

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

In the Matter of:)	
)	
Mendelsohn Hospitality Group)	
t/a Bearnaise)	
)	
Holder of a)	
Retailer's Class CR License)	License No. ABRA-089622
)	Order No. 2014-361
at premises)	
313-315 Pennsylvania Avenue, S.E.)	
Washington, D.C. 20003)	

Mendelsohn Hospitality Group, t/a Bearnaise (Licensee)

Brian Flahaven, Chairperson, Advisory Neighborhood Commission (ANC) 6B

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

ORDER ON SETTLEMENT AGREEMENT

The official records of the Alcoholic Beverage Control Board (Board) reflect that Mendelsohn Hospitality Group, t/a Bearnaise, (Licensee), and ANC 6B have entered into a Settlement Agreement (Agreement), dated October 1, 2013, that governs the operation of the Licensee's establishment.

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Licensee and Chairperson Brian Flahaven, on behalf of ANC 6B, are signatories to the Agreement.

Accordingly, it is this 1st day of October, 2014, **ORDERED** that:

1. The above-referenced Settlement Agreement submitted by the Parties to govern the operations of the Licensee's establishment is **APPROVED** and **INCORPORATED** as part of this Order, except for the following modification:

Section 5 (Noise, Odor, and Privacy) – The following language shall be modified to read as follows: “No objectionable noises, sounds, odors or other conditions will be created by the Applicant. 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, except as otherwise provided in Section 25-725, audible in any other premises. Applicant agrees to keep its doors closed when music is being played at the establishment. Applicant may open its window panels and music may be played at a level not audible beyond the street curbside.”

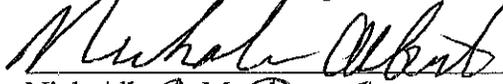
The parties have agreed to this modification.

2. Copies of this Order shall be sent to the Licensee and ANC 6B.

District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



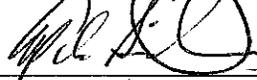
Nick Alberti, Member



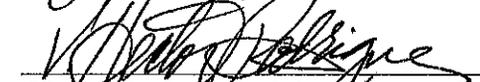
Donald Brooks, Member



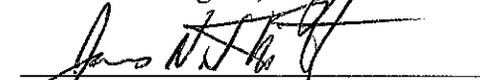
Herman Jones, Member



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, 500 Indiana Avenue, N.W., Washington, D.C. 20001. However, the timely filing of a Motion for Reconsideration pursuant to D.C. Official Code § 25-433, 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).

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made on this ~~September~~ ^{October} 1st day of 2013 by and between **Bearnaise** ("Applicant"), and **Advisory Neighborhood Commission 6B**, (collectively, the "Parties").

WITNESSETH

WHEREAS, Applicant's application for a license for premises, 313-315 Pennsylvania Avenue SE, Washington, DC, 20003, is now pending before the District of Columbia Alcoholic Beverage Control Board (ABC); and,

WHEREAS, the premises is within the boundaries of the ANC, and,

WHEREAS, the Parties desire to enter into an agreement governing certain understandings regarding the issue of a Retailers' Class "C" Restaurant Liquor License at the subject premises; 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 promote the peace, order and quiet of the neighborhood. Both parties recognize the importance of business neighborhoods that are safe, clean, and "pedestrian friendly".

NOW, THEREFORE, 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 shall manage and operate at the address a place that is regularly used for the sale and service of prepared food and alcoholic beverages. The license shall have limited indoor seating of 150 patrons and outside seating of 54 patrons.
3. ***Hours of Operation and Sales.*** The Applicant's hours of operation shall be as follows:
 - Inside Services
 - Sunday 11:00 AM – 12:00 AM
 - Monday through Thursday 11:00 AM to 2:00 AM
 - Friday and Saturday 11:00 AM to 3:00 AM
 - Outside Services
 - Saturday and Sunday 9:00 AM to 10:00 PM
 - Monday through Friday 11:00 AM to 10:00 PM

4. ***Floors Utilized and Occupancy.*** The Applicant will operate its establishment according to the occupancy indicated on the Certificate of Occupancy issued by the Department of Consumer and Regulatory Affairs.
5. ***Noise, Odor, and Privacy.*** No objectionable noises, sounds, odors, or other conditions will be created by the Applicant. 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 outside the establishment at any time. Applicant agrees to keep its doors and windows closed when music is being played at the establishment. However, it is understood by the parties that Applicant may open its window panels, and that music may be played at such times at a level not audible beyond the street curbside. If necessary, Applicant will take reasonable steps to reduce noise emanating from the Establishment from the opening of the entry or exit doors. The applicant will take all reasonable steps necessary to mitigate noise emanating from mechanical equipment associated with the applicant's operations (e.g., air conditioning unit, grease fan) -- including installing sound-mitigating insulating material around the equipment, if necessary -- to comply with D.C. regulations, prevent an increase in existing sound level conditions of the site, and abate noises objectionable to the residential neighbors..
6. ***Public Space and Trash.***
 - a. Applicant shall keep their entire property and 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.
 - b. 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 that no garbage is placed on the abutting property. Applicant shall ensure that no trash is placed outside the establishment other than in a fully-closed dumpster. Applicant shall ensure that the lids on all dumpsters are fully closed at all times. Applicant shall not place trash in its dumpster in any manner that would prevent the full closure of the dumpster. Applicant shall ensure that all dumpsters used are properly maintained and replaced when damaged.
 - c. Applicant shall ensure that all grease is placed in a secure well-maintained container inside the property where possible. Any grease leak shall be cleaned up promptly and all containers shall be properly maintained and replaced when damaged or leaking.
 - d. Applicant will ensure timely trash disposal that is the least disruptive to the neighbors. To that end, no glass shall be recycled or otherwise disposed after 10 p.m. or before 7 a.m. Any glass material needing to be recycled or otherwise disposed between 10 p.m and 7 a.m. shall be stored inside the Applicant's establishment until 7 a.m.

e. Commercial trash pick up in residential areas takes place between 7 a.m.-7 p.m. Applicant shall not allow for its trash to be picked up outside of those hours.

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 the Board. Applicant shall have the Establishment and the area around the Premises properly cleaned at the end of each night to ensure that there are no garbage and odors present.

8. **Security Cooperation in Stemming Loitering, Illegal Drugs and Public Drinking.** Applicant shall to the full extent permissible by law discourage loitering in the vicinity of the Premises. Applicant agrees to provide adequate security and to control unruly patrons, whether inside or in the immediate outside area. Applicant agrees to monitor for and prohibit sales or use of illegal drugs within or about the Premises and maintain contact and cooperate with MPD and other enforcement officials when known or suspected drug activities occur.

9. **Compliance with ABRA Regulations.** Applicant promises 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.

IN WITNESS WHEREOF, the parties have affixed hereunto their signatures.

Applicant: Bearnaise
ABRA-089622
313-315 Pennsylvania Avenue SE
Washington, DC 20003
Name
Position
Phone number

 M. Mandelsohn, owner

Date: 9 / 6 / 13

Advisory Neighborhood Commission 6B
Washington, DC 20003
Brian Flahaven, Chairperson
(202) 543-3344
Fax (202) 543-3507



Date: 10/1/13