

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

In the Matter of:)	
)	
Terasol Gallery & Cafe, Inc.)	
t/a Terasol)	
)	
Applicant for a New)	
Retailer's Class CR License)	License No. ABRA-085467
at premises)	Order No. 2010-554
5010 Connecticut Avenue, N.W.)	
Washington, D.C. 20008)	
)	

Terasol Gallery & Cafe, Inc., t/a Terasol ("Applicant")

Karen Lee Perry, Chairperson, Advisory Neighborhood Commission (ANC) 3F

BEFORE: Charles Brodsky, Chairperson
Mital M. Gandhi, Member
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ORDER ON VOLUNTARY AGREEMENT

The official records of the Alcoholic Beverage Control Board (Board) reflect that Terasol Gallery & Cafe, Inc., t/a Terasol ("Applicant"), filed an Application for a new Retailer's Class CR License located at 5010 Connecticut Avenue, N.W., Washington D.C. The Applicant and ANC 3F have entered into a Voluntary Agreement, dated September 19, 2010, setting forth the terms and conditions that govern 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 ANC 3F are signatories to the Agreement.

Accordingly, it is this 10th day of November 2010, **ORDERED** that:

1. The Application filed by Terasol Gallery & Cafe,, Inc., t/a Terasol (Applicant), for a new Retailer's Class CR license located at 5010 Connecticut Avenue, N.W., Washington, D.C., is **GRANTED**;
2. The above-referenced Voluntary Agreement submitted by the Parties to govern the operations of the Applicant's establishment are **APPROVED** and **INCORPORATED** as part of this Order, except for the following modifications:

Section 1: The last sentence in Section 1 shall be modified as follows: "Any change from this model shall be of concern to residents and requires approval by the ABC Board."

Section 2: Section 2 shall read as follows: "The maximum occupancy of the Establishment shall be governed by the Certificate of Occupancy issued by DCRA."

Section 12: The last sentence in Section 12 shall be removed.

The parties agreed to these modifications.

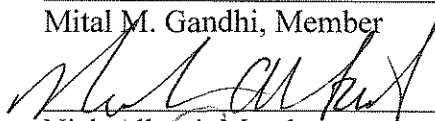
3. Copies of this Order shall be sent to the Applicant and ANC 3F.

Terasol Gallery & Cafe, Inc.
t/a Terasol
License No. 085467
Page 3

District of Columbia
Alcoholic Beverage Control Board

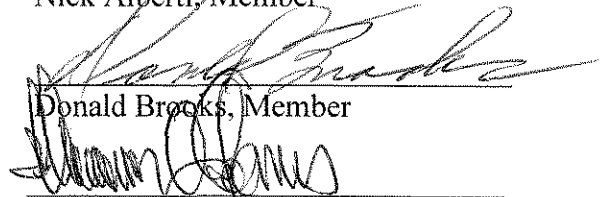
Charles Brodsky, Chairperson

Mital M. Gandhi, Member




Nick Alberti, Member

Donald Brooks, Member

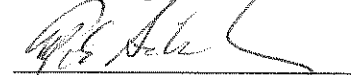


Herman Jones, Member

Calvin Nophlin, Member



Calvin Nophlin, Member



Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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, 1250 U Street, N.W., Third Floor, Washington, DC 20009.

VOLUNTARY AGREEMENT

This VOLUNTARY AGREEMENT ("Agreement") is made on this 19th day of September 2010, by and between Terasol Gallery & Café, Inc. t/a Terasol, License No. ABRA-08547, (the Applicant) and Advisory Neighborhood Commission 3F (the "ANC" or "ANC 3F"), North Cleveland Park, Forest Hills and Tenleytown

WITNESSETH

WHEREAS, pending before the District of Columbia Alcoholic Beverage Control Board is the Applicant's application for a Retailer's Class "CR" (Restaurant) liquor license and entertainment endorsement for its premises at 5010 Connecticut Avenue, N.W.; and

WHEREAS, both Applicant and the ANC (the "parties") are desirous of entering into a Voluntary 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 on (i) the peace, order and quiet of the neighborhood and (ii) pedestrian safety and vehicular traffic;

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. The Applicant shall manage and operate a *bona fide* restaurant on its premises with an emphasis on food and un-amplified music. Any change from this model shall be considered by both Parties to be a substantial change in operation of concern to residents and requires prior approval by the ABC Board.
2. The restaurant shall have a maximum of 40 seats for the exclusive use of dining patrons, and a bar area with 5 seats primarily for the use of patrons waiting for dining service, patrons waiting to be joined by other patrons and patrons waiting for carryout food service. The maximum occupancy of the Establishment according to its Certificate of Occupancy is 60 patrons.

