

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

_____)	
In the Matter of:)	
)	
Culinary Kung Fu, LLC)	
t/a Ba Bay)	
)	
Applicant for a New)	
Retailer's Class CR License)	License No. ABRA-085465
at premises)	Order No. 2010-544
633 Pennsylvania Avenue, S.E.)	
Washington, D.C. 20003)	
_____)	

Culinary Kung Fu, LLC, t/a Ba Bay ("Applicant")

Kenan Jarboe, Vice Chairperson, Acting as Chairperson, Advisory Neighborhood Commission ("ANC") 6B

BEFORE: Charles Brodsky, Chairperson
Mital M. Gandhi, Member
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ORDER ON VOLUNTARY AGREEMENT

The official records of the Alcoholic Control Board (Board) reflect that Culinary Kung Fu, LLC, t/a Ba Bay, Applicant for a new Retailer's Class CR License, located at 633 Pennsylvania Avenue, S.E., Washington, D.C. and Kenan Jarboe, Vice Chairperson, Acting as Chairperson, on behalf of ANC 6B, have entered into a Voluntary Agreement (Agreement), dated October 12, 2010, 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 Kenan Jarboe, Vice Chairperson, Acting as Chairperson, on behalf of ANC 6B, are signatories to the Agreement.

Culinary Kung Fu, LLC
t/a Ba Bay
License No. ABRA-085465
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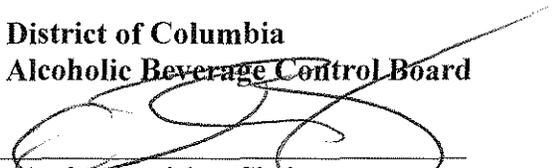
Accordingly, it is this 3rd day of November 2010, **ORDERED** that:

1. The Application filed by Culinary Kung Fu, LLC, t/a Ba Bay, for a new Retailer's Class CR License located at 633 Pennsylvania Avenue, S.E., Washington, D.C., is **GRANTED**;
2. The above-referenced Voluntary Agreements submitted by the Applicant and ANC 6B to govern the operations of the Applicant's establishment are **APPROVED** and **INCORPORATED** as part of this Order, except for the following modification:

Section 8 (Rat and Vermin Control): The following sentence shall replace the term "Protestants" with "Board."

3. Copies of this Order shall be sent to the Applicant and ANC 6B.

District of Columbia
Alcoholic Beverage Control Board



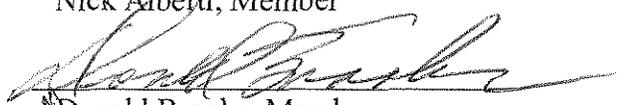
Charles Brodsky, Chairperson



Mital M. Gandhi, Member



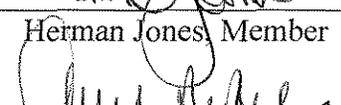
Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member



Calvin Nophlin, Member



Mike Silverstein, 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, 1250 U Street, N.W., Third Floor, Washington, DC 20009.

File copy

VOLUNTARY (COOPERATIVE) AGREEMENT

THIS VOLUNTARY AGREEMENT ("Agreement") is made on this 12th day of October, 2010 by and between Culinary Kung Fu, LLC, t/a Ba Bay ("Applicant"), and Advisory Neighborhood Commission 6B, (Collectively, the "Parties").

WITNESSETH

WHEREAS, Applicant's application for a license for premises, 633 Pennsylvania Ave., SE, Washington, DC, 20003, is now pending before the District of Columbia Alcoholic Beverage Control Board (ABC); and,

WHEREAS, the premises is within the boundaries of the ANC, and,

WHEREAS, the Parties desire to enter into an agreement governing certain understandings regarding the issue of a Retailers' Class "C" Restaurant Liquor License at the subject premises; and,

WHEREAS, the Parties are desirous of entering into a Voluntary Agreement pursuant to D.C. Official Code § 25-446 for the operation and maintenance of the Establishment in such a manner as to promote the peace, order and quiet of the neighborhood. Both parties recognize the importance of business neighborhoods that are safe, clean, and "pedestrian friendly".

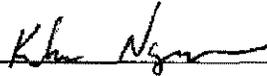
NOW, THEREFORE, the parties agree as follows:

1. **Recitals Incorporated.** The recitals set forth above are incorporated herein by reference.
2. **Nature of the Business.** The Applicant will manage and operate a CR license at the listed address. The license shall have limited indoor seating of 49 patrons and outside (sidewalk) seating of 10 patrons.
3. **Hours of Operation and Sales.** The Applicant's hours of operation shall be as follows:
 - Inside Services
Sunday through Saturday 11:30 a.m. – 12:00 a.m.
 - Sidewalk Services
Sunday through Saturday 11:30 – 12:00 a.m.
4. **Floors Utilized and Occupancy.** The Applicant will operate its establishment according to the occupancy indicated on the Certificate of Occupancy issued by the Department of Consumer and Regulatory Affairs.

5. ***Sidewalk Café.*** Applicant will operate its sidewalk café in accordance with the Public Space Management Branch Certification. Applicant will direct that its employees inspect the sidewalk café on a regular basis to ensure its cleanliness.
6. ***Noise and Privacy.*** 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 Applicant may open its window panels seasonally, and that music may be played at such times 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.
7. ***Public Space and Trash.*** Applicant shall keep the sidewalk (up to and including the curb), tree box(es), curb, and alley clean and free of litter, bottles, and other debris in compliance with D.C. Code and Municipal Regulations. Applicant shall police these areas sufficiently to assure that refuse and other materials are promptly removed. Applicant shall ensure that the area around the dumpster is kept clean at all times and the dumpster is placed such that it does not encroach on the abutting property owners and that no garbage is placed on the abutting property. Applicant will ensure timely disposal that is the least disruptive to the neighbors. Commercial trash pick up in residential areas takes place between 7 a.m.-7 p.m.
8. ***Rats and Vermin Control.*** The Applicant shall provide rat and vermin control for its property. Applicant shall provide proof of its rat and vermin control contract upon the request of the Protestants. Applicant shall have the Establishment and the area around the Premises properly cleaned at the end of each night to ensure that there are not garbage and odors present the following morning.
9. ***Security Cooperation in Stemming Illegal Drugs and Public Drinking.*** Applicant agrees that it shall take all necessary steps to minimize such problems, including, without limitation, designating a sufficient number of employees to assure adequate security and to control unruly patrons, whether inside or in the immediate outside area; monitoring for and prohibiting sales or use of illegal drugs within or about the Premises, maintaining contact and cooperating with MPD and other enforcement officials when known or suspected drug activities occur. Applicant shall to the full extent permissible by law discourage loitering in the vicinity of the Premises. This will include providing an appropriate number of security officers, at all times when the Establishment is open to the public, who shall be responsible for ensuring that any individuals who are simply loitering are asked to move along.
10. ***Compliance with ABRA Regulations.*** Applicant promises that it shall abide by all Alcoholic Beverage Regulations Administration (ABRA) regulations regarding the ownership of the license and all other provisions applicable to liquor licensees.

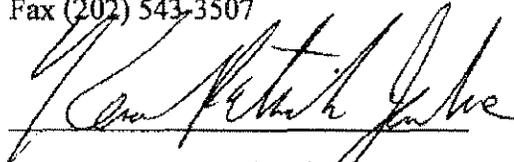
IN WITNESS WHEREOF, the parties have affixed hereunto their signatures.

Applicant: Culinary Kung Fu, LLC
v/aBa Bay
ABRA-085465
633 Pennsylvania Ave., SE
Washington, DC 20003
Khoa Nguyen, Managing Member
(202) 547-1787



Date: 10/12/10

ANC: Advisory Neighborhood Commission
703 D Street, SE
Washington, DC 20003
~~Dave Garrison, Chairperson~~ Kenan Jarboe, Vice Chair
(202) 543-3344 acting as Chair
Fax (202) 543-3507



Date: 10/13/10

ANC 6B

Capitol Hill / Southeast

703 D Street, SE
Washington, DC 20003
202.543.3344
FAX 202.543.3507

October 13, 2010

OFFICERS

Chairperson
David Garrison

Vice Chairperson
Ken Jarboe

Secretary
Kirsten Oldenburg

Treasurer
Carol Green

Parliamentarian
Neil Glick

Charles Brodsky, Chair
Alcoholic Beverage Regulation Administration
C/o Martha Jenkins
1250 U Street, NW, 3rd Floor
Washington, DC 20009

RE: Ba Bay
License # ABRA-085465
New and Stipulated Licenses

COMMISSIONERS

SMD 1 *David Garrison*
SMD 2 *Mary Wright*
SMD 3 *Norman Metzger*
SMD 4 *Kirsten Oldenburg*
SMD 5 *Kenan Jarboe*
SMD 6 *Will Hill*
SMD 7 *Carol Green*
SMD 8 *Neil Glick*
SMD 9 *Michael Patterson*
SMD 10 *Francis Campbell*
SMD 11 *Vacant*

Dear Mr. Brodsky:

At its regularly scheduled and properly noticed meeting on October 12, 2010, ANC 6B voted unanimously (8-0) to support the above referenced application of Ba Bay, located at 633 Pennsylvania Ave., SE, for a new CR Class liquor license. Additionally, ANC 6B voted unanimously (8-0) to support the issuance of a Stipulated License to the applicant.

Enclosed is the Cooperative (Voluntary) Agreement that has been executed by Ba Bay, and ANC 6B for your review and approval.

If you need further information, please do not hesitate to contact me.

Sincerely,



David F. Garrison
Chair, ANC 6B

Enclosure: Voluntary Agreement