

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

In the Matter of:

Carr Waterfront Hotel, LLC)
t/a InterContinental Washington D.C. - The Wharf)
Applicant for a New)
Retailer's Class CH License)
at premises)
801 Water Street, SW)
Washington, D.C. 20024)

License No.: ABRA-106688
Order No.: 2017-398

Carr Waterfront Hotel, LLC, t/a InterContinental Washington D.C. - The Wharf (Applicant)

Andy Litsky and Dr. Coralie Farlee, on behalf of Advisory Neighborhood Commission (ANC)
6D

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
James Short, Member
Jake Perry, Member
Donald Isaac, Sr., Member

ORDER ON SETTLEMENT AGREEMENT

The official records of the Alcoholic Beverage Control Board (Board) reflect that Carr Waterfront Hotel, LLC, t/a InterContinental Washington D.C. - The Wharf (Applicant), and ANC 6D entered into a Settlement Agreement (Agreement), dated July 10, 2017, in accordance with D.C. Official Code § 25-446 (2001).

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant and Chairperson Andy Litsky and Dr. Coralie Farlee, on behalf of ANC 6D, are signatories to the Agreement.

Accordingly, it is this 19th day of July, 2017, **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; and
2. Copies of this Order shall be sent to the Applicant and ANC 6D.

District of Columbia
Alcoholic Beverage Control Board



Donovan Anderson, Chairperson

Nick Alberti, Member



Mike Silverstein, Member



James Short, Member



Jake Perry, Member



Donald Isaac, Sr., 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 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, 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).

Carr Waterfront Hotel LLC t/a InterContinental Washington, D.C. – The Wharf, ABRA #106688, 801 Water Street, SW, Washington, DC 20024 and ANC6D, July, 2017



1101 4th Street SW, Suite W130, Washington, DC 20024
ANC Office: 202 554-1795 office@anc6d.org

2017 JUL 11 A 9:51
ALCOHOLIC BEVERAGE
REGULATION ADMIN
ABRA

A handwritten signature in black ink, located to the right of the vertical stamp.

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made on this 10th day of July 2017 by and between Carr Waterfront Hotel LLC t/a InterContinental Washington DC - The Wharf ("Applicant"), at 801 Water Street, SW, Washington, DC 20024 ABRA License # 106688 and Advisory Neighborhood Commission 6D ("the ANC"), (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 ANC6D community.

WITNESSETH

WHEREAS, Applicant has applied for a License Class CH for a Hotel ("Establishment") serving spirits, wine, and beer, including indoor space with entertainment and dancing endorsements, and two summer gardens located at 801 Water Street, SW, Washington, D.C. 20024 ("Premises"); and

WHEREAS, the Applicant is encouraged to work regularly with ANC6D and its representatives, other neighborhood organizations, and residents to ensure that the business operations facilitate the enjoyment of the surrounding neighborhood; and

WHEREAS, in lieu of a protest filing by the ANC, the Parties are desirous of entering into a Settlement 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 of the establishment within the ANC on (1) peace, order, and quiet, including the noise and litter provisions set forth in §§ 25-725 and 25-726; and (2) residential parking needs and vehicular and pedestrian safety, and to eliminate the need for a Protest Hearing regarding the license application; and

WHEREAS, the statements and provisions contained in this agreement shall become wholly integrated into the day-to-day operation of the Establishment. The Parties agree that any substantial change in operations is considered of great concern to the community which they may bring to the attention of the ABC Board; and

WHEREAS, the 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 this written Agreement; and

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 manage and operate a Hotel Establishment including a full-service restaurant serving spirits, wine, and beer, with two summer gardens, and entertainment and dancing endorsements in the indoor space. There shall be no covercharge endorsement unless a notice is sent to the community as required by DC Code 25-421 and approved by the ABC Board. Music or entertainment shall meet noise and privacy requirements in section 6, below. Establishment shall not participate in pub crawls. No signage shall have flashing lights.
3. ***Floors Utilized and Occupancy:*** The Applicant will operate the 24-hour Hotel Establishment with 278 guest rooms, dining facilities, and two summer gardens. The Certificate of Occupancy will state the maximum room count and summer garden seating capacities; however, the Establishment shall not exceed the total occupancy load of 227 patrons in the dining room and 72 and 40 seats respectively in the two summer gardens.
4. ***Hours of Operation, Sales, Service, Consumption, and Entertainment.***
The hours of operation of the establishment are:
 Sunday to Saturday: 24 hours, 7 days a week; and
The hours of **selling, serving, and consuming alcohol in the indoor space** shall be:
 Sunday through Saturday: 11:00 a.m. to 3:00 a.m.,
The hours for **Entertainment and dancing in the indoor space** shall be:
 Sunday through Thursday: 6:00 p.m. to 2:00 a.m.,
 Friday and Saturday: 6:00 p.m. to 3:00 a.m.
The hours of **selling, serving, and consuming alcohol in the two summer gardens** shall be:
 Sunday through Saturday: 11:00 a.m. to 12:00 a.m.

Applicant shall not knowingly permit patrons to leave the premises with open alcoholic beverages, open containers, cups, bottles/cans, except food and beverages packaged "to go."

