

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

In the Matter of:)

Golden Eagle, Inc.)
t/a La Forchetta)

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

at premises)
3201 New Mexico Avenue, N.W.)
Washington, D.C. 20016)

Case No. 11-PRO-00045
License No. ABRA-087728
Order No. 2012-101

Golden Eagle, Inc., t/a La Forchetta (Applicant)

Thomas M. Smith, Chairperson, Advisory Neighborhood Commission (ANC) 3D
(Protestant)

Michael Muzzchi and Jeffrey L. Kraskin, Vice Presidents, Spring Valley-Wesley Heights
Citizen Association (SVWHCA) (Protestant)

John Griffith Johnson Jr., Contact Person for A Group of Five or More Individuals
(Protestant) (Not a Party to the Voluntary Agreement)

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member
Jeannette Mobley, Member

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

The Application filed by Golden Eagle, Inc., t/a La Forchetta (the Application was originally filed as "t/a Al Forno Pizzeria and Trattoria"), 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 17, 2011, and a Protest Status Hearing on November 30, 2011, in accordance with D.C. Official Code § 25-601 (2001).

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The official records of the Board reflect that the Applicant, ANC 3D, and SVWHCA have entered into a Voluntary Agreement (Agreement), dated December 15, 2011, 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; Chairperson Thomas M. Smith, on behalf of ANC 3D; and Jeffrey L. Kraskin, on behalf of SVWHCA, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protests filed by ANC 3D and SVWHCA.

On December 30, 2011, John Griffith Johnson Jr., Contact Person for the Group of Five or More Individuals, submitted correspondence indicating that the Group of Five or More Individuals conditionally withdraw their protests upon Board approval of the Voluntary Agreement, dated December 15, 2011, without material modifications. The Board notes that the Group of Five or More Individuals are not parties to this Voluntary Agreement, but were granted standing as Protestants.

Accordingly, it is this 26th day of March, 2012, **ORDERED** that:

1. The Application filed by Golden Eagle, Inc., t/a La Forchetta, for a new Retailer's Class CR License, located at 3201 New Mexico Avenue, N.W., Washington, D.C., is **GRANTED**;
2. The Protests of ANC 3D, SVWHCA, and the Group of Five or More Individuals in this matter are hereby **WITHDRAWN**;
3. The above-referenced Voluntary Agreement submitted by the parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED**, except for the following modifications:

Section 2 (Nature of the Business):

- The following sentence shall be modified to read as follows:
"Seating will remain substantially the same manner as the seating plan attached to this agreement as Agreement A."

- The following language shall be removed:

“Applicant agrees to provide a revised diagram to ANC 3D and SVWHCA prior to making any substantial changes in the layout.”

“Any request to the ABC Board for approval of deviation from the foregoing restrictions will require 60 days advance notice to ANC 3D and the SVWHCA.”

- The subsections b, c, e, and g shall be removed.

Section 4 (Summer Garden) – The following language shall be removed:
“Applicant will not apply to the ABC Board for expansion or relocation of the summer garden without affording ANC 3D and the SVWHCA a minimum of 60 days advance notice of its intention to do so.”

Section 10 (Rat and Vermin Control) – The following sentence shall be modified to read as follows: “Applicant shall provide rat and vermin control for its property and shall provide proof of its rat and vermin control contract upon the request of the Board.”

Section 11 (License Ownership and Compliance with ABRA Regulations) – The following language shall be removed: “Applicant also specifically agrees to be the sole owner of the ABC license.”

ANC 3D agrees to these modifications.

The SVWHCA agrees to these modifications and does not desire to proceed to a Protest Hearing. However, the SVWHCA does not waive its right to appeal this matter to the D.C. Court of Appeals regarding these modifications.

The Group of Five or More Individual Protestants deem the Board's modifications to the Voluntary Agreement to be material, and the condition to those Individual Protestants' earlier withdrawals of their protests is deemed to have failed, but they have elected by inaction to waive such failure.

4. Copies of this Order shall be sent to the Applicant, ANC 3D, SVWHCA, and John Griffith Johnson Jr., Contact Person for the Group of Five or More Individuals.

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District of Columbia
Alcoholic Beverage Control Board

Ruthanne Miller, Chairperson

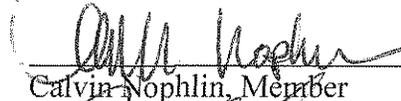


Nick Alberti, Member



Donald Brooks, Member

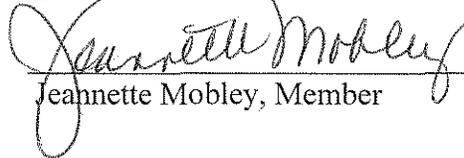
Herman Jones, Member



Calvin Nophlin, Member



Mike Silverstein, Member



Jeannette Mobley, 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.

