

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

In the Matter of:

1215 CT, LLC
t/a Rosebar

Application for Renewal of a
Retailer's Class CT License

at premises
1215 Connecticut Avenue, N.W.
Washington, D.C. 20036

Case No. 14-PRO-00014
License No. ABRA-077883
Order No. 2014-486

1215 CT, LLC, t/a Rosebar (Applicant)

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

Carl Nelson, on behalf of A Group of Five or More Individuals

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

**ORDER ON AMENDMENT TO SETTLEMENT AGREEMENT AND
WITHDRAWAL OF PROTESTS OF ANC 2B AND A GROUP OF FIVE OR
MORE INDIVIDUALS**

The Application filed by 1215 CT, LLC, t/a Rosebar, 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 April 7, 2014, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Alcoholic Beverage Control Board (Board) reflect that a previous holder of a license for the premises and ANC 2B entered into a Voluntary Agreement (Agreement) dated February 28, 2007, and a Second Amendment to Voluntary Agreement dated May 11, 2011. 1215 CT, LLC, t/a Rosebar (Applicant), as the current holder of a Retailer's Class CT license, is required to comply with the terms of the Agreement and Second Amendment that govern the operation of the Applicant's establishment.

On November 10, 2014, the Applicant, ANC 2B, and the Group of Five or More Individuals, as an additional party, entered into an Amendment to Settlement Agreement (Amendment).

The Amendment has been reduced to writing and has been properly executed and filed with the Board. The Applicant; Chairperson Noah Smith, on behalf of ANC 2B; and Carl Nelson, on behalf of the Group of Five or More Individuals; are signatories to the Amendment.

This Amendment constitutes a withdrawal of the Protests filed by ANC 2B and the Group of Five or More Individuals.

Accordingly, it is this 19th day of November, 2014, **ORDERED** that:

1. The Application filed by 1215 CT, LLC, t/a Rosebar, for renewal of its Retailer's Class CT License, located at 1215 Connecticut Avenue, N.W., Washington, D.C., is **GRANTED**;
2. The Protests of ANC 2B and the Group of Five or More Individuals in this matter are hereby **WITHDRAWN**;
3. The above-referenced Amendment to Settlement Agreement, dated November 10, 2014, 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.a. iv. (Compliance) – The following sentence shall be modified to read as follows: "District Officials have notified the Licensee of noise complaints."

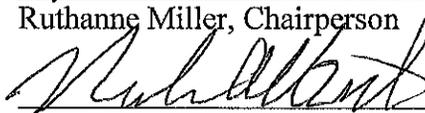
The parties have agreed to this modification.

4. All terms and conditions of the original Agreement and Second Amendment shall remain in full force and effect; and
5. Copies of this Order shall be sent to the Applicant, ANC 2B, and Carl Nelson, on behalf of the Group of Five or More Individuals.

District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



Nick Alberti, Member



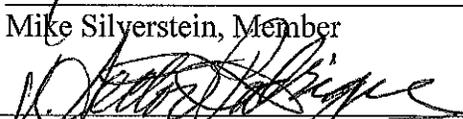
Donald Brooks, Member



Herman Jones, Member



Mike Silverstein, Member



Hector Rodriguez, Member



James Short, Member

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

NOISE
PROPOSED AMENDMENT TO VOLUNTARY AGREEMENT

"NOISE COMPLIANCE PLAN"

THIS SETTLEMENT AGREEMENT ("Agreement") is by and between, Rose BAR ("Licensee"), the Group of Five Citizens from the Palladium Condominium ("Residents"), [and Advisory Neighborhood Commission ANC2B ("ANC 2B")] (collectively, "Parties"). Any existing Agreement shall remain in force, except that this Agreement shall supersede provisions relating to noise abatement.