3. The Applicant's hours of operation for the restaurant shall be as follows:

Monday through Sunday: 7:00 a.m. – 12:00 midnight

The Applicant's hours for selling and serving alcohol shall be as follows:

Monday through Sunday: 7:00 a.m. – 12:00 midnight

The Applicant's hours for entertainment shall be as follows:

Monday through Sunday: 10:00 a.m. – 12:00 midnight

4. The Applicant has applied to the Department of Transportation Public Space Administration for a sidewalk café. The ANC will work with the Applicant and the Public Space Administration with regard to the number of tables and seats. Applicant will direct that its employees inspect the sidewalk café periodically to ensure its cleanliness. The hours of operation for the sidewalk café shall be Monday through Sunday from 7 a.m. to 11:30 p.m.

5. Applicant shall offer food to its patrons at all times it is open. At no time shall a patron be able to purchase an alcoholic beverage from the Applicant and not be able to purchase food from the Applicant. The Applicant shall offer take-out food, but will not provide alcoholic beverages on a take-out basis.
6. Applicant shall be permitted to present a guitar player or other unamplified instruments and/or recorded music inside the restaurant as soft background music for dining; provided, however, that no doors to the exterior of the restaurant shall be propped open at any time when music is being played in the restaurant. The Applicant shall permit no form of dancing. Applicant will strictly comply with D.C. Official Code § 25-725 and to that end shall make improvements to the property and take all necessary actions to ensure that music, noise, and vibration from the Establishment are not audible in any other premises other than the licensed establishment. Applicant agrees to keep its doors and windows closed when live music is being played at the establishment. If necessary, Applicant will take reasonable steps to reduce noise emanating from the Establishment from the opening of the entry or exit doors.
7. The Applicant shall not install or utilize any equipment for video games or juke boxes.
8. The Applicant shall post no signs in public space or outside the restaurant advertising liquor sales, happy hours, or the like.
9. Applicant will care for the 35 feet of public space that borders the restaurant on Connecticut Avenue, including provision for suitable plantings. Applicant shall keep the sidewalk (up to and including the curb) and tree box(es) clean and free of litter, bottles, and other debris in compliance with D.C. Code and Municipal Regulations. Applicant shall police these areas sufficiently to assure that refuse and other materials are promptly removed. Applicant shall ensure that the area around its dumpster(s) is kept clean at all times and the dumpster does not encroach on abutting property owners and so that no garbage is placed on abutting property.
10. The Applicant shall provide rat and vermin control for its trash receptacles and 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.
11. An ABC licensed manager, conversant with all aspects of this agreement, shall be on site at the Applicant's premises during all hours of operation. Applicant promises that it shall abide by all Alcoholic Beverage Regulation Administration (ABRA) regulations regarding the ownership of the license and all other provisions applicable to liquor licenses and agrees that the ANC shall have standing to ask the ABC Board to enforce any violations of the agreement. Applicant also specifically agrees to be the sole owner of the ABC license.
12. Applicant agrees to seek to maintain open communication with the ANC and the community for which the ANC acts. 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 or new issues that might arise with regard to the operation of the Establishment.

13. 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 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 seeking a Show Cause Order from the ABC Board pursuant to D.C. 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, 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:

If to Applicant: Terasol Gallery & Cafe
5510 Connecticut Avenue, N.W.
Washington, D.C. 20008

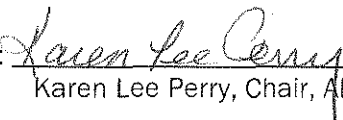
If to ANC: Advisory Neighborhood Commission 3F
4401-A Connecticut Avenue, N.W., PMB 244
Washington, D.C. 20008-2322

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.

