

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

In the Matter of:

AHA Corporation
t/a Java House
New Application for a Retailer's
Class DR License –
at premises
1625 T Street, N.W.
Washington, D.C.

Case no.: 61003-05/057P
Order no.: 2005-284

AHA Corporation, Applicant

Darren A. Bowie, Chairperson, on behalf of Advisory Neighborhood Commission 2B, D.
Anne Scanley, Patricia E. Steele, Millie Pacl, Alaire Reiffel, and Phil Carney, Protestants

BEFORE: Charles A. Burger, Chairperson
Vera M. Abbott, Member
~~Judy A. Moy, Member~~
Audrey E. Thompson, Member
Peter B. Feather, Member
Albert G. Lauber, Member
Eartha Isaac, Member

ORDER ON VOLUNTARY AGREEMENT AND WITHDRAWN PROTEST

The new application for a Retailer's Class "DR" License, having been protested, came before the Board on September 14, 2005, in accordance with D.C. Official Code § 25-601 (2001). Darren A. Bowie, Chairperson, on behalf of Advisory Neighborhood Commission ("ANC") 2B, D. Anne Scanley, Patricia E. Steele, Millie Pacl, Alaire Reiffel, and Phil Carney, filed timely oppositions by letter.

The official records of the Board reflect that the parties have reached an agreement that has been reduced to writing and has been properly executed and filed with the Board. Pursuant to the agreement, dated October 31, 2005, the Protestants have agreed to withdraw their protests, provided, however, the Board's approval of the pending application is conditioned upon the licensee's continuing compliance with the terms of the agreement.

AGREEMENT

THIS AGREEMENT, made and entered into this 31st day of October, 2005, (the "Agreement") by and between AHA Corporation, trading as Java House (hereinafter the "Applicant"), the Dupont Circle Advisory Neighborhood Commission 2B, and a group of five individual neighbors including D. Anne Scanley, Patricia E. Steele, Millie Pacl, Alaire Rieffel, and Phil Carney (hereinafter the "Protestants").

WITNESSETH

WHEREAS, the Applicant has filed an application a class "DR" license for premises located at 1645 Q Street NW, Washington, DC (Application #61003) with the District of Columbia Alcoholic Beverage Control Board (hereinafter the "Board") to include a sidewalk café for the business known as Java House located at 1645 Q Street, NW, Washington, DC 20009;

WHEREAS, in connection with the application for a new license, Applicant has also requested permission to serve alcoholic beverages at its sidewalk café;

WHEREAS, the Protestants each have filed protests opposing the granting of Applicant's application;

WHEREAS, in recognition of the Board's policy of encouraging parties to a protested proceeding to settle their differences by reaching agreements of resolution, ~~the Parties hereto desire to enter into an agreement whereby~~ (1) Applicant will agree to adopt certain measures to address the Protestants' concerns and to include this agreement as a formal condition of its application, and (2) Protestants will agree to the issuance of the related license and withdrawal of its Protest provided that such agreement is incorporated into the Board's order issuing the license, which order is thereby conditioned upon compliance with such agreement.

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 above are incorporated herein by reference.

2. Capacity

2.1 Applicant's capacity for the interior of the establishment shall be no more than 20.

2.2 Applicant shall have seating for no more than 36 in its sidewalk café. Applicant shall request, in writing, that the Certificate of Use issued for its sidewalk cafe set forth the limitation on seats contained in this Agreement.

3. Interior Hours of Alcoholic Beverage Service

Applicant shall serve alcoholic beverages only between the following hours:

3.1 Sunday through Thursday, 11:00 a.m - 11:00 p.m.

3.2 Friday & Saturday, 11:00 a.m. - 12:00 a.m.

3.3 Nothing in this Agreement shall require Applicant to close or to stop serving food before midnight every day of the week, or to refrain from opening to serve food earlier than 11:00 a.m.

4. Outdoor Sidewalk Café Hours of Operation and Alcoholic Beverage Service

4.1 Applicant shall be permitted to keep the outdoor sidewalk café open until 11:00 p.m. on Sunday through Thursday and until 12:00 a.m. on Friday and Saturday.

4.2 Applicant shall be permitted to serve alcoholic beverages at its sidewalk café during the following hours:

4.2.a. Sunday through Thursday, 11:00 a.m. - 11:00 p.m.

4.2.b. Friday & Saturday, 11:00 a.m. - 12:00 a.m.

4.3 Nothing in this Agreement shall require Applicant to refrain from opening to serve food earlier than 11:00 a.m.

4.4 No food or beverage orders will be taken less than 30 minutes before the above sidewalk café closing times. Patrons will be given an oral notice, "last call," sometime prior to 30 minutes before the above-closing times. Applicant agrees to request that the above hours for the sidewalk café area be incorporated into any Certificate of Use and Public Space Permit issued by the Department of Consumer and Regulatory Affairs and DDOT respectively.

