

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

In the Matter of:)	
)	
Big River Breweries, Inc.)	
t/a Gordon Biersch Brewery Restaurant)	
)	
Applicant for a New)	
Retailer's Class CR License)	License No. ABRA-090968
)	Order No. 2013-074
at premises)	
100 M Street, S.E.)	
Washington, D.C. 20003)	

Big River Breweries, Inc., t/a Gordon Biersch Brewery Restaurant (Applicant)

Andy Litsky, Chairperson, Advisory Neighborhood Commission (ANC) 6D

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Mike Silverstein, Member

ORDER ON SETTLEMENT AGREEMENT

The official records of the Alcoholic Beverage Control Board (Board) reflect that Big River Breweries, Inc., t/a Gordon Biersch Brewery Restaurant, Applicant for a new Retailer's Class CR license, located at 100 M Street, S.E., Washington, D.C., and ANC 6D have entered into a Settlement Agreement (Agreement), dated February 11, 2013, 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 Andy Litsky and Commissioner David Garber, on behalf of ANC 6D, are signatories to the Agreement.

Accordingly, it is this 20th day of March, 2013, **ORDERED** that:

1. 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:

4th Whereas Clause – The following language shall be removed: “Further, Applicant, upon notice from the ANC, shall send a representative of the Establishment to a meeting(s) to confer and deal in good faith with issues raised under this Agreement.”

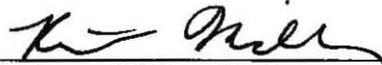
Section 11 (Noise and Opportunity to Cure) – The following sentence shall be modified to read as follows: “If Applicant or the licensee fails to cure within the 30-day period (or, with respect to a breach which reasonably requires more than 30-days to cure, fails to commence cure of such breach and diligently pursues such cure) the Parties may file a complaint with the ABC Board, which will be investigated by ABRA's Enforcement Division, and may subject the Licensee to a Show Cause proceeding or any other penalty available to the Board under the law.”

The parties have agreed to these modifications.

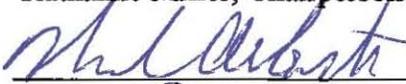
2. Copies of this Order shall be sent to the Applicant and ANC 6D.

Big River Breweries, Inc.
t/a Gordon Biersch Brewery Restaurant
License No. ABRA-090968
Page 3

District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson

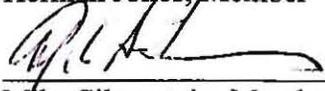


Nick Albert, Member



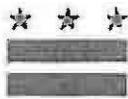
Donald Brooks, Member

Herman Jones, Member



Mike Silverstein, Member

Pursuant to D.C. Official Code § 25-433, 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.



Advisory Neighborhood Commission 6D 1001 4th Street, SW, Suite W130
• Washington, DC 20024
ANC Office: 202 554-1795 • FAX: 202 554-1774
office@ANC6D.org

SETTLEMENT/COOPERATIVE AGREEMENT

THIS SETTLEMENT/COOPERATIVE AGREEMENT ("Agreement") is made on this ____ day of February 2012 by and between Big River Breweries, Inc. t/a Gordon Biersch Brewery Restaurant, 100 M Street, SE, Washington, DC 20003, ABRA License #090968 ("Applicant"), and Advisory Neighborhood Commission 6D ("ANC 6D"), (collectively, the "Parties").

PREAMBLE

Through this agreement, both parties aim to create an environment in which the Applicant may operate as a viable contributing establishment in the ANC 6D community.

WITNESSETH

WHEREAS, Applicant has applied for a Class CR license with a Brew Pub Endorsement for a business ("Establishment") with indoor space, sidewalk café, summer garden, and Entertainment endorsement located at 100 M Street, SE Washington, DC, 20003, ("Premises"); and

WHEREAS, the Applicant agrees to work regularly with ANC 6D and its representatives, other neighborhood organizations, and residents to ensure that the business operations facilitate the enjoyment of the surrounding neighborhood; and

WHEREAS, ANC 6D did not protest Applicant's ABC Application, but the parties desire to enter into this agreement to acknowledge a cooperative relationship;

WHEREAS, the Parties are desirous of entering into a Settlement Agreement pursuant to D.C. Official Code § 25-446 for the operation and maintenance of the Establishment in such a manner as to minimize the effect, within the ANC, on (i) the peace, order and quiet of the neighborhood and (ii) parking, pedestrian safety and vehicular traffic, to protect the interests of the neighborhood, its residents and other businesses. Further, Applicant, upon notice from the ANC, shall send a representative of the Establishment to a meeting(s) to confer and deal in good faith with issues raised under this Agreement; and

WHEREAS, all parties believe that the statements and provisions contained in this agreement are reasonable and shall become wholly integrated into the day-to-day operation of the Establishment. Any change from this model shall be considered by the ABC Board to determine whether such is a substantial change in operation may be of great concern to residents and requires prior approval by the ABC Board; and

WHEREAS, the Parties have agreed to enter into this Agreement and request that the Alcoholic Beverage Control Board ("ABC Board") incorporate the terms of this agreement into the license;

NOW, THEREFORE, in consideration of the recitals set forth above and the mutual covenants and conditions set forth below, 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 an Establishment with a total of 340 seats (250 inside, and 90 outside) with the outside area comprised of two spaces: a summer garden (approximately 64 seats) and a sidewalk café (26 seats), an outside/inside total occupancy of 375, with no standing patrons in the outdoor spaces. There will be recorded music in the three areas as described below. There will be live music occasionally inside, only.

