THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter of:	)	
	)	
Clover Logan Circle, LLC	)	
t/a Tortilla Coast	)	
	)	
Applicant for a New	)	Case No. 11-PRO-00028
Retailer's Class CR License	)	License No. ABRA-086859
	)	Order No. 2011-415
at premises	)	
1454 - 1460 P Street, N.W.	)	
Washington, D.C. 20005	)	
	)	

Clover Logan Circle, LLC, t/a Tortilla Coast (Applicant)

Charles D. Reed, Chairperson, on behalf of Advisory Neighborhood Commission (ANC) 2F

Richard Bianco, Esq., on behalf of A Group of Five or More Individuals (Metropole Residents) (Protestant)

BEFORE: Nick Alberti, Interim Chairperson
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ORDER ON VOLUNTARY AGREEMENT AND WITHDRAWAL OF PROTESTS

The Application filed by Clover Logan Circle, LLC, t/a Tortilla Coast (Applicant), for a new Retailer's Class CR License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on July 25, 2011 and a Protest Status Hearing on August 17, 2011, in accordance with D.C. Official Code § 25-601 (2001).

On August 17, 2011, pursuant to Title 23 of the District of Columbia Municipal Regulations ("23 DCMR") § 1602.3 (2004), the Board dismissed the Protest of Charles Ballew's Group of Five or More Individuals, because the Protestants failed to produce five individuals at the Protest Status Hearing, in accordance with D.C. Official Code § 25-601(2) (2001).

The official records of the Board reflect that the Applicant, ANC 2F, and Metropole Residents have entered into a Voluntary Agreement (Agreement), dated August 24, 2011, 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; Chairperson Charles D. Reed, on behalf of ANC 2F; and Richard Bianco, on behalf of Metropole Residents, are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protests filed by ANC 2F and Metropole Residents of this Application.

Accordingly, it is this 12th day of October 2011, **ORDERED** that:

1. The Application filed by Clover Logan Circle, LLC, t/a Tortilla Coast, for a new Retailer's Class CR License, located at 1454 - 1460 P Street, N.W., Washington, D.C., is **GRANTED**;

2. The Protests of ANC 2F and Metropole Residents in this matter are hereby **WITHDRAWN**;

3. The above-referenced Voluntary Agreement submitted by the Applicant, ANC 2F, and Metropole Residents to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED**, except for the following modifications:

   Section 2 (Nature of the Business) – The following language shall be removed: "a substantial change in operation."

   Section 8 (Rats and Vermin Control) – The third sentence in Section 8 shall be modified to read as follows: "Applicant shall provide proof of its rat and vermin control contract upon request of the Board."

   The parties have agreed to these modifications.

4. Copies of this Order shall be sent to the Applicant, ANC 2F, and Richard Bianco, on behalf of Metropole Residents.

District of Columbia
Alcoholic Beverage Control Board

Nick Alberti, Interim Chairperson

Donald Brooks, Member

Herman Jones, 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, 2000 14th Street, N.W., Suite 400S, Washington, DC 20009.

Holland & Knight

2099 Pennsylvania Avenue, N.W., Suite 100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE
RECEIVED
2011 SEP 14 P 12:47
BY

September 14, 2011

Beverly A. Berning
202.419.2452
beverly.berning@hklaw.com

VIA HAND DELIVERY

Ms. Cynthia Simms
Alcoholic Beverage Control Board
2000 14th Street, N.W., 4th Floor
Washington, D.C. 20009

Re: Clover Logan Circle LLC t/a Tortilla Coast
1454 - 1460 P Street NW
Retailer's Class CR2, 405.1

Dear Ms. Simms:

With reference to the above License Application, I have enclosed the following for your records:

(xx) Copy of the Ratified Voluntary Agreement; and

(xx) Copy of Letter dated September 12, 2011from ANC2F.

The client is most anxious to get this scheduled on the Boards Agenda. Could you please let me know the date this will be assigned.

Sincerely,

Holland & Knight LLP

Beverly A. Berning

Beverly A. Berning
Paralegal

Enclosures

cc: Patricia Jenkins w/Enclosures

#10362256v1

ADVISORY NEIGHBORHOOD COMMISSION 2F
Government of the District of Columbia
5 Thomas Circle, NW, Washington, D.C. 20005
Telephone: (202) 667-0052 Fax: (202) 667-0053 www.anc2f.org

Commissioners
2F01 Charles D. Reed, *Chairman*
2F02 Nick Barron
2F03 Samuel Goekjian, *Treasurer*
2F04 Matt Raymond, Secretary
2F05 Vacan
2F06 Mike Benantrdo, *Vice Chair*
Cynthia Cota, *Executive Director*

Writer's direct contact:

Charles D. Reed
creed @kgrmlaw.com
Tel: (202) 262-5030
1310 Q Street, NW
Washington, DC 20009

September 12, 2011

(Via Email Only)
Alcoholic Beverage Control Board
2000 14th Street, NW, Suite 400S
Washington, DC 20009

Re: Tortilla Coast, 1456-60 P Street, NW, Washington, DC, application for retailer, Class "CR" license.

