

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

In the Matter of:

Big Chair Café, LLC
t/a Big Chair Coffee & Grill

Application for Substantial Change
(Entertainment Endorsement and Summer Garden)
to a Retailer's Class CR License

at premises
2122 Martin Luther King Jr. Avenue, S.E.
Washington, D.C. 20021

Case No. 14-PRO-00044
License No. ABRA-085903
Order No. 2014-326

Big Chair Café, LLC, t/a Big Chair Coffee & Grill (Applicant)

Barbara Clark, Chairperson, Advisory Neighborhood Commission (ANC) 8A

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
Hector Rodriguez, Member
James Short, Member

**ORDER ON AMENDMENT TO SETTLEMENT AGREEMENT AND
WITHDRAWAL OF PROTEST OF ANC 8A**

The Application filed by Big Chair Café, LLC, t/a Big Chair Coffee & Grill, for a Substantial Change to include an Entertainment Endorsement with no dancing and no cover charge, and a new Summer Garden, to its Retailer's Class CR License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on June 30, 2014 and a Protest Status Hearing on July 23, 2014, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant and ANC 8A entered into a Settlement Agreement (Agreement), dated December 8, 2010, that governs the operation of the Applicant's establishment. This matter comes now before the Board to consider the Parties'

Amendment to Settlement Agreement (Amendment), dated August 13, 2014, in accordance with D.C. Official Code § 25-446 (2001).

The Amendment has been reduced to writing and has been properly executed and filed with the Board. The Applicant and Chairperson Barbara Clark, on behalf of ANC 8A, are signatories to the Amendment.

This Amendment constitutes a withdrawal of the Protest filed by ANC 8A of this Application.

Accordingly, it is this 15th day of August, 2014, **ORDERED** that:

1. The Application filed by Big Chair Café, LLC, t/a Big Chair Coffee & Grill, for a Substantial Change to include an Entertainment Endorsement with no dancing and no cover charge, and a new Summer Garden, to its Retailer's Class CR License, located at 2122 Martin Luther King Jr. Avenue, S.E., Washington, D.C., is **GRANTED**;
2. The Protest of ANC 8A in this matter is hereby **DISMISSED**;
3. The above-referenced Amendment to Settlement Agreement, dated August 13, 2014, submitted by the Applicant and ANC 8A to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order, except for the following modifications:

Section 3 (Hours of Operation and Sales) – The following sentence shall be modified to read as follows: “At 12 AM, the Applicant shall require that the patrons move from the summer garden to the inside of the establishment. (Thursday through Saturday)”

Section 4 (Noise, Odor, and Privacy) – The following sentence shall be removed: “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.”

Section 8 (b) (Security Cooperation in Stemming Loitering, Criminal Activity and Public Drinking) – The following language shall be included:

“The establishment should ensure the following:

- i. The cameras utilized by the establishment are operational;
- ii. Any footage of a crime of violence or a crime involving a gun is maintained for a minimum of 30 days;
- iii. The security footage is made available within 48 hours upon the request of ABRA or the Metropolitan Police Department.”


Section 8 (c) – The following sentence shall be modified to read as follows: “Applicant agrees that it will provide to representatives of the Commission, the


MPD, and other community organizations that request such information, the contact information of the establishment.”


The parties have agreed to these modifications.

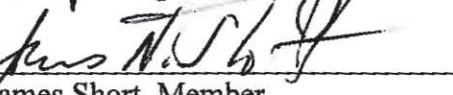
4. All terms and conditions of the original Agreement shall remain in full force and effect; and
5. Copies of this Order shall be sent to the Applicant and ANC 8A.

District of Columbia
Alcoholic Beverage Control Board


Ruthanne Miller, Chairperson


Mike Silverstein, Member


Hector Rodriguez, Member


James Short, Member

I dissent from the Board's decision.


Nick Alberti, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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).

AMENDMENT TO SETTLEMENT AGREEMENT

Big Chair Coffee and Grill

THIS SETTLEMENT AGREEMENT ("Agreement") is made on this thirteenth day of August, 2014 by and between Big Chair Coffee and Grill, and Advisory Neighborhood Commission 8A, (collectively, the "Parties").

WITNESSETH

WHEREAS, the Applicant has applied for a substantial change to its licensee in order to operate a summer garden and

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

WHEREAS, the Applicant has an existing Settlement Agreement, December 8, 2010, part of the terms and conditions of its license with the Alcoholic Beverage Regulation Administration (ABRA) and

WHEREAS, the Parties desire to enter into an agreement enforceable by ABRA, REGARDING HOW Applicant shall operate the summer garden in such a manner as to promote the peace, order and quiet of the neighborhood, all parties recognizing the importance of business neighborhoods that are safe, clean and "pedestrian friendly" and

WHEREAS, the Parties desire that the terms of this agreement shall become a part of the existing settlement agreement.

