

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

In the Matter of:)
)
H Street F&B, LLC & HBCT, LLC)
t/a Crimson)
)
Applicant for a New)
Retailer's Class CH License)
)
at premises)
627 H Street, N.W.)
Washington, D.C. 20001)
)

Case No.: 16-PRO-00084
License No.: ABRA-103085
Order No.: 2016-532

H Street F&B, LLC & HBCT, LLC, t/a Crimson (Applicant)

Howard Marks, on behalf of A Group of Five or More Individuals

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

**ORDER ON SETTLEMENT AGREEMENT AND WITHDRAWAL OF
A GROUP OF FIVE OR MORE INDIVIDUALS' PROTEST**

The Application filed by H Street F&B, LLC & HBCT, LLC, t/a Crimson (Applicant), for a new Retailer's Class CH License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on August 1, 2016, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant and the Group of Five or More Individuals have entered into a Settlement Agreement (Agreement), dated September 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 Howard Marks and John Tinpe, on behalf of the Group of Five or More Individuals, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by the Group of Five or More Individuals.

Accordingly, it is this 28th day of September, 2016, **ORDERED** that:

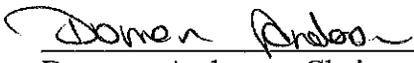
1. The Application filed by H Street F&B, LLC & HBCT, LLC, t/a Crimson, for a new Retailer's Class CH License, located at 627 H Street, N.W., Washington, D.C., is **GRANTED**;
2. The Protest of the Group of Five or More Individuals in this matter is hereby **WITHDRAWN**;
3. The above-referenced Settlement 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 modification:

Section 4 (Music & Entertainment on Rooftop Summer Garden) – The second paragraph, first sentence shall be modified to read as follows: “Amplified music on the rooftop after 10:00 p.m. will be at a lowered volume but will be monitored to maintain reasonable noise levels.”

The parties have agreed to this modification.

4. Copies of this Order shall be sent to the Applicant and Howard Marks, on behalf of the Group of Five or More Individuals.

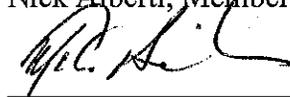
District of Columbia
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson



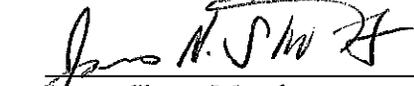
Nick Alberti, Member



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

This Settlement Agreement is made on this 8th day of September, 2016, by and between H Street F&B LLC and HBCT LLC t/a Grimson ("the Applicant") and a group of 8 individuals residing at 777 7th Street, NW ("Residents of Gallery Place") (collectively "Protestants").

WITNESSETH

WHEREAS, the Applicant's application for a new Class CH Alcoholic Beverage Control (ABC) license for premises 627 H Street, NW is pending before the District of Columbia ABC Board; and,

WHEREAS, the Protestants reside in the immediate proximity to the Applicant's premises; and,

WHEREAS, the Protestants objections are particularly concerned with the rooftop summer garden endorsement, and there are not objections to the underlying hotel interior operations; and,

WHEREAS, the parties desire to enter into this Settlement Agreement in order to reflect their understandings regarding certain aspects of the Applicant's summer garden operations;

NOW, THEREFORE, in consideration of the recitals set forth above and the terms and conditions provided below, the parties agree as follows:

1. **Maximum Seating and Standing**

The rooftop summer garden and all retail spaces will be compliant with the capacities contained in the Certificate of Occupancy issued for the hotel.

2. **Hours & Days of Rooftop Summer Garden Operation**

The sale of alcoholic beverages on the rooftop outdoor space shall cease at the following hours:

Sunday through Wednesday: 12:00 am; Thursday 1:00 am; Friday and Saturday 2:30 am.

Notwithstanding the above stated hours, Applicant may operate as if on Friday and Saturday hours for any day that precedes a holiday recognized by the District of Columbia to include all federal holidays, New Year's Eve and Presidential Inaugural. In addition,

Applicant may offer, not more than 10 times per year, a special event that may extend to the legally permitted hours for alcoholic beverage consumption. Applicant will provide advance notice to Protestants of such special events.

After the conclusion of nightly hours on the rooftop, Applicant shall lock off access in a manner to reasonably prevent after hours use of the rooftop by any hotel guests or the public. It is understood by the parties that hotel employees may remain past the nighttime operation hours to clean up and secure the rooftop area, but no longer than one (1) hour after the nighttime operation hours above mentioned.

4. Music & Entertainment on Rooftop Summer Garden

Applicant may not offer live music on the rooftop summer garden after 8pm. However, with the written consent of Protestant, Applicant may offer live music during one of the special events referenced in section 3, above. Live music provided on the rooftop summer garden shall commence no earlier than 10am.

Amplified music on the rooftop after 10:00 pm will not exceed 55 dB at the property line. Background recorded music will be permitted but will be monitored to maintain reasonable noise levels. Subwoofers will not be placed on the rooftop area. Background music provided by speakers on the rooftop shall commence no earlier than 8:00 am.

5. Interior Hours and Neighborhood Consideration

Protestants do not object to Applicant's interior hours of operations, alcoholic beverage sales and service, and entertainment being those maximum hours permitted by law. Applicant will post signs in the retail spaces and lobby reminding patrons to respect our residential neighbors upon leaving the premises.

6. Trash Disposal

Trash is removed and stored from the rear of applicant's building and is situated to minimize impact on residential neighbors. Trash is hauled away from the rear of the building.

7. Licensee Point of Contact

The Protestants acknowledge having received the contact information for the Applicant's management company. Applicant will provide the Protestant's with new contact information for successive management staff, including the General Manager. The Protestants are encouraged to contact the Applicant or the General Manager directly regarding complaints related to this Agreement including, but not limited to, complaints of noise.

8. Incorporation of Settlement Agreement

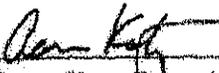
The Applicant acknowledges that the Protestants are relying on the foregoing commitments and will withdraw the protests that heretofore have been filed with the ABC Board. The parties jointly request that this Agreement be incorporated into the ABC Board's order approving the pending Class CH License application.

[SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

APPLICANTS:

H STREET F&B LLC

By: 
Aaron Katz, Executive Vice President

HBCT LLC

By: 
Ian Hiltox, Managing Member

PROTESTANTS:

GALLERY PLACE RESIDENTS

By: 
Howard S. Marks, Resident

By: 
John Tinpe, Resident