

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

<b>In the Matter of:</b>	)	
	)	
TBM Holdings, LLC	)	
t/a TruOrleans	)	
	)	
Application for Renewal of a	)	Case No. 13-PRO-00051
Retailer's Class CR License	)	License No. ABRA-086210
	)	Order No. 2014-056
at premises	)	
400 H Street, N.E.	)	
Washington, D.C. 20002	)	

TBM Holdings, LLC, t/a TruOrleans (Applicant)

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

**BEFORE:** Ruthanne Miller, Chairperson  
Nick Alberti, Member  
Donald Brooks, Member  
Herman Jones, Member  
Mike Silverstein, Member

**ORDER ON ADDENDUM TO SETTLEMENT AGREEMENT AND  
WITHDRAWAL OF PROTEST OF ANC 6C**

The Application filed by TBM Holdings, LLC, t/a TruOrleans, for renewal of its Retailer's Class CR License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on June 3, 2013, and a Protest Status Hearing on July 24, 2013, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant and ANC 6C entered into a Settlement Agreement (Agreement), dated April 6, 2011, that governs the operation of the Applicant's establishment. This matter comes now before the Board to consider the Parties' Addendum to Settlement Agreement (Addendum), dated October 23, 2013, in accordance with D.C. Official Code § 25-446 (2001).

The Addendum has been reduced to writing and has been properly executed and

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filed with the Board. The Applicant and Commissioner Mark Kazmierczak, on behalf of ANC 6C, are signatories to the Addendum.

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

Accordingly, it is this 5<sup>th</sup> day of February, 2014, **ORDERED** that:

1. The Application filed by TBM Holdings, LLC, t/a TruOrleans, for renewal of its Retailer's Class CR License, located at 400 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 The Protest of ANC 6C in this matter is hereby **WITHDRAWN**;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 Addendum to 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:

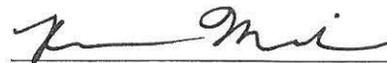
Section 11 – The following language shall be removed: “Owner of license forfeits the application endorsement and/or will not seek renewal of an entertainment endorsement without prior approval from the ANC.”

The parties have agreed to this modification.

4. All terms and conditions of the original Agreement shall remain in full force and effect; and
5. Copies of this Order shall be sent to the Applicant and ANC 6C.

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District of Columbia  
Alcoholic Beverage Control Board



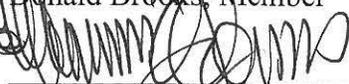
Ruthanne Miller, Chairperson



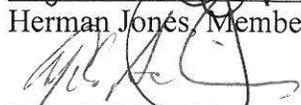
Nick Alberti, Member



Donald Brooks, Member



Herman Jones, Member



Mike Silverstein, Member

Pursuant to D.C. Official Code § 25-433, 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).

## ADDENDUM TO VOLUNTARY AGREEMENT

**THIS ADDENDUM** to the Voluntary Agreement originally executed on April 6, 2011 is made and entered into as of 23 day of October, 2013 by and through TBM Holding, LLC (hereinafter the "Applicant") and Advisory Neighborhood Commission 6C, (hereinafter "ANC").

**WHEREAS**, Applicant having filed a renewal application with the District of Columbia Alcoholic Beverage Control Board (hereinafter "Board") for reissuance of a Retailer's Class CR license for the premises of 400 H Street, N.W., Washington, D.C.

**WHEREAS**, in recognition of the 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 a settlement whereby, subject to approval of the Board, Applicant will agree to adopt additional measures to address the Protestants' concerns. Protestants' will agree to the issuance of the ABC License and withdraw their protest if the following conditions are met.

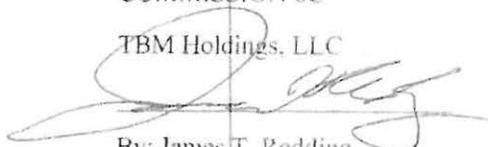
**NOW THEREFORE**, in consideration of the mutual covenants and undertakings memorialized herein, the parties, agrees as follows:

1. The second floor must be completely and permanently enclosed. This means walls and/or windows. Plastic or other coverings are not sufficient.
2. The operating hours of a properly enclosed second floor can be the same as the first floor currently is approved for.
3. All windows must be closed by 10pm, 7 days a week and on all floors.
4. All exterior doors shall not be left propped open after 10pm on all floors.
5. The outdoor patio must close at 10pm, 7 days a week.
6. No congregating or smoking is allowed on the patio after it is closed, and the applicant will actively enforce this.
7. When the patio is closed it will be physically sealed off (e.g. with ropes or gates) to prevent people from accessing it.
8. No ashtrays or ash receptacles will be placed on or near the patio after it is closed.
9. Signage will be prominently placed that states patrons should be quiet and respectful of the surrounding neighborhood.
10. The sole patron entrance to the restaurant will be on H Street NE, not 4th Street NE.
11. No live music will be played, including DJs. Owner of license forfeits the application endorsement and/or will not seek renewal of an entertainment endorsement without prior approval from the ANC.
12. No music will be amplified outside of the restaurant.
13. Valet parking is not required (given that the only possible location would be on 4th Street NE, which could cause significant disruption to the neighborhood).
14. All other conditions in the current agreement not addressed here remain in effect.

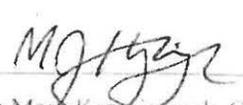
**IN WITNESS WHEREOF**, the Parties place their signature to this agreement, on the 23rd day of October 2013.

APPLICANT:  
COMMISSION 6C

TBM Holdings, LLC

  
By: James T. Redding

ADVISORY NEIGHBORHOOD

  
By: Mark Kazmierczak, Commissioner 6C