

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

In the Matter of:

Axis Bar & Grill, LLC
t/a Bistro La Bonne

Application for Renewal of a
Retailer's Class CR License

at premises
1340 U Street, N.W.
Washington, D.C. 20009

Case No. 13-PRO-00061
License No. ABRA-075284
Order No. 2013-378

Axis Bar & Grill, LLC, t/a Bistro La Bonne (Applicant)

Joan Sterling, President, Shaw-Dupont Citizens Alliance, Inc. (SDCA)

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

**ORDER ON SETTLEMENT AGREEMENT AND
WITHDRAWAL OF PROTEST OF SDCA**

The Application filed by Axis Bar & Grill, LLC, t/a Bistro La Bonne, for renewal of its Retailer's Class CR License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on June 3, 2013, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant and SDCA have entered into a Settlement Agreement (Agreement), dated June 24, 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 Joan Sterling, on behalf of SDCA, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by SDCA.

Accordingly, it is this 14th day of August, 2013, **ORDERED** that:

1. The Application filed by Axis Bar & Grill, LLC, t/a Bistro La Bonne, for renewal of its Retailer's Class CR License, located at 1340 U Street, N.W., Washington, D.C., is **GRANTED**;
2. The Protest of SDCA in this matter is hereby **WITHDRAWN**;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 2 (Nature of the Business) – The following sentence shall be removed: “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.”

Section 6 (Summer Garden Café) – The following sentence shall be removed: “Applicant agrees that it shall not seek to expand the capacity of the sidewalk café without amendment of this Agreement.”

Section 7 (Entertainment) – The following sentence shall be modified to read as follows: “Applicant acknowledges familiarity with and will comply with noise control provisions of the District of Columbia law and regulations.”

Section 9 (Public Space and Trash) – The following sentence shall be removed: “Applicant will comply with D.C. Official Code § 20-2806.”

Section 10 (Rats and Vermin Control) – The following sentence shall be removed: “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.”

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Section 12 (License Ownership and Compliance with ABRA Regulations) – The following sentence shall be removed: “Applicant also specifically agrees to be the sole owner of the ABC license.”

Section 13 (Notice 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 reasonable requires more than 30-day to cure, fails to commence cure such breach and diligently pursues such cure) failure shall constitute a cause for filing a complaint with the ABC Board pursuant to D.C. Official Code § 25-447.”

The parties have agreed to these modifications.

4. Copies of this Order shall be sent to the Applicant and SDCA.

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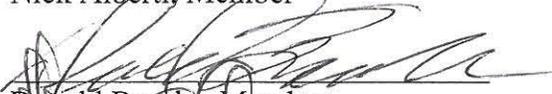
District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



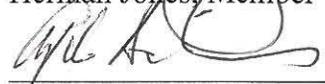
Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member



Mike Silverstein, Member

Pursuant to D.C. Official Code § 25-433, any Party adversely affected by this Order may file a Motion for Reconsideration within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009.

THIS SETTLEMENT AGREEMENT ("Agreement") is made on this 24th day of June 2013 by and between Axis Bar and Grille, LLC t/a Bistro La Bonne, License # 75284 ("Applicant"), and Shaw-Dupont Citizens Alliance, Inc (SDCA) ("Protestant"), (collectively, the "Parties").

ALCOHOLIC BEVERAGE
REGULATION ADMIN
2013 JUN 24 P 3:56
ABRA
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WITNESSETH

WHEREAS, Applicant has applied for a License Class R, License Number 75284 for a business establishment ("Establishment") located at 1340 U Street NW, Washington, D.C. ("Premises"), and

WHEREAS, Protestant is SDCA, who filed a timely Protest against the renewal of the Applicant's license application pursuant to D.C. Official Code § 25-601(1) and 601(4), and

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 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 adverse effect on peace, order and quiet; residential parking and vehicular and pedestrian safety; and over concentration of ABC licensed establishments in the neighborhood; 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 Class C Restaurant with an emphasis on food, and occasional live entertainment, as noted below. 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. Interior Hours of Operation and Sale of Alcohol.

The Applicant's interior hours of operation shall be as follows:

Sunday through Thursday 10:00 am.– 2:00am.,
Friday and Saturday 10:00am. – 3:00am.

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

Sunday through Thursday 10:00 am.– 2:00am. (last call ½ hour prior)
Friday and Saturday 10:00am. – 3:00am. (last call ½ hour prior)

4. Floors Utilized and Occupancy.

The Applicant will operate its establishment on the two (2) floors of the building. The Establishment will have no more than 105 seats and the maximum occupancy of the Establishment shall not exceed 120 patrons.

5. Parking.

The Applicant will ensure that vehicles parked in the rear of the Establishment will not extend onto the alley or abutting property.

6. Summer Garden Cafe.

Applicant plans to provide a summer garden with seating for 12 patrons. Protestant will not object to the 12 seat patron limit; Applicant agrees that it shall not seek to expand the capacity of the sidewalk café without amendment of this Agreement. Applicant will direct that its employees inspect the sidewalk café at least once each hour to ensure its cleanliness.

