

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

**In the Matter of:** )  
 )  
Sixth and H Street Bar and Grill, LLC )  
t/a Sixth and H Street Bar and Grill )  
 )  
Applicant for a New )  
Retailer's Class CT )  
 )  
at premises )  
523 H Street, N.E. )  
Washington, D.C. 20002 )  
 )

Case No. 14-PRO-00083  
License No. ABRA-096761  
Order No. 2014-524

Sixth and H Street Bar and Grill, LLC, t/a Sixth and H Street Bar and Grill (Applicant)

Mark Kazmierczak, Commissioner, Advisory Neighborhood Commission (ANC) 6C

Nicholas Johnston, on behalf of A Group of Five or More Individuals

**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 PROTESTS OF ANC 6C  
AND A GROUP OF FIVE OR MORE INDIVIDUALS**

The Application filed by Sixth and H Street Bar and Grill, LLC, t/a Sixth and H Street Bar and Grill, for a new Retailer's Class CT License, was protested; however, a Roll Call Hearing scheduled for December 1, 2014, was not held, because the Parties submitted a Settlement Agreement before the hearing.

The official records of the Board reflect that the Applicant, ANC 6C, and a Group of Five or More Individuals have entered into a Settlement Agreement (Agreement), dated November 25, 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; Commissioner Mark Kazmierczak, on behalf of ANC 6C; and Nicholas Johnston, on behalf of the Group of Five or More Individuals; are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protests filed by ANC 6C and the Group of Five or More Individuals.

Accordingly, it is this 18th day of December, 2014, **ORDERED** that:

1. The Application filed by Sixth and H Street Bar and Grill, LLC, t/a Sixth and H Street Bar and Grill, for a new Retailer's Class CT License, located at 523 H Street, N.E., Washington, D.C., is **GRANTED**;
2. The Protests of ANC 6C and the Group of Five or More Individuals in this matter are hereby **WITHDRAWN**;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 modifications:

Section 9 (Communication Between Protest and Applicant) – The first sentence shall be modified to read as follows: “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.”

Section 11 (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 grounds for the Protestant to file a complaint with the ABC Board as provided by D.C. Official Code § 25-446(e).”

The parties have agreed to these modifications.

4. Copies of this Order shall be sent to the Applicant, ANC 6C, and Nicholas Johnston, on behalf of the Group of Five or More Individuals.

District of Columbia  
Alcoholic Beverage Control Board

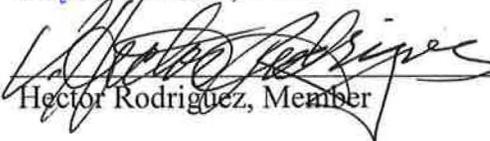
  
\_\_\_\_\_  
Ruthanne Miller, Chairperson

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Nick Alberti, Member

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Donald Brooks, Member

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Herman Jones, Member

  
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Mike Silverstein, Member

  
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Hector Rodriguez, Member

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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 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 AGREEMENT is made and entered into as of this 25<sup>th</sup> day of November, 2014 by and between Sixth and H Street Bar and Grill, LLC (hereinafter the "Applicant") and Advisory Neighborhood Commission 6C and a Group of Five or More Residents, (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 CT license for premises of "Sixth and H Street Bar and Grill" 523 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 CT 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:** Operation of the sidewalk café/summer garden shall terminate at 10:00 pm, Sunday through Saturday. 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 may operate a sidewalk café/summer garden, with the following restrictions:
  - a. No TVs will be located outside;
  - b. No music will be played outside; and
  - c. No awning or other enclosures will be erected, although a short fence may be used to delineate the seating area; individual decorative awnings above the windows are allowed.
4. **Ingress and Egress:** The main entrance for the establishment will remain on H St. NE; no entrance may be added on the 6<sup>th</sup> St. side of the building.
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. **Deliveries:** The Protestant and the Applicant recognize that deliveries early in the morning or late at night may cause noise that is a disturbance to nearby residents. Should such noise problems become a nuisance, the Applicant agrees to work with the Protestant to restrict deliveries to reasonable times.
7. **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 on the premises (i.e., not in public space) 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.
8. **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.
9. **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.
10. **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.
11. **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 25<sup>th</sup> day of November, 2014

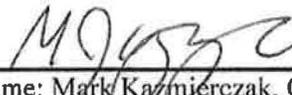
APPLICANT:

  
name: Leslie DeFour, Owner

name:

name:

PROTESTANT:

  
name: Mark Kazmierczak, Commissioner, 6C05

  
name: NICHOLAS JOHNSTON  
724 6TH ST NE

name:

name:

name:

name:

name: