

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE AND CANNABIS BOARD**

_____)	
In the Matter of:)	
)	
Red Bird 11, LLC)	
t/a HER Diner)	
)	
Applicant for a New)	License No.: ABRA-129470
Retailer's Class CR License)	Order No.: 2024-669
)	
at premises)	
2004 18th Street, NW)	
Washington, D.C. 20009)	
_____)	

Red Bird 11, LLC, t/a HER Diner, Applicant

Denis James, President, Kalorama Citizens Associations (KCA)

Ryan Cudemus-Brunoli, President, Vernon House Condominium

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Silas Grant, Jr., Member

ORDER ON SETTLEMENT AGREEMENT

The official records of the Alcoholic Beverage and Cannabis Board (Board) reflect that Red Bird 11, LLC, t/a HER Diner (Applicant), Applicant for a New Retailer's Class CR License, Kalorama Citizens Associations (KCA), and Vernon House Condominium have entered into a Settlement Agreement (Agreement), dated September 19, 2024, 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; Denis James, on behalf of KCA; and Ryan Cudemus-Brunoli, on behalf of Vernon House Condominium; are signatories to the Agreement.

Accordingly, it is this 2nd day of October 2024, **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 Parties.

District of Columbia
Alcoholic Beverage and Cannabis Board

eSigned via SeamanesDocs.com
Donovan Anderson
Key: ac43cb68b65d5f6e4b730063d1cccc8

Donovan Anderson, Chairperson

eSigned via SeamanesDocs.com
James Short
Key: 547ae373f820de6ac8d1b332d62049ec

James Short, Member



Silas Grant, Jr., Member

Pursuant to D.C. Official Code § 25-433(d)(1) (applicable to alcohol matters) or 22-C DCMR § 9720 (applicable to medical cannabis matters), 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 and Cannabis 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 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 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 CONCERNING THE ISSUANCE OF A NEW ABC RESTAURANT LICENSE

AGREEMENT, made this 19th day of September, 2024, by and among Red Bird 11, LLC, t/a HER Diner, (hereinafter "Applicant"), the Vernon House Condominium, (Vernon House) and the Kalorama Citizens Association (hereinafter "KCA") witnesseth:

Whereas, Applicant has applied for a Retailer's Class "C" Restaurant license, to be located at 2004 18th Street, NW, license number ABRA-129470.

Whereas, the restaurant is located within the boundaries of the KCA, and abuts the Vernon House Condominium (1811 Vernon Street, NW).

Whereas, the parties desire to enter into an Agreement whereby Applicant will agree to adopt certain measures to address concerns of the Vernon House and KCA and to include this Agreement as a formal condition of its application to the Alcoholic Beverage and Cannabis Administration ("ABCA"). The Vernon House and KCA agree to the approval of such license provided that this Agreement is incorporated into the Alcoholic Beverage and Cannabis Board's order approving such application.

Now, therefore, in consideration of the mutual covenants and undertakings memorialized herein, the Parties hereby agree as follows:

1. Nature of Establishment

At all times, the Applicant shall operate with the primary purpose of food preparation and consumption and will meet the ABCA standards for a CR license. Applicant shall maintain a menu featuring, but not limited to, a selection of hot, cooked food items. Menus with food selections shall be offered to patrons. The kitchen shall be staffed and maintained, open and operational, with food menu items available during all hours of operation. Applicant shall keep on hand sufficient food supplies to fulfill menu items, with staff to serve them.

2. Inside hours of operation shall not exceed:

Sunday: 11 am - 11 pm; Monday-Thursday: 11 am - 2 am; Friday and Saturday: 11 am - 3 am.

Sidewalk Cafe hours of operation shall not exceed: Sunday-Thursday: 11 am -11 pm, Friday & Saturday: 11 am-1 am.

Last call shall be announced 1/2 hour before closure each night of operation, both inside and outside. Final alcoholic beverages shall be delivered to patrons no later than 20 minutes before closure each night of operation.

Carry-out and delivery: Applicant has applied for a carry-out and delivery endorsement to allow delivery of beer, wine, or spirits in closed containers, along with at least one prepared food item within the District of Columbia.

If the order is being delivered by an employee of Applicant, said employee shall be at least 18 years old and will deliver only to persons 21 years of age or older. Applicant may use third party delivery

services to fulfill such orders. Applicant is encouraged to remind the third-party deliverer to check IDs at the time of delivery for orders that include alcoholic beverages. Hours for such deliveries shall be:

Sunday through Saturday, 11am -11 pm. Applicant agrees to not sell carry-out alcoholic beverages to patrons who have been consuming alcohol at the establishment as they depart.

2. A. Entertainment Endorsement. All entertainment at the establishment shall end one hour before closure, each night of operation.

3. Inside Occupancy: The inside seating capacity and total occupancy load shall be 74.

Occupancy of the Sidewalk Cafe shall be 20.