VOLUNTARY AGREEMENT

THIS VOLUNTARY AGREEMENT ("Agreement") is made on this 15th day of December, 2011 by and among Golden Eagle, Inc., t/a Al Forno ("Applicant"), Advisory Neighborhood Commission ("ANC 3D"), and the Spring Valley-Wesley Heights Citizens Association ("SVWHCA")(collectively, the "Parties").

WITNESSETH

WHEREAS, Applicant has applied for an Alcoholic Beverage Control (ABC) Class CR license for a business establishment ("Establishment") located at 3201 New Mexico Avenue, NW, Washington, DC ("Premises"); and,

WHEREAS, the Parties are desirous of entering into a Voluntary Agreement pursuant to DC Official Code §25-446 for the operation and maintenance of the Establishment in such a manner as to minimize the effect of the Establishment on (i) the peace, order and quiet of the neighborhood and (ii) pedestrian safety and vehicular traffic; and

WHEREAS, any change in this Agreement shall be considered by the Parties as a substantial change in operation of great concern to residents and shall require prior approval by the Alcoholic Beverage Regulatory Administration ("ABRA");

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 shall manage and operate a 116 seat, family oriented neighborhood serving restaurant with an emphasis on food. No more than 12 of those seats will be at a "bar" (over which a bartender may serve patrons) consistent with the diagram of the serving area provided to ANC 3D and attached to this agreement as Attachment A. The balance of Applicant's seats will be served by waiters or waitresses. Seating will remain substantially the same manner as the seating plan provided to ANC 3D and attached to this agreement as Agreement A. Applicant agrees to provide a revised diagram to ANC 3D and SVWHCA prior to making any substantial changes in the layout. No entertainment other than recorded background music will be presented. No delivery service will be conducted (although Applicant may accommodate "take out" requests). Patrons arriving to pick up a "take-out" order, the first 15 minutes of parking on the exterior deck in the rear of the building will be free with signage to that effect. In order to discourage casual consumption of alcohol, Applicant will not:
 - a. Serve beer by the pitcher;

- b. Serve pizza by the slice;
- c. Accept "Eagle Bucks" student debit cards;
- d. Conduct any form of "drinking games;"
- e. Distribute handbills or other forms of flyers on the American University campus and other forms of outdoor advertising directed specifically to AU students;
- f. Offer any flat-fee, all-you-can-drink promotions or other drink discounts except for "Happy Hour" offers available only before 7 PM which shall be limited to the bar area inside the restaurant unless patrons are also being served food.
- g. Conduct any kind of gaming or other forms of gambling at the Establishment.

Any request to the ABC Board for approval of deviation from the foregoing restrictions will require 60 days advance notice to ANC 3D and the SVWHCA.

3. ***Hours of Operation and Sales.*** The Applicant's hours of operation and for consumption of alcoholic beverages shall be as follows:

Sunday – Saturday 11:30 a.m. – 12:00 a.m.

It is understood that no patrons shall remain on the Premises after 12:00 a.m.

4. ***Summer Garden.*** Applicant shall operate a 30 seat seasonal summer garden on private property immediately adjacent to the front windows of the Premises. All summer garden seating shall be at tables – there shall be no bar set up on the summer garden. The borders of the summer garden seating area shall be indicated by clearly visible markers. Applicant will not apply to the ABC Board for expansion or relocation of the summer garden without affording ANC 3D and the SVWHCA a minimum of 60 days advance notice of its intention to do so. Applicant will not present any form of entertainment on its summer garden. No music will be played outdoors. No music should be audible beyond the barriers of the Establishment's outdoor seating after 9 PM.
5. ***Parking for Customers and Employees.*** It is a principal concern of ANC 3D and SVWHCA that the Applicant's operation of Al Forno does not create or exacerbate parking problems within the immediate ANC boundaries. To that end, the Applicant shall ensure that its management and employees park legally at all times, and take all reasonable measures to cause its vendors to park legally at all times, all in compliance with the posted parking regulations of the District of Columbia. Pursuant to its lease for the Premises, Applicant's customers and employees may park on the exterior deck to the rear of Sutton Place. Parking is free with validation stickers on Saturdays and Sundays and after 6:00 p.m. on Mondays- Fridays. During the hours of 11:00 a.m. to 6:00 p.m. Mondays- Fridays, customers and employees with validation stickers are charged fifty

percent (50%) of prevailing parking rates. Applicant shall provide validation stickers to its customers and employees at Applicant's sole cost and expense.

