

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

_____)	
In the Matter of:)	
Iron Horse, LLC,)	License Number: 81525
t/a Iron Horse)	ORDER NUMBER: 2009-196
Application for a New)	
Retailer's Class CT License)	
at premises)	
507 7 th Street, N.W.)	
Washington, D.C. 20004)	
_____)	

Iron Horse, LLC, t/a Iron Horse, Applicant

Donald Walker, on behalf of the Unit Owners' Association of the Residences at Terrell Place

BEFORE: Peter B. Feather, Chairperson
Mital M. Gandhi, Member
Nick Alberti, Member
Charles Brodsky, Member
Donald Brooks, Member
Herman Jones, Member

ORDER ON VOLUNTARY AGREEMENT¹

The official records of the Alcoholic Control Board (Board) reflect that Iron Horse, LLC, t/a Iron Horse ("Applicant"), filed an application for a New Retailer's Class CT License located at 507 7th Street, N.W., Washington D.C., and the Unit Owners Association of the Residences at Terrell Place ("UOA") (collectively, the "Parties"), have entered into a Voluntary Agreement ("Agreement") dated July 21, 2009, setting forth the terms and conditions that govern 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 the UOA are signatories to the Agreement.

¹ The Board notes that the Unit Owners' Association of the Residences at Terrell Place initially filed a Protest of this Application; however, they were dismissed for want of standing. They filed a Motion to Reinstate the Protest, which was pending before the Board, but the instant Voluntary Agreement renders that Motion moot.

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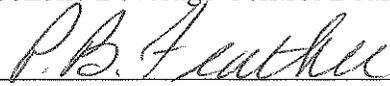
Accordingly, it is this 29th day of July 2009, **ORDERED** that:

1. The Application filed by Iron Horse, LLC, t/a Iron Horse, for a new Retailer's Class CT license located at 507 7th Street, N.W., Washington, D.C., is **GRANTED**

2. This above-referenced Voluntary Agreement submitted by the Parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order; and

2. Copies of this Order shall be sent to the Applicant and to the UOA.

District of Columbia
Alcoholic Beverage Control Board


Peter B. Feather, Chairperson

Mital M. Gandhi, Member


Nick Alberti, Member

Charles Brodsky, Member


Donald Brooks, Member

Herman Jones, 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.

AGREEMENT

Made this 21st day of July, 2009, by and between Iron Horse LLC ("Applicant") and Unit Owners' Association ("UOA") of The Residences at Terrell Place, a Condominium.

WITNESSETH

WHEREAS, pending before the District of Columbia Alcoholic Beverage Control Board ("ABCB") is an application for the issuance of a Retailer's Class "CT" license to applicant for premises at 507 7th Street, N.W.; and,

WHEREAS, the UOA's Board has voted to seek an agreement with Applicant commemorating certain understandings regarding Applicant's operation of the establishment;

NOW, THEREFORE, in consideration of the premises above recited, and the covenants and promises set forth below, the parties agree as follows:

1. Occupancy: Total occupancy of the premises shall not exceed the limit set by the fire department. For each floor, the Applicant will enforce the capacity limit set by the fire department for that floor, and to the extent possible within those limits, will encourage customers to migrate to the lower floor.
2. No Sidewalk Seating: Applicant will not apply for approval by the District of Columbia government to provide sidewalk cafe seating for service of food and alcoholic beverages.
3. Noise Abatement: Applicant recognizes that noise emanating from the establishment is of paramount importance to the UOA. Accordingly, Applicant agrees to the following:
 - a. Applicant will not offer live entertainment or a live disc jockey. The only musical entertainment offered by Applicant will be juke boxes. Noise attributed to juke boxes shall not exceed the restrictions provided by the District of Columbia Noise Control Regulations, and shall not be audible in the residential area. High power speakers will not be used and speakers that are used will produce no sound that will propagate into any portion of the residential area of the building. Low frequency sound from speakers is of particular concern as these low frequency sounds can more easily propagate through the residential areas. Applicant will work with the UOA during the construction phase to determine the placement and volume for the speakers/jukebox to eliminate any noise or vibration propagating into the residential

area. This work, at Applicant's expense, will include (1) filling all holes in the floor slabs and gaps around pipes in the floor slab with foam filler and (2) any other insulation necessary to eliminate noise or vibration in the residential area. If, despite the initial work, there is still noise and/or vibration, Applicant will undertake additional measures to eliminate noise or vibration in the residential area.

- b. Construction for Sound Insulation: The Applicant agrees to build out the premises by:
 - i. Layering the concrete with sound insulation, such as sound-deadening sheetrock and "Z Board" with a low sound transmission co-efficient (STC);
 - ii. Wrapping, coating and sealing all penetrations of the concrete in a manner that eliminates noise transmission;
 - iii. Hiring a sound engineer who will be available to meet with UOA members and explain to them how the construction will achieve a low STC; and
 - iv. Adding two sound-reducing vestibules inside the door into the trash room of the residences and the door into the basement corridor of the residences.
 - c. Any construction that creates noise audible in the residential area shall be conducted between the hours of 8:00 a.m. and 6:00 p.m., unless permission to work outside those hours is obtained from the Board of the UOA.
4. No Dance Area: Applicant will not provide a dance area nor allow patrons to move furniture to create a dance area, and will in fact discourage all dancing.
 5. No Public Hall License or Cover Charges: Applicant will not apply for a public hall license and will not solicit a cover charge for admission to the establishment.
 6. Customer Lines and Parking: Applicant will make every effort, consistent with maintaining the desired ambiance and atmosphere within the premises, to encourage patrons to exit and/or wait in line quietly and to conduct themselves in a peaceful manner outside the premises. Applicant will discourage illegal parking by patrons or employees in the alley behind 507 7th Street, N.W.
 7. Signage: Signage that is visible from the sidewalk and street areas will be congruent with the historical building façade and will not use lights that are visible from within the residential units. Applicant will present all

proposed signage and exterior façade treatment to the UOA for comment prior to any construction or posting. Applicant will extinguish all exterior lights at time of closing.

8. Trash Management and Removal: Applicant recognizes that trash management is of great concern to the UOA. Accordingly, Applicant agrees to develop a trash program in concert with the UOA that is functional for the Residences of Terrell Place and for the business. The Applicant specifically agrees to the following:
 - a. Trash Management: Applicant will provide trash/garbage receptacle(s) to be located outside of the building in the alley on the east side of the building. The trash receptacle(s) will not be filled to overflowing. The ground area around the trash receptacle(s) will be kept clear of all trash. All trash receptacle(s) will be covered and all access doors closed to prevent the attraction of rodents. Applicant will carefully instruct and supervise its employees to ensure proper storage and removal of all trash to secure the receptacles against vermin and other vectors. The receptacle(s) will not be emptied prior to 8:00 a.m. on any day of the week, and Applicant's contract with its trash hauler will so stipulate. The Applicant will transport all trash/garbage from their premises to the alley way trash receptacles via the exterior sidewalk route (i.e. exiting via the Iron Horse front door and traveling around the building via the sidewalks to the alley way.)

In the event that, despite Applicant's best efforts, the trash management program results in health or employee safety concerns or other similar problems Applicant and the UOA agree to meet and discuss a new trash management program.
 - b. Trash Coordination: Applicant will make its best effort to coordinate with the other commercial users of the alley to consolidate trash containers and trash pickup schedules so that the trash issues are minimized as much as possible.
9. Deliveries: Deliveries will be made during normal business hours, through the front door.
10. Sidewalk Maintenance: Snow and trash will be promptly removed from the sidewalk in front of Applicant's premises.
11. Security: Basement door from Applicant's lower level shall be alarmed and secured with a crash bar by Applicant. Applicant agrees that this exit will only be used by Applicant's patrons or employees in an emergency situation. Applicant further agrees to install cameras and other security

mechanisms to ensure that neither its patrons nor employees enter the stairwells of the residences.

12. No Smoking: No smoking will be allowed anywhere in Applicant's premises.
13. Infrastructure Access: Access to the building infrastructure (e.g., plumbing, electrical runs, building utilities, meters and valves, fire protection system, etc.) will be provided by the Applicant whenever necessary for the UOA or its representatives to conduct building maintenance and to have access to its gas meter.
14. Cost of Building Modification: The cost of modifying the building infrastructure associated with improvements to the Applicant's space will be borne by Applicant. For example, if, as a result of the Applicant's building improvements, the fire protection system needs to be expanded, Applicant will pay the entire expense to modify and test the system including any costs associated with upgrading the system for residential portions of the building that may be required. Other examples include installing their own water and electric meters, exhaust fans, smoke and fire alarms, and systems for HV/AC, plumbing and sewage that are all separate from those of the residences; and Applicant will submit all construction plans to the UOA for comment prior to starting any work. Such modifications are in addition to those needed for noise abatement, which are also to be paid for by Applicant.
15. Cost of Repeated Alarms: The applicant will make every reasonable effort to prevent false alarms in the Applicant's space and the cost of responding to repeated alarm conditions in the Applicant's space will be borne entirely by Applicant.
16. Insurance: Applicant will obtain liability insurance adequate to protect the residences against any and all construction, fire or other damage and liability for any accidents caused by Applicant's negligence and will provide proof of insurance to the UOA.
17. Extermination: Applicant will obtain pest control services from a licensed provider as required to eliminate vermin and vectors caused by Applicant's disposal of trash or other conditions caused by Applicant.
18. Utility Expense: Applicant agrees to have its own meters installed so that Applicant is billed directly for its utilities. Applicant also agrees to install its own hot water heater, so as not to draw on that utilized by the residents.
19. Regular Meetings: If called for by either party, Applicant and the UOA's

Board of Directors agree to meet monthly for the first six months of this agreement or until the tavern establishment has been in operation for three months whichever is later and quarterly thereafter to ensure good communications are established and to resolve problems quickly. Applicant and the UOA agree to designate respective points of contact that can be reached at all times, including emergencies.

20. Supervision of Employees and Staff: Applicant agrees to review the contents of this agreement with all of the Applicant's employees and staff and to supervise them at all times to ensure that they comply with the terms of this agreement, especially the requirements for security, trash disposal and noise abatement
21. Binding on Subsequent Tenants: Applicant will inform the UOA in the event plans are made to sell or otherwise transfer ownership and/or operation of the establishment. This Agreement shall be binding on any assignee of Applicant's liquor license.
22. 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 set forth below, as a condition precedent to seeking enforcement of the Agreement. Unless the breach is of an emergency nature (see below) or is a repetition of a prior breach, reasonable notice and opportunity shall provide for a cure within 7 days of the date of such notice. If Applicant or the licensee fails to cure within the 7-day period (or, with respect to a breach which reasonably requires more than 7 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 applicable provisions of DC Regulations. 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 the breach is deemed by either party to be of an emergency nature, the parties agree that a representative of each will meet no later than the next business day in an effort to resolve the breach.
23. Length of this Agreement: This agreement shall remain in force until such time as the parties replace or dissolve this agreement.

IN WITNESS WHEREOF, the parties have affixed hereunto their hands and seals as of the year and day first above written.

APPLICANT:
IRON HORSE LLC

UOA :
Unit Owners' Association of the
Residences at Terrell Place

By:

Curtis E. Large
Curtis E. Large
Managing Member *7/21/09*
507 7th Street NW
Washington, DC 20004

By:

Don Walker
Don Walker
675 E Street, N.W. *7/21/09*
Washington, DC 20004