THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter of:	)	
	)	
Fairgrounds, LLC,	)	
t/a The Bullpen	)	
	)	
Application for Retailer's	)	
Class CT License	)	License No. 81924
	)	Order No. 2009-240
at premises	)	
1299 Half Street, S.E.	)	
Washington, D.C. 20003	)	
	)	

Fairgrounds, LLC, t/a The Bullpen

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

BEFORE: Peter B. Feather, Chairperson
Mital M. Gandhi, Member
Nick Alberti, Member
Charles Brodsky, Member
Donald Brooks, Member
Herman Jones, Member

ORDER ON AMENDED VOLUNTARY AGREEMENT

The official records of the Alcoholic Control Board (Board) reflect that Fairgrounds, LLC, t/a The Bullpen (Applicant), Applicant for a Retailer's Class CT License located at 1299 Half Street, S.E., Washington D.C., and Andy Litsky, Commissioner, on behalf of Advisory Neighborhood Commission (ANC) 6D, (collectively, the Parties) entered into a Voluntary Agreement (Agreement) dated April 16, 2009 setting forth the terms and conditions that govern the operation of the Applicant's establishment. However, the Parties have subsequently agreed to different terms to extend the operation of the Bullpen until November 1st, by way of an Amended Voluntary Agreement (Amended Agreement) dated September 14, 2009.

The Amended Agreement has been reduced to writing and has been properly executed and filed with the Board. Both the Applicant and Commissioner Litsky are signatories to the Amended Agreement.

Accordingly, it is this 30th day of September 2009, **ORDERED** that:

1. The above-referenced Amended Voluntary Agreement submitted by the Parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order;

2. The Amended Agreement, dated September 14, 2009, shall **REPLACE** the previously submitted Agreement dated April 16, 2009; and

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

District of Columbia
Alcoholic Beverage Control Board

Peter B. Feather, Chairperson

Mital M. Gandhi, Member

Nick Alberti, Member

Charles Brodsky, Member

Donald Brooks, Member

Herman Jones, 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.

ABRA

Advisory Neighborhood Commission 6D

PO Box 71156 • Washington, DC 20024-9998
ANC Office: 202 554-1795 ■ FAX: 202 554-1774
office@anc6d.org

AMENDED VOLUNTARY AGREEMENT

THIS VOLUNTARY AGREEMENT ("Agreement") is made on this 14th day of September 2009 by and between Fairgrounds LLC t/a "The Bullpen" ("Applicant"), and Advisory Neighborhood Commission 6D ("Protestant"), (collectively, the "Parties"), pursuant to DC Official Code 25-601(1) and 601(4), respectively.

W I T N E S S E T H

WHEREAS, Applicant has applied for a License Class CT for a business establishment ("Establishment") located at N Street, between Half and Van Streets, S.E., Washington, D.C. ("Premises");

WHEREAS, the Parties have agreed to enter into this Agreement and request that the Alcoholic Beverage Control Board ("ABC Board") approve the Applicant's license application conditioned upon the Applicant's compliance with the terms of this written Agreement; 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 minimize the effect on (i) the peace, order and quiet of the neighborhood and (ii) pedestrian safety and vehicular traffic, and to eliminate the need for a Protest Hearing regarding the license application.

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 a Festival Park which will include an enclosed beverage tent for the purchase of wine, beer and alcoholic frozen drinks; a band stage for live performances; and an area that will offer food service and soft drinks and other non-alcoholic beverages. Any change from this model shall be considered by both Parties to be a substantial change in operation of great concern to residents and requires prior approval by the ABC Board.

3. ***Hours of Operation and Sales.*** The Applicant's hours of **operation during baseball games and special events** shall be as follows. Operations will cease on November 1.

   Sunday 8:00 a.m. – 12:30 a.m.,
   Monday through Thursday 8:00 a.m.– 12:30 a.m.,
   Friday and Saturday 8:00 a.m. – 12:30 a.m.

   The Applicant's hours for **selling and serving alcohol** shall be as follows:

   Sunday 11:00 a.m. – 12:00 midnight,
   Monday through Thursday 11:00 a.m.– 12:00 midnight,
   Friday and Saturday 11:00 a.m. – 12:00 midnight

4. ***Floors Utilized and Occupancy.*** The Applicant will operate its establishment in a closed area on the ground level, in a 14,400 square foot tent. Maximum occupancy for number of seats and standing patrons will be determined by the DC Office of Regulatory Affairs in its decision regarding the certificate of occupancy.

5. ***Parking Arrangements.*** It is a principal concern of the Protestants that the Applicant's operation of the Establishment does not create or exacerbate parking problems within the ANC boundaries. Applicant is a tenant of Akridge which also owns and operates an adjacent parking area which will provide parking for its patrons. To the extent this arrangement terminates for any reason, Applicant shall, within 30 days from termination, enter into a like agreement to provide adequate off-street private parking for its patrons. The Applicant will ensure that no vehicles are parked such that vehicles are on the abutting property.