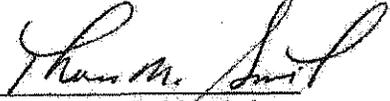
6. **Noise and Privacy.** The Applicant commits to maintaining neighbor-friendly noise levels inside and outside and will provide its managers and wait staff with strategies for noise control and instruct them to deal promptly with any and all instances of excessive noise.
 - a. Excessive noise is defined as noise that causes neighbors to complain because it is disrupting the peace and quiet inside their homes, or noise that any reasonable person would recognize as not neighbor-friendly, including noise caused by moving outdoor furniture.
 - b. The Applicant further agrees to use additional staff and/or security personnel to help control noise levels, and when appropriate, to caution patrons to be respectful of the neighborhood when exiting the Establishment.
 - c. The Applicant further agrees not to place any speakers or other sound-transmitting equipment in its summer garden and will not add any speakers or amplification equipment at any location outside the restaurant.
 - d. If necessary, Applicant shall take reasonable steps to reduce noise emanating from the opening of the entry or exit doors.
 - e. Applicant shall strictly comply with D.C. Official Code §25-725
 - f. Applicant shall to the full extent permissible by law discourage loitering in the vicinity of the Premises.
 - g. Indoor music shall be background-level only and low enough in volume to permit normal conversation.
 - h. The doors to and from the indoor restaurant to the outdoor Summer Garden will remain closed at all times, except to permit ingress and egress.
7. Applicant shall not cede control of the Premises to any promoter or other third party and there shall be no cover charges imposed to enter the Establishment.
8. **Public Space and Trash.** Applicant shall keep the Sutton Place terrace adjacent to the Premises 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. Applicant shall regularly monitor conditions in the Summer Garden to keep the area free of litter.
9. **Trash Pickup/Deliveries.** All trash/garbage pick-ups and vendor deliveries shall be made between 8:00 a.m. and 6:00 p.m., Monday thru Friday, and 9:00 a.m. and 6:00 p.m. on Saturdays. No trash/garbage pick-up or vendor deliveries will be permitted on Sundays.
10. **Rats and Vermin Control.** Applicant shall keep those areas adjacent to the trash dumpster and rear access areas reasonably clean and free of garbage, grease, objectionable odors, and litter. Applicant shall provide rat and vermin control for its property and shall provide proof of its rat and vermin control contract upon the

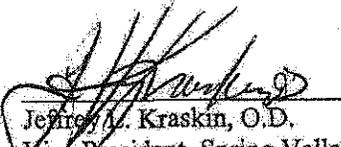
request of ANC 3D or SVWHCA. Applicant shall ensure that there are not odors from the trash dumpster.

11. ***License Ownership and Compliance with ABRA Regulations.*** Applicant promises to ANC 3D and SVWHCA 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 ANC 3D and SVWHCA shall have standing to ask the ABC Board to enforce any violations of this Agreement. Applicant acknowledges that failure to adhere to the foregoing commitments will constitute grounds for ANC 3D and SVWHCA to petition the ABC Board for issuance of an Order to Show Cause, pursuant to DC Code §25-447 (2001), to gain Applicant's compliance with the terms of this Agreement and ABRA regulations. Applicant also specifically agrees to be the sole owner of the ABC license.
12. ***Notice and Opportunity to Cure.*** The Parties to this Agreement agree to work together to resolve matters of community concern relating to the Establishment. To this end, the Parties agree that each will notify the other as soon as reasonably possible of any complaint about the establishment and attempt a cooperative resolution of such complaint as the first recourse. Unless a breach of this Agreement is of an emergency nature, the Party in breach shall provide for a cure within 30 days of the notice of such breach. If Applicant 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), such failure shall constitute a cause for seeking a Show Cause Order from the ABC Board pursuant to DC Official Code §25-447. Notices required to be made under this Agreement shall be in writing and mailed to the addresses identified in this Agreement via certified mail, return receipt requested, postage prepaid, or hand-delivered, to other Parties to this agreement. Notice shall be deemed given as of the time of receipt or refusal of receipt. Notwithstanding the foregoing, nothing herein shall preclude the ANC or the SVWHCA from contacting an ABRA enforcement official or the District of Columbia police to promptly report a complaint concerning the establishment.
13. This Voluntary Agreement shall be considered part of the Applicant's license and must be assigned to and assumed by any successor to the Applicant. Upon approval of this Agreement by the ABC Board, the protests of the ANC and the SVWHCA shall be deemed withdrawn.

[Signatures on Next Page]

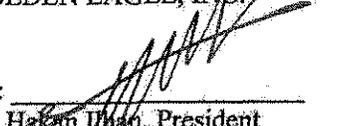
ADVISORY NEIGHBORHOOD COMMISSION 3D:

By: 
Thomas M. Smith, Chair
Advisory Neighborhood Commission 3D
P.O. Box 40486
Palisades Station
Washington, D.C. 20016


Jeffrey L. Kraskin, O.D.
Vice President, Spring Valley-Wesley Heights Citizens Assn.
4600 Massachusetts Avenue NW
Washington, D.C. 20016

APPLICANT:

GOLDEN EAGLE, INC. 

By: 
Hakim Ihan, President
c/o Golden Eagle, Inc. t/a Al Forno
3201 New Mexico Avenue, NW
Washington, D.C. 200126