The Applicant's Summer Garden hours of operation shall be as follows:

Sunday through Thursday 10:00 am.– 2:00am. (last call ½ hour prior)
Friday and Saturday 10:00am. – 3:00am. (last call ½ hour prior)

7. Entertainment.

Live performances are limited to Friday and Saturday, and limited to 4 performances per month, with no more than 6 performers.

Hours of live performances as specified above:
Friday and Saturday 6:00pm – 2:00am

Applicant acknowledges familiarity with and will comply with noise control provisions of the District of Columbia law and regulations, including preventing emissions of sound, capable of being heard outside the premises, by any musical instrument or amplified device or source of sound or noise, in accordance with DCMR 905. No dancing is permitted. No music will be played or amplified to any outdoor area. The doors and windows of the premises will be kept closed at all times during business hours when music is being played, except when persons are in the act of using the door for ingress or egress of the premises. Applicant specifically agrees to prevent front entry door and rear exit door from being propped open during live performances.

Applicant agrees to restrict all events to those run by the restaurant and will not contract the restaurant for any special events to be operated by outside promoters. Applicant will regulate volume of performances so as not to interfere with the ability of abutting businesses to conduct normal business. Applicant agrees to installation of sufficient sound proofing if or when it is shown that emissions of amplified sounds are in violation of District of Columbia regulations.

8. Noise and Privacy.

Applicant will strictly comply with D.C. Official Code § 25-725 (including the noise level requirements set forth in Chapter 27 and Chapter 28 of Title 20 of the District of Columbia Municipal Regulations); and to that end shall make architectural and noise mitigation 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 properties. Applicant agrees to keep its doors and windows closed, especially on the 2nd floor during hours-of-operation, and when live and recorded music is being played at the establishment. If necessary, Applicant will take reasonable steps to reduce noise emanating from the Establishment from the opening of the entry or exit doors.

9. 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 maintain all dumpsters that are placed in the rear of the building.

Applicant shall ensure that the area around the dumpsters 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. Applicant will comply with D.C Official Code § 20-2806.

Applicant shall maintain regular trash and recycling services to assure that the trash holding area remains clean, orderly and secure at all times. Applicant shall keep dumpsters closed except for such times when refuse or recycling is being added or emptied. Applicant will have trash/dumpster pickup by a commercial hauler no fewer than four (4) times a week. Applicant will make reasonable effort to eliminate accessible food sources for rodents and other animals in the dumpster area at the rear of the Establishment. Applicant acknowledges the immediate proximity of residences to the south (rear) of the location, and will train staff and install signage for the staff requiring that this area should be quiet after 10:00pm weekdays and 11:00pm weekends. Dumping of trash and recyclables shall be coordinated so as not to disturb the peace and quiet of the neighboring residents.

Trash pick-ups will be made daily between 9:00am and 3:00pm. Dumping and/or removal of glass bottles will occur as needed between 9:00am and 9:00pm.

10. Rats and Vermin Control.

The Applicant shall provide rat and vermin control for its property twice each month. 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.

11. Security and Public Loitering.

Applicant shall to the fullest extent permissible by law discourage loitering in the vicinity of the Premises at all times when the Establishment is open to the public, and shall be responsible for ensuring that any individuals who are simply loitering are asked to move along.

12. 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.

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: Daniel La Bonne
1340 U Street NW
Washington, DC 20009
202-758-3413

If to Protestants: Shaw-Dupont Citizens Alliance, Inc.
PO Box 73153
Washington, DC 20056

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.

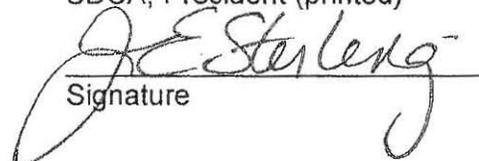
Applicant:

DANIEL LABONNE
(printed)


Signature

Protestant:

JOAN STERLING
SDCA, President (printed)


Signature

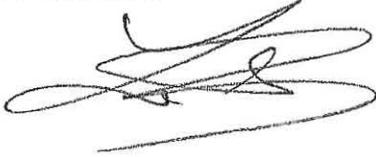
APPLICANT:

BISTRO LA BONNE

Establishment's Name

DANIEL LABONNE Co owner /

By: Printed Name/ Title

A handwritten signature in black ink, appearing to read 'Daniel Labonne', with a large, stylized flourish underneath.

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Accordingly, it is this 6th day of September 2006, **ORDERED** that:

1. The protest of Advisory Neighborhood Commission 1B is **WITHDRAWN**;
2. The new application of Axis Bar & Grill, LLC, t/a Axis, for a Retailer's Class "CR" License at 1340 U Street, N.W., Washington, D.C., 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.

