

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

**In the Matter of:**

Midtown Center Restaurant, LLC

Applicant for a New  
Retailer's Class CR License

at premises  
1100 15th Street, NW  
Washington, D.C. 20005

Case No.: 19-PRO-00013  
License No.: ABRA-112211  
Order No.: 2019-228

Midtown Center Restaurant, LLC, Applicant

Matt Minora, Counsel, on behalf of the Applicant

Mike Fasano, on behalf of A Group of Five or More Individuals

David Conroy, on behalf of The University Club, Property Owner Sharing Common Ground

**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  
WITHDRAWAL OF PROTESTS**

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The Application filed by Midtown Center Restaurant, LLC (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 March 18, 2019, and a Protest Status Hearing on April 10, 2019, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant, A Group of Five or More Individuals, and The University Club entered into a Settlement Agreement (Agreement), dated April 24, 2019, that governs the operation of the Applicant's establishment.

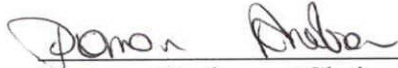
The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant; Mike Fasano, on behalf of the Group of Five or More Individuals; and David Conroy, on behalf of The University Club; are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protests filed by the Group of Five or More Individuals and The University Club.

Accordingly, it is this 1st day of May, 2019, **ORDERED** that:

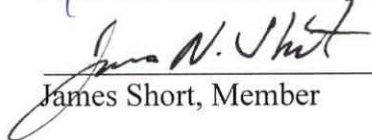
1. The Application filed by Midtown Center Restaurant, LLC, for a new Retailer's Class CR License, located at 1100 15th Street, NW, Washington, D.C., is **GRANTED**;
2. The Protests of the Group of Five or More Individuals and The University Club in this matter are hereby **WITHDRAWN**;
3. The above-referenced 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 Applicant; Mike Fasano, on behalf of the Group of Five or More Individuals; and David Conroy, on behalf of The University Club.

District of Columbia  
Alcoholic Beverage Control Board

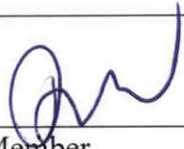
  
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Donovan Anderson, Chairperson

  
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Nick Alberti, Member

  
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Mike Silverstein, Member

  
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James Short, Member

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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).

**SETTLEMENT AGREEMENT**

THIS SETTLEMENT AGREEMENT ("Agreement") is entered into on this 24th day of April, 2019, by and between Midtown Center Restaurant, LLC, *via* Dauphiné, ABRA License 112211 ("Applicant"), and the Board of The Presidential Cooperative,<sup>1</sup> which is located at 1026 16th Street NW, and The University Club of Washington, D.C., which is the property owner of 1135 16th Street NW (hereinafter together referred to as "Protestants") (collectively referred to as "Parties").

WITNESSETH

WHEREAS, Applicant has applied for a Retailer's Class "C" Restaurant License for a business establishment ("Establishment") located at 1100 15th Street NW ("Premises");

WHEREAS, The University Club of Washington, D.C, which is the property owner of 1135 16th Street NW, is within 50 feet of the Establishment and houses overnight guests on that property;

WHEREAS, the residents and property owners residing within The Presidential Cooperative are located in proximity to the Establishment;

WHEREAS, the Parties have agreed to enter into this Agreement, and thus request that the Alcoholic Beverage Control ("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 Settlement Agreement pursuant to D.C. Official Code § 25-446 for the operation and maintenance of the Establishment in such a manner as (i) to minimize the effect of the Establishment on peace, order, and quiet of the neighborhood; residential parking; and vehicular and pedestrian safety; and (ii) 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 hereby 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 the Establishment as a Retailer's Class "C" Restaurant.
3. *Interior Hours of Operation: Hours of Sales/Service/Consumption of Alcoholic Beverages.* Applicant agrees that the Establishment's hours of operation, and sales/service/consumption of alcoholic beverages, in the interior of the Premises, shall not exceed the following:

Sunday through Thursday:                      8:00 a.m. – 2:00 a.m.

<sup>1</sup> Standing in as agent for the group of 12 individual resident and property owner from The Presidential Cooperative, who were granted standing as a group of five or more protestants during the Roll Call Hearing on March 18, 2019.

Friday and Saturday: 8:00 a.m. – 3:00 a.m.

Provided, that (a) on days designated by the ABC Board as "Holiday Extension of Hours" Applicant may avail itself of the extended hours so provided; (b) in the event the Council of the District of Columbia or the ABC Board grants licensees in general extended hours for limited duration special events (such as Inauguration), Applicant may avail itself of such extended hours; and, (c) on January 1 of each year, Applicant may operate until 4:00a.m.

