

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

| | |
|---------------------------------|-------------------------|
| _____) | |
| In the Matter of:) | |
|) | |
| Hanks on the Hill, LLC) | |
| t/a Hank's Oyster Bar) | |
|) | |
| Holder of a) | |
| Retailer's Class CR License) | License No. ABRA-089718 |
|) | Order No. 2013-081 |
| at premises) | |
| 633 Pennsylvania Avenue, S.E.) | |
| Washington, D.C. 20003) | |
| _____) | |

Hanks on the Hill, LLC, t/a Hank's Oyster Bar (Licensee)

Brian Flahaven, Chairperson, on behalf of Advisory Neighborhood Commission (ANC)
6B

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Mike Silverstein, Member
Herman Jones, Member

ORDER ON AMENDMENT TO SETTLEMENT AGREEMENT

The official records of the Alcoholic Beverage Control Board (Board) reflect that a previous holder of a license for the premises and ANC 6B entered into a Voluntary Agreement dated October 12, 2010 (Agreement) and it was approved by the Board on November 3, 2010. Hanks on the Hill, LLC, t/a Hank's Oyster Bar (Licensee), as the current holder of a Retailer's Class CR license, is required to comply with the terms of the Agreement, dated October 12, 2010, that governs the operation of the Licensee's establishment. This matter comes now before the Board to consider the Parties' Amendment to Settlement Agreement (Amendment), dated March 18, 2013, in accordance with D.C. Official Code § 25-446 (2001).

All terms and conditions of the original Agreement, not amended by the Amendment, shall remain in full force and effect.

Hanks on the Hill, LLC
t/a Hank's Oyster Bar
License No. ABRA-089718
Page 2

The Amendment has been reduced to writing and has been properly executed and filed with the Board. The Licensee and Chairperson Brian Flahaven, on behalf of ANC 6B, are signatories to the Amendment.

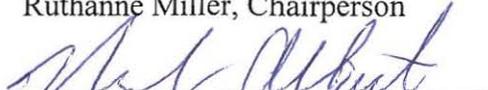
Accordingly, it is this 3rd day of April, 2013, **ORDERED** that:

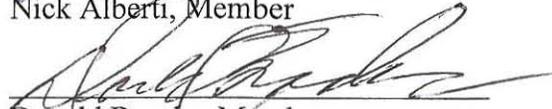
1. The above-referenced Amendment to Settlement Agreement, dated March 18, 2013, submitted by the Parties to govern the operations of the Licensee's establishment is **APPROVED** and **INCORPORATED** as part of this Order; and
2. Copies of this Order shall be sent to the Licensee and ANC 6B.

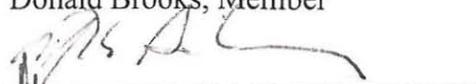
Hanks on the Hill, LLC
t/a Hanks Oyster Bar
License No. ABRA-089718
Page 3

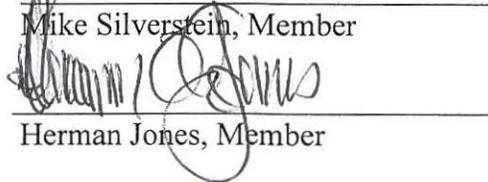
District of Columbia
Alcoholic Beverage Control Board


Ruthanne Miller, Chairperson


Nick Alberti, Member


Donald Brooks, Member


Mike Silverstein, Member


Herman Jones, 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.

AMENDMENT TO VOLUNTARY (COOPERATIVE) AGREEMENT

This Amendment to Voluntary (Cooperative) Agreement ("Amendment") is made this 18 day of March, 2013 by and between Hanks on the Hill, LLC t/a Hank's Oyster Bar ("Applicant") and Advisory Neighborhood Commission 6B ("ANC 6B").

WITNESSETH

WHEREAS, Applicant is the current owner and operator of an ABC-licensed establishment located at 633 Pennsylvania Avenue, SE, Washington, DC 20003;

WHEREAS, ANC 6B and Culinary Kung Fu, LLC t/a Ba Bay, the previous holder of the License for the premises, entered into a Voluntary (Cooperative) Agreement dated October 12, 2010 which Agreement was approved by the Alcoholic Beverage Control Board ("ABC Board") by Order dated November 3, 2010;

WHEREAS, Applicant as the current holder of the License, is bound by the terms of the Agreement;

WHEREAS, the Agreement limits Applicant's hours of operation;

WHEREAS, Applicant seeks to modify the Agreement to allow later hours of operation and seeks approval from the ABC Board for a change in its hours; and

WHEREAS, to accommodate Applicant's request, the parties agree to an amendment to the Agreement as hereinafter set forth.

