

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

In the Matter of:)

Uno at 5th & K, LLC and Dlena DC, LLC)
t/a dLena)

Application for a New)
Retailer's Class CR License)

at premises)
476 K Street, NW)
Washington, D.C. 20001)

License No.: ABRA-117926
Order No.: 2021-277

Uno at 5th & K, LLC and Dlena DC, LLC, t/a dLena, Applicant

Rachelle Nigro, Chairperson, Advisory Neighborhood Commission (ANC) 6E

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 Uno at 5th & K, LLC and Dlena DC, LLC, t/a dLena (Applicant), Applicant for a new Retailer's Class CR License and ANC 6E entered into a Settlement Agreement (Agreement), dated April 12, 2021, in accordance with D.C. Official Code § 25-446 (2001).

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant and Chairperson Rachelle Nigro, on behalf of ANC 6E, are signatories to the Agreement.

Accordingly, it is this 12th day of May 2021, **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 6E.

District of Columbia
Alcoholic Beverage Control Board

eSigned via SeamlessDocs.com
Donovan Anderson
Key: a74305d19d41694487200931d1c28

Donovan Anderson, Chairperson

eSigned via SeamlessDocs.com
James Short
Key: E47ac370f020466e041b373d3249c

James Short, Member

eSigned via SeamlessDocs.com
Bobby Cato
Key: 256d3fca0fa145c774b75bd7917d20d

Bobby Cato, Member

Rema Wahabzadah, Member

eSigned via SeamlessDocs.com
Rafi Alaya Crockett, Member
Key: b200e91845e1f9e4016155e0c12081c0

Rafi Crockett, Member

eSigned via SeamlessDocs.com
Jeni Hansen, Member
Key: 6217293100064474011509c2a4189f

Jeni Hansen, Member

eSigned via SeamlessDocs.com
Edward Grandis, Member
Key: 5027bda7f8f0040ec14adeb52541ee5

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).

Settlement Agreement

by and between

Uno at 5th & K, LLC and DLENA DC, LLC, together trading as "DLENA" ("Applicant")
and
Advisory Neighborhood Commission 6E

for premises located at
476 K Street, N.W, Washington DC 20001

Recitations

WHEREAS, DLENA consists of limited liability companies organized under the laws of the District of Columbia (Uno at 5th & K LLC) and Colorado (DLENA DC LLC), both duly authorized to do business in the District of Columbia; and,

WHEREAS, the premises on 476 K Street, NW is located within Advisory Neighborhood Commission 6E ("ANC 6E"); and,

WHEREAS, the Applicant has filed for a new Class "C" Restaurant license under the D.C. Alcoholic Beverage Control Act ("Application") with the ABC Board; and,

WHEREAS, the Application seeks approval to operate a new full-service Restaurant ("Restaurant") and Sidewalk Café at 476 K Street, NW, with an Entertainment Endorsement; and,

WHEREAS, the Applicant and ANC 6E (collectively, the "Parties") desire to resolve potential issues in the operation of DLENA located at 476 K Street, NW, ("Restaurant") and enter into this Settlement Agreement ("Agreement") in exchange for ANC 6E's support of the Application.

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. **Interior Hours:**

The Hours of Alcoholic Beverage Sales, Service, and Consumption on the interior premises shall be:

Sunday 10am – 2am
Monday through Thursday 7am – 2am
Friday 7am – 3am
Saturday 10am – 3am

The following exceptions apply to the interior operating hours only: provided, however (1) on days designated by the ABC Board as "extended Hours for ABC Establishments" Applicant may operate and serve alcoholic beverages for one additional hour (that is, one hour later); (2) in the event the Council of the District of Columbia or the ABC Board grants licensees in general operating hours for particular dates, holidays or events (e.g. inauguration, World Cup), Applicant may avail itself to such

extended hours; (3) on January 1 of each year, Applicant may operate and serve alcoholic beverages until 4:00am and may apply for a One Day Substantial Change to provide Entertainment until 3:00am on January 1 of each year; (4) and on "Daylight Saving Time Extension of Hours" as designated by the ABC Board, Applicant may operate, sell, serve, and permit the consumption of alcoholic beverages for one additional hour later.

c.) The Hours of Entertainment on the interior premises shall be:

- i. Sunday through Thursday 10am – 2am
- ii. Friday and Saturday 10am – 3am

3. Sidewalk Café.

a.) Sidewalk Café Hours of Operation and Hours of Alcoholic Beverage Sales, Service, and Consumption: Sunday through Saturday: 10:00am to 11:00pm.

b.) No amplified sound, entertainment, live music, or karaoke shall be permitted on the Sidewalk Café outside the Restaurant.

4. Public Space and Trash. Applicant shall take reasonable measures to maintain the cleanliness of the premises and ensure the Sidewalk Café and adjacent public property is free of trash/waste, including the sidewalk in front of the Restaurant. Applicant shall cause extermination services to be provided to the Restaurant by a reputable exterminator on at least a monthly basis.

5. Noise. Applicant shall keep closed all doors and windows, except for the purposes of entering and exiting, outside the hours of Sunday through Saturday: 10:00am to midnight. Noise emanating from the licensed premises that is audible in any nearby residential premises is prohibited. Applicant will comply with all aspects of D.C. Official Code §25-725 including, but not limited, to:

(a) The licensee under an on-premises retailer's license shall not produce any sound, noise, or music of such intensity that it may be heard in any premises other than the licensed establishment by the use of any:

- (1) Mechanical device, machine, apparatus, or instrument for amplification of the human voice or any sound or noise;
- (2) Bell, horn, gong, whistle, drum, or other noise-making article, instrument, or device; or
- (3) Musical instrument.

6. Construction of Agreement. Any reference to specific laws and regulations in this Agreement is meant for informational purposes only. ANC 6E does not intend for a violation of any DC law or regulation to also be considered a violation of this Agreement.

7. Notice and Opportunity to Cure. In the event that either party is in breach of this Agreement, the breaching party shall be entitled to reasonable notice and opportunity to cure in the form of thirty (30) days' notice before the non-breaching party can seek enforcement of the Agreement. If the breaching party fails to cure within thirty (30) days, (or, within 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), then the non-breaching party shall be entitled to file a complaint with the ABC Board pursuant to D.C. Official Code §25-447.

If to Applicant: DLENA
476 K Street, NW
Washington, DC 20001
Attn: Thomas McDowell
Email: tmcdowell@mappllc.com

If to ANC: Advisory Neighborhood Commission 6E
P.O. Box 93020, Brentwood Station
Washington, DC 20090
Attn: Rachelle Nigro, ANC 6E Chair
Email: 6E04@anc.dc.gov

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

10. **No Protest.** Upon execution of this Settlement Agreement and its acceptance by the ABC Board, ANC 6E agrees to support Applicant's pending ABC license Application and shall refrain from filing a protest against Applicant's pending license application.

In witness thereof, the Parties, acting through their authorized representatives, have agreed to and signed this Settlement Agreement.

DLENA

By: 

Carlos Horcasitas

Date: 4/5/2021

Advisory Neighborhood Commission 6E

By: 

Rachelle Nigro, Chair

Date: 4-12-2021