

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

In the Matter of:)
)
1637 R Street, LLC)
t/a Some Place Else Bar & Grill)
)
Applicant for a New)
Retailer's Class CR License)
)
at premises)
1637 R Street, N.W.)
Washington, D.C. 20009)
)

Case No. 15-PRO-00073
License No. ABRA-098935
Order No. 2015-440

1637 R Street, LLC, t/a Some Place Else Bar & Grill (Applicant)

Noah Smith, Chairperson, Advisory Neighborhood Commission (ANC) 2B

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Mike Silverstein, Member
Hector Rodriguez, Member
James Short, Member

**ORDER ON SETTLEMENT AGREEMENT AND
WITHDRAWAL OF ANC 2B'S PROTEST**

The Application filed by 1637 R Street, LLC, t/a Some Place Else Bar & Grill, for a new Retailer's Class CR License, was protested by ANC 2B.

The official records of the Board reflect that the Applicant and ANC 2B have entered into a Settlement Agreement (Agreement), dated August 25, 2015, 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 Noah Smith, on behalf of ANC 2B, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by ANC 2B.

Accordingly, it is this 30th day of September, 2015, **ORDERED** that:

1. The Application filed by 1637 R Street, LLC, t/a Some Place Else Bar & Grill, for a new Retailer's Class CR License, located at 1637 R Street, N.W., Washington, D.C., is **GRANTED**;
2. The Protest of ANC 2B in this matter is hereby **WITHDRAWN**;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 5 (Entertainment, Music, Dancing, and Noise) – The first sentence shall be modified to read as follows: “The Applicant is not currently seeking an entertainment endorsement for this restaurant. The Applicant will not obtain an entertainment endorsement without prior ABC-Board approval.”

Section 5 (Entertainment, Music, Dancing, and Noise) – The last sentence shall be modified to read as follows: “Someplace Else will make every effort to ensure that any line which develops outside the establishment will not block the sidewalk, will remain orderly, and will not create objectionable noise.”

Section 8 (Binding Effect) – The following term shall be removed: “and assigns.”

Section 9 (Modification) – The first sentence shall be modified to read as follows: “This Agreement can be modified by mutual agreement of the parties, or otherwise permitted by law, with the approval of the ABC Board.”

The parties have agreed to these modifications.

4. Copies of this Order shall be sent to the Applicant and ANC 2B.

District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



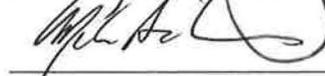
Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member



Mike Silverstein, Member



Hector Rodriguez, 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 A LICENSE FOR THE
SALE OF ALCOHOLIC BEVERAGES**

1637 R Street, LLC (Someplace Else)

THIS AGREEMENT, entered into this 25th day of August, 2015, between 1637 R Street, LLC, trading as "Someplace Else" and Advisory Neighborhood Commission 2B (hereinafter "ANC-2B"),

WITNESSES

Whereas Someplace Else, located at 1637 R Street, NW, which is applying for a On-Premise Retailer's Class CR ABC License with the District of Columbia Alcohol Beverage Control Board,

Whereas Someplace Else has met with the ANC-2B04's Commissioner and has met with ANC-2B to reach a mutual understanding regarding its operations,

Whereas Someplace Else has agreed to continue taking specified measures to address community concerns,

Whereas Someplace Else has agreed to enter into this Agreement with ANC-2B with the provisions included herein to be conditions of the ABC license with which Someplace Else must comply,

Whereas Someplace Else will abide by the conditions set forth in this agreement while operating under a stipulated license during the application period,

Now, it is therefore agreed, that in consideration of the provisions set forth above and the mutual covenants and agreements memorialized herein and hereinafter set forth, the Parties hereby agree as follows:

1. Recitals Incorporated. The recitals set forth above are incorporated herein by reference.

2. Hours of Operation. The hours of operation shall be:

	<u>Sunday thru Thursday</u>	<u>Friday and Saturday</u>
Inside	11 a.m. - 2 a.m.	11 a.m. - 3 a.m.
Patio	11 a.m. - 11 p.m.	11 a.m. - 12 a.m.

3. Hours of Alcohol Sales. The hours of operation shall be:

	<u>Sunday thru Thursday</u>	<u>Friday and Saturday</u>
Inside	11 a.m. - 2 a.m.	11 a.m. - 3 a.m.
Patio	11 a.m. - 11 p.m.	11 a.m. - 12 a.m.

Someplace Else shall be permitted to adjust these hours of operation and hours of alcohol sales in accordance with amended limits approved by the DC City Council for Holiday Nights and special events.

