THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter of:	)	
	)	
LSEMY, LLC	)	
t/a Mike's Market/Trinidad Market	)	
	)	
Applicant for a New	)	License No.: ABRA-100653
Retailer's Class A License	)	Order No.: 2017-064
	)	
at premises	)	
1322 Florida Avenue, NE	)	
Washington, D.C. 20002	)	
	)	

LSEMY, LLC, t/a Mike's Market/Trinidad Market (Applicant)

Adam Roberts, Chairperson, Advisory Neighborhood Commission (ANC) 5D

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
James Short, Member
Mafara Hobson, Member
Jake Perry, Member

ORDER ON SETTLEMENT AGREEMENT

The official records of the Alcoholic Beverage Control Board (Board) reflect that LSEMY, LLC, t/a Mike's Market/Trinidad Market, Applicant for a new Retailer's Class A License, located at 1322 Florida Avenue, NE, Washington, D.C., and ANC 5D have entered into a Settlement Agreement (Agreement), dated November 11, 2016, 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 Adam Roberts and Commissioner H. Yvonne Buggs, on behalf of ANC 5D, are signatories to the Agreement.

Accordingly, it is this 8th day of February, 2017, **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 corrections:

   Subsection 6(A) (Limitations on Sales of Certain Non-Alcoholic Retail Items) – The citation "DCMR § 25-741, 25-742, and 25-742" shall be replaced with the citation "D.C. Official Code § 25-101(23)."

   Subsection 7(B) (Cleanliness and Conditions of Premises and Immediate Environs) – The citation "DCMR § 25-726" shall be replaced with the citation "D.C. Official Code § 25-726."

2. Copies of this Order shall be sent to the Applicant and ANC 5D.

District of Columbia
Alcoholic Beverage Control Board

Donovan Anderson, Chairperson

Nick Alberti, Member

Mike Silverstein, Member

James Short, Member

Mafara Hobson, Member

Jake Perry, 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).

Community Settlement Agreement

ADVISORY NEIGHBORHOOD COMMISSION 5D AND LSEMY, LLC (t/a Mike's Market/Trinidad Market) ABRA-100653

This Settlement Agreement ("Agreement") entered into this 11 day of November 2016, by and between LSEMY, LLC d/b/a Mike's /Trinidad Market and Deli trading as Mike's Market ("Applicant"), and Advisory Neighborhood Commission 5D.

Preamble

Through this agreement, both parties aim to create an environment whereby the applicant may operate as a viable contributing business to the ANC 5D community, while concurrently curtailing any adverse effect a business such as the Applicant could have on the surrounding neighborhood. This agreement applies to Class A liquor licenses that permit retail sales of beer, wine, and spirits for off premises consumption and Class B liquor licenses that permit retail sales of beer and wine for off premises consumption.

The Applicant agrees to collaborate with the ANC 5D, neighborhood associations, and residents to ensure the business operations do not adversely affect the surrounding neighborhood. All parties believe the statements and provisions contained herein are reasonable and must be wholly integrated into the day-to-day operations of the business establishment.

Witnessed

Whereas, Applicant's premises is within the boundaries of ANC 5D; and

Whereas, Applicant has applied for a new Class A license under the D.C. Alcoholic Beverage Control Act for premises located at 1322 Florida Avenue, N.E., Washington, DC; and

Whereas, the parties have agreed to enter into this Agreement and request that the Alcohol Beverage Control Board approve the Application of the Applicant's Retailer's Class A Liquor License at the subject premises conditioned upon the Applicant's compliance with the terms of this written Agreement; and

Whereas, the parties wish to state their mutual intent and commitment to promote the success, peace, order, and quiet of the community; both parties recognize the importance of commercial districts (and limited commercial operations within the residential districts) and their adjacent neighborhoods such that they are safe and clean.

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) Compliance with Law

A) In addition to the requirements of this agreement, Applicant will operate in compliance with all applicable laws and regulations.

B) Applicant agrees to abide by all ABRA regulations regarding the ownership and transfer of the license.

3) Hours of Operation for Sales of Alcohol

A) Applicant shall comply with ABRA approved and regulated hours in the sales of alcoholic beverages.

1) For Class A License holders:

(a) 9:00 am – 12:00 am Monday – Friday
(b) 9:00 am – 12:00 am Saturday
(c) 9:00 am – 9:00 pm Sunday

Should the ABC regulations later change to permit additional operating hours, the applicant will be expected to return to ANC 5D to modify this agreement to permit such hours.