4. Noise. Applicant acknowledges familiarity with and agrees to comply with all applicable noise-control provisions of District of Columbia law and regulations. Applicant expressly agrees:

(a) No music played inside the Premises nor noise emanating from the Premises shall be audible outside of the Premises and Sidewalk Cafe, at any time except while doorways are open to provide ingress or egress to and from the interior of the Premises. Doors that provide access to the interior of the Premises shall be kept closed except when persons are in the act of entering or exiting the interior of the Premises.

Further, the Applicant agrees to abide by all relevant provisions of the DC Noise Control Act of 1977 (DC Law 2-53), including 20 DCMR, Chapters 27 and 28, as amended.

(b) Applicant agrees that any recorded music played outdoors will be reduced to a conversational level and will not be audible in residential housing units. Such recorded music will cease by 11 pm each night of operation. There shall be no live performances of any kind on the Sidewalk Cafe or Streatary.

(c) Sound from inside and outside will not be audible in residential housing units.

5. Additional Physical Plant concerns

(a) Venting. All kitchen vents shall be directed towards 18th Street and directed away from nearby residents. The roof-mounted mechanical systems and vents will be directed toward the 18th Street side of the licensed premises. The operation of this equipment will not be significantly audible to nearby residents.

(b) Roof Drainage. The roof shall be maintained in such a way as to ensure that drainage at no time will threaten to flood any adjacent property. Roof gutters shall be examined and cleaned at least every 6 months to ensure there are no blockages and that gutters work properly to drain the roof. It is understood that the owner of the property has the ultimate responsibility in this regard.

6. Trash/Garbage/Rodents

(a) Applicant shall maintain a trash pickup schedule of at least 5 times per week, regularly remove trash from the trash and dumpster area in a quiet manner, and keep the trash and dumpster area clean, removing debris and weeds. Should additional trash pick-ups be needed, Applicant shall contact its trash service to arrange them. Applicant shall deposit trash and garbage only in their own rodent-proof containers which applicant will label and shall see that these container's covers fit properly, remaining fully closed except when trash or garbage is added or removed. At no time will any trash, refuse, garbage, packaging or other debris from the restaurant be placed anywhere except in its own trash area. Applicant shall eliminate

food sources for rodents to help eliminate the rat population. Additionally, Applicant shall bait the trash area for rats. Applicant shall regularly hose down and disinfect the trash area to eliminate odors.

(b) Applicant agrees to segregate recyclables from trash and to recycle cardboard, plastic bottles, jars and other containers as well as glass bottles and other glass refuse. Recyclables shall not be dumped outside after 10 pm at night, and after that hour will be kept inside overnight and put out the next day before 10 pm to avoid loud noise late at night.

(c) Applicant will provide for the proper removal of grease and fatty oils from the establishment and will deposit grease or fatty oils only in a container designed for that purpose, and maintain the services of a grease removal company.

(d) Applicant agrees not to place or cause to be placed any fliers, handbills or other similar advertisements in the public space, specifically on lampposts, street signs, trees, or any vehicle parked in the public space.

7. Exterior including public space

(a) Applicant shall assist in the maintenance of the alleyway behind and the space in front of the establishment to at least 18 inches outward from the curb as needed to keep them free of trash and to remove snow and ice from the sidewalk and comply with all applicable DC laws and regulations in these respects.

(b) Applicant shall make every reasonable effort to prevent or disperse loitering or any other source of noise or disturbance in the areas to the rear of the premises during business hours and at closing, and to cause patrons to leave those areas quietly at closing.

(c) Should a line form for entry to the establishment, Applicant shall manage the line so that clear passageway on the public sidewalk in front is maintained.

8. Third Party Events. Applicant agrees to operate the establishment under the terms of its license and will not rent out or otherwise allow the establishment to be used by third parties for events where the owner/manager is not present and actively managing the business.

9. Bar/Pub Crawls. Applicant agrees not to promote or participate in bar or pub “crawls”, “tours”, or similar events.

10. Consideration of Neighbors

Applicant will encourage employees and patrons to be considerate of neighboring residents at all times. Applicant will encourage employees and patrons leaving the establishment to keep conversations and noise to a minimum from 11:00 pm. to 8:00 am.

11. Modification

This Agreement can be modified only by the ABC Board, by mutual agreement of all the parties with the approval of the ABC Board, or as required by District law.

12. Regulations

In addition to the foregoing, Applicant shall operate in compliance with all applicable laws and regulations.


13. Availability of Settlement Agreement

Applicant agrees to keep available at all times a copy of this Agreement at its establishment and shall familiarize all employees with its conditions.


Signatures below.

For Her Diner

For Vernon House Condominium

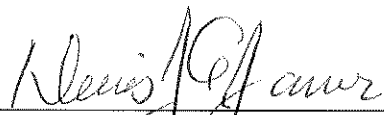


Kelly Laczko, Manager 9/19/24
Date



Ryan Cudemus-Brunoli, President 9/19/2024
Date

For Kalorama Citizens Association



Denis James, President 9-19-24
Date