

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

_____)	
In the Matter of:)	
)	
Bakhtar Group, LLC)	
t/a Malmaison)	
)	
Applicant for a New)	Case No. 10-PRO-00132
Retailer's Class CR License)	License No. ABRA-085367
)	Order No. 2012-002
at premises)	
3401 K Street, N.W.)	
Washington, D.C. 20007)	
_____)	

Bakhtar Group, LLC, t/a Malmaison (Applicant)

Ron Lewis, Chairperson, Advisory Neighborhood Commission (ANC) 2E (Protestant)

Bill Starrels, on behalf of Citizens Association of Georgetown (CAG) (Protestant)

Gary A. Langbaum, on behalf of A Group of Five or More Individuals (Protestant)

BEFORE: Nick Alberti, Interim Chairperson
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

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

The Application filed by Bakhtar Group, LLC, t/a Malmaison (Applicant), 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 21, 2010 and a Protest Status Hearing on December 1, 2010, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant, ANC 2E, CAG, and A Group of Five or More Individuals have entered into a Voluntary Agreement (Agreement),

Bakhtar Group, LLC
t/a Malmaison
Case No. 10-PRO-00132
License No. ABRA-085367
Page 2

dated September 27, 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 Ron Lewis, on behalf of ANC 2E; Bill Starrels, on behalf of CAG; and Gary A. Langbaum, on behalf of the Group of Five or More Individuals, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protests filed by ANC 2E, CAG, and A Group of Five or More Individuals of this Application.

Accordingly, it is this 11th day of January 2012, **ORDERED** that:

1. The Application filed by Bakhtar Group, LLC, t/a Malmaison, for a new Retailer's Class CR License, located at 3401 K Street, N.W., Washington, D.C., is **GRANTED**;
2. The Protests of ANC 2E, CAG, and the Group of Five or More Individuals in this matter are hereby **WITHDRAWN**;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 modification:

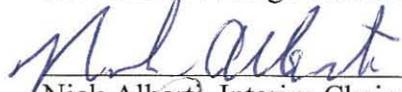
Section 8 – The first sentence in Section 8 shall be removed.

The parties have agreed to this modification.

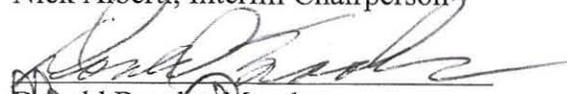
4. Copies of this Order shall be sent to the Applicant, ANC 2E, CAG, and Gary A. Langbaum, on behalf of A Group of Five or More Individuals.

Bakhtar Group, LLC
t/a Malmaison
Case No. 10-PRO-00132
License No. ABRA-085367
Page 3

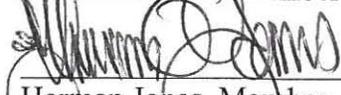
District of Columbia
Alcoholic Beverage Control Board



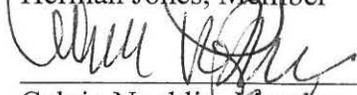
Nick Alberti, Interim Chairperson



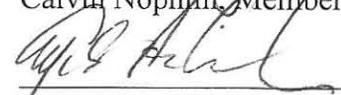
Donald Brooks, Member



Herman Jones, Member



Calvin Nophlin, Member



Mike Silverstein, 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.

LAW OFFICES
MALLIOS & O'BRIEN
Suite 1112
2600 VIRGINIA AVENUE, N.W.
WASHINGTON, D.C. 20037

(202) 625-7700

DIMITRI P. MALLIOS (1932-2009)
STEPHEN J. O'BRIEN*
STUART J. LONG
MICHAEL D. FONSECA

*Also Admitted in Virginia

FACSIMILE
(202) 625-7706

September 29, 2011

District of Columbia
Alcoholic Beverage Control Board
2000 14th Street, NW
400 South
Washington, D.C. 20009

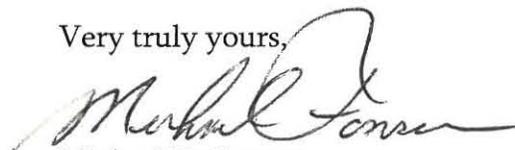
Re: ABRA-085367/10-PRO-00132
Bakhtar Group, LLC
t/a Malmaison
3401 K Street, NW
Retailer's Class CR

Dear Members of the Board:

We are pleased indeed to submit herewith the Voluntary Agreement entered into between the applicant, ANC 2E, the Citizens Association of Georgetown and certain resident of 3301 Water Street Condominium.