NOW, THEREFORE, the parties agree as follows:

1. **Recitals Incorporated.** The recitals set forth above are incorporated herein by reference.
2. **Change in Applicant.** The Agreement is hereby amended to reflect the name of the current holder of the License, Hanks on the Hill, LLC t/a Hank's Oyster Bar, which shall be deemed the Applicant in the Agreement and in this Amendment.
3. **Hours of Operation and Sales.** The Applicant's hours of operation and sales shall be as follows:

Inside Services

Sunday-Thursday: 11:00 a.m.-2:00 a.m.
Friday and Saturday: 11:00 a.m.-3:00 a.m.

Sidewalk Services

Sunday-Saturday 11:00 a.m.-12:00 a.m. (midnight)

4. **Support of Hours Change.** ANC 6B shall communicate to the ABC Board and ABRA that it supports Applicant's requested change in hours.

5. **Agreement Otherwise in Full Force and Effect.** Except as otherwise explicitly provided herein, the Agreement from 2010 shall remain in full force effect and the Agreement and this Amendment shall constitute the agreement between the parties. This Amendment may only be modified by written agreement of all the parties or their successors, or otherwise in accordance with law.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the day and year first written above.

APPLICANT:

Hanks on the Hill, LLC

By:

Jamie Leeds

Date:

3/18/13

ANC 6B

By:

Brian Flehaven, Chair

Date:

3/12/13

ANC 6B

Capitol Hill / Southeast

921 Pennsylvania Avenue SE
Suite 305
Washington, DC 20003-2141
202-543-3344 (office)
202-543-3507 (fax)
office@anc6b.org

Executive Director
Susan Eads Role

March 18, 2013

Ruthanne Miller, Chair
Alcoholic Beverage Control Board
2000 14th Street NW, Suite 400S
Washington, DC 20009

VIA E-MAIL: sarah.fashbaugh@dc.gov

OFFICERS

Chair
Brian Flahaven

Vice-Chair
Ivan Frishberg

Secretary
Philip Peisch

Treasurer
Brian Pate

Parliamentarian
Nichole Opkins

COMMISSIONERS

SMD 1 *David Garrison*
SMD 2 *Ivan Frishberg*
SMD 3 *Philip Peisch*
SMD 4 *Kirsten Oidenburg*
SMD 5 *Brian Pate*
SMD 6 *Nichole Opkins*
SMD 7 *Sara Loveland*
SMD 8 *Chander Jayaraman*
SMD 9 *Brian Flahaven*
SMD 10 *Francis Campbell*

RE: ABRA—089718, Hank's Oyster Bar, 633 Pennsylvania Avenue SE, change of hours of operation & hours of alcoholic beverage sales/consumption for interior & sidewalk café from Sunday through Saturday 11:30 a.m. – 12:00 a.m. to Sunday through Thursday 11:00 a.m. – 2:00 a.m./Friday & Saturday 11:00 a.m. – 3:00 a.m.

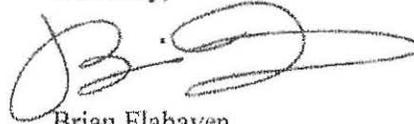
Dear Ms. Miller:

At its regularly scheduled, properly noticed meeting on March 12, 2013, with a quorum present, Advisory Neighborhood Commission (ANC) 6B voted 10-0 to support the above-referenced license request with a change agreed to by both ANC 6B and Hank's Oyster Bar that the sidewalk café hours would end at 12:00 a.m. Sunday through Saturday.

For your review and approval, please find enclosed an amendment to the Voluntary Agreement, which was executed by both parties.

Please contact ANC 6B's Executive Director Susan Eads Role if you have questions or need further information. Thank you.

Sincerely,



Brian Flahaven
Chair

Enclosure

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

| | |
|---------------------------------|-------------------------|
| _____) | |
| In the Matter of:) | |
|) | |
| Culinary Kung Fu, LLC) | |
| t/a Ba Bay) | |
|) | |
| Applicant for a New) | |
| Retailer's Class CR License) | License No. ABRA-085465 |
| at premises) | Order No. 2010-544 |
| 633 Pennsylvania Avenue, S.E.) | |
| Washington, D.C. 20003) | |
| _____) | |

Culinary Kung Fu, LLC, t/a Ba Bay ("Applicant")

Kenan Jarboe, Vice Chairperson, Acting as Chairperson, Advisory Neighborhood Commission ("ANC") 6B

BEFORE: Charles Brodsky, Chairperson
Mital M. Gandhi, Member
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ORDER ON VOLUNTARY AGREEMENT

The official records of the Alcoholic Control Board (Board) reflect that Culinary Kung Fu, LLC, t/a Ba Bay, Applicant for a new Retailer's Class CR License, located at 633 Pennsylvania Avenue, S.E., Washington, D.C. and Kenan Jarboe, Vice Chairperson, Acting as Chairperson, on behalf of ANC 6B, have entered into a Voluntary Agreement (Agreement), dated October 12, 2010, 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 Kenan Jarboe, Vice Chairperson, Acting as Chairperson, on behalf of ANC 6B, are signatories to the Agreement.