4) Requirements for Sale/Provision of Single Containers of Alcoholic Beverages

A) Applicant shall not sell, give, offer, expose for sale, or deliver an individual container of beer, malt liquor, or ale in single containers of less than 750 milliliters.

1) Applicant shall not break package(s) for the purpose of single sales, nor permit customers to do so.

B) Applicant shall not sell, give, offer, expose for sale, or deliver an individual container of spirits in single containers with a capacity of less than 750 milliliters. This provision shall not apply to aromatic bitters.

C) Applicant shall not sell, give, offer, expose for sale, or deliver an individual container of wine in single containers of less than 750milliliters.

5) Signage/Loitering/Illegal Activity

A) Applicant shall post a notice kept in good repair and visible to the customer point of entry a sign, which states:

1) The minimum age requirement for the purchase of alcohol,
2) The patron's obligation to produce a valid identification document in order to purchase alcohol,
3) The legal obligation of adult patrons not to provide alcohol to minors,
4) No panhandling, and
5) No loitering.

B) Applicant shall not, directly or indirectly, sell or deliver alcohol to any intoxicated person, to any person who have been arrested in store or the perimeter, and/or to any person who appears to be intoxicated.

C) Applicant shall not, directly or indirectly, sell or deliver alcoholic beverages to any person or persons under the age of 21.

D) Applicant shall make reasonable efforts to prohibit and prevent intoxication and criminal activity on or within the immediate environs of the premises, with a mutual understanding between the Applicant and ANC 5D that the activities outlined below require a collaborative effort between all stakeholders inclusive of Applicant, ANC 5D, neighborhood associations, DC MPD, and community residents:

1) Asking loiterer(s) to move on whenever they are observed outside the establishment or upon a patron's complaint of such loiterers;
2) Coordinating with the DC MPD to monitor and remove loiterer(s):
   (a) If loiterer(s) refuse(s) Applicant's request to move on within ten minutes of the request, or
   (b) Within ten minutes of patron complaint if Applicant is unable to ask the loiter(s) to disperse directly;
3) Calling MPD immediately if illegal activity of any kind is observed;
4) Keeping a written record of dates and times (i.e., a call log) when the MPD has been called for assistance. Applicant's log upon request shall be provided to ABRA or the ABC Board.

E) ANC 5D agrees to proactively contribute to Applicant's efforts to prevent alcohol abuse through methods such as:

1) Working collaboratively with the DC DMV to help Applicant identify individuals who have been digitally captured and recorded while performing an illegal act such as, but certainly not limited to: providing alcohol to any person or persons under the age of 21; loitering on the establishment's property continuously after multiple warnings and removals; and disrupting the public peace and establishment's business while intoxicated, etc.

F) Applicant agrees to the following security plan:

1) Discouraging loitering,
2) Discouraging panhandling,
3) Contacting DC MPD if criminal activity is observed,
4) Maintaining incident log, and
5) Use of Security Cameras both inside and outside establishment.

   (a) Applicant shall employ cameras inside, and cameras outside.

   (b) The exterior cameras shall point in the direction so as to capture the full front area of the property.

G) Coordinate with property owner to maintain adequate and functional security lighting on building to discourage criminal activity on or within the immediate environs of the premises during business hours.

6) Limitations on Sales of Certain Non-Alcohol Retail Items

A) Applicant shall not sell, give, offer, expose for sale, or deliver "go-cups", or cups of plain ice (this provision shall not apply to "slush puppies" or other such non-alcoholic mixed beverages). "Go-cups" are defined as "a drinking utensil provided at no charge or a nominal charge to a customer for the purpose of consuming alcoholic beverages off the premises of an establishment," per DCMR § 25-741, 25-742, and 25-742. Applicant may sell disposable cups to customers, provided such cups are pre-packaged and contain no less than 12 cups. This provision shall not apply to cups, empty or with ice, used for in store tastings when a Tasting Permit is in effect.

B) If selling ice, applicant shall only sell it to customers in packages of 5 pounds or more.

C) Applicant shall not sell, give, offer, expose for sale, or deliver individual single cigarettes.

D) Applicant shall not sell, give, offer, expose for sale, or deliver products associated with illegal drug activity. These items are defined as "pipes, needles, mini-scales, non-prepackaged steel wool, small bags," or any other item or product which may be regarded as drug paraphernalia under 21 U.S.C. § 863(d). This prohibition shall also include miniature plastic flowers in glass tubes ("love roses") and Chore Boy style copper scrubbers.