We request hereby the Board's earliest review, approval and entry of an Order incorporating this agreement and granting the license application.

Very truly yours,



Michael D. Fonseca

Copy: Bill Starrels ANC 2E
Karen Cruse, CAG

VOLUNTARY AGREEMENT

THIS AGREEMENT is made and entered into as of this 27 day of September, 2011 by and between Bakhtar LLC, t/a Malmaison (hereinafter the "Applicant") and Advisory Neighborhood Commission 2E, the Citizens Association of Georgetown and the undersigned residents of the 3303 Water Street Condominium (hereinafter together "Protestants").

WHEREAS, Applicant having filed an application with the District of Columbia Alcoholic Beverage Control Board (hereinafter "ABC Board") for issuance of a Retailer's Class CR license for premises of 3401 K Street, N.W., Washington, D.C.

WHEREAS, in recognition of the ABC Board's policy of encouraging parties to a protested proceeding to settle their differences by negotiating agreements, the parties hereto being desirous of entering into an agreement whereby, subject to approval of the ABC Board, Applicant will agree to adopt certain measures to address the Protestant's concerns and Protestant will agree to the issuance of the ABC License and withdraws the Protest.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings memorialized herein, the parties agree as follows:

1. **Nature of Business:** Applicant will operate at all times as a bona-fide Class CR Restaurant (as such term is defined in ABC statutes and regulations). Food service will be available until one (1) hour before closing, and "last call" for alcoholic beverages shall be announced one-half (1/2) hour before closing. Applicant shall not advertise or offer "happy hour," discount drink or "all you can drink promotions." Applicant will not make its premises available to non-employee promoters for presentation of advertised "parties" or "events" intended to generate profit for such promoters. However, such latter restriction shall not preclude Applicant from closing its premises to the general public for time to time in order to accommodate invitation only private functions.
2. **Hours of Operation:** Applicant's closing hours shall be:
 - a. Sunday – Wednesday: 12:00am
 - b. Thursday: 2:00am
 - c. Friday-Saturday: 3:00am

Provided that: (a) on days designated by the DC ABC Board as "Extended Hours for ABC Establishments" applicant may operate for one additional hour (that is, one hour later in the morning); (b) in the event the Council of the District of Columbia or the ABC Board grants licensees in general extended operating hours (such as for Inauguration) applicant may avail itself of such extended hours; and (c) on January 1 of each year applicant may operate until 4:00a.m..

Consistent with Alcoholic Beverage Control Board interpretations, "closing hours" shall be construed as the hours at which no patrons shall remain on the premises