WHEREAS, Licensee has applied for a renewal of license Class CT for a business establishment ("Establishment");

WHEREAS, the Residents [and ANC 2B] filed timely protest against the renewal of Licensee's license pursuant to D.C. Official Code § 25-601(4);

WHEREAS, the Parties have agreed to the terms of this Agreement and request that the Alcoholic Beverage Control Board ("ABC Board") approve the renewal of said license conditioned upon the Licensee's compliance with this Agreement;

WHEREAS, the Parties desire to settle the protest pursuant to D.C. Official Code § 25-446 for the operation and maintenance of the Establishment; Compliance:

WHEREAS, the levels of amplified sound emanating from District of Columbia nightclubs individually and collectively has risen in recent years to the point that local residents are complaining that the noise is entering their homes, interfering with the quiet enjoyment of their homes, disturbing their sleep, and negatively impacting their property values;

WHEREAS, the District of Columbia Noise Control Act and regulations at section 25-725, as amended, requires nightclubs to contain amplified sound;

WHEREAS, the Licensee is familiar with and will comply with All DC noise Control Laws and Regulations and will take reasonable measures to ensure compliance;

WHEREAS, Licensee recognizes that compliance with the Noise Control Act is of paramount importance to current and future residents, and is essential to the District's plan to increase mixed use and population density;

NOW, THEREFORE, the Parties agree as follows:

1. Noise abatement: Licensee agrees to employ sufficient noise abatement measures to ensure that the level of amplified music produced by the establishment (if any) complies with applicable law and cannot be heard outside the club within 75 feet.
2. Doors and windows: Licensee will make reasonable efforts to keep doors and windows closed, and implement procedures and mitigation measures to prevent noise from escaping from doors when patrons enter and leave.

ABRA - 077883

3. Outdoor spaces: Licensee agrees to minimize amplified music in outdoor spaces so that it cannot be heard by residents. Licensee has moved its outdoor speakers and changed some to control the sound from echoing to residence; has installed quiet brace on the outside wall, has installed peace maker 6.4 mm on outside walls, has installed mineral wool batting inside the exterior slat walls; has installed final layer of sheeting on outside wall; and thus far has spent over \$30,000 in soundproofing the outdoor area.
4. Compliance: Licensee agrees that:
 - a. Licensee agrees to promptly lower amplified sound levels when it determines, or is informed, that sound levels are too high. The Licensee will be on notice that sound levels are too high if any of the following situations occurs:
 - i. Amplified music can be heard 75 feet from the establishment;
 - ii. Music can be heard inside residences;
 - iii. Residents have complained;
 - iv. District Officials have notified the Licensee of complaints.
5. Continuing cooperation:
 - a. Licensee will provide the Parties the name and phone number of the general manager, who is responsible for compliance. If residents contact this person, he/she will immediately determine whether sound levels are too high – and if so, promptly lower sound levels as needed to comply with this Agreement and the Noise Control Act. The Licensee will have 24 hours to respond to any noise complaints. The Licensee shall have thirty (30) days to cure sound level problems by establishing lower levels, adding additional sound abating materials, and/or developing policies to ensure ongoing compliance with this Agreement.
 - b. Licensee will make good faith efforts to cooperate with other establishments to ensure that collective noise levels comply with the Noise Control Act.
6. Counterparts: This Agreement may be executed in counterparts, each of which shall be deemed as original, but all together shall constitute the same instrument.
7. Withdrawal of protest: upon execution of this Agreement and its acceptance by the ABC Board, the protest of the Licensee's application for license filed by the Parties hereto shall be deemed withdrawn.

Executed on this date, September ¹⁰ 2014

~~NOVEMBER~~

By: _____ Date: _____

ABBA - 077883

_____, Owner
By: DAVID KARIM Date: 10/31/14

[Signature] Owner

By: Carl Nelson Date: 10/31/14

Carl Nelson, Group of Five Citizens from the Palladium Condominium

By: Noah Smith Date: 11/10/14

Noah Smith, Advisory Neighborhood Commission ANC2B

1215 CT
T/A ROSEBAR
AREA- 077885

1215 CT, LLC
t/a Current Sushi
License No. ABRA-077883
Page 2

Accordingly, it is this 29th day of June 2011, **ORDERED** that:

1. The above-referenced Second Amendment to Voluntary Agreement by and between 1215 CT, LLC, t/a Current Sushi located at 1215 Connecticut Avenue, N.W., Washington, D.C., and Chairperson Will Stephens, on behalf of ANC 2B, to the existing February 28, 2007 Agreement is **APPROVED** and **INCORPORATED** as part of this Order; and
2. Copies of this Order shall be sent to the Licensee and ANC 2B.

