

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

In the Matter of:)

H & B Ventures, LLC)
t/a Costa Brava)

Applicant for a New)
Retailer's Class CR License)

at premises)
1837 1st Street, N.W.)
Washington, D.C. 20001)

Case No. 12-PRO-00079

License No. ABRA-090223

Order No. 2013-056

H & B Ventures, LLC, t/a Costa Brava (Applicant)

Lawrence Perry, abutting property owner

Victoria A. Rizzo, abutting property owner

Bertha Holliday, on behalf of A Group of Five or More Individuals

**ORDER ON SETTLEMENT AGREEMENT AND
WITHDRAWAL OF PROTESTS**

The Application filed by H & B Ventures, LLC, t/a Costa Brava, for a new Retailer's Class CR License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on October 15, 2012, and a Protest Status Hearing on November 28, 2012, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant, A Group of Five or More Individuals, Lawrence Perry, and Victoria A. Rizzo have entered into a Settlement Agreement (Agreement), dated January 9, 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; Bertha Holliday and Zach Shrerif, on behalf of the Group of Five or More Individuals; and Lawrence Perry and Victoria A. Rizzo, abutting property owners, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protests filed by the Group of Five or More Individuals, Lawrence Perry, and Victoria A. Rizzo.

Accordingly, it is this 13th day of March, 2013, **ORDERED** that:

1. The Application filed by H & B Ventures, LLC, t/a Costa Brava, for a new Retailer's Class CR License, located at 1837 1st Street, N.W., Washington, D.C., is **GRANTED**;
2. The Protests of the Group of Five or More Individuals, Lawrence Perry, and Victoria A. Rizzo in this matter are hereby **WITHDRAWN**;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 modification:

Section 12 (License Transfer) shall be removed.


Appendix A (4) – The following sentence shall be modified to read as follows:
“Any change in the nature of the operation of the business including any increase in occupancy, change in hours, or change in entertainment, shall be subject to the approval of the ABC Board, after notice, and opportunity for protest. D.C. Code §§ 25-762 and 25-404.”

The parties have agreed to this modification.

Copies of this Order shall be sent to the Applicant, Lawrence Perry, Victoria A. Rizzo, and Bertha Holliday, on behalf of A Group of Five or More Individuals.

H & B Ventures, LLC
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District of Columbia
Alcoholic Beverage Control Board



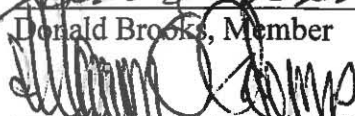
Ruthanne Miller, Chairperson



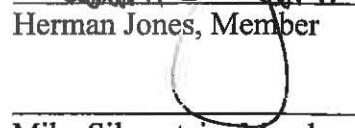
Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member



Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made on this 9th day of January, 2013, by and between H & B Ventures, LLC t/a Costa Brava ("Applicant") and the Neighbors of the Unit Block of T Street, NW (a group of 5 or more residents referred to as "Protestants") and Victoria Rizzo, and Lawrence Perry (abutting neighbors also referred to as "Protestants:").

WITNESSETH

WHEREAS, Applicant has sought a new ABC retailers license Class CR for a restaurant located at 1837 1st Street, NW, Washington, DC (the "Premises");

WHEREAS, Protestants will support Applicant's pending license application, subject to approval of a mutually satisfactory Voluntary Agreement; and

WHEREAS, the Applicant has agreed to enter into this Agreement with Protestants to request the Alcoholic Beverage Control Board ("ABC Board") approve the Applicant's new application conditioned upon 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. Recitals incorporated. The recitals set forth above are incorporated herein by reference.
2. Hours of Operation. The Applicant's permitted hours of operation and service of alcohol shall be within the following:

Sunday - Thursday	11:00 a.m. to 1:00 a.m.
Friday - Saturday	11:00 a.m. to 2:00 a.m.

Notwithstanding the foregoing, on any day upon which legal hours of service and sale of alcohol is extended beyond the current statutory legal hours, 8:00 a.m. to 2:00 a.m. Monday through Friday, and 8:00 a.m. to 3:00 a.m., Saturday and Sunday for District and Federal holidays, then the Applicant's permitted legal hours of operation and service for the interior premises may extend to one hour earlier than the legally permitted closing and service hour.

The hours of operation and service of alcoholic beverages on the sidewalk café (public space) shall be within the following:

Sunday - Thursday	11:00 a.m. to 10:30 p.m.
Friday - Saturday	11:00 a.m. to 11:30p.m.

The hours of operation and service of alcoholic beverages on the summer garden (abuts private space) shall be within the following:

Sunday - Thursday	11:00 a.m. to 9:30 p.m.
Friday - Saturday	11:00 a.m to 10:00pm

3. Signage. Applicant shall not hang banners or temporary billboards on the exterior of the premises for more than 30 days. There shall be no permanent obscuring of the windows into the building with any ads for alcoholic beverages and no neon lights. Windows in the context of this Agreement shall also include any glass doors of the establishment.

4. Public Space, Trash and Beautification .

a. Applicant agrees to contract with a commercial trash hauler for pickup at least three times per week. Trash shall be kept in sealed rodent-resistant receptacles, which will not be visible from T Street, NW or First Street, NW. Trash will not be deposited in exterior receptacles after 12 a.m. (midnight) nor before 8:00 a.m. Trash removal shall not occur before 7:00 a.m. or after 6:00 p.m. Applicant will take whatever actions are necessary to ensure trash receptacles do not overflow, including, but not limited to, scheduling additional trash pickups, if necessary. Applicant agrees to maintain such receptacles in a locked and completely closed position, and to ensure all trash is placed inside the receptacles

b. Should Applicant choose to keep trash and garbage off-premises, approval shall be sought from the DC Health Department regarding the appropriateness of the selected site— especially related to effective rodent and pest control. Should trash be kept off-premises, transfer of trash from the premises to offsite receptacles shall involve use of sealed containers.

c. Applicant shall monitor the exterior (including any associated sidewalk café and summer garden) and sidewalk (up to and including the curb) daily for

refuse and other materials and maintain a clean, tidy and professional appearance in these areas.

5. Noise and Privacy. As necessary, Applicant shall make architectural improvements to the property and take all necessary actions to ensure that music, noise and vibrations from the establishment do not rise above levels permitted in DC Code. Should any sound, noise, or music violate the standard in the previous sentence, Applicant will take immediate remedial action.

a. Applicant shall install, at its expense, soundproofing insulation within abutting walls at 1837 First St., NW along all walls on the first and second floors that abut the property located at 1835 First St. (1st and 2nd floors) and shall install sound mitigating materials on the wall separating the premises from 84-86 T St., NW (2nd floor condominium). Soundproofing insulation and/or other form of soundproofing, also shall be installed, at Applicant's expense, at rear balcony/fire escape door of 84-86 T St., NW (2nd floor condominium). The parties agree to cooperate in conducting noise level checks prior to the opening of the business to assure compliance with the requirements of this Section.

b. The Applicant shall take special vigilance of noise that may interrupt the peace and tranquility of residences abutting any Summer Garden. This includes but is not limited to shielding the first and second story of such residences from the sight and noise of the Summer Garden through use of a soundproofing roof or roof-like structure and soundproofing walls and/or landscaping that extend from the ground to such roof structure.

c. The Applicant will include wording on its menu or post signage at all exits to instruct patrons and employees that they are within a residential neighborhood and asking them upon leaving to leave quietly.

6. Deliveries. All deliveries shall be made from the First Street, NW side of the premises. In respect for its residential character, there shall be no deliveries made from the Unit block of T Street, NW. The Applicant will advise all delivery trucks that they are not to drive on the Unit block of T Street, NW while in transit to or from the premises.

7. Parking.

a. In the event that Applicant provides “take out” food service, the Applicant shall make continuing efforts to discourage double parking on the Unit block of T Street, NW and on the 1800 block of First Street., NW (i.e., between T St., NW and Seaton Pl., NW)

b. Applicant shall inform their employees they are not to park on the Unit block of T Street, NW (i.e., T Street NW between North Capitol St., NW to First St. NW). The Applicant shall post a sign near all exits or include language on its menu discouraging patrons from parking on the Unit Block of T Street, NW.