Provided that: (a) on days designated by the DC ABC Board as "Holiday Extension of Hours" applicant may avail itself of the extended hours so provided; (b) in the event the Council of the District of Columbia or the ABC Board grants licensees in general extended operating hours (such as for Inauguration) applicant may avail itself of such extended hours; and (c) on January 1 of each year applicant may operate and sell, serve, and permit the consumption of alcoholic beverages until 4:00a.m. The ANC will not object to the Applicant applying for an one-day substantial change, in accordance

with District law, so that it may offer entertainment until 3:00 a.m. on January 1 of each year.

Sales of Alcoholic Beverages: Applicant shall not sell liquor, beer or wine from the Premises primarily intended for off-Premises use. Unfinished/recorked bottles of wine are allowed to be removed from the Premises.

5. **Parking.** Because there is limited parking in the vicinity, it is a concern of the ANC that the Applicant's operation of the Establishment does not create or exacerbate parking problems within the ANC. Applicant shall make reasonable efforts to inform patrons of transportation options other than automobiles and, if it is within the Applicant's control, provide adequate bike parking.
6. **Noise and Privacy.** Applicant shall strictly comply with D.C. Official Code § 25-725.
 - Applicant shall inform its patrons by signage or other means that upon residences are in proximity to the Establishment and urge quiet and decorum by patrons on exiting the Establishment.
 - Applicant shall receive all deliveries of food, beverages, and restaurant supplies during hours between 7:00 a.m. and 7:00 p.m. Mondays to Saturdays. No deliveries excepting fresh bread products, fresh produce, and seafood shall be accepted on Sundays.
7. **Public Space and Trash.** The Applicant shall participate in the building's trash removal and storage program. Applicant shall take commercially reasonable measures to keep the Premises, trash collection area, loading dock, hallways, passageways, tree boxes, sidewalks and common areas providing access to and adjoining the Premises free of insects, rodents, vermin, other pests, trash and dirt accumulations generated by the operations in the Premises. Applicant shall not store trash or refuse in, or permit trash, rubbish, cartons, merchandise or other goods intended for use in the Premises to accumulate in areas outside of the Premises other than in the landlord designated areas. All recycling shall be placed in the designated areas. Applicant shall take commercially reasonable measures to ensure that the areas adjoining or providing access to the Premises are kept clean of wrappers, garbage, trash and similar debris. Applicant shall arrange for regular, prompt, and reliable trash and recycling removal of all trash and recycling generated at or associated with the Premises from the Premises. Applicant shall store all trash and other waste in odor and vermin proof containers, such containers shall be kept in temperature controlled areas not visible to members of the public.

Applicant shall take commercially reasonable measures to maintain the Premises, including sidewalks, free of litter, refuse and debris.

Extermination. Applicant shall make reasonable efforts to cause extermination services, including treatment for insects, spiders, rates, mice, moles and other rodents, to be provided to the Premises by a reputable exterminator on at least a monthly basis.

8. ***Security Cooperation in Stemming Illegal Drugs and Public Drinking.*** Applicant shall take all reasonable steps to minimize problems of illegal drugs and public drinking, including, at all times, by having a sufficient number of trained 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; and maintaining contact and cooperating with MPD and other enforcement officials when known or suspected drug activities occur. Applicant shall take all reasonable steps to discourage loitering in the vicinity of the Premises.

Applicant shall ensure that video surveillance covers public areas where alcoholic beverages are served and/or consumed, except ballrooms and meeting rooms. If responsible for the video surveillance equipment, the establishment shall maintain security cameras and: (a) ensure the cameras are operational; (b) maintain footage of a crime of violence or a crime involving a gun for a minimum of 30 days; and (c) make the security footage available within 48 hours upon the request of ABRA or the Metropolitan Police Department.
9. ***License Ownership and Compliance with ABRA Regulations.*** Applicant promises to the ANC 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, and agrees that the ANC shall have standing to ask the ABC Board to enforce any violations of the agreement.
10. ***Participation in the Community.*** Applicant is encouraged to maintain open communication with the ANC and the community for which the ANC acts.
11. ***Notice and Opportunity to Cure.*** In the event that any of the parties is in breach of this Agreement, it 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 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 of 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 § 25-447.

If to Applicant:

Carr Waterfront Hotel LLC
t/a InterContinental Washington DC - The Wharf
801 Water Street, SW
Washington, DC 20024
Attn: Austin Flajser, President
Phone: 202.303.3093
e-mail: aflajser@carrcc.com

Carr Waterfront Hotel LLC t/a InterContinental Washington, D.C. – The Wharf, ABRA #106688, 801 Water Street, SW, Washington, DC 20024 and ANC6D, July, 2017

If to Protestant: Advisory Neighborhood Commission 6D
1101 4th Street, SW, Suite W130
Washington, DC 20024
Attn: Chair, ANC
Phone: (202) 202 554-1795
e-mail: office@ANC6D.org

Failure to give notice shall not constitute waiver 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.

12. **No Protest.** Upon execution of this Agreement by the Parties and its acceptance by the ABC Board, and in reliance thereupon, the ANC shall refrain from filing a protest of the Applicant's pending license application.

The ANC:

Chair, ANC6D

Andy Litsky 7/10/17
Andy Litsky, SMD04 Date

Chair, ABC Committee, ANC6D

Coralie Farlee 10 July 17
Coralie Farlee Date

APPLICANT:

Carr Waterfront Hotel LLC t/a
InterContinental Washington DC - The Wharf

By: Austin Flajser 7-10-17
Austin Flajser Date
President