

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

In the Matter of:)
)
Navy Yard Wise, LLC)
t/a Wiseguy Pizza & Altani Gelato)
)
Applicant for a New)
Retailer's Class DR License)
)
at premises)
202 M Street, SE)
Washington, D.C. 20003)
)

License No.: ABRA-112073
Order No.: 2019-026

Navy Yard Wise, LLC, t/a Wiseguy Pizza & Altani Gelato, Applicant

Meredith Fascett and Dr. Coralie Farlee, on behalf of Advisory Neighborhood Commission (ANC) 6D

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
James Short, Member
Bobby Cato, Member
Rema Wahabzadah, Member

ORDER ON COOPERATIVE AGREEMENT

The official records of the Alcoholic Beverage Control Board (Board) reflect that Navy Yard Wise, LLC, t/a Wiseguy Pizza & Altani Gelato, Applicant for a new Retailer's Class DR License and ANC 6D have entered into a Cooperative Agreement (Agreement), dated December 10, 2018, 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 Chairperson Meredith Fascett and Dr. Coralie Farlee, on behalf of ANC 6D, are signatories to the Agreement.

Accordingly, it is this 9th day of January, 2019, **ORDERED** that:

1. The above-referenced Cooperative 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 modifications:

Section 2 (Nature of the Business) – The language “Establishment serving beer and wine and offering pizza and gelato” shall be replaced with the language “a bona fide restaurant serving beer and wine.”

Section 4 (Floors Utilized and Occupancy) – The language “sidewalk café” shall be replaced with the language “summer garden.”

Section 12 (Notice and Opportunity to Cure) – The language “cause for seeking a Show Cause Order from the ABC Board” shall be replaced with the language “filing a complaint with the ABC Board.”

The parties have agreed to these modifications.

2. Copies of this Order shall be sent to the Applicant and ANC 6D.

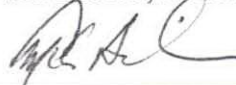
District of Columbia
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson



Nick Alberti, Member



Mike Silverstein, Member



James Short, Member



Bobby Cato, Member

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 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).

★ ★ ★ **Advisory Neighborhood
Commission 6D**

1001 4th Street SW, Suite W130
• Washington, DC 20024-
ANC Office: 202 554-1795
office@anc6d.org

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT (“Agreement”) is made on this 10th day of December 2018 by and between Navy Yard Wise LLC, t/a Wiseguy Pizza & Altani Gelato, 202 M Street, SE, (in Canal Park) Washington, DC 20003 ABRA License # 112073 (“Applicant”), and Advisory Neighborhood Commission 6D (“The ANC”), (collectively, the “Parties”).

PREAMBLE

Through this agreement, both parties aim to create an environment in which the Applicant may operate as a viable contributing establishment in the ANC6D community.

WITNESETH

WHEREAS, Applicant has applied for a Class DR license for a business establishment (“Establishment”) serving beer and wine and offering pizza and gelato with indoor space, one summer garden, and no endorsements located at 202 M Street, SE, Washington, DC, 20003, (“Premises”); and

WHEREAS, the Applicant agrees to work regularly with ANC6D and its representatives, other neighborhood organizations, and residents to ensure that the business operations facilitate the enjoyment of the surrounding neighborhood; and

WHEREAS, in lieu of a protest filing by the ANC, the Parties are desirous of entering into a Cooperative Agreement pursuant to D.C. Official Code § 25-446 for the operation and maintenance of the Establishment in such a manner as to minimize the effect, within the ANC, on (i) the peace, order and quiet of the neighborhood, including the noise and litter provisions set forth in Title 25-725 and 725, and (ii) residential parking needs and vehicular traffic and pedestrian safety, to protect the interests of the neighborhood, its residents and other businesses, and to eliminate the need for a Protest Hearing regarding the license application; and