- 3. Noise Suppression:** Commercially-reasonable sound attenuation methods will be utilized in the renovation of the premises so as to impede the projection of sound to the public streets or nearby premises. The Restaurant's operation shall at all times be in compliance with the D.C. Noise Control Act and DC Code 25-725. Applicant will encourage employees and patrons to be considerate of residents in the neighborhood after departing the building, by keeping conversations and other noises at a level that will not disturb the peace, order, quiet and tranquility of residents in the enjoyment of their homes and by departing the vicinity of the premises immediately upon exiting. Applicant shall install a "double door" vestibule, in order that projection of interior sound be minimized upon patron entry and exit.
- 4. Public Safety:** , Applicant shall contract for the presence of a minimum of one (1) Metropolitan Police Department police officer to patrol and maintain peace, quiet and order in the "immediate environs" of its premises on Friday and Saturday evenings (into Saturday and Sunday mornings), during minimum hours of 12:00am to 4:00am. For purposes of this Section 4, "immediate environs" shall be deemed to include the 3300 and 3400 blocks of Water (K) Street, NW and the 1000 block of 34th Street NW between Water (K) Street and the C&O Canal. .
- 5. Deliveries:** To maintain the peace, order and quiet of the surrounding neighborhood, Applicant shall receive all deliveries of food, beverages and supplies during hours between 9:00 am and 5:00 pm Mondays - Saturdays. No deliveries shall be accepted on Sundays.
- 6. Trash Pick-Up and Removal:** Applicant will maintain regular trash/garbage removal service, a minimum of 5 times per week (days to be decided by owner and business necessity) only during the hours from 9:00 am to 5:00 pm. Mondays – Saturdays. No trash or garbage shall be picked up on Sundays. All trash and garbage shall be stored in the interior of the premises until it is to be picked up by Applicant's hauler. Trash and dumpster areas shall be kept clean. The Applicant shall enclose the dumpsters and keep dumpster lids tightly closed and incapable of being entered by rodents, in order to limit odors and help control pest and rodent population. Applicant will contract for regular rodent and pest (insect) abatement. There shall be no outdoor disposal of glass bottles after 9:00pm.
- 6. Removal of Grease and Oils:** Applicant will provide for the proper (recyclable) removal of grease and oils and will not deposit these substances for removal in dumpsters or trash cans.
- 7. Ingress and Egress:** No patron shall be allowed to ingress or egress at any location except at the designated building's front entrance (except in case of an emergency).
- 8. Communication with Protestant.** Applicant agrees to meet, as reasonably requested (but not less than every 3 months), with the Protestants (or any of them) to address any perceived problems arising from the operation of the business. The Applicant agrees to work in good faith with the Protestants to resolve any such problems.

9. **Withdrawal of Protest.** Protestants agree to the issuance of the license and the withdrawal of their protests upon execution of this Agreement, provided that this Voluntary Agreement is incorporated into the Board's order issuing, amending or renewing the license, which order is thereby conditioned upon compliance with such Voluntary Agreement.

10. **Right to Seek Redress:** The parties agree that Applicant will be given notice of any alleged violation of this Agreement and will be afforded reasonable time to investigate and respond to any complaint (not greater than ten (10) days). The parties agree that if any complaints of violation this Agreement are not resolved, then any failure of the Applicant to adhere to the foregoing commitments will constitute a breach of this agreement and grounds for the Protestant to petition the Board for issuance of an order to Show Cause, as provided by D.C. Code 25-446(e).

IN WITNESS WHEREOF, the Parties place their signatures to this agreement, this 27 day of September, 2011.

APPLICANT:
BAKHTAR, LLC

By: Omar Popal

ADVISORY NEIGHBORHOOD COMMISSION 2E

By:

GARY A. LANGBAUM, on
behalf of protesting residents of
3303 Water Street Condominium

THE CITIZENS ASSOCIATION OF GEORGETOWN

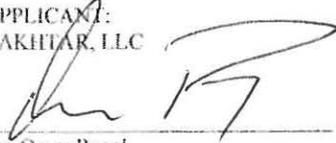
By:

9. **Withdrawal of Protest.** Protestants agree to the issuance of the license and the withdrawal of their protests upon execution of this Agreement, provided that this Voluntary Agreement is incorporated into the Board's order issuing, amending or renewing the license, which order is thereby conditioned upon compliance with such Voluntary Agreement.

10. **Right to Seek Redress:** The parties agree that Applicant will be given notice of any alleged violation of this Agreement and will be afforded reasonable time to investigate and respond to any complaint (not greater than ten (10) days). The parties agree that if any complaints of violation this Agreement are not resolved, then any failure of the Applicant to adhere to the foregoing commitments will constitute a breach of this agreement and grounds for the Protestant to petition the Board for issuance of an order to Show Cause, as provided by D.C. Code 25-446(e).

IN WITNESS WHEREOF, the Parties place their signatures to this agreement, this 29 day of September, 2011.

APPLICANT:
BAKHAR, LLC


By: Omar Popal

ADVISORY NEIGHBORHOOD COMMISSION 2E

By:


GARY A. LANGBAUM, on
behalf of protesting residents of
3303 Water Street Condominium

THE CITIZENS ASSOCIATION OF GEORGETOWN

By: