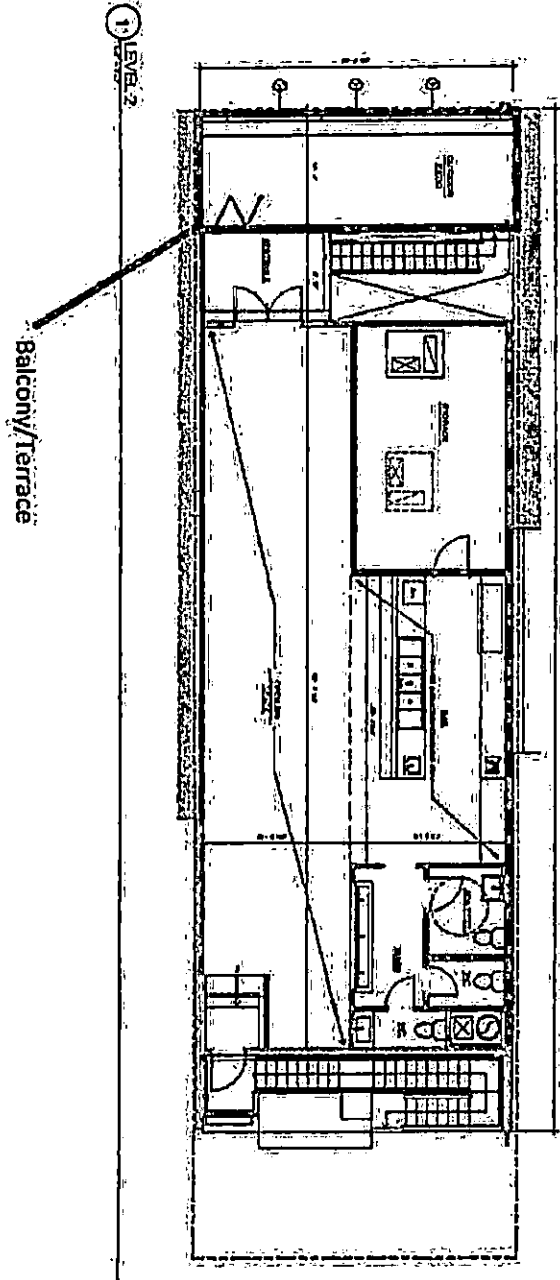
Date: 9/17/19

ANC:
Advisory Neighborhood Commission 6E
PO Box 26182, LeDroit Park Station
Washington, DC 20001
email: anc6E@anc.dc.gov

Signature: 
Alexander Marriott, Chair

Date: 9/16/19

EXHIBIT A TO SETTLEMENT AGREEMENT



LEVEL 2

P102

PROPOSED
FLOOR
PLAN
LEVEL 2

11/27/2019

COMMUNAL RESTAURANT LLC
919 5TH ST, NY
WASHINGTON, DC 20001



BEFORE THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the matter of:

~~Communal Restaurant LLC/a Communal Restaurant~~

919 5th Street, NW

License #108392

Retailer CR

ANC 6E

Application for a License Renewal

Case #19-PRO-00028

Hearing Scheduled 09/17/2019

4:30 PM

NOTICE OF SETTLEMENT AND CONDITIONAL WITHDRAWAL OF PROTEST
NOW COMES ANC6E, Protestant in the above-captioned matter, through undersigned counsel, and hereby withdraws the above-captioned protest to license renewal, conditioned upon acceptance and approval by the Board of the negotiated Settlement Agreement attached hereto. Counsel jointly request that the Board stay further action on the Protest pending Board action on the Settlement Agreement.

Respectfully submitted: September 17, 2019

ANC6E, by Counsel


James M Loots #384763

Law Offices of James M Loots PC

634 G Street SE #200

Washington DC 20003

(202) 536-5650

jloots@lootslaw.com

Certificate of Service

I hereby certify that on September 17, 2019 I caused a copy of the foregoing to be mailed by first class mail and electronic mail as follows:

Andrew Kline
The Veritas Law Firm
1225 19th Street, NW, Suite 320,
Washington, DC 20036
akline@theveritaslawfirm.com