5. Capacity for Food Service

Applicant shall, at minimum, maintain a capacity for food service comparable to that reflected in the attached architectural drawing and menus.

5.1 The attached sample menu represents items that will be fully available for order from 5pm through closing time every day. The menu will feature both hot and cold appetizers, hot soup, hot and cold sandwiches, and hot pizza. The licensee agrees that cooked foods are an essential feature of the menu.

5.2 The attached rendering of the kitchen area represents the minimum physical infrastructure and equipment that will be installed and maintained to ensure that the breadth of menu represented can be prepared, and especially that hot items in every category represented will be offered, until closing time, every day the restaurant is open.

6. Loitering, Trash Removal, and Outside Maintenance

6.1 Applicant shall assist in the maintenance of the alleyway and the space in front of the establishment to at least 18 inches outward from the curb as needed to keep

9.3 Up to six (6) umbrellas shall be allowed in the sidewalk café (no logos or brands are allowed, Java House's name only is permitted), or a retractable awning is also acceptable, so long as it is retracted nightly at closing time. A station may be used for water service, silverware, and napkins.

9.4 All alcoholic beverages shall be purchased from a server by patrons sitting down; no one standing will be served alcoholic beverages. The consumption of food by each sidewalk café patron shall be encouraged.

10. Modification

This Agreement can be modified only by the ABC Board, or by mutual agreement of all the parties with the approval of the ABC Board.

11. Regulations

In addition to the foregoing, Applicant will operate in compliance with all applicable laws and regulations, including but not limited to 1) 25 D.C. Code Ann. §113(b)(3)(B)(ii), which sets forth the definition of a "DR" restaurant licensee under the alcoholic beverage regulation title of the DC Code, and 2) the definition of "Restaurant" set forth in the Zoning Regulations, 11 DCMR §199.1. Applicant shall at all times maintain a valid Certificate of Occupancy for a "Restaurant" as defined in 11 DCMR §199.1. A copy of a valid Certificate of Occupancy is attached herewith. (Attachment D)

12. Withdrawal of Protest

Protestant agrees to the issuance of the license and the withdrawal of its protest provided that the present Agreement is incorporated into the Board's order issuing the license, which order is thereby conditioned upon compliance with such Agreement.

13. Counterparts

This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which when taken together, constitute one and the same document. That signature to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

14. Severability

In the event that any part of this Agreement is found to be invalid, unenforceable or not binding, the remaining portions shall remain in full force and effect and be fully binding on the Parties.

IN WITNESS WHEREOF, the parties have executed, or caused this Agreement to be executed, under seal, as of the date set forth hereinabove.

APPLICANT:

AHA Corporation, T/A Java House

By:

A. S. [Signature]
Date Signed: 11/1/05

**DUPONT CIRCLE ADVISORY
NEIGHBORHOOD COMMISSION 2B:**

By:

Darren A. Bowie
Darren A. Bowie, Chairman

Date Signed: Oct. 31, 2005

**GROUP OF FIVE INDIVIDUAL
NEIGHBORS**

By:

D. Anne Scanley
D. Anne Scanley

Date Signed: 10/31/05

By:

Patricia E. Steele
Patricia E. Steele

Date Signed: Nov 1, 2005

By:

Millie Pacl
Millie Pacl

Date Signed: 11/1/05

By:

Alaire Rieffel
Alaire Rieffel

Date Signed: 11/1/05

By:

Phil Carney
Phil Carney

Date Signed: 11/1/05

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District of Columbia
Alcoholic Beverage Control Board



Charles A. Burger, Chairperson




Vera M. Abbott, Member



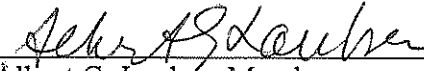
Judy A. Moy, Member



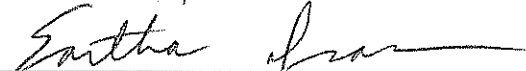
Audrey E. Thompson, Member



Peter B. Feather, Member



Albert G. Lauber, Member



Eartha Isaac, 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, 941 North Capitol Street, N.E., Suite 7200, Washington, D.C. 20002.

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Accordingly, it is this 30th day of November 2005, **ORDERED** that:

1. The protests of Darren A. Bowie, Chairperson, on behalf of ANC 2B, D. Anne Scanley, Patricia E. Steele, Millie Pacl, Alaire Reiffel, and Phil Carney, are **WITHDRAWN**;

2. The new application of AHA Corporation, t/a Java House, for a Retailer's Class "DR" License at 1625 T Street, N.W., Washington, D.C., is **GRANTED**;

3. The above-referenced agreement is **INCORPORATED** as part of this Order;
and

4. Copies of this Order shall be sent to the Protestants and the Applicant.