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 include sale and service of prepared food and alcoholic beverages in a summer garden.
3. ***Hours of Operation and Sales.*** The Applicant's hours of operation shall be as follows:
 - Inside Services
 - Sunday through Saturday 8 AM to 2 AM

Outside Services

Sunday through Wednesday 8 AM to 11 PM

Thursday through Saturday 8 AM to 12 AM

At 11 PM, the Applicant shall require that the patrons move from the summer garden to the inside of the establishment. (Sunday through Wednesday)

At 12 PM, the Applicant shall require that the patrons move from the summer garden to the inside of the establishment. (Thursday through Saturday)

Entertainment Endorsement

Recorded music and sound amplification must be in compliance with applicable noise regulations of the District of Columbia. Recorded music shall be permitted in the summer garden.

Spoken word, poetry, comedy and light entertainment such as a jazz trio are allowed in the summer garden. Sound amplification must be in compliance with applicable noise regulations of the District of Columbia.

All live entertainment shall cease Sunday through Saturday at 10 PM in the summer garden.

Spoken word, poetry, comedy and light entertainment such as a jazz trio are allowed inside the establishment. Sound amplification must be in compliance with applicable noise regulations of the District of Columbia.

All live entertainment shall cease inside the establishment Sunday through Thursday at 12 AM and Friday through Saturday 1 AM

No KAROKE, DISC JOCKEYS or BANDS

4. **Noise, Odor, and Privacy.** No objectionable noises, sounds, odors, or other conditions will be created by the Applicant. Applicant shall provide fans to redirect tobacco smoke generated by patrons away from public space and residential neighbors. Applicant will strictly comply with D.C. Official Code § 25-725. If necessary, Applicant will take reasonable steps to reduce noise emanating from the summer garden and the opening of the entry and exit doors. Applicant agrees to keep its doors and windows closed when live music is being played at the establishment after 8 PM on Friday and Saturday. 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. 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. Applicant will post clearly visible internal and external signage to remind customers to minimize noise in the neighborhood

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 PM or before 7 AM. Any glass material needing to be recycled or otherwise disposed between 10 PM and 7 AM shall be stored inside the Applicant's establishment until 7 AM.

e. Commercial trash pickup in residential areas takes place between 7 AM - 7 PM. 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, Criminal Activity and Public Drinking.***

- a) 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.
 - b) Applicant agrees that it shall provide video surveillance in the establishment and the summer garden.
 - c) Applicant agrees that it will provide to representatives of the Commission, the MPD, and other community organizations that request such information, the cell phone numbers of its managers.
9. ***Incorporation in Existing Settlement Agreement.*** The terms of this Agreement are hereby added to and incorporated in the existing Settlement Agreement approved by order of the Alcoholic Beverage Control Board on 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 licenses.
 10. ***Incorporation.*** The terms of this Settlement Agreement in its entirety shall become effective upon ratification of this Agreement by the District of Columbia Alcoholic Beverage Control Board. The parties request that the text of this Agreement be incorporated in an order of the Board granting Applicant's request for a substantial change in its Retailers' Class CR license.
 11. ***Binding Effect.*** This Settlement Agreement shall be binding upon and enforceable against the successors and assigns of the Applicant during the term of the license to which this Settlement Agreement applies.
 12. ***Grounds for Petition for Show-Cause Order.*** Applicant acknowledges that failure to adhere to the terms and conditions recited in Paragraphs One through Eight above will constitute grounds for the representative of the Commission whose signature is affixed hereunto, or his successor, to file a complaint with the ABC Board, which will be investigated by ABRA'S Enforcement Division, and may subject the Licensee to a Show Cause proceeding, or any other penalty available to the Board under the law. Prior to filing such a complaint, however, the designated representative, or his successor, shall notify Applicant of any perceived violations and afford Applicant a minimum of fourteen (14) calendar days in which to address or rectify the perceived violation.
 13. ***Notice.*** 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.

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

Applicant: Big Chair Coffee and Grill
ABRA-085903
2122 Martin Luther King Jr. Ave. SE
Washington, DC 20020
Ayeaqbizu Yimenu
Owner
(202) 525-4287

Print Name

AYEHUBIZU YIMENU

Signature

AyeHubizu -

Date

8/14/14

Advisory Neighborhood Commission 8A

2100 D Martin Luther King Jr. Ave. SE
Washington, DC 20020
Barbara Clark, Chairperson
(202) 359-2407

Print Name

Barbara Clark

Signature

Barbara Clark

Date

8/14/14

(g)