

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

**In the Matter of:**

DC Four Lessee, LLC  
t/a Hotel Helix

Applicant for Substantial Change  
(Summer Garden)  
to a Retailer's Class CH License

at premises  
1430 Rhode Island Avenue, N.W.  
Washington, D.C. 20005

Case No. 15-PRO-00079  
License No. ABRA-079243  
Order No. 2015-542

DC Four Lessee, LLC, t/a Hotel Helix (Applicant)

John Fanning, Chairperson, Advisory Neighborhood Commission (ANC) 2F

Stuart Serkim, on behalf of A Group of Five or More Individuals

Allan Friedman, on behalf of A Group of Five or More Individuals

**BEFORE:** Donovan Anderson, Chairperson  
Nick Alberti, Member  
Mike Silverstein, Member  
Ruthanne Miller, Member  
James Short, Member

**ORDER ON SETTLEMENT AGREEMENT, WITHDRAWAL OF  
ANC 2F'S PROTEST AND DISMISSAL OF TWO GROUPS OF  
FIVE OR MORE INDIVIDUALS' PROTESTS**

The Application filed by DC Four Lessee, LLC, t/a Hotel Helix, for a Substantial Change to include a Summer Garden (Rooftop) to its Retailer's Class CH License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on August 24, 2015, and Protest Status Hearing on October 21 2015, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant and ANC 2F have entered into a Settlement Agreement (Agreement), dated November 4, 2015, 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 John Fanning, on behalf of ANC 2F, are signatories to the Agreement.

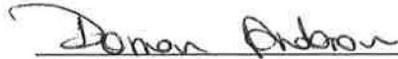
This Agreement constitutes a withdrawal of the Protest filed by ANC 2F.

In addition, the Board dismissed the Protests of the two Groups of Five or More Individuals pursuant to D.C. Official Code § 25-609(b), which states that "...In the event that an affected ANC submits a settlement agreement to the Board on a protested license application, the Board, upon its approval of the settlement agreement, shall dismiss any protest of a group of no fewer than 5 residents or property owners meeting the requirements of § 25-601(2)..."

Accordingly, it is this 18<sup>th</sup> day of November, 2015, **ORDERED** that:

1. The Application filed by DC Four Lessee, LLC, t/a Hotel Helix, for a Substantial Change to include a Summer Garden to its Retailer's Class CH License, located at 1430 Rhode Island Avenue, N.W., Washington, D.C., is **GRANTED**;
2. The Protests of ANC 2F in this matter is hereby **DISMISSED**;
3. The above-referenced Settlement Agreement, dated November 4, 2015, submitted by the parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order;
4. The Protests of the two Groups of Five or More Individuals are **DISMISSED**; and
5. Copies of this Order shall be sent to the Applicant, ANC 2F, and the two Groups of Five or More Individuals.

District of Columbia  
Alcoholic Beverage Control Board

  
\_\_\_\_\_  
Donovan Anderson, Chairperson

  
\_\_\_\_\_  
Nick Alberti, Member

  
\_\_\_\_\_  
Mike Silverstein, Member

  
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Ruthanne Miller, Member

  
\_\_\_\_\_  
James Short, Member

Pursuant to D.C. Official Code § 25-433(d)(1), 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 14<sup>th</sup> 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, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR §1719.1 (2008) 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) (2004).

## SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (this "*Agreement*") is dated (and for all purposes deemed effective) as of the 4<sup>th</sup> day of November, 2015 by and between DC FOUR LESSEE, LLC (the "*Licensee*"), owner of the Hotel Helix located at 1430 Rhode Island Avenue, NW, Washington, DC (the "*Hotel*"), and Advisory Neighborhood Commission 2F ("*ANC 2F*"), and two protesting Groups of Five, and collectively with the Licensee, the "*Parties*").

WHEREAS, Licensee has applied for a rooftop summer garden endorsement (the "*Endorsement*") which would permit alcohol service on the roof deck of the Hotel;

WHEREAS, ANC 2F and Groups of Five filed timely protest against the issuance of the Endorsement pursuant to D.C. Code §25-601 (4);

WHEREAS, the Parties have agreed to the terms of this Agreement (without prejudice to enforcement of prior voluntary agreements) and request that the Alcoholic Beverage Control Board (the "*ABC Board*") approve the Endorsement conditioned upon the Licensee's compliance with this Agreement; and

WHEREAS, the Parties desire to settle the protest pursuant to D.C. Official Code §25-446;

NOW THEREFORE, the Parties agree as follows:

1. Hours of Operation. The hours of operation and alcohol service for the rooftop summer garden shall be:

Sunday – Wednesday: 8:00 a.m. – 10:00 p.m.