1215 CT, LLC
t/a Current Sushi
License No. ABRA-077883
Page 3

District of Columbia
Alcoholic Beverage Control Board



Nick Alberti, Interim Chairperson



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, 2000 14th Street, N.W., Suite 400S, Washington, DC 20009.

Holland & Knight

2099 Pennsylvania Avenue, N.W., Suite 100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

Kwamina Thomas Williford
(202) 828-1857
kwamina.williford@hklaw.com

June 13, 2011

Nick Alberti
Interim Chairman
Alcoholic Beverage Control Board
1250 U Street, NW, 3rd Floor
Washington, DC 20009

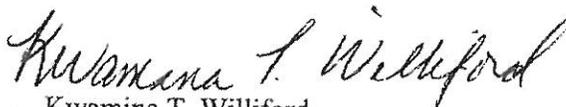
Re: Current Sushi - Agreed to Amendment to Voluntary Agreement

Dear Chairman Alberti:

Please accept this letter request on behalf of 1215 CT, LLC, trading as Current Sushi and the holder of a Class "CT" license No. 077883 located at 1215 Connecticut Ave, N.W. ("Licensee"). The Licensee operates a tavern that serves Japanese cuisine and is subject to a Voluntary Agreement entered into with ANC 2B. See Attachment A. The Licensee and ANC 2B reached an agreement to modify the Voluntary Agreement as it pertains to restrictions on the rooftop summer garden.

Pursuant to D.C. Code § 25-446(d)(1), the Licensee respectfully requests the Board's approval of the Licensee's Second Amendment to Agreement with ANC 2B, which is appended hereto as Attachment B. I respectfully request the Board's consideration of this matter at its earliest availability. Thank you,

Sincerely yours,



Kwamina T. Williford
Counsel to 1215 CT, LLC

KTW:aem

Enclosure

cc: 1215 CT, LLC

#10370888_v1

ORIGINAL
COPY**SECOND AMENDMENT TO AGREEMENT**

AGREEMENT made this 11th day of May, 2011, by and between 1215 CT LLC v/a Current Sushi ("Licensee") and ADVISORY NEIGHBORHOOD COMMISSION 2B ("the ANC").

WITNESSETH:

WHEREAS, the parties seek to amend the "Amendment to Agreement" dated February 28, 2007 in order to clarify expectations regarding music being played from the premises located at 1215 Connecticut Avenue, N.W.;

WHEREAS, the premises 1215 Connecticut Avenue, N.W. is within the jurisdictional boundaries of the ANC;

WHEREAS, the ANC seeks to protect the peace, order, and quiet for residents within its jurisdictional boundaries; and

WHEREAS, the premise 1215 Connecticut Avenue, NW is located in an area surrounded primarily by businesses and is not in an area where residential property is likely to be negatively affected by sound emanating from the premises;

NOW, THEREFORE, in consideration of the premises above recited, and the mutual covenants and promises set forth below, the parties agree as follows:

1. The parties agree that the Licensee shall be permitted to play music in the outdoor summer garden area. There will be no karaoke in the outside area.
2. Should the music level exceed that which is deemed acceptable by St. Matthew's Cathedral or any residential neighbors, that the licensee agrees to meet with their representative to resolve the issue. Applicant agrees that, in the event they are contacted by representatives of St. Matthew's Cathedral indicating that the church has an event, and noise from this space could be intrusive on the church's event, no music will be played during the event.
3. Special consideration will be given to St. Matthew's Cathedral when the Cathedral is hosting major events and St. Matthew's will make an effort to notify the licensee when it is hosting such events.
4. The parties agree that the limitation codified within D.C. Code §§ 25-446, which limits the timeframe for any party to amend this Voluntary Agreement, applies as to the date of the original Voluntary Agreement of March 19, 2002 and not to the dates of the first amendment of February 28, 2007 and this second amendment.
5. The parties agree that this Second Amendment to Agreement will supersede the terms set forth in the February 28, 2007 Amendment to Agreement.

