

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

In the Matter of:

Uncle Kenny's Smokehouse, Inc.
t/a Uncle Kenny's Smokehouse

Applicant for a New
Retailer's Class CR License

at premises
732 Maryland Avenue, NE
Washington, D.C. 20002

Case No.: 21-PRO-00010
License No.: ABRA-117568
Order No.: 2021-120

Uncle Kenny's Smokehouse, Inc., t/a Uncle Kenny's Smokehouse, Applicant

Stephen O'Neal, ANC 6C Alcoholic Beverage Licensing Committee Chair, on behalf of
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 Uncle Kenny's Smokehouse, Inc., t/a Uncle Kenny's Smokehouse (Applicant), for a new Retailer's Class CR License, was protested by ANC 6C.

The official records of the Board reflect that the Applicant and ANC 6C entered into a Settlement Agreement (Agreement), dated February 25, 2021, 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 Stephen O'Neal, 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 10th day of March 2021, **ORDERED** that:

1. The Application filed by Uncle Kenny's Smokehouse, Inc., t/a Uncle Kenny's Smokehouse, for a new Retailer's Class CR License, located at 732 Maryland Avenue, 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 The Protest of ANC 6C in this matter is hereby **WITHDRAWN**;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: ac43c5d9a5b05108e4b72020831a0cc8

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com
James Short
Key: 547ae37332a0e8c61b332d82048e2

James Short, Member

eSigned via SeamlessDocs.com
Bobby Cato
Key: 256d3fca1f8e148e7f4d75ba7817a12bd

Bobby Cato, Member

eSigned via SeamlessDocs.com
Rafi Alya Crockett, Member
Key: b3d2ef1845e102a4016155a5e17818cc

Rafi Crockett, Member

eSigned via SeamlessDocs.com
Jeni Hansen, Member
Key: 821723175528447431a548e2a41810

Jeni Hansen, Member

eSigned via SeamlessDocs.com
Edward Grandis, Member
Key: 5027bda78d0d040cc14adeb52541cc5

Edward S. Grandis, Member

Pursuant to 23 DCMR § 1719.1, 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, Reeves Center, 2000 14th Street, N.W., 400S, Washington, D.C. 20009. Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, District of Columbia 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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR § 1719.1 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).

Finally, in the case of a summary suspension, "A person aggrieved by a final summary action may file an appeal in accordance with the procedures set forth in subchapter I of Chapter 5 of Title 2." D.C. Code § 25-826(d).

SETTLEMENT AGREEMENT

This agreement is made and entered into this 25th day of February 2021 by and between Uncle Kenny's Smokehouse, Inc., doing business as Uncle Kenny's Smokehouse ("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 retailer class "C" Restaurant license ABRA-117568 ("License") for premises at 732 Maryland Ave. 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. These restrictions on promoters and promotions will not preclude the Applicant from hosting wine or beer tastings sponsored by third-party vendors, so long as these tastings accompany, and do not replace, normal food and beverage service provided by the Applicant.
- 2. Hours of Inside Operation and Service:** The hours of operation inside the premises shall be Sunday through Saturday 7:00am – 10:30pm. The hours of operation on the sidewalk café shall be Sunday through Saturday 7:00am – 10:30pm. The hours of alcoholic beverage sales, service, and consumption inside the premises shall be Sunday through Saturday 10:00am – 10:30pm. The hours of alcoholic beverage sales, service, and consumption on the sidewalk café shall be Sunday through Saturday 10:00am – 10:30pm. After cessation of operating hours, no patrons shall remain on the premises or the sidewalk café.
- 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 9:00 am and 5:00 pm Monday through Saturday. At no time shall any vehicle making any delivery to (or pick-up from) the Applicant park or stand on Maryland Ave. nor shall any such vehicle park or stand in or upon, or otherwise obstruct, any crosswalk, sidewalk, bicycle lane, or alley.

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.
 - a. 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.
 - b. Applicant will not dispose of glass bottles in outdoor trash or recycling receptacles after 10:00 p.m.
 - c. Applicant shall not permit dancing.
 - d. Applicant shall not install, use or permit to be used speakers or any device for the amplification of sound on the sidewalk café.
 - e. Applicant agrees that in the event three residents from separate addresses in the within two blocks, deem noise after 9:00 pm (including, but not limited to, noise from speakers or other amplification devices inside the premises) unduly disruptive and file a written complaint or complaints to either ABRA or to the ANC to that effect, Applicant will be prohibited from operating the sidewalk café after 9:00 pm.
5. **Smoking:** Applicant shall not permit any form of smoking on its premises.
6. **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.
7. **Waste Pick-Up and Removal:** Applicant will have a contact for trash collection twice a week. Applicant will maintain trash, recycling, and waste removal service only during the hours 9am and 5pm. All trash, garbage, recycling and waste shall be stored inside the premises until it is to be picked up by Applicant's hauler.
8. **Sanitation and Pest Control:** The Applicant shall keep trash, recycling, and grease container 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.
9. **Rear Yard and Alley Gate:** The alley gate to Applicant's rear yard shall be fully closed and secured at all times other than during deliveries or trash, recycling, or grease

collection. The Applicant shall prohibit and prevent employees and others from congregating outside at the rear of the property.

10. Maintenance of Property: Applicant will clear snow from the sidewalk adjacent to the premises, including the sidewalk café, within three (3) daylight hours after snowfall ends. Applicant will keep the adjacent sidewalks and treebox areas free of litter and will ensure that the grass is mowed and maintained in a reasonable manner.

11. 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.

12. 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(e) to enforce the provisions of the agreement.

IN WITNESS WHEREOF, the parties place their signatures to this agreement, this 25th day of February, 2021.

Uncle Kenny's Smokehouse, Inc.



By: Kum Sun Ahn, President

Advisory Neighborhood Commission 6C

/s/ Stephen O'Neal

Stephen O'Neal
ANC 6C Alcoholic Beverage Licensing Committee Chair
(as designated ANC 6C representative)