

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

In the Matter of:

MH Mulherins APC, LLC
t/a Wm. Mulherin's Sons

Applicant for a New
Retailer's Class CR License

at premises
945 Florida Avenue, NW
Washington, D.C. 20001

License No.: ABRA-115826

Order No.: 2020-078

MH Mulherins APC, LLC, t/a Wm. Mulherin's Sons, Applicant

James Tuner and Robb Hudson, Commissioners, on behalf of Advisory Neighborhood
Commission (ANC) 1B

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Bobby Cato, Member
Rema Wahabzadah, Member
Rafi Crockett, Member

ORDER ON SETTLEMENT AGREEMENT

The official records of the Alcoholic Beverage Control Board (Board) reflect that MH Mulherins APC, LLC, t/a Wm. Mulherin's Sons (Applicant), and ANC 1B have entered into a Settlement Agreement (Agreement), dated January 10, 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 Commissioners James Tuner and Robb Hudson, on behalf of ANC 1B, are signatories to the Agreement.

Accordingly, it is this 29th day of January, 2020, **ORDERED** that:

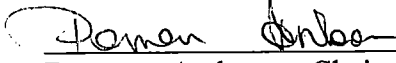
1. The above-referenced Settlement Agreement submitted by the parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order, except for the following modification:

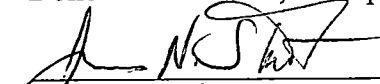
Section 5(a)(i) (Hours of Operatio) – This Subsection shall be removed.


The parties have agreed to this modification.

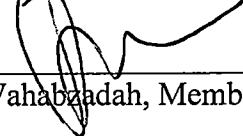
2. Copies of this Order shall be sent to the Applicant and ANC 1B.

District of Columbia
Alcoholic Beverage Control Board


Donovan Anderson, Chairperson


James Short, Member


Bobby Cato, Member


Rema Wahabzadah, Member


Rafi Crockett, 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 Concerning Issuance of License ABRA-115826
to MH Mulherins APC, LLC t/a Wm. Mulherin's Sons

THIS AGREEMENT made and entered into on Jan 10, 2020 by and between MH Mulherins APC, LLC t/a Wm. Mulherin's Sons ("Applicant") and ANC 1B ("ANC").

WHEREAS, Applicant has filed with the District of Columbia Alcoholic Beverage Control Board ("ABC Board") an application for a new class "C" Restaurant license (ABRA-115826) for premises to be known as Wm. Mulherin's Sons, and located at 935 Florida Avenue, NW, Washington, DC 20001 (hereinafter the "Premises"); and

WHEREAS, in recognition of the ABC Board's policy of encouraging parties to a contested proceeding to settle their differences by reaching settlement agreements, by their signatures below, the parties hereto desire to enter into a settlement agreement whereby (1) Applicant will agree to adopt certain measures to address ANC's concerns and to include this Agreement as a formal condition of its Application, and (2) ANC will agree to the issuance of the new license and refrain from filing any protest provided that this Agreement is incorporated into the ABC Board's order issuing the license, which license is conditioned upon compliance with this Agreement; and

THEREFORE, in consideration of the mutual covenants and undertakings memorialized herein, the Applicant and ANC hereby agree as follows:

- 1) NOISE. Applicant acknowledges familiarity with and agrees to comply with the noise-control provisions required by District of Columbia law and regulations. In addition, Applicant agrees to comply with the following:
 - a) Summer Garden Area: Applicant will ensure no temporary or permanent speakers will be present on or in the summer garden. Applicant agrees to post signage notifying patrons that business is located in residential area and request patrons to be respectful.
 - b) Other Noise Provisions:
 - i) Applicant will regularly monitor sound to ensure there is no impact on nearby residents.
 - ii) Applicant is allowed acoustical music and similar live entertainment on the Summer Garden; however, there will be no amplified musical performances or DJs on the Summer Garden premises.
- 2) CAPACITY & SEATING. Applicant shall at all times adhere to its occupancy limit as specified in its Certificate of Occupancy Permit, which shall remain posted in public view at all times.
 - a) Applicant shall post a conspicuous sign at each exit advising patrons of the residential neighborhood and the necessity of quiet departure.

