

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

In the Matter of:)
)
AstoriaDC, LLC)
t/a Astoria)
)
Applicant for a New)
Retailer's Class CR License)
)
at premises)
1521 17th Street, NW)
Washington, D.C. 20036)
)

Case No.: 18-PRO-00051
License No.: ABRA-109333
Order No.: 2018-384

AstoriaDC, LLC, t/a Astoria (Applicant)

Daniel Warwick, Chairperson, Advisory Neighborhood Commission (ANC) 2B

Robin Dianer, President, Dupont Circle Association

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
James Short, Member
Donald Isaac, Sr., Member
Bobby Cato, Member
Rema Wahabzadah, Member

**ORDER ON SETTLEMENT AGREEMENT AND
WITHDRAWAL OF ANC 2B'S PROTEST**

The Application filed by AstoriaDC, LLC, t/a Astoria (Applicant), for a new Retailer's Class CR License, was protested by ANC 2B.

The official records of the Board reflect that the Applicant, ANC 2B, and Dupont Circle Association entered into a Settlement Agreement (Agreement), dated May 31, 2018, 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 Daniel Warwick, on behalf of ANC 2B; and Robin Dianer, on behalf of Dupont Circle Association; are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protest filed by ANC 2B.

Accordingly, it is this 13th day of June, 2018, **ORDERED** that:

1. The Application filed by AstoriaDC, LLC, t/a Astoria, for a new Retailer's Class CR License, located at 1521 17th Street, NW, Washington, D.C., is **GRANTED**;
2. The Protest of ANC 2B in this matter is hereby **WITHDRAWN**;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 modifications:

Section 2 (Nature of the Business) – The language “with an emphasis on Asian dumplings and specialty cocktails” shall be removed.

Section 9 (License Ownership and Compliance with ABRA Regulations) – The language “Applicant also specifically agrees to be the sole owner of the ABC license” shall be removed.

Section 10 (Notice and Opportunity to Cure) – The language “cause for seeking a Show Cause” shall be replaced with the language “cause for filing a complaint with the ABC Board.”

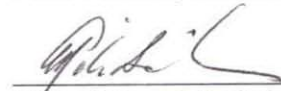
The parties have agreed to these modifications.

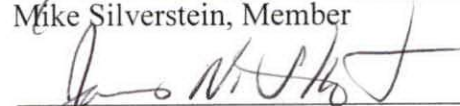
4. Copies of this Order shall be sent to the Applicant, ANC 2B, and Robin Dianer, on behalf of Dupont Circle Association.


District of Columbia
Alcoholic Beverage Control Board

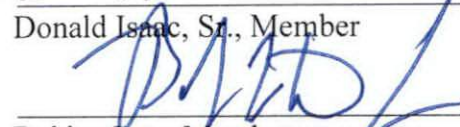

Donovan Anderson, Chairperson



Nick Alberti, Member


Mike Silverstein, Member


James Short, Member


Donald Isaac, Sr., Member


Bobby Cato, Member


Rema Wahabzadah, Member

Pursuant to D.C. Official Code § 25-433(d)(1), 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.

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 SETTLEMENT AGREEMENT ("Agreement") is made on this 31 day of May, 2018 by and between AstoriaDC LLC t/a Astoria, ABRA License Number 109333 ("Applicant"), Advisory Neighborhood Commission 2B and Dupont Circle Citizens Association (together "Protestant"), (collectively, the "Parties").

WITNESSETH

WHEREAS, Applicant has applied for a Retailer's Class "C" Restaurant License #109333 for a business establishment, Astoria, ("Establishment") located at 1521 17th Street, NW Washington, D.C. ("Premises");

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

WHEREAS, the Parties are desirous of entering into a Settlement Agreement pursuant to D.C. Official Code § 25-446 for the operation and maintenance of the Establishment in such a manner as to mitigate concerns related to the potential impact of the operation of the Establishment on the surrounding community and to eliminate the need for a Protest Hearing regarding the license application.

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 Retailer's Class "C" Restaurant with an emphasis on Asian dumplings and specialty cocktails with an entertainment endorsement and a sidewalk café endorsement.
3. **Interior Hours of Operation; Hours of Sales, Service, and Consumption of Alcoholic Beverages; and Entertainment Endorsement.** Applicant's interior Hours of Operation; Hours of Sales, Service, and Consumption of Alcoholic Beverages; and Entertainment Endorsement shall be:
 - Sunday through Thursday: 11:00am -2:00am; and
 - Friday & Saturday: 11:00am-3:00am.

