

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

In the Matter of:

Pho Viet Restaurant, Inc.
t/a Pho Viet USA

Applicant for a New
Retailer's Class CR License

at premises
333 H Street, NE
Washington, D.C. 20002

Case No.: 20-PRO-00028
License No.: ABRA-116771
Order No.: 2020-1037

Pho Viet Restaurant, Inc., t/a Pho Viet USA, Applicant

Mark Eckenwiler, Commissioner, Advisory Neighborhood Commission (ANC) 6C

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

**ORDER ON SETTLEMENT AGREEMENT AND
WITHDRAWAL OF ANC 6C'S PROTEST**

The Application filed by Pho Viet Restaurant, Inc., t/a Pho Viet USA (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 21, 2020, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant and ANC 6C entered into a Settlement Agreement (Agreement), dated December 10, 2020, 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 Mark Eckenwiler, on behalf of ANC 6C, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by ANC 6C.

Accordingly, it is this 23rd day of December 2020, **ORDERED** that:

1. The Application filed by Pho Viet Restaurant, Inc., t/a Pho Viet USA, for a new Retailer's Class CR License, located at 333 H Street, NE, Washington, D.C., is **GRANTED**;
2. The Protest of ANC 6C in this matter is hereby **WITHDRAWN**;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 and ANC 6C.

District of Columbia
Alcoholic Beverage Control Board

eSigned via SeamlessDocs.com
Donovan Anderson
Key: 4c432285f023370944b72009361d1d1008

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com
James Short
Key: 5d7ee772020de7a8a115333a22946e7

James Short, Member

eSigned via SeamlessDocs.com
Bobby Cato
Key: 259a37a10be146c1f9b798d7717a27c

Bobby Cato, Member

Rema Wahabzadah, Member

eSigned via SeamlessDocs.com
Rafi Alaya Crockett, Member
Key: 2580be91845e1f0e4019155e5e1281c0

Rafi Crockett, Member

eSigned via SeamlessDocs.com
Jeni Hansen, Member
Key: 82172931f2a204414015569c72418f

Jeni Hansen, Member

eSigned via SeamlessDocs.com
Edward Grandis, Member
Key: 5027bda7f0f0040ec14ad6b52541c65

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).

This agreement is made and entered into this 10th day of December, 2020 by and between Pho Viet Restaurant, Inc. doing business as Pho Viet USA ("Applicant") and Advisory Neighborhood Commission 6C ("Protestant").

WHEREAS Applicant has filed an application with the District of Columbia Alcoholic Beverage Control Board ("ABC Board") for a new class C restaurant license ("License") for premises 333 H St. NE, Washington, DC, and

WHEREAS, in recognition of the ABC Board's policy of encouraging parties to a protested proceeding to settle their differences by negotiating agreements, the parties hereto being desirous of entering into an agreement whereby, subject to approval of the ABC Board, Applicant will agree to adopt certain measures to address the Protestant's concerns and Protestant will agree to the issuance of the License and withdraw its Protest.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings memorialized herein, the parties agree as follows:

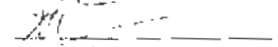
1. **Nature of Business:** Applicant will operate at all times as a *bona fide* Class C restaurant licensee under District law. Food service will be available until closing. Applicant will not make its premises available to non-employee promoters for presentation of advertised parties or events intended to generate profit for such promoters. Applicant will not participate in any pub-crawl promotions.
2. **Hours of Inside Operation and Service including 3rd party agency services such as Uber eats, Grubhub, Doordash, etc.** The hours of operation inside the premises shall be 11am to 10pm Monday through Sunday. The hours of alcoholic beverage sales, service, and consumption inside the premises shall be 11am to 10pm Monday through Sunday.
3. **Deliveries:** To maintain the peace, order, and quiet of the surrounding neighborhood, Applicant shall receive all deliveries (whether of food, beverages, or other materials and supplies) between 11am and 5:30pm Monday-Saturday. At no time shall any vehicle making any delivery to (or pick-up from) the Applicant park or stand in or upon, or otherwise obstruct, any crosswalk, sidewalk, streetcar rail line, bicycle lane, or alley. All trucks making deliveries shall use the 4th St. loading zones; trucks making deliveries shall at no time park or stand on H St., nor shall trucks enter the alley interior to the block. Regular passenger vehicles may make deliveries by parking in the legal curbside parking spaces on H St., provided that they not obstruct streetcar operation.
4. **Noise Suppression:** The Applicant's operation shall at all times comply with the D.C. Noise Control Act and D.C. Official Code § 25-725. Applicant acknowledges that noise is a critical issue for the neighborhood. Applicant shall encourage employees and patrons to be considerate of residents in the neighborhood by keeping voices and other noises at a level that will not disturb the peace, order, quiet, and tranquility of residents in the enjoyment of their homes.

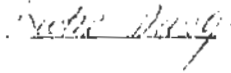
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5. **Removal of Grease and Oils:** Applicant will provide for the proper removal and recycling of grease and oils and will not deposit these substances in dumpsters, trash cans, street gutters, or catch basins.
6. **Waste Pick-Up and Removal:** Applicant will maintain regular trash, recycling, and grease removal service only during the hours 11am to 5:30pm Monday-Saturday. At no time shall any trash, recycling, or grease removal vehicle making a collection from the Applicant park or stand in or upon, or otherwise obstruct, any crosswalk, sidewalk, streetcar rail line, bicycle lane, or alley. All such vehicles shall use the 4th St. loading zones; shall at no time park or stand on H St.; and shall not enter the alley interior to the block.
7. **Sanitation and Pest Control:** The Applicant shall keep all trash, recycling, and grease containers inside the premises, with lids tightly closed and incapable of being entered by rodents, to limit odors and help control the pest (insect) and rodent population. Applicant will contract for regular rodent and pest abatement.
8. **Alley:** The Applicant shall prohibit and prevent employees, patrons, and others associated with the Applicant's business from congregating outside in the alley at the rear of the property.
9. **Maintenance of Property:** Applicant will clear snow from the sidewalk in front of the premises within three (3) daylight hours after snowfall ends.
10. **Withdrawal of Protest:** Protestant agrees to the issuance of the license and the withdrawal of its protest upon execution of this Agreement, if this settlement agreement is incorporated into all ABC Board orders issuing, amending, or renewing the license, which order is thereby conditioned upon compliance with this agreement.
11. **Right to Seek Redress:** The parties agree that any failure of the Applicant to adhere to the foregoing commitments will constitute a breach of this agreement and grounds for the Protestant to file a complaint with the ABC Board pursuant to D.C. Official Code § 25-446(c) to enforce the provisions of the agreement.
12. **Counter Signature.** This Agreement may be executed by facsimile or 'pdf' and in one (1) or more counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same Agreement.

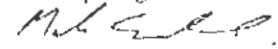
IN WITNESS WHEREOF, the parties place their signatures to this agreement, this 10th day of December 2020.

Pho Viet Restaurant, Inc. doing business as Pho Viet USA



By: 

Advisory Neighborhood Commission 6C



Mark Eckenwiler
Vice-Chair, ANC 6C
(as designated ANC 6C representative)