

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

In the Matter of:

TBC P Street Hotel, LLC
t/a The Avery

Applicant for a New
Retailer's Class C/B License

at premises
2616 P Street, NW
Washington, D.C. 20007

Case No.: 22-PRO-00082
License No.: ABRA-121441
Order No.: 2022-711

TBC P Street Hotel, LLC, t/a The Avery, Applicant

Sidon Yohannes, Counsel, on behalf of the Applicant

Gwendolyn Lohse, Commissioner, Advisory Neighborhood Commission (ANC) 2E, Protestant

Robert Hetem, Designated Representative, on behalf of a Group of Seven Individuals, Protestant

Douglas C. Melcher, Counsel, on behalf of a Group of Six Individuals, Protestant

Makhbuba Lund, Designated Representative, on behalf of a Group of Six Individuals, Protestant

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

**ORDER ON SETTLEMENT AGREEMENT AND
WITHDRAWAL OF PROTESTS**

The Application filed by TBC P Street Hotel, LLC, t/a The Avery (Applicant), for a new Retailer's Class C/B License, having been protested, came before the Alcoholic Beverage

Control Board (Board) for a Roll Call Hearing on August 8, 2022, and a Protest Status Hearing on September 14, 2022, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant, ANC 2E, a Group of Seven Individuals, and a Group of Six Individuals have entered into a Settlement Agreement (Agreement), dated October 12, 2022, 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; Commissioner Gwendolyn Lohse, on behalf of ANC 2E; Robert Hetem, on behalf of the Group of Seven Individuals; and Makhbuba Lund, on behalf of the Group of Six Individuals; are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protests filed by ANC 2E, the Group of Seven Individuals, and the Group of Six Individuals.

Accordingly, it is this 19th day of October 2022, **ORDERED** that:

1. The Application filed by TBC P Street Hotel, LLC, t/a The Avery, for a new Retailer's Class C/B License, located at 2616 P Street, NW, Washington, D.C., is **GRANTED**;
2. The Protests of ANC 2E, the Group of Seven Individuals, and the Group of Six Individuals in this matter are hereby **WITHDRAWN**;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, except for the following modification:

Subsection 4(a) (Community Relations) – This Subsection shall be modified to read as follows: "The Applicant's owner shall be available to address issues related to peace, order and quiet by email, phone, virtual or in person meeting as the parties shall determine."

The Parties have agreed to this modification.

4. Copies of this Order shall be sent to the Parties.

District of Columbia
Alcoholic Beverage Control Board

eSigned via SeamlessDocs.com
Donovan Anderson
Key: a4348469-25f9-4b73700d1d09f

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com
James Short
Key: 547aa73020de6ac8d1b0320d2949ec

James Short, Member

eSigned via SeamlessDocs.com
Bobby Cato
Key: 258d3fadf6e140d714b75b47917a2c3

Bobby Cato, Member

eSigned via SeamlessDocs.com
Rafi Aliya Crockett, Member
Key: b560661845e1f8e4016155e5c12ff1cc

Rafi Crockett, Member

eSigned via SeamlessDocs.com
Jeni Hansen, Member
Key: 621720319509441401165692c48165f

Jeni Hansen, Member

eSigned via SeamlessDocs.com
Edward Grandis, Member
Key: 5027bda7ff69040ec14adeb52541ce5

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 Settlement Agreement ("Agreement") is made on the 12th day of October 2022 by and between TBC P Street Hotel, LLC ("the Applicant") with Advisory Neighborhood Commission 2E ("the ANC"), and the listed abutting neighbors to the property of 2616 P Street NW, also referred to collectively as the "Parties".

RECITALS

Whereas, the Applicant has applied to the Alcoholic Beverage Regulation Administration with License Number ABRA--121441 for the issuance of a new Class "C License (the "License") for the Premises located at 2616 P Street (the "Premises"), and

Whereas, the Parties wish to enter into a Settlement Agreement pursuant to D.C. Official Code § 25-446 to address concerns related to peace, order and quiet.

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. Nature of Operations.
Class C for B&B; only clients of the B&B, those visiting the B&B clients and those attending events at the B&B will be served.
3. Occupancy.
 - a. Inside: Maximum allowed by Certificate of Occupancy; Employees, B&B patrons, and their guests.
 - b. Summer Gardens A and B in the back of the B&B: 30
 - i. For clarity among the parties, the Rear Summer Gardens is defined as all the outdoor space that sits behind the far east gate of the premise.
 - c. Inside:
 - i. 7am – 12am.
 - d. Summer Gardens in the back of the premises ("Rear Summer Gardens")
 - i. Sunday – Thursday 7am – 9pm daily
 - ii. Friday – Saturday 7am – 10pm daily
 - iii. A contact representing the Applicant will be available at all hours to speak live with surrounding neighbors - via phone
 - e. Exceptions to the standard operating hours shall be granted for:
 - i. In the event the Council of the District of Columbia or the ABC Board grants licensees in general extended operating hours for specific occasions, such as Inauguration, Applicant may avail itself of such extended hours;
 - ii. December 31 of and July 4 each year Applicant may operate two extended hours;
4. Community Relations
 - a. For the first year of this Settlement, a quarterly in-person meeting between the owner of the B&B and the other parties of this Settlement will be held to discuss and then actively agree to resolve issues related to peace, order and quiet.