Thursday – Saturday: 8:00 a.m. – 12:00 a.m.

It is understood that no patrons shall remain on the summer garden past the designated closing hour.

2. Occupancy. The swimming pool on the summer garden is for use of Hotel guests (and their legitimate guests) only. The swimming pool will be closed when the summer garden is open to the general public or for private events not open to the general public. The maximum occupancy for the summer garden when the pool is closed is 72. No smoking will be permitted on the rooftop summer garden. In order that litter may be avoided, only non-disposable tableware and barware shall be utilized on the rooftop summer garden.
3. Noise Abatement and Standards. No live music will be presented on the rooftop summer garden. Presentation of recorded music shall cease ½ hour prior to the designated closing hour. Recorded music shall not be played prior to 12:00pm on weekends or on Federal Holidays. The Licensee agrees to employ sufficient noise abatement and mechanical

controls (including governors) on audio devices to ensure that the level of any form of amplified sound, noise, and/or vibration emanating from the summer garden complies with applicable law and this Agreement. Without limiting the generality of the foregoing, and consistent with the provisions of Section 4 of this Agreement, the Licensee agrees to review and, as required to ensure ongoing compliance with this Agreement, take such additional actions (including, without limitation, the installation of additional sound abatement materials and the development of policies) to prevent the emanation of any form of amplified sound, noise, and/or vibration from the summer garden which may be heard in any residence (including outdoor patios of residences). The Hotel shall request reasonable access to neighboring properties, including those of the Groups of Five, prior to the opening of the summer garden to conduct tests to confirm that any form of amplified sound, noise, and/or vibration from the summer garden is not audible in such dwellings.

4. Continuing Cooperation.

- a. The Licensee will provide all Parties the phone number of the Hotel to reach the manager on duty. If residents contact the manager on duty, who is responsible for the compliance with the provisions of this Agreement, the manager on duty will promptly determine whether sound levels exceed the requirements of this Agreement and, if so, will promptly lower sound levels or undertake such measures as may be needed to comply with this Agreement and applicable law, including removal of disorderly patrons.
- b. Without limiting the generality of the foregoing, the Licensee agrees to review and take any action reasonably required to ensure ongoing compliance with this Agreement, including without limitation, developing policies to avoid complaints. If there are noise complaints from local residents, the Licensee shall take all steps reasonably required to address such complaints, including the installation of additional noise controls as necessary to ensure Licensee's compliance with applicable law and this Agreement.
- c. The Licensee shall maintain readily visible signage at the entry point of the rooftop to the summer garden reminding patrons that they are in a residential neighborhood and requesting that their enjoyment of the rooftop be in a respectful and orderly manner. The Licensee shall remove from the rooftop summer garden any person who fails to adhere to this admonition.
- d. The Licensee intends to erect a 47" high glass railing around the boundaries of the rooftop summer garden. Said railing shall be sealed at the bottom so as to provide a 47" high glass barrier intended to inhibit emanation of sound from the rooftop. In the event that noise from the rooftop nonetheless generates reasonable complaints from neighboring residents, in addition to aforementioned noise abatement and continuing cooperation, the Licensee agrees to pursue in good faith the governmental approvals required to extend the height of said barrier beyond 47."
- e. The Licensee agrees that a Hotel employee with understanding of the terms of this Agreement and applicable law will be physically present at the rooftop summer garden during all hours of operation and will monitor sound levels to ensure compliance.

