

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

In the Matter of:)
)
Vega Dupont, LLC)
t/a Nero)
)
Applicant for a New)
Retailer's Class CR License)
)
at premises)
1323 Connecticut Avenue, NW)
Washington, D.C. 20036)
)

Case No.: 18-PRO-00072
License No.: ABRA-110949
Order No.: 2018-616

Vega Dupont, LLC, t/a Nero (Applicant)

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

Abigail Nichols, on behalf of Dupont Circle Citizens 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 PROTESTS**

The Application filed by Vega Dupont, LLC, t/a Nero (Applicant), for a new Retailer's Class CR License, was protested by ANC 2B and Dupont Circle Citizens Association.

The official records of the Board reflect that the Applicant, ANC 2B, and Dupont Circle Citizens Association entered into a Settlement Agreement (Agreement), dated October 8, 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 Abigail Nichols, on behalf of Dupont Circle Citizens Association; are signatories to the Agreement.

This Agreement constitutes a withdrawal of the Protests filed by ANC 2B and Dupont Circle Citizens Association.

Accordingly, it is this 19th day of October, 2018, **ORDERED** that:

1. The Application filed by Vega Dupont, LLC, t/a Nero, for a new Retailer's Class CR License, located at 1323 Connecticut Avenue, NW, Washington, D.C., is **GRANTED**;
2. The Protests of ANC 2B and Dupont Circle Citizens Association in this matter are hereby **WITHDRAWN**;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 13 (Rats and Vermin Control) – The second sentence shall be modified to read as follows: “Applicant shall provide proof of its rat and vermin control contract to the ABC Board upon request.”

Section 15 (Notice and Opportunity to Cure) – The language “constitute a cause for seeking a Show Cause Order from the ABC Board” 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 Abigail Nichols, on behalf of Dupont Circle Citizens 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).

THIS SETTLEMENT AGREEMENT ("Agreement") is made on this 8th day of October ~~2018~~ by and between Vega Dupont, LLC t/a Nero, ABRA License 110949 ("Applicant"), and 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 #110949 for a business establishment ("Establishment") located at 1323 Connecticut Avenue, 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

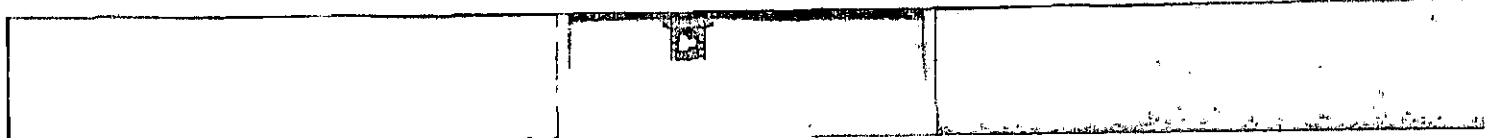
WHEREAS, the Parties are desirous of entering into a Settlement Agreement pursuant to D.C. Official Code § 25-446 for the operation and maintenance of the Establishment in such a manner as to minimize the effect on (i) peace, order, and quiet of the neighborhood and (ii) to eliminate the need for a Protest 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. Any change from this model shall be considered by both Parties to be a substantial change in operation of great concern to residents and requires prior approval by the ABC Board.
- 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 10 a.m. - 2 a.m.,
Friday and Saturday 10 a.m. - 3 a.m.

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4. **Sidewalk Café** Applicant plans to provide sidewalk café seating for 9 patrons and may serve alcoholic beverages to seated patrons in the sidewalk café premises. Protestant will not object to the 9 seat patron limit. Applicant agree that the occupant load on the sidewalk café shall not exceed 20 patrons. Applicant agrees that it shall not seek to expand the capacity of the sidewalk café without amendment of this Agreement. Applicant will direct that its employees inspect the sidewalk café at least once each hour to ensure its cleanliness. No amplified music shall be played on the sidewalk café. The Hours of Operation and Alcoholic Beverage Sales, Service, and Consumption on the sidewalk café shall be:

Sunday through Saturday: 11 a.m. - 10:30 p.m.

5. **No music on the Outside Seating Area.** There shall be no entertainment or recorded music on the Outside Seating Area at any time. Applicant shall not install speakers in the Outside Seating Area.

6. **Use of 18th Street Back Doors.** Applicant shall take reasonable steps to ensure that the back door will not be used as an entrance by patrons after 10:30 p.m., except in the event of an emergency, real or perceived. During opening hours before 10:30 p.m., no line for entry shall be permitted at the back door, and the back door shall not be used for entry or exit by large groups (group of more than 20 people).

7. **Lighting and Signage on 18th Street.** Lighting on 18th St. shall be the minimum required for safety and should be sited so as not to beam into the Palladium. There shall be no prominent flashing lights emitted from the Establishment onto 18th St.

8. **Lighting for the Outdoor Seating Area.** Any lighting used in the Outdoor Seating Area shall not be directed towards the Palladium.

9. **Deliveries and trash pick-up.** Deliveries and trash pick-up shall be made on Connecticut Avenue.

10. **Delivery Service by the Establishment.** Applicant shall take reasonable measures to ensure that entry or exit of staff or customers related to any take-out or delivery by the establishment shall be made from the Connecticut Avenue entrance.

11. **Noise and Privacy.** Applicant will strictly comply with D.C. Official Code § 25-725 and take all reasonable measures to ensure that music, noise and vibration from the Establishment are not audible within the adjacent residential properties on 18th Street, NW. Applicant agrees to take reasonable steps to keep its doors and windows closed when live music is being played at the establishment.

12. **Public Space and Trash.** Applicant shall take reasonable steps to keep the sidewalk (up to and including the curb), tree box(es), and curb 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. The Applicant agrees to obtain a trash can to be placed in the rear of the building. Applicant shall take reasonable measures to ensure that the area around the trash can is kept clean at all times and the trash can is placed such that it does not encroach on the abutting property owners and so that no

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garbage is placed on the abutting property.

13. Rats and Vermin Control. The Applicant shall provide rat and vermin control for its property. Applicant shall provide proof of its rat and vermin control contract upon the request of the Protestants. Applicant shall take reasonable steps to have the Establishment and the area around the Premises properly cleaned at the end of each night.

14. License Ownership and Compliance with ABRA Regulations. Applicant promises to Protestants 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, and agrees that Protestants shall have standing to ask the ABC Board to enforce any violations of the agreement.

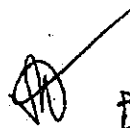
15. Notice and Opportunity to Cure. In the event that any of the parties is in breach of this Agreement, it shall be entitled to reasonable notice and opportunity to cure, as a condition precedent to seeking enforcement of the Agreement. Unless the breach is of an emergency nature or is a repetition 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: Vega Dupont, LLC
1323 Connecticut Avenue
Washington, DC
Attn: Vikram Bhalla
Phone: (202) 213-6606
Email:

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

and 2B02@anc.dc.gov

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


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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.

- 16 **Withdrawal of Protest.** Upon execution of this Agreement by the Parties and its acceptance by the ABC Board, Protestants shall withdraw the Protest.

PROTESTANT

Advisory Neighborhood Commission 2B

Rene Wink 10/8/18
By:

Dupont Circle Citizens Association

Abigail C. Nichols 10/8/18
By:

APPLICANT:

[Signature] 10/8/18
Vega Dupont, LLC t/a Nero

By: Vikram Bhalla