

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

In the Matter of:)	
)	
Harris Teeter, LLC)	
t/a Harris Teeter)	
)	
Applicant for a New)	
Retailer's Class B License)	License No. ABRA-095112
)	Order No. 2014-360
at premises)	
401 M Street, S.E.)	
Washington, D.C. 20003)	

Harris Teeter, LLC, t/a Harris Teeter (Applicant)

Roger Moffatt, Chairperson, Advisory Neighborhood Commission (ANC) 6D

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

The official records of the Alcoholic Beverage Control Board (Board) reflect that Harris Teeter, LLC, t/a Harris Teeter, Applicant for a new Retailer's Class B license, located at 401 M Street, S.E., Washington, D.C., and ANC 6D have entered into a Settlement Agreement (Agreement), dated September 8, 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 and Chairperson Roger Moffatt, Commissioner David Garber, and Dr. Coralie Farlee, on behalf of ANC 6D, are signatories to the Agreement.

Accordingly, it is this 1st day of October, 2014, **ORDERED** that:

1. 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 modifications:

Third Whereas paragraph – The following sentence shall be removed:
“Further, Applicant, upon notice from the ANC, shall send a representative of the Establishment to a meeting(s) to confer and deal in good faith with issues raised under this Agreement.”

Fourth Whereas paragraph – The last sentence shall be modified to read as follows: “Any change to this model shall be of great concern to the Parties which they may bring the ABC Board's attention. The Parties acknowledge that any change in operations requires prior Board approval.”

Section 13 (Notice and opportunity to Cure) – The following sentence shall be modified to read as follows: “If Applicant or the licensee fails to cure within the 30 day period (or, with respect to a breach which reasonably requires more than 30-day to cure, fails to commence cure to such breach and diligently pursues such cure) failure shall constitute a cause for filing a complaint with the ABC Board pursuant to D.C. Official Code § 25-446 (3).”

The parties have agreed to these modifications.

2. Copies of this Order shall be sent to the Applicant and ANC 6D.

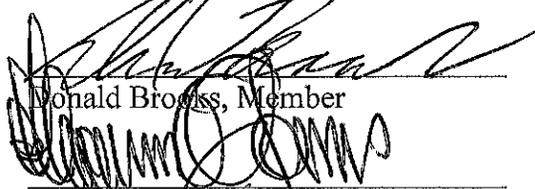
District of Columbia
Alcoholic Beverage Control Board



Ruthanne Miller, Chairperson



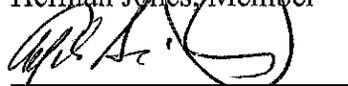
Nick Alberti, Member



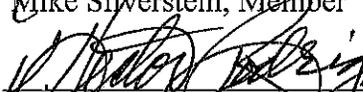
Donald Broggs, Member



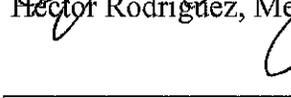
Herman Jones, Member



Mike Silverstein, Member



Hector Rodriguez, Member



James Short, Member

Pursuant to D.C. Official Code § 25-433, any party adversely affected 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.

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).

★ ★ ★
██████████ **Advisory Neighborhood**
██████████ **Commission 6D**

PO Box 71156 • Washington, DC 20024-9998
ANC Office: 202 554-1795 ■ FAX: 202 554-1774
office@anc6d.org

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT (“Agreement”) is made on this 8th day of September 2014 by and between Harris Teeter, LLC t/a Harris Teeter, 401 M Street, SE, Washington, DC 20003 ABRA License # 095112 (“Applicant”), and Advisory Neighborhood Commission 6D, (“Protestant”) (collectively, the “Parties”).

PREAMBLE

Through this agreement both parties aim to create an environment in which the Applicant may operate as a viable contributing establishment in the ANC 6D community.

WITNESETH

WHEREAS, Applicant has applied for a license Class B Full Service Grocery Store business (“Establishment”) occupying 50,162 square feet on one floor at 401 M Street, SE, Washington, DC 20003 (“Premises”); and

WHEREAS, the Applicant agrees to work regularly with ANC 6D and its representatives, other neighborhood organizations, and residents to ensure that the business operations facilitate the enjoyment of the surrounding neighborhood; and

WHEREAS, the Parties are desirous of entering into a Cooperative Agreement pursuant to D.C. Official Code § 25-446 for the operation and maintenance of the Establishment in such a manner as to minimize the effect, within the ANC, on (i) the peace, order and quiet of the neighborhood and (ii) parking, pedestrian safety and vehicular traffic, to protect the interests of the neighborhood, its residents and other businesses, and to eliminate the need for Protest Hearing regarding the license application. Further, Applicant, upon notice from the ANC, shall send a representative of the Establishment to a meeting(s) to confer and deal in good faith with issues raised under this Agreement; and

WHEREAS, all parties believe that the statements and provisions contained in this agreement are responsible and shall become wholly integrated into the day-to-day operation of the Establishment. Any change from this model shall be considered by ABRA to be a substantial change in operation of great concern to residents and requires prior approval by the ABC Board; and

WHEREAS, All Parties have agreed to enter into this Agreement and request that the Alcoholic Beverage Control Board (“ABC Board”) approve the Applicant’s license application conditioned upon the Applicant’s compliance with the terms of the written Agreement;

NOW, THEREFORE, in consideration of the recitals set forth above and the mutual covenants and conditions set forth below, 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 operate a Full Service Grocery Store with an emphasis on food in which the sale of alcoholic beverages constitutes no more than fifteen (15) percent of the total volume of the gross receipts on an annual basis. The beer and wine department will be in an area of the Establishment which will occupy approximately 2,000 square feet of space or four (4) percent of the total floor area of the Establishment. On holidays and special occasions, specialty wines and malt beverages may be located at various sites in the store.