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District of Columbia
Alcoholic Beverage Control Board

Charles A. Burger
Charles A. Burger, Chairperson

Vera M. Abbott
Vera M. Abbott, Member

Judy A. Moy
Judy A. Moy, Member

Audrey E. Thompson
Audrey E. Thompson, Member

Peter B. Feather
Peter B. Feather, Member

Albert G. Lauber, Member

Eartha Isaac, 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.

VOLUNTARY AGREEMENT

This Voluntary Agreement (VA) made this 9th day of August, 2006, by and among Axis Bar and Grill (Applicant) and Advisory Neighborhood Commission 1B (Protestant).

RECITALS

Whereas, Applicant has applied for a CR restaurant license 75284 for premises located at 1340 U Street NW,

Whereas, Protestant has protested Applicant's application,

Whereas, the parties have agreed to enter into this voluntary agreement pursuant to DC Code Section 25-446 (2001 ed.), to resolve the issues raised by Protestants' objections, and to request that the Alcoholic Beverage Control (ABC) Board approve license 75284 conditioned on Applicant's compliance with the terms of this written agreement.

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. Recital Incorporated. The recitals set forth above are incorporated herein by reference.
2. Hours when live bands and/or musicians, limited in all events to no more than six performers, shall be permitted:

Sunday through Thursday	6:00PM	to	1:30AM
Friday & Saturday	6:00PM	to	2:00AM

3. Disc Jockey entertainment shall be allowed up to six times per month, on Friday's or Saturdays.

4. Applicant acknowledges familiarity with and will comply with noise control provisions of District of Columbia law and regulations, including preventing emissions of sound, capable of being heard outside the premises, by any musical instrument or amplification device or source of sound or noise, in accordance with DCMR 905. No dancing is permitted. No music will be played or amplified to any outdoor area. The doors and windows of the premises will be kept closed at all times during business hours when music is being played, except when persons are in the act of using the door for ingress to or egress from premises. Applicant specifically agrees to prevent front entry door from being propped open during live performances. Applicant agrees to restrict all events to those run by the restaurant and will not contract the restaurant for any special events to be operated by outside promoters. Applicant will regulate volume of performance so as not to interfere with ability of abutting businesses to conduct normal business. Applicant agrees to installation of sufficient sound proofing if or when it is shown that emissions of amplified sounds are in violation of District of Columbia regulations.

5. Applicant shall maintain regular trash and recyclables service to assure that the trash holding area behind the property remains clean and secure. Applicant acknowledges the immediate proximity of residences to the south (rear) of location, and will both train staff and install signage for staff requiring that this area should be quiet after 10PM weekdays and 11PM on weekends. Dumping of trash and recycles will be coordinated so as not to disturb the peace and quiet of neighboring residents.

6. Applicant shall provide internal security during evening hours when either live music or dj performances occur. Applicant shall supply ABC Board with a description of businesses security plan to be placed in the ABRA files.

7. Notices. In the event of a violation of the provisions of this Agreement, Applicant shall be notified in writing of such violation. Notices shall be sent by first class mail postage prepaid, hand deliver or by recognized overnight delivery service as follows:

If to licensee: Siyamak Sadeghi
 Axis Bar and Grill
 1340 U Street NW
 Washington, DC 20009

If to protestant: ANC1B
 PO Box 73710
 Washington, DC 20056

Applicant may change the notice address listed above by written notice to the signatories hereto. Applicant shall provide a written response to any notification under this Agreement within five business days. Failure to give notice shall not constitute waiver or acquiescence to the violation, but notice shall be concurrent with the filing of a complaint with the ABC Board.

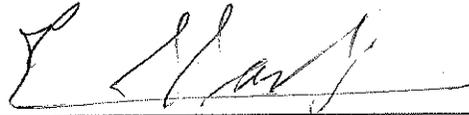
8. Withdrawal of protest. Protestant hereby withdraws its protest and joins with Applicant in requesting that the ABC Board accept this Agreement as a condition of approval of ABC license 75284.

9. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature and may be appended to any other counterpart.

10. Authority. Representatives executing this agreement on behalf of the respective parties do hereby affirm that they have the authority to do so.

In witness whereof, the parties have executed this Voluntary Agreement as of the day and date first above written.

Applicant

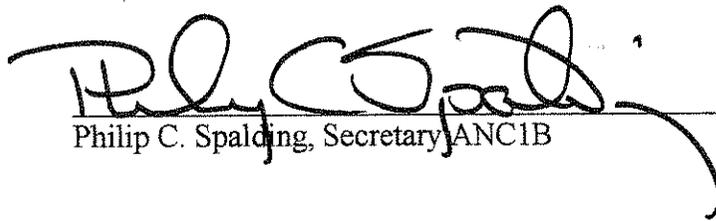


Siyamak Sadeghi, Axis Bar & Grill

Protestant



Deairich R. Hunter, Chairman ANC1B



Philip C. Spalding, Secretary ANC1B