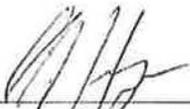
5. Withdrawal of Protest. Upon execution of this Agreement and its acceptance by the ABC Board, the Parties agree that the Parties' protest of the Licensee's application for the Endorsement shall be dismissed.
6. Complaint Log. The Applicant shall maintain a log for every complaint lodged with the establishment for any issue relating to this Agreement, including, but not limited to, complaints of noise, parking congestion, traffic congestion, security, trash, rodents, incidents, violence, crime, and/or operating hours. The log shall include, for each separate complaint, to the extent provided by any such complainant, the name of the complainant, the date of the complaint, any contact information provided by the complainant, the nature of the complaint, and the response taken by the Applicant or the Establishment. Every complaint shall be kept on file in the complaint log for a minimum of three years from the date on which the complaint was made. Applicant shall make the complaint log available to the Board for inspection and copying upon reasonable advance request.
7. Agreement Available Upon Demand. A copy of this Agreement shall be kept on the premises and made available to law enforcement officers and Alcoholic Beverage Regulatory Administration inspectors immediately upon request.
8. Compliance with ABRA Regulations. Applicant shall abide by applicable Alcoholic Beverage Administration (ABRA) regulations regarding ownership of the License.
9. Participation in the Community. Applicant is encouraged to send a representative from time to time to meetings of the ABRA Policy Committee of ANC 2F. Participation in such meeting promotes open lines of communication, neighborhood involvement, and awareness of current ABRA issues. Dates and times can be found at [www.ANC2F.org](http://www.ANC2F.org).
10. Binding Effect. This Agreement shall be binding upon and enforceable against the successors of the Applicant.
11. 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.
12. Notice and Opportunity to Cure. In the event that either party believes that the other materially breached any obligations under this Agreement, such party shall give written notice to the other of the existence of the breach and the specific nature thereof. The party alleged to be in breach shall have fourteen (14) days from the receipt of notice to cure the alleged breach (or if the breach shall relate to excessive noise or disturbance, the lesser of 72 hours or such shorter period as may be reasonable under the circumstances to immediately restore peace, order and quiet). If the breach is not cured within the notice period—or, with respect to a breach which reasonably requires more than fourteen (14) days to cure, efforts to cure the breach have not been commenced— failure should constitute cause for the ANC to file a complaint with the ABC Board pursuant to D.C. Official Code § 25-446(e) in order to enforce the provisions of the Agreement. In the

case of a continuing violation, no notice or opportunity to cure need be provided for subsequent violations of this Agreement, following the initial provision of notice. Any notices required to be made under this Agreement shall be in writing and sent either via e-mail or U.S. mail, postage prepaid, to the parties to this Agreement at the addresses below. Notice shall be deemed given as of the time of receipt or refusal of receipt.

Either party may change its notice address by written notice to the other. Failure to give notice shall not constitute waiver or acquiescence to the violation.

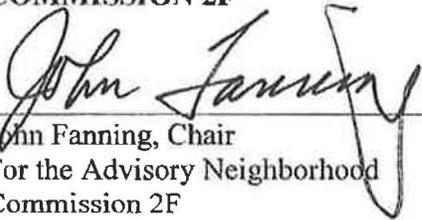
Executed as of the date first above written.

**LICENSEE**

  
De Four Lessee, LLC *VP, Asset Management*  
1430 Rhode Island Avenue, NW  
Washington, DC

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Melissa Stegeman  
Zenith Condominium  
1437 Rhode Island Ave, NW

**ADVISORY NEIGHBORHOOD  
COMMISSION 2F**

  
John Fanning, Chair  
For the Advisory Neighborhood  
Commission 2F  
5 Thomas Circle, NW  
Washington, DC 20005  
Phone: (202) 642-3168  
[anc2foffice@gmail.com](mailto:anc2foffice@gmail.com)

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Jeffrey Dzieweczynski  
1422 Rhode Island Ave, NW

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Matt Higgins  
1441 Rhode Island Avenue Condominium  
1441 Rhode Island Ave, NW

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Patricia Aronsson  
1442 Rhode Island Ave, NW

**GROUP OF FIVE OR MORE**

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Stuart Serkin  
Willison Condominium  
1425 Rhode Island Avenue, NW  
#60

**GROUP OF FIVE OR MORE**

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Beth Stewart  
1426 Rhode Island Ave. NW Condo  
Association  
1426 Rhode Island Ave. NW

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James Kane  
1426 Rhode Island Ave. NW

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Joe Findlay  
1426 Rhode Island Ave. NW

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Allan Friedman  
1426 Rhode Island Ave. NW

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Katie Gan  
1426 Rhode Island Ave. NW