WHEREAS, All parties believe that the statements and provisions contained in this agreement are reasonable and shall become wholly integrated into the day-to-day operation of the Establishment. Any change from this model shall be considered by both Parties to be of great concern to residents and requires prior approval by the Alcoholic Beverage Control Board (“ABC Board”); and

WHEREAS, the Parties have agreed to enter into this Agreement and request that the ABC Board approve the Applicant’s license application conditioned upon the Applicant’s compliance with the terms of this written Agreement; and

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 the Business.** The Applicant will manage and operate an Establishment serving beer and wine and offering pizza and gelato, with one summer garden immediately adjacent to the building. There shall be no prerecorded music in or piped to the summer garden by the applicant. There shall be no entertainment, dancing, or cover charge endorsements. Establishment shall not participate in pub crawls. The Establishment shall have no flashing or billboard-type lights.

3. **Hours of Operation and Sales.**

The Applicant's hours of operation of the inside premises of the Establishment and the summer garden shall not exceed:

Sunday to Wednesday: 10:30 a.m. to 2:00 a.m.,
Thursday: 10:30 a.m. to 3:00 a.m., and
Friday and Saturday: 10:30 a.m. to 5:00 a.m.

The hours of sales, service, and consumption of alcohol inside and in the summer garden shall not exceed:

Sunday through Saturday: 10:30 a.m. to 1:00 a.m.

4. **Floors Utilized and Occupancy.** The applicant will operate its Establishment on the first floor of the building and one sidewalk café that is immediately adjacent to the building on the West side of Canal Park. Occupancy by patrons shall be limited to the first floor of the interior of the Premises and the sidewalk café. The Certificate of Occupancy will indicate the total occupancy, but the total occupancy will not exceed 148, with 78 seats indoors and summer garden seats and occupancy not to exceed 70.

5. **Summer Garden.** The Applicant plans to provide seating for 70 patrons in the summer garden. Recorded music shall not be piped to or played in the summer garden; the ANC acknowledges that Canal Park has its own sound system, not controlled by the applicant, which may provide music to the area including the Applicant's Summer Garden. The Applicant agrees to monitor sounds from voices in the Summer Garden and shall ensure that any reasonable concerns raised by nearby residents about sounds from those voices are remedied as soon as possible, at a maximum within a ten-day period.

The Applicant shall ensure that there is sufficient pathway between the establishment's summer garden and the public areas to allow pedestrian access and flow in the area. To achieve this separation and pathway, the summer garden shall be clearly separated from adjacent public space by using various means such as enclosing the summer garden with barriers to delineate the space designated for the outdoor seating.

The Applicant shall ensure that all furniture, fixtures, equipment, or other property of the establishment or property belonging to patrons is contained within the summer garden area and does not extend into the pedestrian walkway.

6. **Parking/Public Transportation.** It is a concern of the ANC that the Applicant's operation of the Establishment does not create or exacerbate parking problems within the ANC boundaries. We recognize that Applicant has no dedicated vehicular parking spaces; therefore, we encourage the Applicant to notify patrons that street parking is very limited and inform them that convenient public transportation is available nearby.

7. **Noise and Privacy.** Applicant will strictly comply with D.C. Official Code § 25-725 and to that end shall take all necessary actions to ensure that music, noise and vibration from the Establishment (including the outdoor spaces) are not audible in any residence to the extent provided for in DC Official Code 25-725. If mutually determined by ANC6D and the Applicant that the area surrounding the Establishment has developed with additional residential and business occupants that are negatively affected by noise from the Establishment as provided for in DC Official Code 25-725, the Applicant and ANC6D shall work together to determine most appropriate options for noise mitigation, especially in the outdoor areas.

8. **Public Space and Trash.** Applicant shall keep the sidewalk area (up to and including the curb), tree box(es), curb, and alley clean and free of litter and other debris in compliance with D.C. Code and Municipal Regulations. A trash pick up service shall be provided on a daily basis. Applicant shall ensure that any dumpster for which Applicant is responsible does not encroach on the abutting property owners, that the area around the dumpster is kept clean at all times, and that no garbage will be placed on any abutting property.