E) Applicant shall not sell, give, offer, expose for sale, or deliver "ski masks" or any other articles of clothing that are intended to obscure any part of the face.

F) Applicant shall not sell, give, or combine any of the above items with permitted items in order to facilitate their sale.

G) Applicant shall coordinate with property owner to maintain adequate and functional security lighting on building to discourage criminal activity on or within the immediate environs of the premises during business hours.

H) Applicant agrees to post outdoor signs, kept in good repair, in highly visible locations that announce the following:

1) Discouraging loitering, panhandling, and contributing to panhandling;
2) Monitoring of Property by Surveillance Camera(s)

7) Cleanliness and Conditions of Premises and Immediate Environs:

A) Applicant shall maintain the establishment premises, and surrounding public space (out to the curb in front, and also to the curb on the side extending as far as the building and side yard) in a commercially reasonable condition, including those conditions set forth below.

1) Applicant agrees that a commercially reasonable condition includes that which is consistent with a vision towards continued enhancement and improvement of the neighborhood and the commercial operations within the ANC 5D community.
2) Applicant agrees to relay any property and structural concerns to its landlord.

B) Applicant shall maintain the immediate environs of the establishment. As indicated in DCMR § 25-726, "The licensee under a retailer's license shall take reasonable measures to

ensure that the immediate environs of the establishment, including adjacent alleys, sidewalks, or other public property immediately adjacent to the establishment, or other property used by the licensee to conduct its business, are kept free of litter.

C) Applicant shall clean the sidewalks to the front of the establishment up to and including the curb, and perimeter on a regular basis.

D) Applicant shall pick up trash, including beverage bottle and cans, and all other trash a minimum of twice daily (once immediately before business hours, and once between 8:00 a.m. and 5:00 p.m.).

E) Applicant shall maintain trash, garbage, and recycling material storage facilities in which all containers have lids that are kept securely closed at all times, which containers shall be sufficient to contain all trash, garbage, and recycled materials generated by the establishment, and to assure that the trash, garbage, and recycled materials are removed regularly.

F) Applicant shall exercise due diligence to prevent and/or rid vermin infestation in and around said establishment, including following, minimally, the recommendations and guidelines of the Vector Control Division of the Department of Public Works.

G) Applicant shall remove snow and/or ice from sidewalks fronting (including sidewalks on the perimeter) within time limits set by the District of Columbia for such snow and/or ice removal.

H) Applicant shall remove graffiti written or painted on the exterior walls of the property or on any items belonging to the establishment (e.g. dumpster) within fifteen days of the first appearance of said graffiti. Any graffiti present on the exterior walls of the establishment at the time Applicant enters into this agreement must be removed within thirty days of signing this agreement. The same rules of removal shall apply to any other material thrown or smeared upon the exterior walls of the property.

I) Applicant agrees that any and all signage displayed or posted on the exterior walls or door of the establishment will be kept in good repair and professional in appearance.

J) Applicant shall not install signage on the front windows and/or door, which may obstruct visibility into the establishment.

8) Cooperation with Community and ANC 5D

A) Applicant is encouraged to attend ANC 5D, Single Member District (SMD) 5D06 meetings and Police Service Area (PSA) 506 meetings, if held, to the best of their ability.

B) ANC 5D agrees to notify Applicant of such meetings, if held, to the best of their ability via telephone calls, newsletters, and/or e-mail list subscriptions. Additionally, such meetings may be found on the ANC's web site at www.anc5d.org.

9) Enforcement and Notices

A) Should any of the conditions of this agreement be breached, it is understood by both parties that ANC 5D shall immediately file a complaint to the ABC Board to enforce the provisions of this Agreement.

B) Any notices required to be made under this Agreement shall be in writing and mailed by certified mail, return receipt requested, postage prepaid, or hand-delivered, to the other parties to this Agreement. Notice is deemed to be received upon mailing.

C) This cooperative agreement shall be binding upon and enforceable against the successors of the Applicant will continue in force for any and all subsequent license holders at the subject location.

10) Counterparts

This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first amended and noted above.

APPLICANT:

By: _____
LSEMY, LLC d/b/a Mike's /Trinidad Market and Deli
1322 Florida Avenue, NE
Washington, DC 20002

Date: 11-15-2016

WITNESS:

_____
ANC Commissioner 5D06

Date: 11/15/2016

Advisory Neighborhood Commission 5D

By: _____
Chairperson, Advisory Neighborhood Commission 5D

Date: 11-15-16