

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

**In the Matter of:** )  
 )  
K & D LLC, )  
t/a Cork )  
 )  
Substantial Change to Retailer's )  
Class CR License ) License No. 77111  
 ) Order No. 2009-156  
at premises )  
1740 14<sup>th</sup> Street, N.W. )  
Washington, D.C. 20009 )  
\_\_\_\_\_ )

K & D LLC, t/a Cork

Charles Reed, Chair, Advisory Neighborhood Commission 2F (ANC 2F)

**BEFORE:** Peter B. Feather, Chairperson  
Mital M. Gandhi, Member  
Nick Alberti, Member  
Charles Brodsky, Member  
Donald Brooks, Member  
Herman Jones, Member

**ORDER ON VOLUNTARY AGREEMENT**

The official records of the Alcoholic Control Board (Board) reflect that K & D, LLC, t/a Cork, Applicant for a Substantial Change to its Retailer's Class CR License, for a change in hours, located at 1740 14<sup>th</sup> Street, N.W., Washington D.C., and ANC 2F, (collectively, the Parties) have entered into a Voluntary Agreement (Agreement) dated May 6, 2009, setting forth the terms and conditions that govern 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 Commissioner Reed are signatories to the Agreement.

**K & D, LLC**  
**t/a Cork**  
**License No. 77111**  
**Page Two**

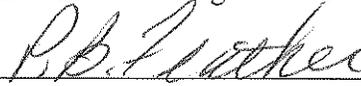
Accordingly, it is this 24<sup>th</sup> day of June 2009, **ORDERED** that:

1. The Application filed by K & D, LLC, t/a Cork for a Substantial Change to a Retailer's Class CR license located at 1740 14<sup>th</sup> Street, N.W., Washington, D.C., is **GRANTED**,

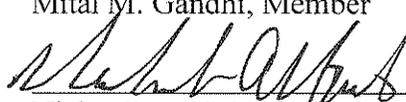
2. This above-referenced Voluntary Agreement submitted by the Parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order; and

4. Copies of this Order shall be sent to the Applicant and ANC 2F.

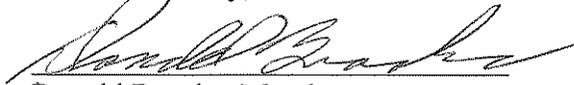
District of Columbia  
Alcoholic Beverage Control Board

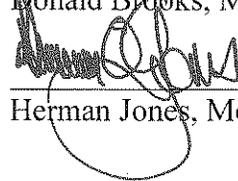
  
\_\_\_\_\_  
Peter B. Feather, Chairperson

Mital M. Gandhi, Member

  
\_\_\_\_\_  
Nick Alberti, Member

Charles Brodsky, Member

  
\_\_\_\_\_  
Donald Brooks, Member

  
\_\_\_\_\_  
Herman Jones, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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, 941 North Capitol Street, N.E., Suite 7200, Washington, D.C. 20002.

**FIRST AMENDED AND RESTATED**

**VOLUNTARY AGREEMENT**

THIS VOLUNTARY AGREEMENT ("Agreement") is made as of this 6th day of May, 2009, by and between K&D, LLC t/a Cork ("Licensee") and Advisory Neighborhood Commission 2F ("ANC 2F").

W I T N E S S E T H

WHEREAS, Licensee and ANC2F have previously entered into a Voluntary Agreement, dated September 11, 2007, which agreement was accepted by the Alcoholic Beverage Control Board ("Board"); and,

WHEREAS, Licensee and ANC 2F have mutually agreed to changes in its Voluntary Agreement pursuant to which, if such changes are approved by the Board, ANC 2F is prepared to advise the Board to accept Licensee's pending application for a material change in its operations; and

NOW THEREFORE, in consideration of the recitals set forth above and the mutual covenants and conditions set forth below, the parties agree to amend and restate their Voluntary Agreement as follows:

1. Amendment and Incorporation of Recitals.

(a) This First Revised and Restated Voluntary Agreement ("Agreement") shall replace any prior agreements between the parties and in any conflict between this Agreement and any prior agreement, the provisions of this Agreement shall prevail.

(b) The recitals above are incorporated herein by reference.

2. Nature of Business. The Licensee shall manage and operate a restaurant with and dinner menu service and lunch service menu if open during the day time. Any change from this

3. Hours of Operation.

(a) The Licensee's hours of operations shall be as follows:

Thursday - Sunday            11:00 a.m. to 2:00 a.m.

