



GOVERNMENT OF THE DISTRICT OF COLUMBIA
Dupont Circle Advisory Neighborhood Commission 2B

March 13, 2017

Chairman Donovan Anderson
Alcoholic Beverage Control Board
Reeves Center
2000 14th Street NW
Washington, DC 20009
abra.legal@dc.gov

RE: 1723 Connecticut Avenue NW – “Everest Restaurant Inc.” – ABRA-105234 –
Application for a New Retailer’s Class “C” Tavern License

Dear Chairman Anderson,

At its regular meeting on March 8, 2017, the Dupont Circle Advisory Neighborhood Commission (“ANC 2B” or “Commission”) considered the above-referenced matter. With 7 of 8 Commissioners in attendance, a quorum at a duly-noticed public meeting, the Commission approved the following resolution by a vote of (6-0-0):

ANC 2B submits the attached settlement agreement for Third Eye’s application for a new Retailer’s Class “C” Tavern license at 1723 Connecticut Avenue NW, which the Commission has entered into with the applicant.

ANC 2B also supports the issuing of a stipulated license for Third Eye so that the applicant can begin the immediate sale of alcoholic beverages.

Due to his position on the ABC Board, Commissioner Silverstein did not participate in this discussion.

Commissioners Amy Johnson (amy.johnson@dupontcircleanc.net) and Nicole Mann (nicole.mann@dupontcircleanc.net) are the Commission’s representatives in this matter.

ON BEHALF OF THE COMMISSION.

Sincerely,

Nicole Mann
Chair

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made on this 8 day of March, 2017 by and between Everest Restaurant Inc. t/a Third Eye, License #ABRA-105234 ("Applicant"), and Advisory Neighborhood Commission 2B ("Protestant"), (collectively, the "Parties").

WITNESSETH

WHEREAS, Applicant has applied for a Retailer's Class "C" Tavern License #105234 for a business establishment Third Eye ("Establishment") located at 1723 Connecticut Avenue, NW Washington, D.C. ("Premises");

WHEREAS, Protestant is Advisory Neighborhood Commission 2B, who filed a timely protest (the "Protest") against the issuance to the Applicant's license application pursuant to D.C. Official Code § 25-601(1) and 601(4), respectively;

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 peace, order, and quiet of the neighborhood 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" Tavern with an emphasis on food and a variety of recorded and live entertainment, to include dancing. 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. *Hours of Operation and Sales.*

The Applicant's general hours of operation shall be as follows:

Sunday through Thursday 11:00am – 3:00am
Friday and Saturday 11:00am – 4:00am

Food service will continue until half an hour prior to closing.

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

Sunday through Thursday 11:00am – 2:00am

Friday and Saturday 11:00am – 3:00am

The applicant may comply with extended legal hours on legal holidays.

4. **Floors Utilized and Occupancy.** The Applicant will operate its Establishment on the first floor and the lower level of the building. There shall be no permanent dance floor anywhere in the Establishment. As may be called on for special events, a temporary dance floor not to exceed 100 ft² may be installed and removed after use. The maximum occupancy of the interior on all floors shall not exceed 120 patrons at any time.
5. **Parking/Valet Arrangements.** The Applicant will not provide or offer valet parking to its patrons. Exceptions can be made for patrons with disabilities.
6. **Noise and Privacy.** Applicant will strictly comply with D.C. Official Code § 25-725 and to that end shall make architectural improvements to the property and take all necessary actions to ensure that music, noise and vibration from the Establishment are not audible within the adjacent and neighboring residential properties.

Applicant agrees to the following hours for live entertainment:

Sunday through Thursday 7:00pm – 12:00am

Friday and Saturday 7:00pm – 1:00am

Furthermore, the Applicant agrees to keep doors and windows closed when live music is being played at the Establishment and to take reasonable steps to reduce noise emanating from the Establishment from the opening of the entry or exit doors.

As the Establishment backs onto a concentrated residential area of 20th Street between R and S Streets, Applicant agrees to closely monitor and, when necessary, specifically control noise levels on 20th Street.

The rear door on 20th Street will be used only for deliveries, employees placing trash and recycling in appropriate receptacles, and exit in emergencies. No entry or re-entry of customers through the rear door shall be permitted by the Applicant.

Neither employees nor customers shall congregate at the rear of the Establishment on 20th Street at any time.

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.

The Applicant agrees to maintain a dumpster and recycling bins in the rear of the building. Applicant shall ensure that the area around the dumpster and recycling bins is kept clean and free of debris at all times, is not overflowing, and that it is placed such that it does not encroach on the abutting property owners and so that no debris is placed on the abutting property.

To the greatest extent possible, the Applicant agrees to work with other owner/operators of business backing on to 20th Street, NW between R and S Streets to put into place a state of the art garbage and recycling system that will serve the majority of businesses.

8. ***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 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 the following morning.

9. ***Security Cooperation in Stemming Illegal Drugs and Public Drinking.*** The protestant is concerned that the Premises will pose security and crime issues. Applicant agrees that it shall take all necessary steps to minimize such problems, including, without limitation, designating a sufficient number of employees to assure adequate security and to control unruly patrons, whether inside or in the immediate outside area; monitoring for and prohibiting sales or use of illegal drugs within or about the Premises, maintaining contact and cooperating with the Metropolitan Police Department (MPD) and other enforcement officials when known or suspected drug activities occur. Applicant shall to the full extent permissible by law discourage loitering in the vicinity of the Premises. This will include, if needed, an appropriate number of security officers, at all times when the Establishment is open to the public, who shall be responsible for ensuring that any individuals who are loitering are asked to move away from the Premises.

10. ***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. Applicant also specifically agrees to be the sole owner of the ABC license.

11. ***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: Third Eye
1723 Connecticut Avenue, NW
Washington, DC 20009
Attn: Hemanta Shrestha
Tel. (202) 588-0507

If to Protestants: Advisory Neighborhood Commission 2B
9 Dupont Circle, NW
Washington, DC 20036
Attn: Amy Johnson
Tel. (202) 810-5311

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.

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

PROTESTANT:

Advisory Neighborhood Commission 2B

Protestant's Name

Nicole Mann
Printed Name of Commissioner

[Signature]

Signature

Amy Johnson
[Signature]

APPLICANT:

Third Eye

Establishment's Name

Hemanta Shrestha, President
Printed Name and Title

[Signature]
Signature