Attention Mr. Nick Alberti, Acting Chairman

Dear Mr. Alberti and Members of the Board:

On September 7, 2011, at a duly called meeting of Advisory Commission 2F ("ANC" or "Commission") at which a quorum was present and acting throughout, the attached Voluntary Agreement was presented to the Commission for its ratification. The agreement was unanimously ratified (4-0). Accordingly, the agreement is hereby submitted for approval by the Board. Subject to such approval, and continued compliance by the Applicant with the terms of the agreement, the Commission withdraws its currently pending protest of this application. The Commission recommends that the Board accept the agreement. Such recommendation is intended to be formal and is made pursuant to DC Code §1-209(10). The Commission respectfully requests that the Board accord "Great Weight" to this recommendation.

Respectfully yours,

Charles D. Reed

Charles D. Reed
Chairman, ANC 2F

Cc Jim Sullivan (*Via Email*
Richard Bianco Esq. *(Via Email)*

VOLUNTARY AGREEMENT

THIS VOLUNTARY AGREEMENT ("Agreement") is entered into this 24th day of August, 2011, by and between Clover Logan Circle LLC, trading as *Tortilla Coast* (the "Applicant"); and Advisory Neighborhood Commission 2F ("ANC 2F") and a group of residents of the Metropole building at 1515 15th Street NW (the "Metropole Residents") (ANC 2F and the Metropole Residents are hereinafter referred to collectively as "the Protestants").

RECITALS

(a) Applicant has applied for a Retailer Class CR License (the "License") for a business establishment (the "Establishment") located at 1454-1460 P Street, NW, Washington, D.C. (the "Premises");

(b) The Metropole Residents consists of a group of seven (7) residents—Rebecca Blank, Erin Kim, Brian Griffin, David Downing, Erin Kelly, Sidney Stolz and D.S. Hatfield—sharing common ground for their protest of the License pursuant to D.C. Official Code §25-601(2);

(c) The Protestants filed timely protests (hereinafter referred to collectively as the "Protest") against the issuance of the Applicant's License application pursuant to D.C. Official Code § 25-601(2) and 601(4), respectively;

(d) The Parties have agreed to enter into this Agreement and request that the Alcoholic Beverage Control Board (the "ABC Board") approve the Applicant's License application conditioned upon the Applicant's compliance with the terms of this Agreement; and

(e) The Parties wish to enter 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 any adverse effect on the peace, order and quiet of the neighborhood, and to resolve all significant issues currently outstanding between them;

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 restaurant with an emphasis on food providing lunch, brunch and dinner menu service. At present, Applicant does not offer breakfast, but reserves the right to do so without further amendment of this Agreement. Any change from this model shall be considered by both parties to be a substantial change in operation and will require prior approval by the ABC Board.

3. Hours of Operation. Applicant's hours for selling and serving alcohol shall not exceed the following:

Monday – Thursday	11:00 a.m. –	Midnight
Friday	11:00 a.m. –	1:00 a.m.
Saturday	10:00 a.m. –	1:00 a.m.
Sunday	10:00 a.m. –	Midnight

Notwithstanding the above, if, at the conclusion of the Establishment's first six (6) months of operation, ANC 2F finds there are no significant unresolved problems related to Applicant's hours for selling and serving alcohol, it shall promptly execute an amendment to this Agreement extending such hours to 12:30 a.m. on Monday through Thursday, and to 1:30 a.m. on Friday and Saturday.

4. Floors Utilized and Occupancy. The Applicant will provide seating and service to customers on the ground floor of the Establishment (*i.e.*, located at street level). The

Establishment's seating capacity shall not exceed two hundred (200) patrons, of which not more than forty-five (45) shall be seated at the bar, and not more than forty-eight (48) shall be seated in the summer garden area. The Establishment's maximum occupancy capacity shall not exceed the lesser of (i) the maximum capacity allowed for the building by the District of Columbia, or (ii) 280 persons (including employees of the Establishment). The maximum number of patrons in the Establishment shall not exceed 240 persons.

5. Summer Garden. The Applicant shall have outside seating in accordance with its summer garden endorsement, and may serve alcoholic beverages to seated patrons in such area. No one shall be served in the summer garden area after 10:00 p.m. on Sunday through Thursday, and after 11:00 p.m. on Friday and Saturday. The summer garden area shall be closed no later than 11:00 p.m. on Sunday through Thursday, and Midnight on Friday and Saturday. If, after the latter of (i) the first three (3) months of summer garden operations, or (ii) July 15, 2012, ANC 2F finds there are significant unresolved problems resulting from Applicant's outdoor seating, the parties hereto agree to meet in good faith to discuss solutions to such problems, including, potentially, a reasonable reduction in hours. Alternatively, if, after such date, ANC 2F finds there were no significant unresolved problems during the preceding period of summer garden operations, the parties hereto agree to meet in good faith to discuss a reasonable extension of Applicant's summer garden hours. Applicant shall direct its employees to inspect the summer garden area regularly.

6. Noise. Applicant shall not permit dancing or live entertainment, but may provide background music. Applicant shall take reasonable measures to ensure that music, noise and vibration from the Establishment are not audible within nearby residential properties. Any exterior speakers shall have adjustable volume controls and shall be operated so as to avoid

disturbing the quiet of adjacent residents. Upon receipt of a complaint by Applicant from the Protestants or adjacent residents about the volume of the exterior speakers, Applicant shall adjust the speaker controls to lower the volume.

7. Public Space and Trash. In compliance with applicable D.C. Code and Municipal Regulations, Applicant shall keep the sidewalk (up to and including the curb), tree boxes and alley free of litter, bottles, and other debris generated by the Establishment and/or its patrons. Applicant shall police these areas twice daily for refuse and other materials. Applicant further agrees to hold all recyclable materials and perishable food waste within the building using plastic containers until the morning of a scheduled garbage pick-up. The Applicant shall require its trash and recycling contractors to pick up trash and materials not earlier than 7:00 a.m. Monday through Friday, and 8:00 a.m. on Saturday and Sunday. Applicant's employees shall not dispose of bottles or glass into trash containers in a manner which creates noise audible outside the Premises after 10:00 p.m. Applicant shall not install exterior public pay phones.

8. Rat and Vermin Control. Applicant shall provide rat and vermin control for the Establishment. At the present time, the intended pest control shall be Western Pest Services. Applicant shall provide proof of its rat and vermin control contact upon reasonable request by ANC 2F, and may thereafter change its pest control company to any other company reasonably satisfactory to ANC 2F.

9. Security of Patrons. Applicant shall take reasonable measures to prevent disorderly behavior and disturbances on the Premises during the Establishment's hours of operation and as patrons depart at closing.

10. Parking. Applicant's website shall provide information on Metro accessibility and nearby parking facilities.

11. Agreement Available Upon Demand. A copy of this Agreement shall be kept on the Premises and made available to any law enforcement officer, Alcohol Beverage Regulatory Administration inspector or other official or ANC 2F Commissioner immediately upon request.

12. Compliance with ABRA Regulations. Applicant shall abide by applicable Alcoholic Beverage Administration (ABRA) regulations regarding ownership of the License.

13. Participation in the Community. Applicant is encouraged to send a representative from time to time to ANC 2F meetings, which occur on the first Wednesday of each month at 7:00 p.m. at the Washington Plaza Hotel, 10 Thomas Circle, NW, Washington, DC 20005. Applicant shall not transfer or sell the License without approval from the ABC Board, and agrees to provide a copy of this Agreement to any prospective assignee, transferee or successor in interest.

14. Binding Effect. This Agreement shall be binding upon and enforceable against the successors and assigns of the Applicant.

15. 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.

16. Withdrawal of Protest. Upon execution of this Agreement by the Parties and its acceptance by the ABC Board, the Protest shall be withdrawn.

17. Notice and Opportunity to Cure. In the event that either party believes the other to have materially breached any obligation under this Agreement, such party shall provide 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 thirty (30) days from the receipt of notice to cure the alleged breach (or if the breach shall relate to excessive noise or disturbance, such shorter period as may

be reasonable under the circumstances to 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 thirty (30) days to cure, efforts to cure the breach have not been commenced—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, 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.

If to Applicant:	Clover Logan Circle LLC c/o Clover Investment Group LLC 4445 Willard Avenue, Suite 800 Chevy Chase, Maryland 20815 Attn: James M. Sullivan, Jr. T 301.654.4970 F 301.654.5273
With a copy to:	Holland & Knight LLP 2099 Pennsylvania Avenue, N.W., Suite 100 Washington, DC 20006 Attn: Christopher H. Collins, Esq. T 202.955.3000 F 202.955.5564
If to ANC 2F:	Advisory Neighborhood Commission 2F 5 Thomas Circle, NW Washington, DC 20005 T 202.667.0052 F 202.667.0053
With a copy by email to:	anc2f@starpower.net
If to the Metropole Residents:	Rebecca Blank 1515 15th Street, NW #427 Washington, DC 20005

With a copy to:

Richard Bianco, Esquire
Paul Strauss & Associates, P.C.
1020 16th Street, NW, 5th Floor
Washington, DC 20036
T 202.220.3100
F 202.220.3103
bianco@paulstrausslaw.com

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.

APPLICANT:

CLOVER LOGAN CIRCLE LLC

By: James M. Sullivan, Jr.
James M. Sullivan, Jr., *Member*

PROTESTANTS:

ADVISORY NEIGHBORHOOD COMMISSION 2F

By: Charles D. Reed
Charles D. Reed, *Chairman*

METROPOLE RESIDENTS

By: Richard J. Bianco
Richard J. Bianco, *Counsel*