Provided that:

(a) On days designated by the DC ABC Board as "Holiday Extension of Hours" Applicant may avail itself of the extended hours so provided (including the extension of the Entertainment Endorsement for those hours);

(b) In the event the Council of the District of Columbia or the ABC Board grants licensees in general extended operating and service hours (such as for Inauguration or World Cup) Applicant may avail itself of such extended hours for operation; sales and service of alcoholic beverages; and Entertainment;

(c) On January 1 of each year Applicant may operate; sell and serve alcoholic beverages; and provide Entertainment until 3:00am; and

(d) And on "Daylight Saving Time Extension of Hours" as designated by the ABC Board the Applicant may operate; sell and serve alcoholic beverages; and provide Entertainment for one additional hour later on the interior of the premises.

4. **Floors Utilized and Occupancy.** Applicant will operate its Establishment on the ground floor and lower level of the building. The maximum occupancy of the interior premises shall not exceed 99 patrons. The Sidewalk Café seating and occupancy shall be no more than 25 (i.e. there will be no standing patrons who have been served).

5. **Sidewalk Café.** Applicant plans to provide sidewalk café seating for 25 patrons and may serve alcoholic beverages to seated patrons in the sidewalk café premises. Protestant will not object to the 25 seat patron limit. Applicant will direct its employees inspect the sidewalk café at least once per hour to ensure its cleanliness. No amplified music will be played on the sidewalk café. The hours of operation and hours of sales, service, and consumption on the sidewalk café shall be:

- Sunday through Thursday: 11:00am – 11:00pm; and
- Friday & Saturday: 11:00am – 12:00am.

6. **Noise and Privacy.** Applicant will strictly comply with D.C. Official Code § 25-725 and to that end shall take reasonable actions necessary to ensure that music, noise and vibration from the Establishment are not audible within residential properties or on the west side of 17th Street, NW. Furthermore, except for patrons' ingress and egress, the Applicant agrees to keep doors and windows closed when Entertainment is being offered at the Establishment and after 11:00pm on weekdays and 12:00am on weekends regardless of whether Entertainment is being offered. If necessary, Applicant will take reasonable steps to reduce noise emanating from the Establishment from the opening of the entry and exit doors.

7. **Public Space and Trash.** Applicant shall keep the sidewalk (up to and including the curb) and all associated tree box(es) clean and free of litter, cigarette butts, bottles, and other debris in compliance with D.C. Code and Municipal Regulations. Applicant shall police these areas with sufficient frequency to assure that refuse and other materials are promptly removed. Applicant shall ensure that the area around the dumpster is kept clean at all times and the dumpster is placed such that it does not encroach on the abutting property owners and so that no garbage is placed on the abutting property.

8. **Rats and Vermin Control.** Applicant shall provide rat and vermin control for its property. Applicant shall have the Establishment and the area around the front and back of the Premises properly cleaned at the end of each night to ensure that there is not garbage, cigarette butts, or odors present.

9. **License Ownership and Compliance with ABRA Regulations.** Applicant promises to Protestant that it shall abide by all Alcoholic Beverage Regulations Administration (ABRA) regulations regarding the ownership of the license and all other provisions applicable to liquor licensees (including this Settlement Agreement), and agrees that Protestant 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.

10. Notice and Opportunity to Cure. 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 Applicant or 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, postage prepaid, 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: AstoriaDC LLC t/a Astoria
c/o Copycat Co.
1100 H Street, NE
Washington, DC 20002
Attn: Devin Gong, Managing Member
Phone: 914.826.3376
Email: gong.devin@gmail.com

If to Protestant: Advisory Neighborhood Commission 2B
9 Dupont Circle, NW
Washington, DC 20036
Attn: Daniel Warwick, Chair
Email: 2B02.ANC@dc.gov

and

Dupont Circle Citizens Association
9 Dupont Circle, NW
Washington, DC 20036
Attn: Robin Diener, President
Email: robnsdiener@gmail.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.

10. No Protest. Upon execution of this Agreement by the Parties and its acceptance by the ABC Board, and in reliance thereupon, Protestant shall refrain from filing a protest of Applicant's pending ABC license application or, if Protestant has already filed a protest of Applicant's pending ABC license application, Protestant shall withdraw said protest.

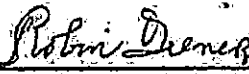
[signatures on the following page]

PROTESTANT

Advisory Neighborhood Commission 2B

By: 
Daniel Warwick, Chair

Dupont Circle Citizens Association

By:  5/30/18
Robin Diener, President

APPLICANT

AstoriaDC LLC t/a Astoria

By:  5/30/18
Devin Gong, Managing Member