In consideration of and in reliance upon the commitments reflected in Paragraphs 1-13 above, the ANC will advise the ABC Board that it does not oppose the Applicant's application for a Retailer's Class "CR" liquor license.

IN WITNESS WHEREOF, the Parties have affixed hereunto their hands and seals on the year and day first above written

By:  _____ for the Applicant
Alan Moin, Owner

By:  _____ for ANC 3F
Karen Lee Perry, Chair, ANC 3F

ANC 3F RESOLUTION

APPLICATION FOR A CLASS "CR" LIQUOR LICENSE
and
STIPULATED LIQUOR LICENSE

TERASOL GALLERY & CAFE

Advisory Neighborhood Commission 3F
North Cleveland Park, Forest Hills & Tenleytown
4401-A Connecticut Avenue, N.W. Box #244
Washington, D.C. 20008-2322

WHEREAS, Terasol Gallery & Café, Inc. t/a Terasol, has applied for a Class "CR" Liquor License (License No. ABRA-08547) for a full service restaurant and sidewalk café at 5510 Connecticut Avenue, N.W.; and

WHEREAS, the Applicant and the ANC have entered into a voluntary agreement for the Class "CR" license; and

WHEREAS, by signing this voluntary agreement, the Applicant shows an intent to operate and maintain the establishment in such a manner as to minimize the effect on the peace, order, and quiet of the neighborhood; and

WHEREAS, the Applicant has posted in its front window the placard announcing the application for a liquor license, with a Petition Date of October 18, 2010, and a Hearing Date of November 1, 2010; and

WHEREAS, the Applicant desires to start serving alcohol before the hearing date, for which it will need a stipulated liquor license;

THEREFORE BE IT RESOLVED THAT, ANC 3F does not object to granting a liquor license to the Applicant and does not object to the Applicant's request for a stipulated liquor license.



This resolution was approved by a vote of 5-0-0 at a duly noticed public meeting of ANC 3F on Monday, September 20, 2010, with a quorum present, a quorum being four.


Karen Lee Perry, Chair

Government of the District of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 3F
North Cleveland Park • Forest Hills • Tenleytown

3F01 - Susan Banta
3F02 - Karen L. Perry, Chair
3F03 - Jane Solomon, Vice Chair & Treasurer
3F04 - Thomas Whitley, Secretary
3F05 - Vacant
3F06 - Cathy Wiss
3F07 - Michael DiRienzo

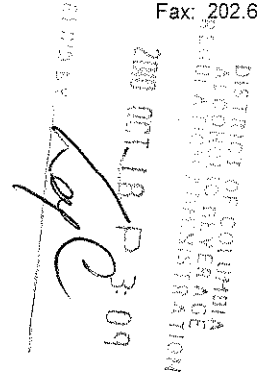


Box 244
4401- A Connecticut Avenue, N.W.
Washington, D.C. 20008-2322
Web site: www.anc3f.org
E-mail: ANC3F@juno.com
Phone: 202.362.6120
Fax: 202.686.7237

September 23, 2010

Sent Via Fax and Mail

Mr. Charles Brodsky, Chair
Alcoholic Beverage Regulation Administration
1250 U Street, NW, Third Floor
Washington, DC 20009



RE: Terasol Gallery & Café, Inc. t/a Terasol, License No. ABRA-08547,
5010 Connecticut Avenue, N.W.

Dear Mr. Brodsky:

At a duly noticed public meeting on Monday, September 20, 2010, Advisory Neighborhood Commission 3F (ANC 3F) voted 5-0-0 with a quorum present (a quorum being 4) to adopt the attached Resolution and Voluntary Agreement for Terasol Gallery & Café for a Class "CR" restaurant liquor license. ANC 3F also voted 5-0-0 not to object to the granting of a stipulated license.

The Applicant is aware that the placards must remain in the window of his establishment for the determined time even if the Board grants the request for a stipulated license. The Applicant is aware of the quarterly food and beverage reports.

If you have any questions or concerns about the Agreement, please contact Commissioner Karen Perry, the designated ANC Commissioner for this application, at 202-363-6748.

Sincerely,

A handwritten signature in blue ink that reads "Karen Lee Perry".
Karen Lee Perry, Chair

Attachments:

1. Resolution
2. Voluntary Agreement