3. **Hours of Operation and Sales and Entertainment.**

(a) **The applicant's hours of operation of the Establishment and the hours of sale and service of alcohol in the indoors area shall be:**

Sunday to Thursday, 8:00 a.m. to 2:00 a.m.;
Friday and Saturday, 8:00 a.m. to 3:00 a.m.; and

Provided, however, (1) on days designated by the DC ABC Board as "extended Hours for ABC Establishments" Applicant may serve alcoholic beverages and provide entertainment for one additional hour (that is, one hour later in the morning); (2) in the event the Council of the District of Columbia or the DC ABC Board grant licensees in general extended operating hours Applicant may avail itself of such extended hours; (3) on January 1 of each year Applicant may serve alcoholic beverages and provide entertainment until 4 am

(b) **The applicant's hours of operation of the establishment and hours of sale and service of alcohol in the outdoor areas, Summer Garden and Sidewalk Café, shall be:**

Sunday to Wednesday, 11:00 a.m. to 12:30 a.m.;
Thursday 11:00 a.m. to 1:00 a.m.;
Friday and Saturday 11:00 a.m. to 2:00 a.m.

(c) **The hours of Entertainment of the establishment shall be:**

Sunday to Saturday, 11:00 a.m. to 2:00 a.m. Indoors.

4. **Public Transportation Notification.** Public Transportation Notification. We recognize that Applicant has no dedicated vehicular parking spaces and that often a large number of patrons and attendees of special events will be expected; therefore, we encourage the Applicant to notify patrons when appropriate about convenient public transportation available nearby.

5. **Noise and Privacy.** Applicant will comply with D.C. Official Code 25-725 and to that end shall take all necessary actions to ensure that music, noise and vibration from the Establishment

(including the outdoor spaces) are not audible to the extent provided for in DC Official Code 25-725. If mutually determined by ANC 6D and the applicant that the area surrounding the Establishment has developed with additional residential and business occupants that are negatively affected by noise from the Establishment as provided for in D.C. Official Code 25-725, the Applicant and ANC 6D (as represented by the SMD Commissioner and ABC Committee) shall work together to determine the most appropriate options for noise mitigation, especially in the outdoor areas.

6. **Public Space and Trash.** Applicant shall keep the sidewalk area (up to and including the curb), tree box(es), curb, and alley, if applicable, clean and free of litter and other debris in compliance with D.C. Code and Municipal Regulations. A trash pick up service shall be provided on at least 5 days a week basis. Applicant shall ensure that any dumpster for which applicant is responsible does not encroach on the abutting property owners, that the area around the dumpster is kept clean at all times, and that no garbage will be placed on any abutting property.

7. **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 ANC 6D/ABRA. 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.

8. **Security Cooperation in Stemming Illegal Drugs and Public Drinking.** Applicant agrees that it shall take all necessary steps to minimize such problems, including at all times a Board approved alcoholic awareness trained employee on site, 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. Applicant shall maintain a permanent incident log (electronic or otherwise) to record any incidents or events noteworthy for the management and MPD. Should it be necessary to ban a patron from the establishment, this event shall be noted in the incident log. Further, Applicant will install security cameras at the entrances on both the M and 1st Street locations. Said security cameras will have a storage capacity of at least 30 days for playback. It is understood by the parties that Applicant does not have control of the loading dock space and cannot install its own security cameras at this location.

9. **License Ownership and Compliance with ABRA Regulations.** Applicant promises to ANC 6D 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 licenses, and agrees that ANC 6D shall have standing to ask the ABC Board to enforce any violations of the agreement.

10. **Participation in the Community.** Applicant agrees to seek to maintain open communication with ANC 6D, and the community for which the ANC acts.

11. **Notice and Opportunity to Cure.** In the event that any of the parties is in breach of this Agreement, it shall be entitled to reasonable notice and opportunity to cure, as a condition precedent

to seeking enforcement of the Agreement. Unless the breach is of an emergency nature or is a repetition of a prior breach, reasonable notice and opportunity shall provide for a cure within 30 days of the date of such notice. If Applicant or the licensee fails to cure within the 30-day period (or, with respect to a breach which reasonably requires more than 30-days to cure, fails to commence cure of such breach and diligently pursues such cure) failure shall constitute a cause for seeking a Show Cause Order from the ABC Board pursuant to D.C. Official Code § 25-447. Unless otherwise noted above, any notices required to be made under this Agreement shall be in writing and mailed via certified mail, return receipt requested, postage prepaid, or hand-delivered, to the other parties to this Agreement at the following addresses. Notice shall be deemed given as of the time of receipt or refusal of receipt:

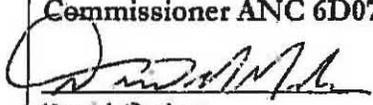
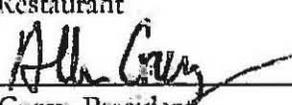
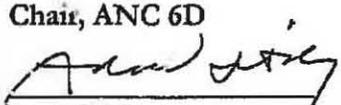
If to Applicant: CraftWorks Restaurants & Breweries Group
Attention: John Phillips, GC
201 West Main St., Ste. 301
Chattanooga, TN 37408

If to ANC 6D: Advisory Neighborhood Commission 6D
1101 4th Street, S.W., Suite W130
Washington, DC 20024
Attn: Chair, ANC
(202) 202 554-1795
Fax (202) 202 554-1774
Email: office@ANC 6D

Failure to give notice shall not constitute waiver or acquiescence to the violation, but notice shall be a prerequisite to the filing of a complaint with the ABC Board or any other enforcement action.

ANC 6D:

APPLICANT:

<p>Commissioner ANC 6D07  David Garber <u>2/11/13</u> Date</p>	<p>Big River Breweries, Inc. t/a Gordon Biersch Brewery Restaurant  H. Allen Corey, President <u>2/8/2013</u> Date</p>
<p>Chair, ANC 6D  Andy Litsky <u>2/11/13</u> Date</p>	