- b) Summer Garden Area: Applicant agrees to restrict total capacity to 40 people on the summer garden. Tables and chairs shall be located within the summer garden area during all hours of operation. Except for special events and occasions, the summer garden area shall be operated for the service of seated patrons. Only during special events and occasions may tables and chairs be cleared to use the summer garden area as a standing cocktail area.
- 3) TRASH/GARBAGE/RODENTS. Applicant acknowledges familiarity with and agrees to comply with the waste management and other related provisions required by District of Columbia law and regulations. In addition, Applicant agrees to comply with the following:
 - a) Applicant shall keep the sidewalk (up to and including the curb), tree box(es), and curb clean and free of litter, bottles, and other debris in compliance with D.C. Code and Municipal Regulations. Applicant shall police these areas sufficiently to assure that refuse and other materials are promptly removed.
 - b) Applicant agrees to furnish a smoker pole or other receptacle for cigarette disposal near the business entrance. Applicant agrees to sweep outside the business establishment at opening and closing.
 - c) Summer Garden Bussing: Applicant agrees that removal of trash, recycling, glassware and dishware from the summer garden area shall be done in a manner that mitigates ambient noise; to include, but not limited to, no permanent trash and recycling receptacles on the summer garden.
- 4) SMOKING. Applicant agrees to maintain the summer garden as a non-smoking outdoor space.
- 5) HOURS OF OPERATION.
 - a) Indoor hours shall be governed by the license subject to the following exceptions:
 - i) Days designated by the ABC Board as "Extended Hours for ABC Establishments" or "Daylight Savings Time Extension of Hours" - Licensee may operate for one additional hour (that is, one hour later);
 - ii) 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 or World Cup, Licensee may avail itself of such extended hours; and
 - iii) On January 1 of each year Licensee may operate until 4:00 am.

b) Summer Garden

Day	Hours of Operation and Hours of Sales/Service/Consumption of Alcoholic Beverage Services
Monday	11:00 AM to 11:00 PM
Tuesday	11:00 AM to 11:00 PM
Wednesday	11:00 AM to 11:00 PM
Thursday	11:00 AM to 11:00 PM
Friday	11:00 AM to 11:00 PM
Saturday	11:00 AM to 11:00 PM
Sunday	11:00 AM to 11:00 PM

It is understood by the parties that the last sales of alcoholic beverages ("Last Call") on the Summer Garden shall occur no later than 10:30 PM or 30 minutes prior to closing, whichever is later; however, patrons shall be permitted to consume any alcoholic beverages purchased before or at Last Call until the close of Summer Garden operations.

- c) Applicant shall not make premises available to Promoters for events intended to generate profit for such Promoters. Applicant shall not participate in pub crawls.
- 6) **PARKING.** Applicant shall notify patrons (through website or other means) that there is limited parking in the vicinity and shall encourage patrons to use public transportation and provide information about public transportation.
- 7) **NOTICE AND OPPORTUNITY TO CURE.** In the event that any of the parties are in breach of this Agreement, each such party 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 thirty (30) days of the date of such notice. If Applicant or the licensee fails to cure within the thirty day period (or, with respect to a breach which reasonably requires more than thirty days to cure, fails to commence cure of such breach and diligently pursues such cure) such failure shall constitute for filing a complaint with ABRA. Unless otherwise noted above, any notice required to be made under this Agreement shall be in writing 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.
- 8) **BINDING EFFECT.** This Settlement Agreement shall be binding upon and enforceable against the successors of the Applicant during the term of the license to which this Settlement Agreement applies:

If to Applicant:
MH Mulherins APC, LLC
Attn: David Grasso
c/o Method Hospitality
30 S. 15th Street, Suite 1000
Philadelphia, PA 19102

If to ANCs:

ANC1B

Attn: Robb Hudson, ANC 1B11
Frank D. Reeves Municipal Center
2000 14th St., NW, Suite 100B
Washington, DC 20009
1b11@anc.dc.gov

Wherefore, by the signing of the representatives of Applicant and ANC, Applicant hereby agrees to aforementioned covenants and ANCs agrees to the issuance of the Class "C" Restaurant license to Applicant, provided that this agreement is incorporated into the ABRA Board's order issuing a Class "C" Restaurant license, the issuance of which is conditioned upon compliance with the Settlement Agreement.

SIGNATURE BLOCKS

Accordingly, on this 10 day of January 2020 it is ordered that the Settlement Agreement between Applicant and ANC is submitted to incorporate into the ABC Board's order issuing Applicant a Class "C" Restaurant license.

Applicant:

MH Mulherins APC, LLC


By:  10/24/19
David Grasso, Managing Member Date

ANCs:

ANC 1B11

 1/10/2020
Robb Hudson, Commissioner Date

ANC 1B

 January 10, 2020
James Turner, Chair of ANC 1B Date