Monday – Wednesday        11:00 a.m. to 1:00 a.m.

Any change in the above hours will require ABC Board approval, placarding of the request as a substantial change, and notice and opportunity for protest.

(b) Notwithstanding the above hours of operations, Licensee shall close its doors to, and not admit any further, patrons after one hour prior to the respective above stated closing hours. In addition, Licensee shall announce a last call for sales of alcoholic beverages at one and one-half hours prior to the respective above stated closing hours.

(c) Up until two (2) hours prior to closing, Licensee's kitchen facilities shall remain open with food service.

4. Parking.        The Licensee fully recognizes the importance of parking not only for its success, convenience for its patrons but also the level of its importance to ANC 2F, and shall encourage patrons to use off street parking.

5. Public Space and Trash.        Licensee is aware that illegal dumping in the public alley is an ongoing concern of its neighbors and that Licensee's trash practices, if not consistently diligent, may have the effect of encouraging such dumping. Licensee agrees to maintain a dumpster in the rear of the building in the public alley and to contract with a commercial trash hauler for pickup at least twice per week. Licensee shall take whatever actions necessary to ensure that its dumpster does not overflow, including, but not limited to,

scheduling additional trash pickups, if necessary. Licensee agrees to maintain such dumpster in a locked and completely closed position, and to ensure all trash is placed inside the dumpster. Trash and recyclable material shall not be deposited into the outside dumpster or other exterior holding facilities between the hours of 11:00 p.m. and 8:30 a.m. Licensee shall require its trash and recycling contractors to pick up trash and materials, and schedule its deliveries, not before 9:00 a.m. Licensee shall also periodically police the public alley and sidewalk (up to and including the curb) for refuse and other materials and maintain a clean, tidy and professional presence in these areas. Licensee shall not install exterior public pay telephones.

6. Sidewalk Café. Licensee may have outside seating in a sidewalk café area in front of its premises upon receipt of a public space permit, and may serve alcoholic beverages in such area. The sidewalk café shall be of a size and occupancy approved by the Public Space Committee, after the opportunity for notice and comment by ANC 2F, if required by law, but in no event shall it provide seating for more than 12 patrons. Licensee may not expand the capacity of the sidewalk café without amendment of this Agreement. Licensee shall direct that its employees inspect the sidewalk café at least once each hour to ensure its cleanliness. Licensee shall provide exterior containers for cigarette and other tobacco refuse and shall keep the area in the vicinity of its premises free of butts. The sidewalk café shall close no later than 12:00 a.m. To the extent there are problems resulting from Licensee's outdoor seating, the parties hereto agree to in good-faith meet to discuss solutions to such problems.

7. Noise and Privacy. Licensee shall, if necessary, make architectural improvements to the property and take all other reasonable actions to ensure that music, noise and vibrations from the establishment are not audible from within the adjacent residential properties nor disruptive to reasonable use of the outdoor areas of the properties. Should any

sound, noise, or music be heard in any residential premises, Licensee will take immediate remedial action. If necessary, Licensee will take reasonable steps to reduce noise emanating from the establishment from the opening of the entry and exit doors.

8. Dancing, Music and Entertainment. Licensee shall not offer, create facilities for, or otherwise encourage, advertise, or promote dancing by patrons or employees or otherwise create or maintain a “nightclub” or “disco” atmosphere in the Premises. Licensee shall not have DJs, music videos or live entertainment, but may have recorded background music.

9. Special Events.

(a) “Special events” for purposes of this Agreement means that the restaurant is reserved exclusively or principally for a single group or event during or after normal dinner hours.

(b) Notwithstanding paragraph 8, Licensee may, no more than ten (10) times per year, and no more than four (4) times in any one (1) month, have a DJ and allow dancing in the Premises in connection with private events, such as weddings, birthday parties, holiday parties, fundraisers and charitable events. Such private events shall not be open or advertised to the general public. Licensee shall keep all recorded music at a level such that outside the establishment, any music audible is within the sound level of ambient street noise (as defined in municipal regulations)) from outside the establishment.

(c) ANC 2F’s concern giving rise to the limitation on the number of special events is that they may unduly impact the neighborhood with additional parking, noise and trash problems; Licensee has conceded to the limitation with the understanding that the limit will be reviewed by the parties at the end of one (1) year from the opening date of the restaurant. If experience demonstrates that there has not been such undue impact, ANC 2F agrees to

consider increasing the limitation on special events; and if problems have occurred, Licensee agrees to consider reducing such limitation. The parties will act in good faith with respect to negotiations regarding any difference, and shall appeal to the Alcoholic Beverage Control Board to resolve any differences if they cannot agree.