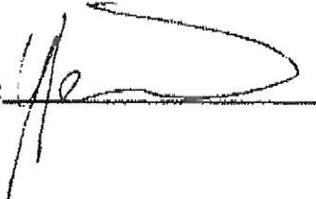
6. The parties further agree that any failure of the Applicant to adhere to the foregoing commitments would constitute grounds for the ANC to petition the ABC Board for issuance of an order to show cause pursuant to 23 DCMR 1513.5.

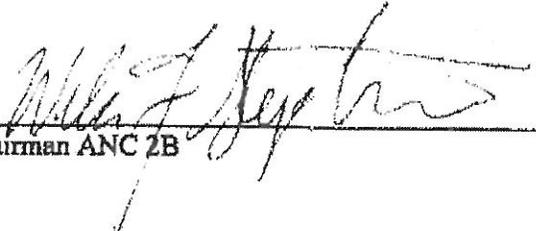
IN WITNESS WHEREOF, the parties have affixed hereunto their hands and seals on the year and day first above written.

LICENSEE:

ADVISORY NEIGHBORHOOD COMMISSION 2B

1215 CT LLC

By: 

By: 

Chairman ANC 2B

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

<u>In the Matter of:</u>)	
)	
JAH, Inc.)	
t/a Dragonfly)	
)	
Substantial Change Application for a)	License No.: 25595
Retailer's Class CT License –)	Case No.: 35509-07/015P
at premises)	Order No.: 2007-041
1215 Connecticut Ave., N.W.)	
Washington, D.C.)	
)	

Dimitri Mallios, Esquire, on behalf of the Applicant, JAH, Inc.

Commissioner Darren A. Bowie, Chair, on behalf of Advisory Neighborhood
Commission 2B ("ANC 2B"), Protestant

BEFORE: Peter B. Feather, Acting Chairperson
Vera M. Abbott, Member
Judy A. Moy, Member
Audrey E. Thompson, Member
Albert G. Lauber, Member
Mital M. Gandhi, Member

ORDER ON VOLUNTARY AGREEMENT AND WITHDRAWN PROTEST

The Substantial Change Application for a summer garden endorsement, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call hearing on January 24, 2007, in accordance with D.C. Official Code § 25-601 (2001). Commissioner Darren A. Bowie, Chair, on behalf of ANC 2B, filed timely opposition by letter.

The official records of the Board reflect that the Parties have reached an agreement which has been reduced to writing and has been properly executed and filed with the Board. Pursuant to the Agreement, dated February 28, 2007, the Protestants have agreed to withdraw the protest, provided, however, the Board's approval of the pending application is conditioned upon the licensee's continuing compliance with the terms of the Agreement.

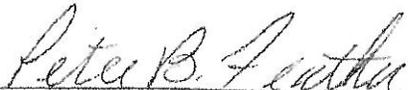
JAH, Inc.
t/a Dragonfly
License No. 25595
Case No. 35509-07/015P
Page Two

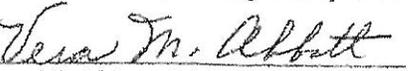
Accordingly, it is this 25th day of July 2007, **ORDERED** that:

1. The protest of ANC 2B is **WITHDRAWN**;
2. The Substantial Change Application of JAH, Inc., t/a Dragonfly, 1215 Connecticut Avenue, N.W., Washington, D.C., for a summer garden endorsement is **GRANTED**;
3. The above-referenced agreement is **INCORPORATED** as part of this Order;
and
4. Copies of this Order shall be sent to the Protestant and the Applicant.

JAH, Inc.
t/a Dragonfly
License No. 25595
Case No. 35509-07/015P
Page Three

District of Columbia
Alcoholic Beverage Control Board


Peter B. Feather, Acting Chairperson


Vera M. Abbott, Member


Judy A. Moy, Member

Audrey E. Thompson, Member


Albert G. Lauber, Member


Mital M. Gandhi, 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, 941 North Capitol Street, N.E., Suite 7200, Washington, D.C. 20002.

AMENDMENT TO AGREEMENT

AGREEMENT made this ^{February}~~28~~ day of ~~January~~, 2007, by and between JAH, Inc. t/a Dragonfly ("Applicant") and ADVISORY NEIGHBORHOOD COMMISSION 2B (the "ANC") (Protestant).

WITNESSETH:

WHEREAS, pending before the District of Columbia Alcoholic Beverage Control Board ("ABC") is Applicant's application for expansion of its CT license for the second floor of premises located at 1215 Connecticut Avenue, N.W. to include a rooftop summer garden; and

WHEREAS, the premises 1215 Connecticut Avenue, N.W. is within the jurisdictional boundaries of the ANC; and

WHEREAS, the parties desire to enter into an Agreement commemorating certain understandings regarding Applicant's request.

NOW, THEREFORE, in consideration of the premises above recited, and the mutual covenants and promises set forth below, the parties agree as follows:

1. Permission is hereby granted to the Applicant for a substantial change in its operation whereby the Applicant is to expand the second floor usage by adding a rooftop summer garden with seventy-five (75) seats on the rear of the second floor of the premises.

2. Applicant agrees that the music featured in the outdoor area will be soft "lounge" music. There will be no live entertainment, disc jockey, karaoke or otherwise loud performances in the outside area.

3. Should the music level exceed that which is deemed acceptable by St. Matthew's Cathedral, the licensee agrees to meet with their representative to resolve the issue. Applicant agrees that, in the event they are contacted by representatives of St. Matthew's Cathedral indicating that the church has an event, and noise from this space could be intrusive on the church's event, no music will be played during the event.

4. Special considerations will be given to St. Matthew's Cathedral when the Cathedral is hosting major events and St. Matthew's will make an effort to notify the licensee when it is hosting such events.

In consideration of, and in reliance upon, the commitments reflected above, the ANC will recommend to the ABC Board non-objection to Applicant's pending license application.

5. The parties further agree that any failure of Applicant to adhere to the foregoing commitments would constitute grounds for the ANC to petition the ABC Board for issuance of an order to show cause pursuant to 23 DCMR 1513.5.

IN WITNESS WHEREOF, the parties have affixed hereunto their hands and seals on the year and day first above written.

Applicant:
JAH, INC.

ADVISORY NEIGHBORHOOD COMMISSION 2B

By 
Farid Ali

By 
Chairman, ANC 2B

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

<hr/>)	
In the Matter of:)	
)	
JAH, Inc.)	
t/a Dragonfly)	
)	
Application for a Retailer's Class)	Case no. 35509-02/001P
CT (renewal))	2002-92
at premises)	
1215 Connecticut Avenue, N.W.)	
Washington, D.C.)	
<hr/>)	

Vince Micone, Chairperson, Advisory Neighborhood Commission 2B, Protestant

Dimitri P. Mallios, Esquire, on behalf of Applicant

BEFORE: Roderic L. Woodson, Esquire, Chair
Vera Abbott, Member
Charles Burger, Member
Laurie Collins, Member
Judy A. Moy, Member
Ellen Opper-Weiner, Esquire, Member
Audrey E. Thompson, Member

ORDER ON VOLUNTARY AGREEMENT AND WITHDRAWN PROTEST

The application, having been protested, came before the Board on October 31, 2001, in accordance with D.C. Official Code Section 25-601 (2000 Edition). Vince Micone, Chairperson, on behalf of the Advisory Neighborhood Commission 2B, filed opposition in a timely manner.

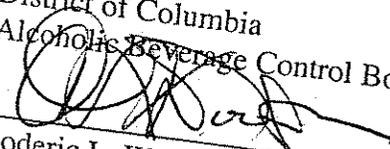
The official records of the Board reflect that the parties have reached an agreement that has been reduced to writing and has been properly executed and filed with the Board. Pursuant to the agreement, dated March 19, 2002, the protestant has agreed to withdraw the opposition, provided, however, the Board's approval of the pending application is conditioned upon the licensee's continuing compliance with the terms of the agreement.

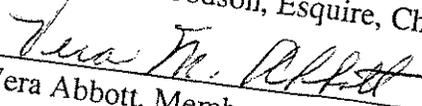
JAH, Inc.
t/a Dragonfly
Page two

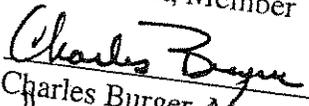
Accordingly, it is this 22nd day of May 2002, **ORDERED** that:

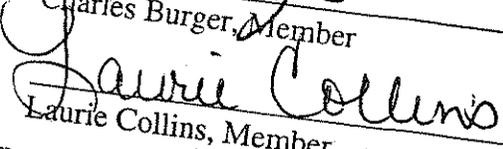
1. The opposition of Vince Micone, Chairperson, on behalf of the Advisory Neighborhood Commission 2B, is **WITHDRAWN**;
2. The application of JAH, Inc. t/a Dragonfly for a retailer's class CT (renewal) license located at 1215 Connecticut Avenue, N.W., Washington, D.C. is **GRANTED**;
3. The above-referenced agreement between the parties, is **INCORPORATED** as part of this Order; and
4. Copies of this Order shall be sent to the Protestant and the Attorney for the Applicant.

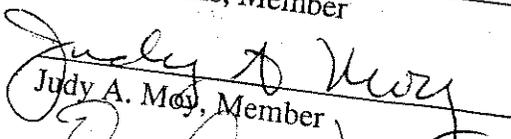
District of Columbia
Alcoholic Beverage Control Board

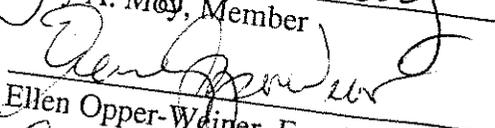

Roderic L. Woodson, Esquire, Chair

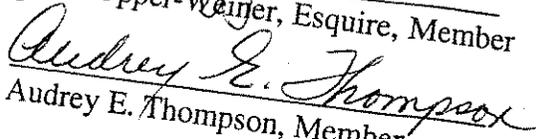

Vera Abbott, Member


Charles Burger, Member


Laurie Collins, Member


Judy A. May, Member


Ellen Opper-Weijer, Esquire, Member


Audrey E. Thompson, Member

ABEA
rec'd 3/20/02/sb

APP NO 35509

AGREEMENT

AGREEMENT made this 19th day of March, 2002, by and between JAH, Inc., t/a Dragonfly, and ADVISORY NEIGHBORHOOD COMMISSION 2B (the ANC).

WITNESSETH:

WHEREAS, pending before the District of Columbia Alcoholic Beverage Control Board (ABC) is Applicant's application for expansion of its CT license for premises 1215 Connecticut Avenue, N.W.; and

WHEREAS, premises 1215 Connecticut Avenue, N.W. is within the jurisdictional boundaries of the ANC; and

WHEREAS, the parties desire to enter into an agreement commemorating certain understandings regarding Applicant's operating plans;

NOW, THEREFORE, in consideration of the premises above recited, and the mutual covenants and promises set forth below, the parties agree as follows:

1. Applicant agrees that it will have food available for service to its patrons up to two hours before closing. Food shall not be limited to snacks, such as potato chips, pretzels, etc., but shall include sushi. If in the future they change the menu, they will offer hot food or prepared food such as sushi during this period.
2. In consideration of, and in reliance upon, the commitments reflected in paragraph 1 above, the ANC will recommend to the ABC Board non-objection to Applicant's pending license application.
3. The parties further agree that any failure of Applicant to adhere to the foregoing commitments would constitute grounds for the ANC to petition the ABC Board for issuance of an order to show cause pursuant to 23 DCMR 1513.5.

IN WITNESS WHEREOF, the parties have affixed hereunto their hands and seals on the year and day first above written.

APPLICANT: JAH, INC.

By Farid Ali
Farid Ali, President

ADVISORY NEIGHBORHOOD COMMISSION 2B

By Irvin D. Morgan 3/19/2008
Irvin D. Morgan, ANC2B-07 Vice Chairman