

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

<b>In the Matter of:</b>	)	
	)	
Shawarmaji, LLC	)	
t/a Micho's	)	
	)	
Applicant for a New	)	Case No. 14-PRO-00049
Retailer's Class CR	)	License No. ABRA-094784
	)	Order No. 2014-292
at premises	)	
500 H Street, N.E.	)	
Washington, D.C. 20002	)	
	)	

Shawarmaji, LLC, t/a Micho's (Applicant)

Karen Wirt, Chairperson, Advisory Neighborhood Commission (ANC) 6C

**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 AND  
WITHDRAWAL OF PROTEST OF ANC 6C**

The Application filed by Shawarmaji, LLC, t/a Micho's, for a new Retailer's Class CR License, was protested; however, a Roll Call Hearing scheduled for July 21, 2014, was not held, because the Parties submitted a Settlement Agreement before the hearing.

The official records of the Board reflect that the Applicant and ANC 6C have entered into a Settlement Agreement (Agreement), dated July 5, 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 Karen Wirt, on behalf of ANC 6C, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by ANC 6C.

Accordingly, it is this 23rd day of July, 2014, **ORDERED** that:

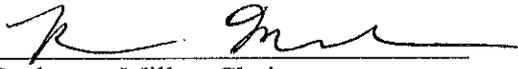
1. The Application filed by Shawarmaji, LLC, t/a Micho's, for a new Retailer's Class CR License, located at 500 H Street, N.E., Washington, D.C., is **GRANTED**;
2. The Protest of ANC 6C in this matter is hereby **WITHDRAWN**;
3. The above-referenced Settlement Agreement submitted by the Parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order, except for the following modification:

Section 12 (Right to Seek Redress) – The second sentence shall be modified to read as follows: “The parties agree that if any complaint of violation of this Agreement is not so resolved, then any failure of the Applicant to adhere to the foregoing commitments will constitute a breach of this agreement and shall constitute a cause for filing a complaint with the ABC Board pursuant to D.C. Official Code § 25-446(e).”

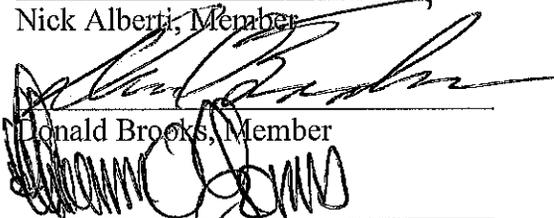
The parties have agreed to this modification.

4. Copies of this Order shall be sent to the Applicant and ANC 6C.

District of Columbia  
Alcoholic Beverage Control Board

  
Ruthanne Miller, Chairperson

Nick Alberti, Member



Donald Brooks, Member

Herman Jones, Member



Mike Silverstein, Member



Hector Rodriguez, Member



James Short, 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 14<sup>th</sup> 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).

## SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered into as of this 5<sup>th</sup> day of July, 2014 by and between Shawarmaji, LLC (hereinafter the "Applicant") and Advisory Neighborhood Commission 6C, (hereinafter the "Protestants").

WHEREAS, Applicant having filed an application with the District of Columbia Alcoholic Beverage Control Board (hereinafter "ABC Board") for issuance of a Retailer's Class CR license for premises of "Micho's," 500 H Street, NE, Washington, D.C.

WHEREAS, in recognition of the ABC Board's policy of encouraging parties to a protested proceeding to settle their differences by negotiating agreements, the parties hereto being desirous of entering into an agreement whereby, subject to approval of the ABC Board, Applicant will agree to adopt certain measures to address the Protestants' concerns and Protestants' will agree to the issuance of the ABC License and withdraws their Protests.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings memorialized herein, the parties agree as follows:

1. **Nature of Business:** Applicant will operate at all times as a bona-fide Class CR establishment (as such term is defined in ABC statutes and regulations). Applicant will not make its premises available to non-employee promoters for presentation of advertised "parties" or "events" intended to generate profit for such promoters. However, such latter restriction shall not preclude Applicant from closing its premises to the general public in order to accommodate invitation only private functions.
2. **Hours of Operation:** Applicant's operating hours shall be 11:00 am to 10:00 pm Sunday through Thursday and 11:00 am to 3:00 am Friday and Saturday, provided that:
  - a. Sale and consumption of alcohol will end at 2:00 am on Friday and Saturday (one hour before closing);
  - b. Operation of the sidewalk café/summer garden shall terminate at 10:00 pm Sunday through Thursday and at 12:00 am Friday and Saturday; and
  - c. It is understood that after cessation of said "operating hours," no patrons shall remain on the premises or the sidewalk café/summer garden, respectively.
3. **Outdoor Seating:** Applicant will operate the sidewalk café/summer garden with a maximum of eight (8) tables, providing seating for a maximum of 32 patrons and a maximum occupancy of 32 patrons, provided that:
  - a. All tables and patrons be located only in the area of the sidewalk café/summer garden closest to H St. NE (i.e., south of the building's side entrance);
  - b. The area of the sidewalk café/summer garden not dedicated to patron use will be landscaped such as to provide a visual and acoustic barrier to the residential buildings to the north of the premises; and
  - c. If, after a period of six (6) months from the first day of operation, no written complaints have been provided to the Applicant as described in Section 6 of this agreement, the

Applicant may operate sidewalk café/summer garden with a maximum of 14 tables and a maximum of 56 patrons.