10. Rats and Vermin Control. The Licensee shall provide rat and vermin control surrounding the dumpster area by providing outside traps and baiting. Licensee shall provide proof of its rat and vermin control contract upon request of ANC 2F.

11. Security. Licensee shall assure its patrons do not become unruly, whether inside or in the immediate outside area. Further, Licensee will post signage at the entrance to instruct patrons that they are within a residential neighborhood and ask them upon leaving to leave quietly.

12. Participation in ANC 2F. In order to maintain an open dialogue with ANC 2F, Licensee is encouraged to regularly send a representative to ANC 2F meetings, which occur on the first Wednesday of each month at 7:00 p.m. at the Washington Plaza Hotel, 10 Thomas Circle, N.W., Washington, D.C. 20005. Licensee, upon notice from the ANC or LCCA shall send a representative of the establishment to a meeting(s) of the respective organization to discuss and find reasonable ways to resolve any problems associated with its operations.

13. License Ownership. Licensee agrees to abide by all Alcoholic Beverage Regulations Administration (ABRA) regulations regarding the ownership of the license. Licensee agrees to notify any prospective transferee, assignee or contractee of the existence of this Agreement and to provide them with a copy. Licensee, or Licensee's transferee, shall notify ANC 2F within five (5) business days of finalization of any transfer of the license or change in majority control of Licensee.

14. Binding Effect. This Agreement shall be binding upon and enforceable against the successors and assigns of Licensee.

15. Informal Dispute Resolution. In the case that the ANC Commissioner or an individual resident has a concern regarding the operation of the business, they are urged to contact the Licensee's President, Diane Gross at 202.265.2675 or Diane@corkdc.com e-mail prior to involving the ANC, District of Columbia agencies or officials, or law enforcement agencies, or instituting proceedings under paragraph 17 of this agreement.

16. Notices. In the event of a violation of the provisions of this Agreement, Licensee shall be notified in writing by the person alleging such violation and given an opportunity to cure such violation within thirty (30) days thereafter before action against Licensee on the basis of such violation may be undertaken (except that as to third violation relating to disturbances of noise, music and vibration, no cure period shall be required). A material violation of this Agreement or its ABC license by Licensee, which has not been corrected within the period for cure, shall constitute cause for seeking a Show Cause Order from the ABC Board. Any notices required to be made under this Agreement shall be in writing and mailed by certified mail, return receipt requested, sent by facsimile using a device which indicates receipt on sender's copy, or hand-delivered, to the other party to this Agreement. Notice is deemed to be received upon mailing.

Notice is to be given as follows:

1. If to Licensee, to:  
At Establishment

With a copy to:

Andrew J. Kline, Esq.  
1225 19<sup>th</sup> Street, NW, Suit 320  
Washington, DC 20036

2. If to ANC 2F, to:

Advisory Neighborhood Commission 2F  
at the address shown on its web site at [www.anc2f.org](http://www.anc2f.org)

With a copy to:

The then chairman of ANC 2F at the address published by such person  
either at [www.anc2f.org](http://www.anc2f.org) or [www.dc.gov](http://www.dc.gov)

Licensee may change the notice address listed above by written notice to the other signatories at the addresses listed above. 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 Alcoholic Beverage Control Board.

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

18. Submission to Board. The parties shall promptly seek approval of this Agreement by the Board. If ANC 2F has protested Licensee's pending application for material change of operations, ANC 2F shall advise the Board to approve this Agreement and, subject to Licensee's continued compliance with this Agreement, ANC 2F shall withdraw such protest.

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

LICENSEE:

K&D, LLC t/a Cork

By: \_\_\_\_\_  
Diane Gross, Member

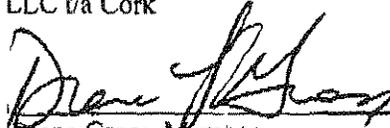
ADVISORY NEIGHBORHOOD COMMISSION 2F

By: Charles D. Reed  
Charles Reed, Chairman

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

LICENSEE:

K&D, LLC t/a Cork

By:   
Diane Gross, Member

ADVISORY NEIGHBORHOOD COMMISSION 2F

By:   
Charles Reed, Chairman