4. **Occupant Load.** Seating capacity and standing capacity shall not exceed the limits set forth in the Certificate of Occupancy.
5. **Entertainment, Music, Dancing, and Noise.** The applicant is not nor do they intend to seek an entertainment endorsement for this restaurant. The nature of the business is primarily one of foodservice and there shall be no dance floor, live music, DJ or excessive amplified noise. Someplace Else agrees not to charge a “cover” at the door for entrance. Someplace Else acknowledges familiarity with, and will comply with, the noise control provisions of District of Columbia law and regulations, including the prevention of sound emissions, capable of being heard outside the premises, by any musical instrument or amplification device or other device or source of sound or noise, in accordance with DCMR 905. Someplace Else will ensure that any line which develops outside the establishment will not block the sidewalk, will remain orderly, and will not create objectionable noise.
6. **Doors and Windows.** Doors and windows of the premises will be kept closed at all times during business hours when music is being played or a sound amplification device is being employed in the premises, except when individuals are in the act of using a door for ingress or egress from the premises. Someplace Else will continue to take whatever steps are required to keep music and noise from emanating from the premises. Amplified noise emanating from the establishment that can be heard by resident neighbors at

any hour of the day will be considered a violation of this settlement agreement.

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. The Applicant agrees to obtain a dumpster to be placed in the rear of the building. 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 so that no garbage is placed on the abutting property.
8. **Binding Effect.** In the event Someplace Else transfers the business to another owner, this Agreement shall “run with the license” and shall be part of the license of any subsequent purchaser. This Agreement shall be binding upon and enforceable against the successors and assigns of Someplace Else and any transferee of the License. Someplace Else shall ensure that all provisions of this Agreement are communicated to any purchaser or operator of the License. Someplace Else will not take any steps to void the enforceability of this Agreement on a future owner or operator.
9. **Modification.** This Agreement can be modified only by mutual agreement of the parties and with the approval of the ABC Board. If Someplace Else desires to modify the terms of this agreement, prior to implementing any changes, Someplace Else shall receive written agreement from ANC-2B after a majority of the commissioners have voted in favor of the changes at a full public meeting.
10. **Promoters.** During operations, events, and activities at Someplace Else, as holder of an On-premises Retailer’s License, Someplace Else shall not allow a promoter, anyone hired by, or working for, a promoter, and/or anyone performing the functions of a promoter, to perform, be responsible for, or participate in, any of the functions and/or activities listed below. Conversely, Someplace Else and its employees **shall be responsible** for the performing the functions and activities listed below and shall be held accountable, and in violation, if a promoter, anyone hired or working or a promoter, and/or anyone performing as a promoter performs or participates in any of the following functions:
 - (a) Checking ID’s to ensure that any patron being sold, served, given, or

receiving alcohol is 21 years of age or older,

- (b) Controlling the establishment's modes of ingress and egress,
 - (c) Ensuring that the venue's maximum capacity load is not exceeded,
 - (d) Charging and/or collecting money collected at the door or elsewhere within the establishment for entry into, or participation in, any activity, regardless of whether the money collected at the door is a cover charge, an admission fee, an entry fee, participation fee, or any other type of fee,
 - (e) Providing any and all benefits or privileges to which a patron is entitled in exchange for paying any money at the door or elsewhere within the establishment for entry into, or participation in, any activity,
 - (f) Selling, serving, giving, or providing in any other manner, alcohol to anyone,
 - (g) Ensuring that there is a sufficient number of employees from the licensed establishment to maintain the safety and security of patrons, and to ensure compliance with the provisions of the establishment's Security Plan or Public Safety Plan (if the establishment is required to have either of these),
 - (h) Controlling and managing all aspects of operations, events, and activities,
 - (i) Controlling and managing all establishment employees, especially security staff personnel.
11. **Regulations.** In addition to the foregoing, Someplace Else will operate in compliance with all applicable laws and regulations, including but not limited to all noise control and noise disturbance ordinances.
12. **Severability.** In the event that any part of this Agreement is found to be invalid, unenforceable, or not binding, the remaining portions shall remain in full force and effect and be fully binding on the parties.
13. **Notice.** Notice under this Agreement shall be in writing, and may be given by mail or by hand delivery. Certified Mail Notices shall be deemed effective as of three days after mailing. Hand delivered notices shall be deemed effective upon delivery. Notices shall be addressed:

If to Someplace Else:

Ms. Jennifer Smith
Someplace Else
1637 R Street, LLC
1637 R Street, NW
Washington DC 20009

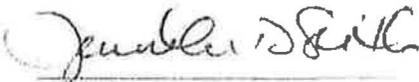
If to ANC-2B:

ANC-2B
9 Dupont Circle
Washington DC 20036
email@dupontcircleanc.net

14. **Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed as original, but all of which together shall constitute one and the same instrument.

IN WITNESS OF THE ABOVE, the parties have executed this Agreement as of the date and year written in the first paragraph.

Someplace Else


Jennifer Smith

ANC-2B


Noah Smith, Chair