4. **Ingress and Egress:** The main entrance for the establishment will be on H St. NE and not on 5<sup>th</sup> St. NE. All patrons will enter and exit the establishment through said main entrance. Any entrance on 5<sup>th</sup> St. NE will be used by patrons solely for access to and from the sidewalk café/summer garden. No doors may be propped open after 8:00 pm.
5. **Noise Suppression:** The Restaurant's operation shall at all times be in compliance with the D.C. Noise Control Act and DC Code 25-725. Applicant will encourage employees and patrons to be considerate of residents in the neighborhood after departing the building, by keeping conversations and other noises at a level that will not disturb the peace, order, quiet and tranquility of residents in the enjoyment of their homes and by departing the vicinity of the premises immediately upon exiting.
6. **Failure to Maintain Peace, Order, and Quiet:** Should the Applicant fail to maintain the peace, order, and quiet of the neighborhood, the sidewalk café/summer garden must be operated with a maximum of six (6) tables and a maximum of 24 patrons and must cease operation at 11:00 pm on Fridays and Saturdays. Failure to maintain the peace, order, and quiet of the neighborhood shall be determined by written notification of one or more of the following persons or entities, and must be a result of documented violations of this Settlement Agreement, the D.C. Noise Control Act, or DC Code 25-725 :
  - a. The ANC;
  - b. The ANC Commissioner representing the Single Member District (SMD) in which the Applicant is operating; or
  - c. A group of five (5) or more residents residing on adjacent blocks to the premises, including the 700 and 800 blocks of 5<sup>th</sup> St. NE and the 400 and 500 blocks of H St. NE.

After written notification of the Applicant by one or more of the above groups, operation of the sidewalk café/summer garden later than the hours stated in this section and/or with more tables than stated in this section will be allowed only following written approval of the group(s) that provided said notification of failure to maintain the peace, order, and quiet of the neighborhood.

7. **Deliveries:** To maintain the peace, order and quiet of the surrounding neighborhood, Applicant shall receive all deliveries of food, beverages and supplies during hours between 8:00 am and 5:00 pm Mondays - Fridays. No deliveries shall be accepted on weekends except for food.
8. **Trash Pick-Up and Removal:** Applicant will maintain regular trash/garbage removal service only during the hours from 8:00 am to 5:00 pm. All trash and garbage shall be stored in the interior of the premises until it is to be picked up by Applicant's hauler. The Applicant shall keep dumpster lids tightly closed and incapable of being entered by rodents, in order to limit odors and help control pest and rodent population. Applicant will contract for regular rodent and pest (insect) abatement. There shall be no outdoor disposal of glass bottles after 9:00pm.

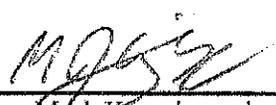
9. **Removal of Grease and Oils:** Applicant will provide for the proper (recyclable) removal of grease and oils and will not deposit these substances for removal in dumpsters or trash cans.
  
10. **Communication Between Protestant and Applicant.** Applicant agrees to meet, as reasonably requested with the Protestants (or any of them) to address any perceived problems arising from the operation of the business. The Applicant agrees to work in good faith with the Protestants to resolve any such problems. Likewise, the Protestants agree to communicate all complaints, whether personally observed or brought to their attention by other parties, to the Applicant or the manager on duty at the establishment.
  
11. **Withdrawal of Protest.** Protestants agree to the issuance of the license and the 'withdrawal of their protests upon execution of this Agreement, provided that this Voluntary Agreement is incorporated into the Board's order issuing, amending or renewing the license, which order is thereby conditioned upon compliance with such Voluntary Agreement.
  
12. **Right to Seek Redress:** The parties agree that Applicant will be given written notice of any alleged violation of this Agreement and will be afforded ten (10) days in which to investigate and respond to any complaint. The parties agree that if any complaint of violation of this Agreement is not so resolved, then any failure of the Applicant to adhere to the foregoing commitments will constitute a breach of this agreement and grounds for the Protestant to petition the Board for issuance of an order to Show Cause, as provided by D.C. Code 25-446(e).

IN WITNESS WHEREOF, the Parties place their signatures to this agreement, this 5<sup>th</sup> day of July, 2014

APPLICANT:

ADVISORY NEIGHBORHOOD  
COMMISSION 6C:

  
name: JAN ARSEN

  
name: Mark Kazmierczak, Commissioner, 6C05

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name:

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name: