

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

In the Matter of:

DTI Capital Hill, LLC
t/a Cava Restaurant

Application for Renewal of a
Retailer's Class CT License

at premises
527-529 8th Street, S.E.
Washington, D.C. 20003

Case No.: 16-PRO-00120
License No.: ABRA-081014
Order No.: 2017-065

DTI Capital Hill, LLC, t/a Cava Restaurant (Applicant)

Chander Jayaraman, Chairperson, Advisory Neighborhood Commission (ANC) 6B

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

**ORDER ON SETTLEMENT AGREEMENT AND
WITHDRAWAL OF ANC 6B'S PROTEST**

The Application filed by DTI Capital Hill, LLC, t/a Cava Restaurant (Applicant), for renewal of its Retailer's Class CT License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on December 12, 2016, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant and ANC 6B entered into a Settlement Agreement (Agreement), dated January 10, 2017, 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 Commissioner Kirsten Oldenburg, on behalf of ANC 6B, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by ANC 6B of this Application.

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

1. The Application filed by DTI Capital Hill, LLC, t/a Cava Restaurant, for renewal of its Retailer's Class CT License, located at 527-529 8th Street, S.E., Washington, D.C., is **GRANTED**;
2. The Protest of ANC 6B in this matter is hereby **WITHDRAWN**;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, except for the following modifications:

Section 6 (Noise and Odor Mitigation) – Third paragraph, the second sentence shall be modified to read as follows: "These efforts shall include but not be limited to, installing and maintaining high efficiency grease extracting kitchen exhaust ventilation and filtering systems for any cooking facilities within the Premises."

Section 11 (Compliance with Agency Regulations) – The following language shall be removed: "Violations of DC Agency regulations shall constitute a violation of this Agreement."

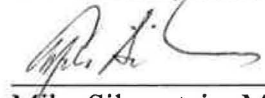
The parties have agreed to these modifications.

4. This Settlement Agreement replaces and supersedes previous Settlement Agreements between the parties; and
5. Copies of this Order shall be sent to the Applicant and ANC 6B.

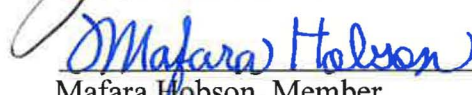
District of Columbia
Alcoholic Beverage Control Board


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).

**SETTLEMENT AGREEMENT BY AND BETWEEN
ADVISORY NEIGHBORHOOD COMMISSION 6B**

and
DTI Capital Hill, LLC
d/b/a Cava Restaurant

Pursuant to this Settlement Agreement, ("Agreement"), by and between DTI Capital Hill, LLC (d/b/a "Cava Restaurant"), ("Applicant"), and Advisory Neighborhood Commission 6B ("ANC6B"), effective as of the date of its adoption by ANC6B, the parties hereto hereby agree to be legally bound by the terms and conditions of this Settlement Agreement (SA) as it relates to conduct of business located at 527-529 8th Street, SE, Washington, DC 20003, ("Premises").

WHEREAS, Applicant has applied before the District of Columbia Alcoholic Beverage Regulatory Administration ("ABRA") and currently holds a Class "C" Tavern License (ABRA-081014) ("License") previously issued to Marty's Restaurant, Inc., which License is subject to an existing Settlement Agreement with ANC6B; and,

WHEREAS Applicant has applied before ABRA to effect, and is seeking its approval for renewal of, a License for the Premises; and,

WHEREAS, Applicant and ANC 6B are desirous of voluntarily entering into and mutually memorialize in this SA the terms and conditions upon which ANC6B has agreed to support renewal of Applicant's License, pursuant to the provisions of D.C. Code § 25-446, for the operation and maintenance of Applicant's business at the Premises in such a manner as to further promote the peace, order and quiet of the neighborhood as well as maintain security and sanitation of the alley immediately behind the Premises; and,

WHEREAS, this is intended to replace in its entirety any and all previously-existing Settlement Agreements between the Parties or otherwise affecting the License, and all such previous agreements are hereby declared superseded, null and void and of no further effect. Agreement may only be modified by written agreement of all the parties or their successors, or otherwise in accordance with law.

NOW, THEREFORE, Applicant and ANC 6B agree as follows:

1. **Recitals Incorporated.** The recitals set forth above are incorporated herein by reference.
2. **Nature of the Business.** Applicant will manage and operate a full-service restaurant ("Establishment") with a Sidewalk Café and Summer Garden endorsement at the Premises. Applicant shall limit its total seating to no more than the number of patrons as set forth in its License. In no event shall Applicant operate or seek to operate the Establishment in excess of the maximum number of patrons that may lawfully occupy the Premises pursuant to its Certificate of Occupancy.
3. **Hours of Operation and Sales.** The Applicant's hours of operation and alcoholic beverage sales may be changed from time to time in Applicant's discretion, as may be otherwise permitted by its License, but in no event shall exceed or extend beyond the following:

Applicant's hours of Operation for the interior portion of the Premises and the Summer Garden shall be as follows:

Sunday through Saturday: 10:00 a.m. – 12:00 midnight.

Applicant's hours of Operation for the Sidewalk Cafe shall be as follows:

Sunday through Thursday:	10:00 a.m. – 11:00 p.m.
Friday and Saturday	10:00 a.m. -- 12:00 midnight.

Provided, however, (1) on days designated by the DC ABC Board as "Extended Hours for ABC Establishments," Applicant may serve alcoholic beverages for one additional hour solely as to inside sales and operations; (2) in the event the Council of the District of Columbia or the ABC Board grant licensees, in general, extended operating hours for particular event(s), Applicant may avail itself of such extended hours solely as to inside operations; and, (3) on January 1 of each year Applicant may serve alcoholic beverages and provide entertainment until 3:00 a.m. Applicant must submit, as required by regulation, any forms or document to the authorizing agency for such extended hours. In addition, for special events that shall be limited to no more than five (5) times per year, Applicant may serve alcoholic beverages for the interior portion of the Premises, the Summer Garden and on the Sidewalk Café consistent with the hours permitted by its License, to the extent such hours exceed those set forth herein.

4. Requirements for Operation of Sidewalk Café. Applicant shall operate its Sidewalk Café consistent with the terms and conditions of its Public Space Management Branch Certification for such space, and shall cause its employees to maintain the Sidewalk Café in a clean and orderly manner, and not to cause or permit storage of any refuse, foodstuffs, perishable or odiferous materials in or adjacent to the Sidewalk Café. The Applicant shall cause the area extending from the Sidewalk Cafe to the curb on the side of the Establishment to be regularly swept and shall remove litter and debris on not less than a daily basis, weather permitting.

5. Refuse Storage and Disposal. Applicant shall comply with DCMR 21-704.3-704.5 by utilizing and regularly maintaining one or more food waste (garbage) grinder(s) adequate in capacity to dispose of all grindable food wastes produced. Non-recyclable waste and recyclable trash (glass, plastic, and metal cans that have been rendered free to organic materials) shall be disposed of in sealed bags that are placed in appropriate receptacles capable of being sealed with closing lids and otherwise designed for that purpose.

Applicant shall utilize and maintain rodent proof waste and trash containers (receptacles and/or trash compactors) at the rear of the Premises with sufficient capacity to store all non-grindable garbage and recyclable trash and non-recyclable waste. To the maximum extent permitted by local law and regulation, all grease related to the Establishment will be stored primarily in the interior of the Premises in a receptacle designed to store such grease, and shall be removed from the Premises only for purposes of removal and disposal through a qualified third-party vendor and even then only for so long as is reasonably required to effect such removal and disposal.

Applicant agrees to adhere to the following conditions with respect to garbage and trash management, including disposal of and the sanitary maintenance of the exterior trash receptacle.

- a. Applicant shall contract with third party sanitation or waste management and recycling vendor(s) to collect garbage, recycling and non-recyclable waste a seasonally-adjusted minimum of at least four (4) days per week during the winter months and five (5) days per week during summer months, or such more frequent schedules as may be necessary to prevent the receptacles from exceeding their capacity.
- b. Applicant will ensure timely waste disposal and use its best efforts to schedule a time for pickup that is the least disruptive to the neighbors. Garbage, recyclable, and grease collections shall not occur between the hours of 10:00 p.m. and 9:00 a.m. on weekdays or 10:00 p.m. and 10:00 am on

weekends. Applicants will use its best efforts to ensure that no glass shall be placed in any exterior receptacle nor otherwise disposed between 10:00 p.m. and 7:00 a.m. and to ensure that any glass material needing to be recycled or otherwise disposed of during this timeframe shall be stored inside Applicant's establishment until at least 8:00 a.m. the following day.

- c. Applicant shall store any used grease in an appropriate container or containment system within the interior of the Premises, and shall not store or dispose of such grease (except during the process of removal for disposal or recycling) in any area of the exterior lot or alleyway adjacent to the Premises. Provided, however, that any grease that is discharged solely through exterior drainage arising from a ventilation system may be collected and stored in the exterior of the Premises, to be stored in an appropriate exterior storage unit and emptied by a qualified commercial vendor on a regular basis.
- d. Applicant shall not place any non-grindable garbage, recyclable and non-recyclable trash in exterior trash receptacles in any manner that would prevent the full closure of the receptacles. All receptacles shall be secured with lids (as per their design) and such lids shall remain closed at all times other than during deposit or extraction of the contents.
- e. All receptacles used for grease, garbage, recyclable trash and waste shall be maintained in good repair and in safe and sanitary condition. Any damaged or leaking containers shall be promptly repaired or replaced. All such containers shall conform to then-existing regulations or guidelines of any District of Columbia governmental agency having the authority or jurisdiction to prescribe such regulations or guidelines.
- f. Applicant will daily check the full area around the trash receptacles and shall promptly pick up or hose down any debris or liquid waste left behind after garbage, grease or recycling receptacles have been filled or emptied. Garbage, grease and/or recycling spills shall be cleaned up as soon as practicable after they occur. Any leak or spillage of grease shall be promptly cleaned utilizing standard industry practices such as solvents and power washing for such uncontained grease.
- g. Applicant will use its best efforts to power-wash the area around the trash receptacles and all receptacles no less often than once [every two weeks and to ensure that no power-washing shall take place between the hours of 7:00 p.m. and 9:00 a.m. on weekdays or 7:00 p.m. and 12:00 noon on weekends.
- h. Applicant shall cooperate and permit inspection of the Premises by any authorized District of Columbia governmental entity or agency acting pursuant to its official function and purpose, as may be reasonable and/or required by law or regulation, pursuant to ABRA regulations or other governmental function.
- i. Should Applicant, during the term of this Agreement, commence or determine to commence any renovation, reconstruction, upgrade, or remodeling of the Premises, such that (i) plans and permit applications are required to be submitted to the District of Columbia government and (ii) the work involves major renovation, reconstruction, or remodeling of the interior of the Premises that includes the Establishment's kitchen and/or food preparation areas or other non-public space, then Applicant will designate space and incorporate an interior trash room of sufficient size and capacity into any such plans and construction. This trash room will comply with DOH regulations and be henceforth exclusively utilized for storing all grease, garbage and non-recyclable trash

6. Noise and Odor Mitigation. No objectionable noises, sounds, odors, or other conditions that are publicly observable or emitted beyond the immediate proximity of the Premises will be created by Applicant. Applicant will strictly comply with D.C. Official Code § 25-725 and to that end shall make architectural improvements to the property and take all necessary actions to ensure that music, noise and vibration from the Establishment are not audible outside the establishment at any time. Applicant agrees

to keep its doors and windows closed when music is being played at the establishment. However, it is understood by the parties that music may be played at such times and at a level not audible beyond the street curbside. If necessary, Applicant will take reasonable steps to reduce noise emanating from the Establishment from the opening of the entry or exit doors.

Applicant will take all reasonable steps necessary to mitigate noise emanating from mechanical equipment associated with Applicant's operations (e.g. HVAC, grease fan) and comply with applicable DCMR provisions, prevent an increase in existing sound level from such equipment, and minimize or abate noises objectionable to residential neighbors. Applicant specifically agrees that it shall adhere to and be accountable under the provisions of D.C. Code §25-725 as it pertains to residential dwellings in the contiguous physical block on which the Premises are located (except for those residential dwellings located within the CHC/C2A overlay), notwithstanding the fact that such neighboring residential units may not fall within the zoning classification otherwise entitled to enforcement of that provision under D.C. Code §25-725(b)(3). Noise mitigating actions may include installation of sound absorbing and sound dampening materials on the roof between the HVAC and kitchen equipment and the residential properties along the rear of the Premises. Sound absorbing and dampening material will be sufficient to reduce noise to levels that meet DCMR noise regulations at the rear property line.

Applicant shall use its best efforts to control and mitigate any odor emanating from the Premises and/or from any exterior waste storage receptacle related to the Establishment. These efforts shall include but not be limited to, installing and maintaining high efficiency grease extracting kitchen exhaust ventilation and filtering systems for any cooking facilities within the Premises, of sufficient design and capacity as to reduce the external emission of any odors arising from food preparation or disposal at the Establishment by at least 97% of the total mass emitted grease particles and having functional efficiency of 60% greater of grease particles emitted two microns in size and larger.

7. **Rat and Vermin Control.** Applicant shall maintain in force a contract for regular and recurring application of a plan for pest control that includes baiting or similar rodent abatement procedures for the Premises including any and all interior or exterior trash storage areas or receptacles and the exterior area immediately adjacent to the Premises. Applicant shall not store or place foodstuffs, organic materials, or other consumable goods of any type outside the Premises prior to use. Any leak or spillage of grease shall be promptly cleaned utilizing standard industry practices such as solvents and power washing for such uncontained grease, and any damaged or leaking containers shall be promptly repaired or replaced.

8. **Maintenance of Public Space Adjacent to the Premises.** Applicant shall maintain the public space adjacent to and in front of the Premises in a clean and orderly manner, and not cause or permit storage of any refuse, foodstuffs, perishable or odiferous materials in or adjacent to the Premises. The Applicant shall cause the area extending from the front door(s) to the curb and from the sidewalk café to the curb on the front of the Establishment to be regularly swept, and shall remove litter and debris on not less than a daily basis, weather permitting. Applicant shall regularly inspect and clean as necessary any public area adjacent to the rear of the Premises and keep such area free of trash, smoking materials, and other debris, and shall direct its employee to not utilize such area for smoking or other activities, nor to gather or congregate on public space in the alley during breaks or following work hours.. If necessary, Applicant shall provide exterior receptacles for extinguishing and disposing of smoking materials, and such supplemental refuse disposal receptacles as may be reasonably required to contain and minimize public disposal of trash and litter originating from the Premises.

9. **Delivery of Vendor Shipments.** Applicant shall use its best efforts to direct and require that any third-party vendor deliveries of food, beverage, supplies, linens or similar items are made utilizing access to the Premises located along Eighth Street SE, and not utilizing the alley behind the Premises, but only to

the extent such deliveries otherwise occur during hours when "delivery zone" or similar restrictions permit such delivery vehicles to lawfully park or stand on the block of Eighth Street SE within reasonable proximity to the Premises.

10. Security Cooperation in Stemming Loitering and Employee Conduct. Applicant shall to the maximum extent permissible by law discourage loitering in the vicinity of the Premises. Applicant shall prohibit its employees and vendors from loitering in the alleyway adjacent to the Premises, and shall instruct its employees not to consume tobacco or other smoking products, nor to consume food or beverage, in the rear exterior or adjacent public space. Provided, however, that so long as Applicant maintains and regularly communicates and enforces such a policy, it shall not constitute a violation of this Agreement if "rogue employees" who know of this prohibition fail to comply.

11. Compliance with Agency Regulations. Applicant will ensure that it abides by ABRA, Department of Consumer and Regulatory Affairs (DCRA), Department of Health (DOH), Department of Public Works (DPW) and other applicable DC Agency regulations regarding (a) conduct of its business and (b) the ownership of the license and all other provisions applicable to liquor licenses. Violations of DC Agency regulations shall constitute a violation of this Agreement. Should ANC6B determine that it believes there has been a violation of this provision of the Agreement, it shall provide written notice of such purported violation or pattern of violations to Applicant via electronic mail to the notice address below, prior to making formal complaint to ABRA or any other District of Columbia governmental agency.

IN WITNESS WHEREOF, the parties have affixed hereunto their signatures.

Applicant:


DTI Capital Hill, LLC
527-529 8th Street, SE
Washington DC 20003
ted@eatcava.com

By: Ted Xenohristos, Founder:

Signature: 

Date: 1/10/17

ANC6B:


Kirsten Oldenburg, Chairperson
Advisory Neighborhood Commission 6B
921 Pennsylvania Avenue, SE
Washington, DC 20003

Date: 1-10-17

ANC 6B

Capitol Hill / Southeast

921 Pennsylvania Avenue SE
Washington, DC 20003-2141
6B@anc.dc.gov

January 17, 2017

OFFICERS

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Vice-Chair

Diane Hoskins

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SMD 08 Chander Jayaraman

SMD 09 Daniel Ridge

SMD 10 Denise Krepp

Donovan Anderson, Chair
Alcoholic Beverage Control Board
2000 14th Street NW, Suite 400S
Washington, DC 20009

VIA E-MAIL: abra.legal@dc.gov

RE: ABRA-081014, DTI Capital Hill, LLC (d/b/a "Cava Restaurant")
527-529 8th Street, SE renewal

Dear Mr. Anderson:

At its regularly scheduled, properly noticed meeting on January 10, 2017, with a quorum present, Advisory Neighborhood Commission 6B (ANC 6B) voted 9-0-0 to withdraw ANC 6B's Protest of the renewal application approved on November 9, 2016, support the reinstatement of the renewal application, and support the pending renewal of the Applicant's license for the above-referenced Premises.

For your review and approval, please find attached a Settlement Agreement (SA), which was executed by both parties.

Please contact me or Commissioner James Loots, SMD 6B03, within whose single member district the Establishment is located, at jamesb03@anc6b.org or 202-536-5650 if you have questions or need further information.

Sincerely,



Chander Jayaraman
Chairman, ANC 6B
6b08@anc.dc.gov
(202) 546-2609

cc:

Commissioner James Loots
Ted Xenohristos: ted@eatcava.com
Camelia Mazard: cmazard@dbmlawgroup.com