THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter of:	)	
	)	
Tasty Burger DC1, LLC	)	
t/a Tasty Burger	)	
	)	
Applicant for a New	)	Case No. 15-PRO-00107
Retailer's Class CR License	)	License No. ABRA-100284
	)	Order No. 2016-034
at premises	)	
2108 8th Street, N.W.	)	
Washington, D.C. 20001	)	
	)	

Tasty Burger DC1, LLC, t/a Tasty Burger (Applicant)

James Turner, Chairperson, Advisory Neighborhood Commission (ANC) 1B

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
Ruthanne Miller, Member
James Short, Member

ORDER ON SETTLEMENT AGREEMENT AND WITHDRAWAL OF ANC 1B'S PROTEST

The Application filed by Tasty Burger DC1, LLC, t/a Tasty Burger (Applicant), for a new Retailer's Class CR License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on November 30, 2015, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant and ANC 1B have entered into a Settlement Agreement (Agreement), dated January 8, 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 James Turner and Commissioner Robb Hudson, on behalf of ANC 1B, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by ANC 1B.

Accordingly, it is this 20th day of January, 2016, **ORDERED** that:

1. The Application filed by Tasty Burger DC1, LLC, t/a Tasty Burger, for a new Retailer's Class CR License, located at 2108 8th Street, N.W., Washington, D.C., is **GRANTED**;

2. The Protest of ANC 1B in this matter is hereby **WITHDRAWN**;

3. 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

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

District of Columbia
Alcoholic Beverage Control Board

Donovan Anderson, Chairperson

Nick Alberti, Member

Mike Silverstein, Member

Ruthanne Miller, Member

James Short, 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 100284
to Tasty Burger DC1 LLC, 2108 8th Street, N.W., Washington, D.C.

THIS AGREEMENT made and entered into on January 8, 2016 by and between Tasty Burger DC1 LLC ("Applicant") and ANC 1B ("Protestant").

WHEREAS, Applicant has filed ~~Application~~ No. 100284 with the District of Columbia Alcoholic Beverage Control Board ("ABC Board") for a new class "C" Restaurant license for premises to be known as Tasty Burger, and located at 2108 8th Street, N.W., Washington, D.C. (hereinafter the "Premises"); and

WHEREAS, Protestant has concerns opposing the granting of this application; 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 Protestant's concerns and to include this Agreement as a formal condition of its Application, and (2) Protestant will agree to the issuance of the new license and withdraw 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

WHEREAS, Applicant has recently taken or intends to take certain measures designed to ameliorate Protestant's concerns.

THEREFORE, in consideration of the mutual covenants and undertakings memorialized herein, the Applicant and Protestant 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 or live entertainment will be present on or in the summer garden. Applicant will restrict patrons from using electronic devices as speakers to play music at all times. 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; however, there will be no amplified musical performances or DJs on the 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 29 people on the summer garden. Tables and chairs shall be located within the summer garden area during all hours of operation. The summer garden area shall, at all times, be operated for the service of seated patrons. At no time shall tables and chairs be cleared to use the summer garden area as a standing cocktail area. Only seated patrons shall be served in the summer garden 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 provide for the regular maintenance of the site during months when the Establishment is not in operation or is not using all outdoor spaces, including but not limited to snow and trash removal, landscaping, and removal of graffiti.

   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) SAFETY & SECURITY. Applicant agrees to file a security plan with ABRA.

6) HOURS OF OPERATION.

   a) Indoor hours shall be governed by the license.

   b) Summer Garden

Day	Hours of Alcoholic Beverage Services	Hours of Operation
Monday	11:00 AM to 12:30 AM	6:00 AM to 1:00 AM
Tuesday	11:00 AM to 12:30 AM	6:00 AM to 1:00 AM
Wednesday	11:00 AM to 12:30 AM	6:00 AM to 1:00 AM
Thursday	11:00 AM to 12:30 AM	6:00 AM to 1:00 AM

Friday	11:00 AM to 1:30 AM	6:00 AM to 2:00 AM
Saturday	10:00 AM to 1:30 AM	6:00 AM to 2:00 AM
Sunday	10:00 AM to 12:30 AM	6:00 AM to 1:00 AM

c) Live Entertainment hours shall be governed by the license.

d) The licensee may obtain ABC Board approval to sell or serve alcoholic beverages until 4:00 a.m. and operate 24 hours a day on District and federal holidays and various holiday weekends. Licensee is encouraged to notify the ANC when filing such requests.

e) Applicant agrees to restrict all events to those run by the establishment and will not contract the establishment for any special events to be operated by an outside contractor.

7) PARKING. Applicant will encourage transit use, and will encourage patrons to use nearby public transit facilities rather than parking on residential streets via signage posted on the premises and on the website.

8) 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.

9) 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:
Tasty Burger
ATTN: David Dubois
47 Winter Street 7th Floor
Boston, MA 02108

With a copy to:
Andrew J. Kline, Esq.
1225 19th Street NW, Suite 320
Washington, DC 20036

If to Protestants:
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 Protestant, Applicant hereby agrees to aforementioned covenants and Protestants 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 14th day of January, 2016 it is ordered that the Settlement Agreement between Applicant and Protestant is incorporated into the ABC Board's order issuing Applicant an amended Class "C" Restaurant license.

Applicant:

Tasty Burger DC1 LLC

David Dubois — 1/8/2016 Date

Protestants:

ANC 1B11

Robb Hudson, **Commissioner** — 1/14/2016 **Date**

ANC 1B

James Turner, Chair of ANC 1B — 1/14/2016 Date