4. *External Hours of Operation: Summer Gardens.* Applicant agrees that employees or security personnel shall take reasonable steps to monitor the Summer Gardens to ensure that patrons are not loitering or disruptive, and to ensure the premises and immediate surrounding areas remain clean.

Applicant agrees that the hours of operation, and sales/service/consumption of alcoholic beverages, in the Summer Garden, shall not exceed the following:

Sunday through Thursday: 8:00 a.m. – 12:00 a.m.  
Friday and Saturday: 8:00 a.m. – 2:00 a.m.

The hours for live entertainment on the Summer Garden shall not exceed the following:

Sunday through Thursday: 8:00 a.m. – 10:00 p.m.  
Friday and Saturday: 8:00 a.m. – 12:00 a.m.

5. *Noise and Privacy.* Applicant will strictly comply with D.C. Official Code § 25-725 and take all reasonable measures to ensure that music, noise and vibration from the Establishment are not audible within residential properties (including guest rooms of the University Club). The premises have no windows that open to the outside. Applicant agrees to keep all doors closed to the Establishment, except for purposes of routine ingress and egress, and during emergencies.

The outdoor bar on the north side of the Premises will be a permanent structure. To mitigate transmission of sound from guests and ambient music, Applicant will install a roof structure over the outdoor bar footprint and will surround the outdoor alley footprint with plantings, foliage, and soft materials wherever possible. The west end of the said roof structure will connect with a permanent wall screening the bar area from lounge-style seating west of that wall. Any outdoor speakers will be directed away from the University Club. The outdoor dining area on the south side of the Premises is entirely encapsulated by the building breezeway and will not have any additional structure built above it.

6. *Control of Premises.* Applicant will not engage third-party "promoters" which seek to sponsor events or functions at the Premises at which such promoters would collect and retain admission charges (or charges of a similar nature, including ticket sales) or share in revenues from the sale of alcohol. This prohibition shall not preclude: (i) Promotional events conducted and controlled in all aspects by Applicant; or, (ii) Events conducted for the benefit of legitimate, third-party charities. At all times, Applicant, through its principals and employees, shall maintain sole control of the Premises and the operation of the business thereupon.

**7. Notice and Opportunity to Cure.** In the event that any Party 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. Reasonable notice and opportunity to cure shall be within thirty (30) days of the date of such notice, unless the breach is of an emergency nature, a repetition of a prior breach, or one that reasonably requires more than 30-days to cure.

Notice under this Agreement shall be made in writing and served via certified mail, return receipt requested, postage prepaid, or hand-delivered, to all Parties to this Agreement at the following addresses:

**Applicant:** Midtown Center Restaurant, LLC  
1100 15th Street NW  
Washington, DC 20005  
Attn: Stephen J. O'Brien  
Phone: 202-625-7700  
Email: sobrien@malliosobrien.com

**Protestants:** The University Club of Washington, D.C.  
1135 16th Street NW  
Washington, DC 20036  
Attn: David Conroy  
Phone: (202) 862-8800  
Email: dconroy@universityclubdc.com

The Presidential Cooperative  
1026 16th Street NW  
Washington, DC  
Attn: Mike Fasano  
Phone: (202) 841-3407  
Email: mfasano@fasanoassociates.com

The Fierberg National Law Group, PLLC  
1701 Pennsylvania Avenue NW, Suite 200  
Washington, DC 20006  
Attn: Laura L. Dunn, Esq.  
Phone: 202-351-0510  
Email: LDunn@fnlgroup.com

Notice shall be deemed given as of the time of receipt or refusal of receipt. The Parties agree to provide prompt notice to one another of any change of address for service of notices required under this Agreement.

If the Party on notice fails to cure such failure shall constitute cause for filing a complaint with the ABC Board. Failure to give notice shall not constitute waiver or acquiescence to the violation, but notice shall be a prerequisite to file a complaint with the ABC Board or take any other enforcement

action.

7. *Withdrawal of Protest.* Upon execution of this Agreement by the Parties, and its acceptance by the ABC Board, Protestants shall withdraw the Protest.

**PROTESTANTS**

Board of The Presidential Cooperative on behalf of the group of 12 individual protestants.




By: Mike Fasano, Board President

University Club as property owner of 1135 16th Street NW, Washington, DC

  
By: David Conroy, General Manager

**APPLICANT:**

Midtown Center Restaurant, LLC, t/a Dauphine

  
By: PAUL C. HOLDER  
MANAGING MEMBER