- b. These meetings will not be held if both parties agree there is no reason to meet.
5. Summer Gardens
- a. Noise and music.
 - i. Unless related to an event, as defined below, no music will be played in the Rear Summer Gardens;
 - ii. Beyond events, music played inside, either amplified or not amplified, shall not be audible by the surrounding residences;
 - iii. Doors of the Premises will be kept closed except when persons are in the act of using the door for ingress to or egress from the Premises; Applicant will not install any outdoor speakers in the Rear Summer Gardens.; Applicant shall try to address any reasonable noise concerns raised by occupants of the neighboring residents as soon as possible, including, for example, asking guests creating unreasonable level of noise to reduce the noise level of their activities to a reasonable level or asking guests to move inside or to the front of the premises if needed.
 - b. Lighting
 - i. All lighting will not be directed towards surrounding homes or their properties, lawns or patios.
 - ii. There will be no moving lights.
 - iii. Any lighting in Rear Summer Gardens will be turned off outside of the hours of operation set forth in this agreement.
 - c. Smoking
 - i. No smoking will be allowed in the Rear Summer Gardens.
 - d. Food consumption in Rear Summer Gardens non-events:
 - i. No use of caterers except during an event.
 - e. Events in Summer Gardens
 - i. An event is defined by when a single party or the Applicant reserves use of the Rear Summer Gardens for a specific, exclusive purpose that involves multiple individuals and will offer/provide client and/or their guests any food or drinks that is not part of the permanent set of complementary breakfast/snacks/drinks available to all B&B guests at all times. Music may be played in the Rear Summer Gardens during an event.
 - ii. Any organization or party reserving the Summer Gardens will have a booked room reservation for the property.
 - iii. There will be no more than twenty-four events per year.
 - 1. The hours of operations for events will be limited to Rear Summer Garden hours except Sunday – Thursday events, which will end at 9 pm.
 - f. The above conditions and restrictions govern the use of the Rear Summer Gardens areas in the back yard of the Premises. It is a material inducement to Applicant entering into this Agreement that the planned Summer Garden in the front of the Premises will not be opposed by any of the all Parties subject only to the same

conditions as those governing the Inside of the Premises, including the Applicant's ability to play music subject to all District regulations regarding decibel levels.

- i. Like in Rear Gardens, with the planned Summer Garden in front Applicant shall try to address any reasonable noise concerns raised by occupants of the neighboring residents as soon as possible, including, for example, asking guests creating unreasonable level of noise to reduce the noise level of their activities to a reasonable level or asking guests to move inside if needed.
6. **Trash Pick-up and Removal and Rodent Control**
 - a. Applicant's employees shall not dispose of bottles or glass in a manner which creates noise audible outside the Premises from 8pm to 8am;
 - b. Applicant will work to coordinate trash pick-up in a manner so that trash waiting for pick-up is outside on P street the least amount of time as feasibly possible;
 - c. The Applicant will not schedule trash pick-up from its contractor between the hours of 10pm and 7am;
 - d. Applicant will maintain a contract with a professional, licensed rat, pest, and vermin control company to provide for routine inspection of the Premises as needed to control pests. The professional service will come to the Applicant's property no less than once per month.
 7. **Incident Log.**
 - a. The Applicant's website will include an email address for which complaints/feedback about the operations may be sent.
 8. **Binding Settlement.**
 - a. This Agreement shall be binding upon and enforceable against the Licensee, any successors of the Applicant and against the Protestants.

In consideration of the agreements set forth above, ANC2E, and the abutting neighbors shall, upon approval of this agreement by the Alcoholic Beverage Regulation Administration, agree to withdraw their current Protest to the application for a new License at the Premises. Future failure of the Applicant to adhere to the foregoing commitments would constitute grounds for any or all of the Parties to petition the ABC Board for issuance of an order to show cause. Prior to petitioning, however, Protestants shall notify the Applicant of any perceived violations and afford Applicant at least ten (10) calendar days in which to address or rectify the perceived violation.

This written agreement constitutes the only agreement among the parties and may be modified only by the written agreement of all the parties.

IN WITNESS WHEREOF, The Parties have executed this Agreement as of the date first above written.

Applicant:
TBC P Street Hotel, LLC

By _____

David Duber, Owner

Protestants:

ADVISORY NEIGHBORHOOD COMMISSION 2E

By Gwendolyn Lohse

Gwendolyn Lohse, Commissioner ANC 2E06

ABUTTING NEIGHBOR

Robert Hetem

Robert Hetem representing the Group of 7 (Robert Hetem, Connie Zimmer, David Abrams, Jaime Nettles, Ashley Nettles, Joseph Zegel, Lacy Zegel)

ABUTTING NEIGHBOR

Makhbuba Lund

Makhbuba Lund representing the Group of 6 (Makhbuba Lund, Neel Lund, Robert Stout, Beverly Stout, Linda Yahn, Robert Yahn)