8. **Dancing, Music, and Entertainment.** Applicant shall not offer, create facilities for, or otherwise encourage dancing by patrons or employees . Entertainment shall be limited to a DJ, recorded music, or live acoustic (no amplification) music with no more than three (3) musicians. Applicant will keep all music at a level that from outside the establishment is inaudible and free of any detectible vibrations, except when doors are open for normal ingress and egress.

9. Security.

a. Applicant shall notify the DC Metropolitan Police Department of any criminal activity that he or his employees notice on the Unit Block of T Street, NW and/or on the 1800 block of First Street, NW (between T St., NW and Seaton Pl., NW).

b. The Applicant shall provide exterior lighting that serves to illuminate the establishment, its abutting sidewalks and streets, and any Sidewalk Café and/or Summer Garden that is/are part of the establishment to encourage safety in these areas. Exterior lighting shall be configured so as not to shine directly into neighboring buildings.

c. The Applicant shall make an effort to identify off-street parking for its patrons. An update on the identification of such parking shall be made to the Bloomingdale Civic Association (BCA) on a semi-annual basis until such time as documentation is provided by the Applicant that an off-street parking option has been identified for use by its patrons.

10. Rats and Vermin. Applicant shall enter into a pest control contract with a licensed pest control company containing commercially reasonable terms. Applicant shall make reasonable efforts to keep the establishment, including its sidewalk cafe and/or summer garden and on-site/off-site trash storage, rodent and pest free.

11. Participation in the Community. In order to maintain an open dialogue with the community, the Applicant is encouraged to coordinate and collaborate with the Bloomingdale Civic Association, the Metropolitan Police Department District 5D Citizens Advisory Committee, the North Capitol Main Street Program and the Neighbors of the Unit Block of T Street, NW.

12. License Transfer. In the event of a transfer of the license, Transferee shall notify Protestants within 30 days of the finalization of the transfer and/or sale of 50% or more of ownership, and/or change of management leadership.

13. Binding Effect. This Voluntary Agreement shall be binding upon and enforceable against the successors and assigns of the Applicant.

14. Notices and Enforcement Before the ABC Board. In the event of a violation of the provisions of this Voluntary Agreement, Applicant shall be notified in writing by the person alleging such violation and given an opportunity to cure such violation within thirty (30) days thereafter before action against Applicant of such violation may be undertaken, unless the violation be of such a nature that more immediate action is required, in which case the period for opportunity to cure shall be reduced to a reasonable time commensurate with the violation (such 30-day or shorter period is hereinafter referred to as the "cure period"). A material violation of this Agreement or its ABC license by Applicant that has not been cured within the cure period shall constitute cause for seeking a Show Cause Order from the ABC Board. Any notices required to be made under this Agreement shall be in writing and mailed by certified mail, return receipt requested, postage prepaid, or hand-delivered, to any and all other parties to this Agreement.

15. Notice. Notice under this Agreement shall be in writing, and may be given by mail or by hand-delivery. Mail notice shall be deemed effective as of three days after mailing and hand delivery upon actual delivery. Notices may be addressed as follow:

If to Applicant:

H &B Ventures, LLC
Attn: Larry Holden
At Premises and
Larryh70@gmail.com

With a Copy to:

Andrew J. Kline
Veritas Licensing & Legislative Affairs, LLC
1225 19th Street, NW, Suite 320
Washington, DC 20036
akline@veritaslla.com

If to Neighbors of the Unit Block of T Street, NW (a group of 5 or more residents):

Bertha G. Holliday, PhD
49 T St., NW
Washington, DC 20001
bhollidaypsy@gmail.com

And/Or to:

Zach Sherif
26 T Street, NW
Washington, DC 2001
zpny09@gmail.com

If to Lawrence Perry (an abutting neighbor):

1835 First St., NW
Washington, DC 20001
lperry1297@verizon.net

If to Victoria Rizzo (an abutting neighbor):

84 - 86 T Street, NW --2nd Floor
Washington, DC 20001
rizzova@yahoo.com

With a copy to :


Larry Holden (address noted above)
and/or Andrew Kline (address noted above).

16. 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.

