

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

In the Matter of:)

Kimberly, Inc.)

t/a Mr. Smith's of Georgetown)

Case No. 9120-00070P)

Application for a Retailer's License)

CR - renewal application)

at premises)

3104 M Street, NW)

Washington, D. C.)

Peter Pulsifer, Chair, Advisory Neighborhood Commission 2E, Protestant

James F. Haight, President, on behalf of Kimberly, Inc., Applicant

BEFORE: Roderic L. Woodson, Esquire, Chair
Vera Abbott, Member
Charles Burger, Member
Laurie Collins, Member
Judy Moy, Member
Ellen Opper-Weiner, Esquire, Member
Audrey E. Thompson, Member

ORDER ON WITHDRAWN PROTEST AND VOLUNTARY AGREEMENT

The application, having been protested, came before the Board for public hearing on May 24, 2000, in accordance with D. C. Code Section 25-115 (c)(5)(1999 Supp.), providing for the Protestant to be heard. Peter Pulsifer, Chair, on behalf of the Advisory Neighborhood Commission (ANC) 2E, filed timely protest letter, dated May 9, 2000.

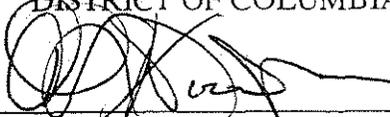
Kimberly, Inc.
t/a Mr. Smith's of Georgetown
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The official records of the Board reflect that the parties have now reached an agreement, which has been reduced to writing, and has been properly executed and filed with the Board. Pursuant to the agreement dated September 5, 2000, the Protestant has agreed to withdraw the opposition, provided however, the Board's approval of the pending application is conditioned.

Accordingly, it is this 14th day of February 2001, **ORDERED** that:

1. The protest of Peter Pulsifer, ANC 2E be, and the same hereby, is **WITHDRAWN**;
2. The above- referenced agreement between the parties, be, and the same hereby, is **INCORPORATED** as part of this **ORDER**;
3. The application of Kimberly, Inc. t/a Mr. Smith's of Georgetown for a retailer's class CR renewal license at premises 3104 M Street NW, Washington, D.C., be, and the same hereby, is **GRANTED**; and,
4. Copies of this Order shall be sent to the Protestants and the Applicant.

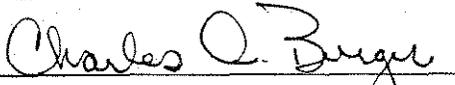
DISTRICT OF COLUMBIA ALCOHOLIC BEVERAGE CONTROL BOARD



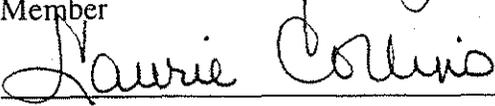
Roderic L. Woodson, Esquire
Chair



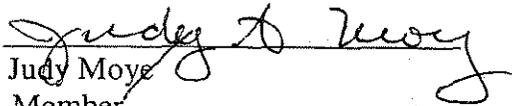
Vera Abbott
Member



Charles Burger
Member



Laurie Collins
Member



Judy Moye
Member



Ellen Opper-Weiner, Esquire
Member



Audrey E. Thompson
Member

#9120

AGREEMENT

Advisory Neighborhood Commission 2E ("ANC 2E") and Kimberly, Inc. t/a Mr. Smith's of Georgetown ("the applicant") agree as follows:

WHEREAS, The applicant has applied for renewal of a Class CR alcoholic beverage license for the property located at 3104 M Street, NW, Washington, DC 20007 which is pending before the Alcoholic Beverage Control Board ("ABC Board") as application number 9120; and

WHEREAS, ANC 2E represents the resident taxpayers within its boundaries and wishes to ensure that no establishment that sells alcoholic beverages will adversely affect the health, safety, and quality of life in the surrounding community; and

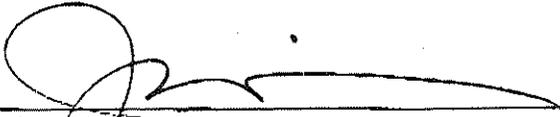
WHEREAS, The applicant and ANC 2E desire to settle all issues relating to the renewal of the license;

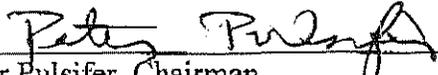
THEREFORE, The applicant and ANC 2E, in consideration of the mutual promises and covenants contained herein, voluntarily enter this Settlement Agreement ("Agreement").

1. The applicant shall operate the establishment as a bona fide restaurant on the said premises in full compliance with all applicable laws of the District of Columbia and the United States of America.
2. The restaurant shall have a maximum capacity, as established by its Certificate of Occupancy, of 300 persons, including 75 in the upstairs room, 75 in the front lounge, and 150 in the two rear dining areas. The maximum capacity shall never be exceeded.
3. The restaurant shall be open from 11:30 a.m. to 2:00 a.m. on Sundays through Thursdays and from 11:30 a.m. to 3:00 a.m. on Fridays and Saturdays. These hours may not be exceeded without the prior written agreement of ANC 2E.
4. The applicant shall strictly enforce the underage drinking laws of the District of Columbia by requiring valid official identification showing age for purchase of alcoholic beverages, and by cooperating with ABC inspectors and the Metropolitan Police Department in enforcing the law. As part of meeting this requirement, the applicant shall have a fully licensed manager on duty at all times that the restaurant is open and shall train all of its employees who serve alcoholic beverages in the TIPS program.
5. The applicant shall neither offer nor publicize any student discounts, "pub crawls", "ladies' nights", "men's nights", all-you-can-drink for one price, or similar special promotions that encourage excessive consumption of alcohol.
6. The applicant shall not distribute or place fliers, placards, cards and other promotional materials in public space, nor on any college or university campus, including student housing and dormitories.

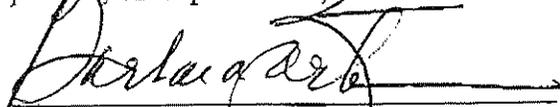
- 7. No exterior sign or awning, or interior sign visible from the street shall be installed without the required permit and the prior approval required by law of the Commission of Fine Arts and the D.C. Department of Consumer and Regulatory Affairs.
- 8. Recorded and live music shall be at levels that cannot be heard from the street outside the establishment except when patrons enter or leave the establishment.
- 9. The applicant shall not permit trash, garbage, or litter to be placed outside the premises in unprotected bags, cans or containers, and shall ensure that all legal refuse containers are emptied by a professional garbage removal service every day with the possible exception of Sundays.
- 10. This agreement shall be binding on anyone to whom the license is sold, transferred, or assigned.
- 11. Applicant agrees to notify ANC 2E of any sale, transfer, or assignment of the License.
- 12. ANC 2E agrees that it will notify the applicant prior to any public meeting at which it considers taking any action against the applicant because of real or perceived license violations.
- 13. ANC 2E agrees not to protest the Application, contingent upon the ABC's acceptance of this Agreement as a specific and express condition of the issuance of applicant's license.

Executed this 5th day of September, 2000

By: 
James Haight, President
Mr. Smith's of Georgetown

By: 
Peter Pulsifer, Chairman
Advisory Neighborhood Commission 2E

This agreement was approved by ANC 2E at a duly noticed public meeting, with a quorum present, on September 5, 2000.


(Secretary)