Culinary Kung Fu, LLC
t/a Ba Bay
License No. ABRA-085465
Page 2

Accordingly, it is this 3rd day of November 2010, **ORDERED** that:

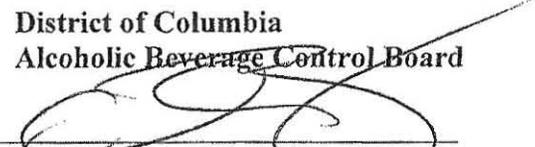
1. The Application filed by Culinary Kung Fu, LLC, t/a Ba Bay, for a new Retailer's Class CR License located at 633 Pennsylvania Avenue, S.E., Washington, D.C., is **GRANTED**;
2. The above-referenced Voluntary Agreements submitted by the Applicant and ANC 6B to govern the operations of the Applicant's establishment are **APPROVED** and **INCORPORATED** as part of this Order, except for the following modification:

Section 8 (Rat and Vermin Control): The following sentence shall replace the term "Protestants" with "Board."

3. Copies of this Order shall be sent to the Applicant and ANC 6B.

Culinary Kung Fu, LLC
t/a Ba Bay
License No. ABRA-085465
Page 3

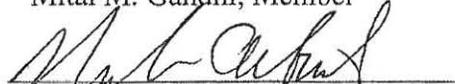
District of Columbia
Alcoholic Beverage Control Board



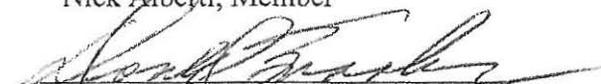
Charles Brodsky, Chairperson



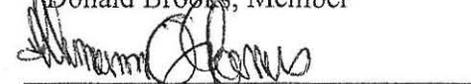
Mital M. Gandhi, Member



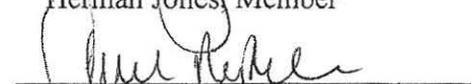
Nick Alberti, Member



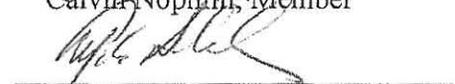
Donald Brooks, Member



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, 1250 U Street, N.W., Third Floor, Washington, DC 20009.

File copy

VOLUNTARY (COOPERATIVE) AGREEMENT

THIS VOLUNTARY AGREEMENT ("Agreement") is made on this 12th day of October, 2010 by and between Culinary Kung Fu, LLC, t/a Ba Bay ("Applicant"), and Advisory Neighborhood Commission 6B, (Collectively, the "Parties").

WITNESSETH

WHEREAS, Applicant's application for a license for premises, 633 Pennsylvania Ave., SE, Washington, DC, 20003, is now pending before the District of Columbia Alcoholic Beverage Control Board (ABC); and,

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

WHEREAS, the Parties desire to enter into an agreement governing certain understandings regarding the issue of a Retailers' Class "C" Restaurant Liquor License at the subject premises; and,

WHEREAS, the Parties are desirous of entering into a Voluntary Agreement pursuant to D.C. Official Code § 25-446 for the operation and maintenance of the Establishment in such a manner as to promote the peace, order and quiet of the neighborhood. Both parties recognize the importance of business neighborhoods that are safe, clean, and "pedestrian friendly".

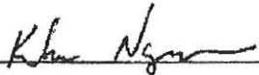
NOW, THEREFORE, the parties agree as follows:

1. ***Recitals Incorporated.*** The recitals set forth above are incorporated herein by reference.
2. ***Nature of the Business.*** The Applicant will manage and operate a CR license at the listed address. The license shall have limited indoor seating of 49 patrons and outside (sidewalk) seating of 10 patrons.
3. ***Hours of Operation and Sales.*** The Applicant's hours of operation shall be as follows:
 - Inside Services
Sunday through Saturday 11:30 a.m. – 12:00 a.m.
 - Sidewalk Services
Sunday through Saturday 11:30 – 12:00 a.m.
4. ***Floors Utilized and Occupancy.*** The Applicant will operate its establishment according to the occupancy indicated on the Certificate of Occupancy issued by the Department of Consumer and Regulatory Affairs.