6. ***Sidewalk Café.*** Applicant will operate sidewalk café under a tent as described above. Applicant agrees that it shall not seek to expand the capacity of the authorized numbers of patrons in this establishment without amendment of this Agreement. Applicant will direct that its employees inspect the area outside the establishment at least once each hour to ensure its cleanliness. No containers, cups, bottles/cans, etc. shall be permitted outside of or to leave the enclosed area regardless of content.

   In case of potential closings of Half Street, Van Street or N Street, S.E. for events, the applicant seeking the closure of such street will collect signatures only from authorized representatives of the adjoining establishments. The street closure applicant will present the signature list and application to the ANC a minimum of three (3) business days prior to submission to the Emergency Management Agency (EMA). The applicant shall use public space only in strict conformance with the permit received. The applicant agrees to cause a copy of its street-closing permit to be received by the ANC6D office at least 7 days before the permit's effective date.

The applicant agrees to not oppose petitions by The Nationals to close streets in the vicinity of the ballpark.

7. ***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 within the adjacent residential or business properties. If necessary, Applicant will take reasonable steps to reduce noise emanating from the Establishment.

8. ***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 after every event. The Applicant agrees to obtain a dumpster to be placed in the rear of the building/area. 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.

9. ***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.

10. ***Security Cooperation in Stemming Illegal Drugs and Public Drinking.*** Protestants are concerned that the nature of the business proposed by the Applicant for the Premises will pose security and crime issues. 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. Applicant will identify a cool-down area to be used as necessary. Applicant will use card reading equipment designed to ferret out false, forged, and fraudulent identification.

Applicant will cooperate with MPD in the investigation of criminal offenses within and immediately around the business. The applicant shall secure all crime scenes to the best of its ability and shall not contaminate, destroy, alter or clean any crime scene until authorized to do so by the lead MPD official on the scene of the offense. Applicant shall review security measures with the Commander of the First District, or his designee within 14 days of opening and shall take steps necessary to protect public safety as recommended. If necessary and after discussion with the Commander of the First District or his designee, applicant shall take necessary steps to employ MPD officers under the department's reimbursable guidelines--the sufficient number of such MPD officers necessary to promote public safety will be at the recommendation of the Commander but shall be no less than 2 officers during operational hours.

11. ***License Ownership and Compliance with ABRA Regulations.*** Applicant promises to Protestants 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, and agrees that Protestants shall have standing to ask the ABC Board to enforce any violations of the agreement. Applicant also specifically agrees to be the sole owner of the ABC license. Applicant's on-site managers will, when on site, always bear obvious identification, such as a badge or shirt, identifying them as the manager. Applicant shall provide to the Commander of the First District the name of performing bands and promoters within 30 days of booking or ASAP, but no less than 14 days prior to the event. If notice is given with less than the 14 day lead time, applicant agrees to participate in the reimbursable detail program if deemed necessary by the 1D Commander.

12. ***Participation in the Community.*** Applicant agrees to seek to maintain open communication with the Protestants, and the community for which the ANC acts. To this end, Applicant shall from time to time be represented at ANC6D public meetings, which currently occur on the second Monday of each month at 7:00 p.m. at 101 M Street, S.W., Washington, D.C. 20024 (except that there is no meeting in August, and the October meeting is on the third Monday. 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. Applicant will offer space in the establishment, on a complimentary basis, for community events when there is no game or other special event scheduled. As employment opportunities arise, the applicant will make job announcements in the ANC 6D neighborhood and buy ads in the Southwester soliciting job applicants. Applicant will institute and provide a tie-breaking preference for those jobs for residents of ANC6D. Applicant will endeavor to provide support to improve the quality of life for residents of the neighborhood, including support to civic and cultural organizations in the ANC6D area of the SE/SW community.

13 ***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: Fairgrounds LLC
3227 45th Street, N.W.
Washington, DC 20016
Attn: Robert Blair, President
(202) 255-5855 (mobile)
Fax (202) 333-8368

If to Protestants: Advisory Neighborhood Commission 6D
P. O. Box 71156
Washington, DC 20024-9998
Attn: Chair, ANC
(202) 202 554-1795
Fax (202) 202 554-1774

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.

14. ***Withdrawal of Protest.*** Upon execution of this Agreement by the Parties and its acceptance by the ABC Board, Protestants shall withdraw the Protest.

PROTESTANT:

Chair, ABC Committee, ANC6D

Coralie Farlee 14 Sep 09

Coralie Farlee Date

ANC6D07

By: Robert Siegel, Commissioner

Robert Michael Siegel 09/15/2009

Signature Date

ANC6D

Andy Litsky 9/17/09

By: Andy Litsky, Chair Date

APPLICANT:

Fairgrounds, LLC, t/a The Bullpen

9/17/09

By: Robert Blair, President Date