9. **Rats and Vermin Control.** The Applicant shall provide rat and vermin control for its property. Applicant shall provide proof of its rat and vermin control contract upon the request of the Alcoholic Beverage Regulation Administration ("ABRA") or the ABC Board. Applicant shall have the Establishment and the area around the Premises properly cleaned at the end of each night to ensure that there are not garbage and odors present the following morning.

10. **Security Cooperation in Stemming Illegal Drugs and Public Drinking.** Applicant shall take all reasonable steps to minimize problems of illegal drugs and public drinking, including, at all times, by having a sufficient number of trained employees to assure adequate security and to control unruly patrons, whether inside or in the immediate outside area; monitoring for and prohibiting sales or use of illegal drugs within or about the Premises; and maintaining contact and cooperating with MPD and other enforcement officials when known or suspected drug activities occur. Applicant shall take all reasonable steps to discourage loitering in the vicinity of the Premises.

Applicant shall ensure that video surveillance covers areas where alcoholic beverages are served and/or consumed. If responsible for the video surveillance equipment, the establishment shall maintain security cameras and: (a) ensure the cameras are operational; (b) maintain footage of a crime of violence or a crime involving a gun for a minimum of 30 days; and (c) make the security footage available within 48 hours upon the request of ABRA or the Metropolitan Police Department.

No containers, cups, bottles/cans, etc. shall be permitted to leave the area regardless of content, excepting food and beverages, including re-corked wine bottles packaged 'to go.'"

11. **License Ownership and Compliance with ABRA Regulations.** Applicant promises to Protestants that it shall abide by all ABRA regulations regarding the ownership of the license and all other provisions applicable to liquor applicants, and agrees that Protestants shall have standing to ask the ABC Board to enforce any violations of the agreement.

11. **Participation in the Community.** Applicant agrees to seek to maintain open communication with the Protestants, and the community for which the ANC acts.

12. **Notice and Opportunity to Cure.** In the event that any of the parties is in breach of this Agreement, it shall be entitled to reasonable notice and opportunity to cure, as a condition precedent to seeking enforcement of the Agreement. Unless the breach is of an emergency nature or is a repetition of a prior breach, reasonable notice and opportunity shall provide for a cure

within 30 days of the date of such notice. If Applicant or the applicant fails to cure within the 30-day period (or, with respect to a breach which reasonably requires more than 30-days to cure, fails to commence cure of such breach and diligently pursues such cure) failure shall constitute a cause for seeking a Show Cause Order from the ABC Board pursuant to D.C. Official Code § 25-447. Unless otherwise noted above, any notices required to be made under this Agreement shall be in writing and mailed via certified mail, return receipt requested, postage prepaid, or hand-delivered, to the other parties to this Agreement at the following addresses. Notice shall be deemed given as of the time of receipt or refusal of receipt:

If to Applicant: Nuri Erol, Managing Member
 Wiseguy Pizza & Altani Gelato
 202 M Street, SE
 Washington, DC 20003
 Phone: 202-710-1870
 e-mail: nuri@wiseguypizza.com

If to Protestants: Advisory Neighborhood Commission 6D
 1101 4th Street, S.W., Suite W130
 Washington, DC 20024
 Attn: Chair, ANC
 (202) 202 554-1795
 Email: office@anc6D

Failure to give notice shall not constitute waiver or acquiescence to the violation, but notice shall be a prerequisite to the filing of a complaint with the ABC Board or any other enforcement action.

ANC6D:		APPLICANT:	
Chair, ANC6D		Wiseguy Pizza & Altani Gelato	
<u>Meredith Fascett</u>	<u>12/10/18</u>	<u>Nuri Erol, Managing Member</u>	<u>12-10-18</u>
Meredith Fascett	Date	Nuri Erol, Managing Member	Date
Chair, ABC Committee, ANC6D			
<u>Coralie Farlee</u>	<u>10 Dec 18</u>		
Coralie Farlee	Date		