17. Withdrawal of Protest. Protestants agree to the issuance of the ABC License and withdrawal of their protest, provided that the present Voluntary Agreement is incorporated into the Board's order approving the license, which is hereby conditioned upon compliance with such Voluntary Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first written above.

H & B Ventures, LLC

By: 

Larry Holden

Date Signed: Jan 10, 2013

Representatives of Neighbors of the Unit Block of T Street, NW

By: Bertha G. Holliday

Bertha G. Holliday

Date Signed: January 19, 2012

By: _____

Zach Sherif

Date Signed:

Abutting Neighbors:

Lawrence Perry

Date Signed:

Victoria Rizzo

Date Signed:

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H & B Ventures, LLC

By: _____
Larry Holden
Date Signed:
Representatives of Neighbors of the Unit Block of T Street, NW

By: _____
Bertha G. Holliday
Date Signed:

By: Zach Sherif 1/9/2013
Zach Sherif
Date Signed:

Abutting Neighbors:

Lawrence Perry
Date Signed:

Victoria Rizzo
Date Signed:

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H & B Ventures, LLC

By: _____
Larry Holden
Date Signed:
Representatives of Neighbors of the Unit Block of T Street, NW

By: _____
Bertha G. Holliday
Date Signed:

By: _____
Zach Sherif
Date Signed:

Abutting Neighbors:

Lawrence Perry
Date Signed:

Victoria A. Rizzo
Date Signed: 1/6/2013

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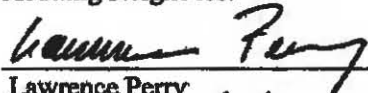
H & B Ventures, LLC

By: _____
Larry Holden
Date Signed:
Representatives of Neighbors of the Unit Block of T Street, NW

By: _____
Bertha G. Holliday
Date Signed:

By: _____
Zach Sherif
Date Signed:

Abutting Neighbors:



Lawrence Perry
Date Signed: 1/8/13

Victoria Rizzo
Date Signed:

APPENDIX A

**to Settlement Agreement
between
H&B Ventures, LLC (“Applicant”)
And**

Neighbors of the Unit Block of T St., NW, Lawrence Perry & Victoria Rizzo (“Protestants”)

Applicant acknowledges familiarity with the following provisions of District of Columbia statutes and regulations:

- 1. All licensed managers shall complete an alcohol training and education certification program conducted by an ABC-approved provider. DC Code § 25-120**
- 2. Applicant shall post notices, as required by law, that drinking alcoholic beverages during pregnancy can cause birth defects. DC Code § 25-712.**
- 3. Applicant shall post a notice concerning the minimum age required for the purchase of alcoholic beverages and the obligation of patrons to produce valid identification. DC Code § 25-713.**
- 4. Any substantial change in the nature of the operation of the business including any increase in occupancy, change in hours, or change in entertainment, shall be subject to the approval of the ABC Board, after notice, and opportunity for protest. DC Code § 25-762 and 404.**
- 5. Applicant shall keep its kitchen open until at least two hours before closing. DC Code § 25-101(43).**
- 6. Advertisements relating to the prices of alcoholic beverages shall not exceed 25% of the window space. DC Code §25-765.**
- 7. Applicant shall not sell or deliver alcohol to minors and shall take steps reasonably necessary to ascertain whether persons to whom it serves alcohol are of legal drinking age. DC Code § 25-781 and 783.**
- 8. The Voluntary Agreement shall run for the term of the license, including renewal periods, unless terminated or amended, and shall be enforceable by the Board. DC Code § 25-446.**
- 9. Any transfer of 50% or more of the legal or beneficial ownership of the business shall require ABC Board approval upon the filing of a transfer application. DC Code § 25-405.**
- 10. Applicant shall not produce sounds, noise or music that may be heard in any premises other than the licensed premises. DC Code § 25-725.**

The incorporation of the foregoing provisions as an Appendix to the Voluntary Agreement is for the purpose of assuring the Applicant is familiar with these provisions of law in the operation of its establishment. A violation of any of the foregoing may not be deemed an independent violation of the Voluntary Agreement, but may subject Applicant to sanctions and penalties as provided by the relevant statute and regulations.