

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

In the Matter of:

M & I, LLC

Applicant for a New
Retailer's Class CT

at premises
631 Florida Avenue, N.W.
Washington, D.C. 20001

Case No. 14-PRO-00035
License No. ABRA-094603
Order No. 2014-341

M & I, LLC (Applicant)

Mark Morgan, Commissioner, Advisory Neighborhood Commission (ANC) 1B

Andrea Ridenour, on behalf of A Group of Five or More Individuals

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 AND WITHDRAWAL OF
PROTESTS OF ANC 1B AND A GROUP OF FIVE OR MORE INDIVIDUALS**

The Application filed by M & I, LLC for a new Retailer's Class CT License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on June 2, 2014, and a Protest Status Hearing on June 25, 2014, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant, ANC 1B and A Group of Five or More Individuals have entered into a Settlement Agreement (Agreement), dated July 22, 2014, 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; Commissioner Mark Morgan, on behalf of ANC 1B; and Andrea Ridenour, 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 1B and the Group of Five or More Individuals.

Accordingly, it is this 17th day of September, 2014, **ORDERED** that:

1. The Application filed by M & I, LLC for a new Retailer's Class CT License, located at 631 Florida Avenue, N.W., Washington, D.C., is **GRANTED**;
2. The Protests of ANC 1B and the Group of Five or More Individuals in this matter are hereby **WITHDRAWN**;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:

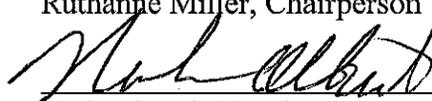
Section 9 (Construction) – This Section shall be modified to read as follows:
“Applicant will operate in compliance with all applicable DC laws and regulations. Any reference to specific laws and regulations in this Settlement Agreement is meant for informational purposes only. ANC 1B and the Protestants do not intend for a violation of any DC law or regulation to also be considered a violation of this Settlement Agreement.”

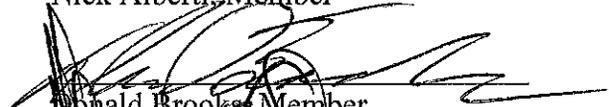
The parties have agreed to this modification.

Copies of this Order shall be sent to the Applicant, ANC 1B, and Andrea Ridenour, on behalf of the Group of Five or More Individuals.

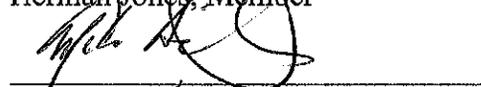
District of Columbia
Alcoholic Beverage Control Board

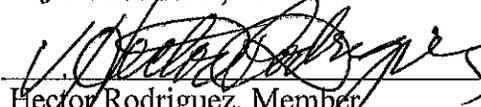

Ruthanne Miller, Chairperson

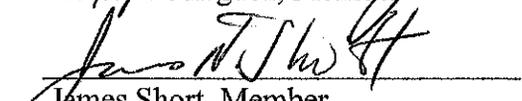

Nick Alberti, Member


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 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.

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).

ABC SETTLEMENT AGREEMENT

THIS ABC SETTLEMENT AGREEMENT (the "Agreement") is made and entered into this ____ day of June 2014 by and among M & I, LLC, ("Applicant"), Advisory Neighborhood Commission 1B ("ANC 1B"), and Andrea Ridenour on behalf of a Group of Seventeen individual protestants ("Ridenour Protestants"). ANC 1B and the Ridenour Protestants are hereinafter referred to collectively as the "Protestants."

RECITALS

WHEREAS, Applicant has applied for a retail class CT license for premises located at 637 Florida Avenue, NW, Washington, D.C.

WHEREAS, Protestants have filed a protest with the Alcoholic Beverage Control Board (the "Board") opposing the License;

WHEREAS, the parties desire to enter into this Agreement to resolve the protest of the license application.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals Incorporated. The recitals set forth above are incorporated herein by reference.
2. General Noise Mitigation. Applicant shall engage a sound engineer of its choice to advise concerning the mitigation of noise from the interior of the establishment and concerning implementation of measures, including those provided in this Agreement,

to mitigate noise from the rooftop seating area. Applicant shall implement any and all commercially reasonable recommendations of the sound engineer. Applicant agrees to provide the Protestants with a copy of the sound engineer's report and to thereafter meet with the Protestants to discuss the report and mutually agree on measures to be implemented.

3. Operation of Rooftop. Applicant shall maintain tables and chairs in the rooftop area during all hours the rooftop area is open to the public and shall not remove them to create a standing cocktail or dancing area. There shall be no live music in the rooftop area, nor shall dancing in such area be marketed, advertised, promoted or featured in any way. At no time shall any door to the rooftop area be propped open.
4. Music on Rooftop Area. No music shall be played in or on the rooftop other than through Applicant's sound system or devices attached to headphones or earbuds. The location, orientation, and volume level of speakers shall be maintained to comply with D.C. Code Section 25-725. The speaker level will be limited via hardware and/or software in order to ensure compliance with the foregoing code provision and requirement and to prevent any person (whether authorized or not) from increasing the volume above the level described in this paragraph. Music on the rooftop area shall cease on Sunday-Thursday nights (excluding extended holiday hour nights) at 11:00 p.m. and on Friday, Saturday and extended holiday hour nights at 12:30 a.m.

5. Withdrawal of Protest . Protestants agree to the withdrawal of their protest provided that this Agreement is incorporated into the Board's order approving issuance of the License and compliance with this Agreement by Applicant is required by such Order.
6. Compliance and Notices.

- 6.1 Applicant shall provide a direct telephone number to the manager on duty to report any violations of this Agreement.
- 6.2 Notices under this Agreement shall be in writing and mailed by certified mail (or similar service including FedEx or UPS), return receipt requested, postage prepaid, hand delivery, or emailed to the other parties. Notice is to be given as follows:

If to Applicant:

Farivar Mottaghi
M & I, LLC
637 Florida Avenue NW,
Washington, DC 20001

With a Copy to:

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

If to ANC 1B:

ANC 1B
ATTN: Mark Morgan
2000 14th Street NW, Suite 100B
Washington, DC 20009

If to Ridenour Protestants:

Andrea Ridenour
603 U St. NW
Washington, DC 20001
Angie1250@gmail.com

7. Entire Agreement. This Agreement sets forth the entire understanding of the parties with respect to Applicant's alcoholic beverage application and issuance of the License. There are no other warranties or representations which have been made or shall be relied upon by any of the parties to this Agreement other than those expressly set forth herein.
8. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
9. Construction. In the event any conduct by Applicant in violation of this Agreement shall be deemed a violation of District of Columbia law, the violation of this Agreement shall be merged into the law violation, such that the Applicant

shall only be liable for one violation.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date stated above.

APPLICANT:

M & I, LLC

By: 

Parivar Mottaghi

Date Signed: 7-22-14

PROTESTANTS:

ANC 1B:

By: _____

Mark Morgan, Vice Chair ANC 1B

Date Signed: _____

Ridenour Protestants



Andrea Ridenour, on behalf of herself and sixteen other individuals

Date Signed: 7/22/14

shall only be liable for one violation.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date stated above.

APPLICANT:

M & I, LLC

By: _____
Farivar Mottaghi

Date Signed: _____

PROTESTANTS:

ANC 1B:

By: _____
Mark Morgan, Vice Chair ANC 1B

Date Signed: 7/22/14

Ridenour Protestants

Andrea J. Ridenour

Andrea Ridenour, on behalf of herself and sixteen other individuals

Date Signed: 7/22/14