

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

In the Matter of:)
)
1401 Potomac Hall, LLC)
t/a The Roost)
)
Application for a New)
Retailer’s Class CR License)
)
at premises)
1401 Pennsylvania Avenue, SE)
Washington, D.C. 20003)

License No.: ABRA-116333
Order No.: 2020-222

1401 Potomac Hall, LLC, t/a The Roost, Applicant

Brian Ready, Chairperson, Advisory Neighborhood Commission (ANC) 6B

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

ORDER ON SETTLEMENT AGREEMENT

The official records of the Alcoholic Beverage Control Board (Board) reflect that 1401 Potomac Hall, LLC, t/a The Roost (Applicant), Applicant for a new Retailer’s Class CR License, and ANC 6B have entered into a Settlement Agreement (Agreement), dated May 12, 2020, 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 and Chairperson Brian Ready, on behalf of ANC 6B, are signatories to the Agreement.

Accordingly, it is this 3rd day of June, 2020, **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 Applicant and ANC 6B.

District of Columbia
Alcoholic Beverage Control Board

eSigned via SeamlessDoc.com
Donovan Anderson
Key: 3c4309e9b2d9f0c9e1b73270941dc08

Donovan Anderson, Chairperson

eSigned via SeamlessDoc.com
James Short
Key: 2475c7706224e9e2d6934d3d46e

James Short, Member

eSigned via SeamlessDoc.com
Bobby Cato
Key: 256476ca0b314547f4b79bd70174c0d

Bobby Cato, Member

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Rema Wahabzadah, Member
Key: bf2ca42b50b740296b19b05b720f16c1

Rema Wahabzadah, Member

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Rafi Aliya Crockett, Member
Key: b209a51845e12e49f16155e5c1201c7

Rafi Crockett, Member

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Jeni Hansen, Member
Key: 9217223f29294f781b2561c24310f

Jeni Hansen, Member

eSigned via SeamlessDoc.com
Edward Grandis, Member
Key: 5027bda70760049c14dad852541ca5

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 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 BY AND BETWEEN
ADVISORY NEIGHBORHOOD COMMISSION 6B
and
1401 Potomac Hall LLC, t/a The Roost**

THIS SETTLEMENT AGREEMENT ("Agreement") is made on this 12th day of May, 2020, by and between 1401 Potomac Hall LLC, t/a The Roost ("Applicant"), and Advisory Neighborhood Commission 6B ("ANC"), (Collectively, the "Parties").

WITNESSETH

WHEREAS, Applicant's application for a Retailers' Class "C" Restaurant Liquor License ("License") for Establishment, 1401 Pennsylvania Ave, SE, Washington, DC, 20003, ("Establishment") is now pending before the District of Columbia Alcoholic Beverage Control Board (ABC); and,

WHEREAS, the Establishment is within the boundaries of the ANC; 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 to promote the peace, order and quiet of the neighborhood.

NOW, THEREFORE, the parties 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 a License at the listed address in connection with the Establishment. In no event shall Applicant operate or seek to operate the Establishment in excess of the maximum number of patrons that may lawfully occupy the Premises pursuant to its Certificate of Occupancy and Public Space Permit, unless otherwise permitted by law.
3. Hours of Operation, Sales, Service, and Consumption. Applicant's hours of operation for alcoholic beverage sales, service, and consumption may be changed from time to time in Applicant's discretion only as permitted by this Agreement or other valid District of Columbia Government Issued Licenses, but in no event shall exceed or extend beyond the following:

Applicant's Hours of Operation for the interior of the Establishment shall not exceed the following:

Sunday through Thursday 5:00 am – 2:00 am
Friday through Saturday 5:00 am – 3:00 am

Applicant's hours of Sales, Service, and Consumption of alcohol for the interior of the Establishment shall not exceed the following:

Sunday through Thursday 8 am – 2 am
Friday through Saturday 8 am – 3 am

Provided, however, (1) on days designated by the DC ABC Board as "Extended Hours for ABC Establishments," Applicant may serve alcoholic beverages for one additional hour solely as to inside sales and operations; (2) in the event the Council of the District of Columbia or the ABC Board grant licensees, in general, extended operating hours for particular event(s), Applicant may avail itself of such extended hours solely as to inside operations; and, (3) on January 1 of each year Applicant may serve alcoholic

beverages and provide entertainment until such time as allowed by the ABC Board. Applicant must submit, as required by regulation, any forms or document to the authorizing agency for such extended hours.

Applicant's hours of Operation of the exterior Sidewalk Cafe shall be as follows:

Sunday – Thursday 8:00 a.m. – 10:30 p.m.
Friday – Saturday 8:00 a.m. – 11:30 p.m.

Applicant's hours of Sales, Service, and Consumption of alcohol on the exterior Sidewalk Cafe shall be as follows:

Monday – Thursday 9:00 a.m. – 10:30 p.m.
Friday 9:00 a.m. – 11:30 p.m.
Saturday 8:00 a.m. – 11:30 p.m.
Sunday 8:00 a.m. – 10:30 p.m.

4. Requirements for Operation of Sidewalk Café with Consideration for Residential Area. Applicant shall operate its Sidewalk Café consistent with the terms and conditions of its Public Space Management Permit for such space, and shall take reasonable steps to cause its employees to maintain the Sidewalk Café in a clean and orderly manner, and not to cause or permit storage of any refuse, foodstuffs, perishable or odiferous materials in or adjacent to the Sidewalk Café.

The Applicant will take reasonable steps to deploy vegetation and planters, or use other items or installations around the outside perimeter of the Sidewalk Café area to act as a buffer from areas outside of the Sidewalk Café. Applicant shall take reasonable steps to monitor noise levels and patrons in the sidewalk café area in order to prevent any potential rowdiness or disturbances by its patrons.

Any doors to the Sidewalk Café may not be opened prior to the opening of the Sidewalk Café each day. By the time of end of operations of the Sidewalk Café each evening at the hours listed above and on the Applicant's license application, Applicant shall take all necessary steps to notify patrons to exit through the doors on Pennsylvania Avenue and the "accordion door" along with any other operable entrances separating and leading to the Sidewalk Café from the interior shall be closed to patrons, excluding fire code required egresses.

5. Noise and Odor Suppression. Applicant will take reasonable steps to mitigate noises and odors emanating from mechanical, or other equipment and refuse associated with Applicant's operations and comply with applicable DCMR provisions, prevent an increase in existing sound level from such equipment, and minimize or abate noise. Applicant specifically agrees that it shall adhere to and be accountable under the provisions of D.C. Code §25-725 as it pertains to residential dwellings in the contiguous physical block on which the Establishment are located as well as the block across 14th Street SE. Noise mitigating actions may include, but is not limited to, installation of sound absorbing and sound dampening materials inside the Establishment, around mechanical equipment facing the residential properties along the rear of the Establishment. Sound absorbing and dampening material will be sufficient to reduce noise to levels that meet DCMR noise regulations in residential units above the Establishment, at the rear and side property line.

The Applicant shall ensure that no amplified music, noise or vibration from interior live or recorded entertainment is audible at the property line of building. Any speakers placed within the establishment shall be directed towards the interior of the Establishment, and not toward any door or door opening to the

Sidewalk Café or exterior of the Establishment. There shall be no live or recorded music or audio emanating from speakers allowed on the Sidewalk Café.

6. Rodent and Vermin Control. Applicant shall maintain and enforce a contract for regular and recurring pest control service that includes baiting or similar rodent and pest abatement procedures for the Establishment including any and all interior or exterior trash storage areas or receptacles and the exterior area immediately adjacent to the Establishment. Should there be any unreasonable rodent or pest issues caused by Applicant's operation in the areas surrounding its Establishment, Applicant will immediately require its service provider to implement a pest and/or rodent abatement plan.

7. Refuse Storage and Disposal. Applicant shall design, construct, maintain, and exclusively utilize an interior trash storage room within the Establishment to store all grease, non-recyclable trash (garbage), and recyclables except in rare situations that could be reasonably recognized as beyond the control of the Establishment. Applicant shall maintain the exterior doors in a closed and secured position except as reasonably required for regularly scheduled garbage, recyclable, and grease pick up by third-party vendors. The interior trash storage room will be constructed in compliance with DC Department of Health requirements for indoor trash storage. Applicant agrees to take reasonable steps to adhere to the following conditions with respect to trash management, disposal, and maintenance of the trash storage room:

- a. Applicant shall contract with third party sanitation or waste management and recycling vendor(s) to collect garbage and non-recyclable waste.
- b. Applicant shall comply with 21 DCMR § 704 and 704.5. All remaining food trash/garbage will be stored in the interior trash room.
- c. Applicant will ensure timely waste disposal and use its best efforts to schedule a time for pickup that is the least disruptive to the neighbors, Garbage, recyclable, and grease collections shall not occur between the hours of 5:00 pm and 9:00 am.
- d. All receptacles used for grease, garbage, recyclable trash and waste shall be maintained in good repair and in safe and sanitary condition. Any damaged or leaking containers, including lids that become bent or warped such that they are no longer rodent-proof, shall be promptly repaired or replaced.
- e. Applicant will take reasonable steps to check the full area of the trash room daily and the immediate alley area behind the trash room and pick up or hose down any debris or liquid waste left behind after garbage, grease or recycling receptacles have been emptied. Applicant will, as needed, power wash, or deep clean in a similar fashion, any such areas to maintain their good order.
- f. Garbage, grease and/or recycling spills shall be cleaned up as soon as practicable after they occur. Any leak or spillage of grease shall be promptly cleaned utilizing standard industry practices such as solvents and power washing for such uncontained grease.

8. Maintenance of Public Space Adjacent to the Establishment. Applicant shall regularly inspect and clean as necessary any public area adjacent to the rear of the Establishment and shall take reasonable steps to keep such area free of trash, smoking materials, and other debris, and shall direct its employees not to utilize such area for smoking or other activities, nor to gather or congregate on public space in the alley during breaks or following work hours. If necessary, Applicant shall provide exterior receptacles for extinguishing and disposing of smoking materials, and such supplemental refuse disposal receptacles as

may be reasonably required to contain and minimize public disposal of trash and litter originating from the Establishment.

9. Delivery of Vendor Shipments. Applicant will comply with all District of Columbia laws and regulations governing the delivery of food and restaurant supplies to the Establishment. Applicant will require all commercial third-party vendors to park in designated commercial loading zones during any deliveries. Further, Applicant will notify commercial delivery vendors about the above prohibition by affixing a sign on the exterior of the Establishment and near the access point for deliveries that states: "Delivery Trucks: Do Not Park in the Alley." Deliveries utilizing the loading dock or any exterior doors opening to the alley or 14th Street SE shall occur between the hours of 9:00 a.m. and 5:00 p.m. Deliveries between 7:00 AM and 9:00 AM shall use doors opening to Pennsylvania Avenue SE.

10. Complaints. Applicant agrees to designate at least one individual staff member or manager to address specific concerns or issues raised by the community. Specifically, the establishment's website will prominently feature the name and contact information for an individual to which any comments about the operation of the establishment may be addressed.

11. Notice and Opportunity to Cure. In the event that the Applicant is in breach of their SA, it shall be entitled to reasonable notice and opportunity to cure, as a condition precedent to seeking enforcement of the SA. Unless the breach is of an emergency nature or is a repetition of a prior breach, reasonable notice and opportunity shall be provided for a cure within 10 calendar days of the date of such notice. If Applicant refuses or fails to commence the cure or diligently to pursue such cure within the 10-day period (or a breach which reasonably requires more than 10 days to cure), such refusal or failure shall constitute a cause for filing a complaint with the ABRA Board pursuant to D.C. Code§ 25-447.

12. Construction of Agreement. Protestant does not intend for a violation of any DC law or regulation to also be considered a violation of this Agreement.

IN WITNESS WHEREOF, the parties have affixed hereunto their signatures.

Applicant:

J. Michael Babin
1401 Potomac Hall LLC, t/a The Roost (ABRA# 116333)
1401 Pennsylvania Ave SE
Washington DC 20003

Signature  Date: May 12, 2020

ANC:

Advisory Neighborhood Commission 6B
921 Pennsylvania Avenue SE
Washington DC 20003

Signature  Date: May 12, 2020
Chairperson, ANC6B