5. ***Sidewalk Café.*** Applicant will operate its sidewalk café in accordance with the Public Space Management Branch Certification. Applicant will direct that its employees inspect the sidewalk café on a regular basis to ensure its cleanliness.
6. ***Noise and Privacy.*** Applicant will strictly comply with D.C. Official Code § 25-725 and to that end shall make architectural improvements to the property and take all necessary actions to ensure that music, noise and vibration from the Establishment are not audible outside the establishment at any time. Applicant agrees to keep its doors and windows closed when music is being played at the establishment. However, it is understood by the parties that Applicant may open its window panels seasonally, and that music may be played at such times at a level not audible beyond the street curbside. If necessary, Applicant will take reasonable steps to reduce noise emanating from the Establishment from the opening of the entry or exit doors.
7. ***Public Space and Trash.*** Applicant shall keep 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. 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 will ensure timely disposal that is the least disruptive to the neighbors. Commercial trash pick up in residential areas takes place between 7 a.m.-7 p.m.
8. ***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 Protestants. Applicant shall have the Establishment and the area around the Premises properly cleaned at the end of each night to ensure that there are not garbage and odors present the following morning.
9. ***Security Cooperation in Stemming Illegal Drugs and Public Drinking.*** Applicant agrees that it shall take all necessary steps to minimize such problems, including, without limitation, designating a sufficient number of employees to assure adequate security and to control unruly patrons, whether inside or in the immediate outside area; monitoring for and prohibiting sales or use of illegal drugs within or about the Premises, maintaining contact and cooperating with MPD and other enforcement officials when known or suspected drug activities occur. Applicant shall to the full extent permissible by law discourage loitering in the vicinity of the Premises. This will include providing an appropriate number of security officers, at all times when the Establishment is open to the public, who shall be responsible for ensuring that any individuals who are simply loitering are asked to move along.
10. ***Compliance with ABRA Regulations.*** Applicant 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 licensees.

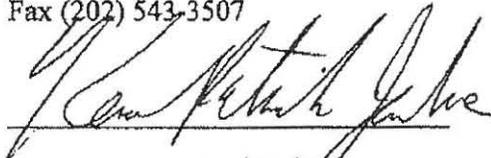
IN WITNESS WHEREOF, the parties have affixed hereunto their signatures.

Applicant: Culinary Kung Fu, LLC
1/aBa Bay
ABRA-085465
633 Pennsylvania Ave., SE
Washington, DC 20003
Khoa Nguyen, Managing Member
(202) 547-1787



Date: 10/12/10

ANC: Advisory Neighborhood Commission
703 D Street, SE
Washington, DC 20003
~~Dave Garrison, Chairperson~~ Kenan Jarboe, Vice Chair
(202) 543-3344 acting as Chair
Fax (202) 543-3507



Date: 10/13/10

ANC 6B

Capitol Hill / Southeast

703 D Street, SE
Washington, DC 20003
202.543.3344
FAX 202.543.3507

October 13, 2010

OFFICERS

Chairperson
David Garrison
Vice Chairperson
Ken Jarboe
Secretary
Kirsten Oldenburg
Treasurer
Carol Green
Parliamentarian
Neil Glick

Charles Brodsky, Chair
Alcoholic Beverage Regulation Administration
C/o Martha Jenkins
1250 U Street, NW, 3rd Floor
Washington, DC 20009

RE: Ba Bay
License # ABRA-085465
New and Stipulated Licenses

COMMISSIONERS

SMD 1 *David Garrison*
SMD 2 *Mary Wright*
SMD 3 *Norman Metzger*
SMD 4 *Kirsten Oldenburg*
SMD 5 *Kenan Jarboe*
SMD 6 *Will Hill*
SMD 7 *Carol Green*
SMD 8 *Neil Glick*
SMD 9 *Michael Patterson*
SMD 10 *Francis Campbell*
SMD 11 *Vacant*

Dear Mr. Brodsky:

At its regularly scheduled and properly noticed meeting on October 12, 2010, ANC 6B voted unanimously (8-0) to support the above referenced application of Ba Bay, located at 633 Pennsylvania Ave., SE, for a new CR Class liquor license. Additionally, ANC 6B voted unanimously (8-0) to support the issuance of a Stipulated License to the applicant.

Enclosed is the Cooperative (Voluntary) Agreement that has been executed by Ba Bay, and ANC 6B for your review and approval.

If you need further information, please do not hesitate to contact me.

Sincerely,



David F. Garrison
Chair, ANC 6B

Enclosure: Voluntary Agreement