3. ***Hours of Operation and Sales.***

The applicant's hours of operation of the Establishment will be:

Sunday to Saturday, 6:00 a.m. to Midnight

The applicant's hours of sale of alcohol will be:

Sunday to Saturday, 7:00 a.m. to Midnight

The hours for tastings of alcohol will be:

Sunday to Saturday 12:00 noon to Midnight

4. ***Control of Sales.***

a. Applicant shall program scanners to prompt cashiers to check the identification of all persons seeking to purchase alcoholic beverages who appear to be 30 years of age or younger. Such persons must produce a valid identification document issued by an agency of local, state, or federal government. Such document must contain the name, date of birth, signature, and photograph of the bearer.

b. In the self check-out area, Applicant shall ensure that all attempts to purchase beer or wine are supervised and checked by an ABC manager, cashier, or clerk, as well as by electronic monitoring of the purchase.

5. ***Parking Arrangements.*** It is a concern of the Protestants that the Applicant's operation of the Establishment does not create or exacerbate parking problems within the ANC. An underground parking garage will be made available for customers' use.

6. ***Public Space and Trash.*** Applicant shall keep the sidewalk area (up to and including the curb), tree box(es), curb, and alley clean and free of litter and other debris in compliance with D.C. Code and Municipal Regulations. The applicant will provide a trash pick-up service which removes trash daily. Applicant shall ensure that any dumpster for which applicant is responsible

does not encroach on abutting property owners, that the area around the dumpster is kept clean at all times, and that no garbage will be placed on any abutting property.

7. Rats and Vermin Control. The landlord shall be responsible for providing rat and vermin control for its property. 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.

8. Security Cooperation in Stemming Sale of Alcoholic Beverages.

a. The area of display of beer and wine will be monitored by human and electronic surveillance at all times for control and security.

b. Applicant shall to the full extent permissible by law discourage loitering in and around the Premises and shall post "no loitering" signs to that effect. The MPD barring notice shall be used, if necessary.

9. License Ownership and Compliance with ABRA Regulations. Applicant promises to Protestants that it is aware of all Alcoholic Beverage Regulations Administration (ABRA) regulations regarding the ownership of the license and all other provisions applicable to liquor licensees, and agrees that Protestants shall have standing to ask the ABC Board to enforce any violations of the agreement.

10. Change in operation. The Applicant will provide ANC6D with reasonable notice of any proposed significant change to the operations of its establishment that affect hours of operation, and sales and service of alcohol. Additionally, the Applicant agrees to work in good faith with the ANC to resolve any significant change arising from the operation of the business that may negatively impact this Agreement.

11. Modification of agreement. This agreement can be modified only by the ABC Board, or modified by mutual agreement of all parties with the approval of the ABC Board.

12. Participation in the Community. Applicant agrees to seek to maintain open communication with ANC 6D, and the community for which the ANC acts.

13. Notice and opportunity to Cure. In the event that any of the parties is in breach of this Agreement, is shall be entitled to reasonable notice and opportunity to cure, as a condition precedent to seeking enforcement of the Agreement. Unless the breach is of an emergency nature or is a repetition of a prior breach, reasonable notice and opportunity shall provide for a cure within thirty (30) days of the date of such notice. If Applicant or the licensee fails to cure within the 30 day period (or, with respect to a breach which reasonably requires more than 30-days to cure, fails to commence cure to such breach and diligently pursues such cure) failure shall constitute a cause for seeking a Show Cause Order from the ABC Board pursuant to DC. Official Code § 25-447. 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:

Cooperative Agreement, Harris Teeter and ANC6D, September 2014

If to Applicant:

Harris Teeter, LLC

ATTN: Manager (TIM PORCH) 157-373-3092 (cell)

401 M Street, SE

Washington, DC 20003

Phone: 202-554-0164

FAX: 202-554-2868

e-mail: ~~S083mgr~~^{SO}@harristeeter.com

~~SO~~ 5383 mgr SO1 @harristeeter.com

If to Protestants:

Advisory Neighborhood Commission 6D

1101 4th Street, SW, Suite W130

Washington, DC 20024

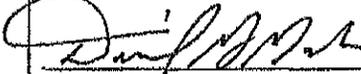
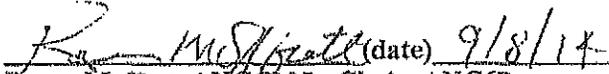
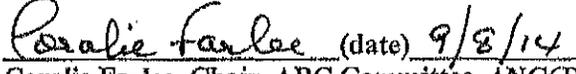
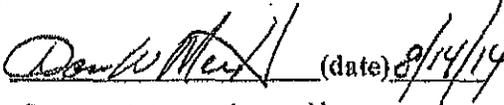
Attn: Chair, ANC

202.554.1795

202.554.1774 Fax

Email: office@anc6D

Failure to give notice shall not constitute waive or acquiescence to the violation, but notice shall be a prerequisite to the filing of a complaint with the ABC Board or any other enforcement action.

PROTESTANT	APPLICANT
 (date) 9/8/14 David Garber, ANC6D07	Harris Teeter, LLC, ATTN: Manager
 (date) 9/8/14 Roger Moffatt, ANC6D05; Chair, ANC6D	401 M Street, SE Washington, DC 20003
 (date) 9/8/14 Coralie Farlee, Chair, ABC Committee, ANC6D	 (date) 9/14/14 Daniel W. Marett

Vice President Northern Region