

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

In the Matter of:)	
)	
Naomi's Ladder II, LLC)	
)	
Applicant for a New)	License No.: ABRA-104866
Retailer's Class CT License)	Order No.: 2017-057
)	
at premises)	
1123 H Street, N.E.)	
Washington, D.C. 20002)	
)	

Naomi's Ladder II, LLC (Applicant)

Jay Williams, Co-Chair, Advisory Neighborhood Commission (ANC) 6A

BEFORE: Donovan Anderson, Chairperson
Nick Alberti, Member
Mike Silverstein, Member
James Short, Member
Mafara Hobson, Member
Jake Perry, Member

ORDER ON SETTLEMENT AGREEMENT

The official records of the Alcoholic Beverage Control Board (Board) reflect that Naomi's Ladder II, LLC, Applicant for a new Retailer's Class CT License, located at 1123 H Street, N.E., Washington, D.C., and ANC 6A have entered into a Settlement Agreement (Agreement), dated January 12, 2017, 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 and Co-Chair Jay Williams, on behalf of ANC 6A, are signatories to the Agreement.

Accordingly, it is this 1st day of February, 2017, **ORDERED** that:

1. 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:

Subsection 3(c)(vii) (Music/Dancing/Entertainment) – This Subsection shall be modified to read as follows: “The roof deck shall be utilized only for dining, and therefore, shall not be utilized beyond the hours of food service, and shall have a sufficient number of chairs to accommodate the maximum of 50 patrons.”

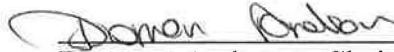
Subsection 5(a) (Review/Modification of Settlement Agreement) – The following language shall be added to the end of the sentence: “or as required by District law.”

Subsection 7(b) (Enforcement) – The language “and its assigns” shall be removed.


The parties have agreed to these modifications.

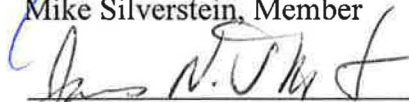
2. Copies of this Order shall be sent to the Applicant and ANC 6A.

District of Columbia
Alcoholic Beverage Control Board

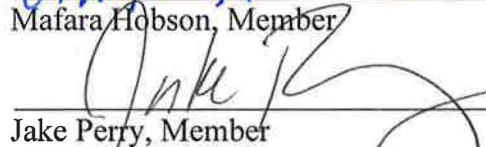

Donovan Anderson, Chairperson


Nick Alberti, Member


Mike Silverstein, Member


James Short, Member


Mafara Hobson, Member


Jake Perry, 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).



Made this 12th day of January, 20 17

by and between

Naomi's Ladder II, LLC
1123 H Street, NE
Washington DC 20002

and

Advisory Neighborhood Commission 6A

Preamble

Through this Agreement, both parties aim to create an environment whereby Applicant may operate as a viable contributing business in the ANC 6A community, while concurrently curtailing any adverse effects a business such as Applicant's could have on the surrounding neighborhood.

Applicant agrees to work regularly with ANC 6A, neighborhood associations, and residents to ensure the business operations do not adversely affect the surrounding neighborhood. All parties believe the statements and provisions contained in this Agreement are reasonable and must become wholly integrated into the day-to-day operation of the business establishment.

The community and Applicant understand and agree that the changes imposed upon the operations of licensees within the ANC as set forth herein are important measures to protect the safety, peace, order, and quiet of the neighborhood, its residents, and businesses.

Witnesseth

Whereas, Applicant's premises is within the boundaries of ANC 6A; and,

Whereas, the parties desire to enter into an agreement governing certain requirements and understandings regarding the issuance of a Retailer's Class CT Liquor License at the subject premises; and,

The Parties Agree As Follows:

1. **Public Space Cleanliness and Maintenance.** Applicant will maintain the public space (minimally the front sidewalk up to and including the gutter in front of the subject premises, and the alleyway behind the subject premises) adjacent to the establishment in a clean and litter-free condition by:
 - a. Picking up trash, including beverage bottles and cans, and all other trash a minimum of twice daily (once immediately before business hours and again between 5:00 p.m. and 8:00 p.m.).
 - b. Maintaining regular trash and garbage removal service, regularly removing trash from the trash and dumpster area, and seeing that the trash and dumpster area remain clean.
 - c. Depositing trash and garbage only in rodent-proof dumpsters, and seeing that dumpster covers fit

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- properly and remain fully closed except when trash or garbage is being added or removed.
- d. Exercising due diligence to prevent and/or rid vermin infestation in and around the establishment, including following, minimally, the recommendations and guidelines of the Vector Control Division of the Department of Public Works.
- e. Assisting in maintenance of the curbs in front of the establishment to keep them free of trash, removing snow and ice from the sidewalk, and complying with all applicable D.C. laws and regulation in these respects.
- f. Planting, watering, and generally tending to tree boxes directly in front of the subject premises, if any.
- g. Promptly removing or painting over any graffiti written on the exterior walls of the property.
- h. Requiring the owner and employees not to park on public space between the building and the curb.
- i. Not locating trash bins, chairs, tables, or other equipment on public space without a valid space permit.

2. Business Operations and Practices.

- a. Applicant will not, directly or indirectly, sell or deliver alcohol to any intoxicated person or to any person who appears to be intoxicated.
- b. Applicant agrees to take all necessary steps to prevent patron rowdiness, including refusing admission/service to rowdy and/or unruly persons.
- c. Applicant agrees to ensure that no patron brings an open container of an alcoholic beverage into the establishment from outside sources, and at no time exits the establishment with an open container of an alcoholic beverage.
- d. Applicant will not provide or sell alcoholic beverages "to go."
- e. Applicant agrees not to promote or participate in bar or pub "crawls" or any other event of this nature unless the event has been reviewed and approved by the ABC Board.
- f. The licensed establishment will be managed in person by Applicant or a board-licensed manager. Applicant shall not ever turn over operations and/or management of the licensed establishment to third party promoters.
- g. Applicant, and all employees that are designated to serve alcoholic beverages, shall attend and complete an alcoholic beverage server training course/seminar.
- h. Applicant shall post a notice kept in good repair and visible from point of entry a sign that states:
 - i. Proper ID is required to be served and that the establishment will check IDs at all times prior to serving alcoholic beverages to patrons;
 - ii. It is illegal to sell alcohol to anyone under age 21;
 - iii. Patrons are requested not to litter, loiter, or make excessive noise in the neighborhood as they arrive or depart;
 - iv. Warning: Drinking alcoholic beverages during pregnancy can cause birth defects; and
 - v. The establishment requests that customers do not contribute to panhandlers.
- i. Applicant shall make every effort to prohibit and prevent loitering and criminal activity on or in front of the establishment premises, to include:
 - i. Asking loiterers to move on whenever they are observed outside the establishment;
 - ii. Calling the Metropolitan Police Department if illegal activity is observed;
 - iii. Keeping a written record of dates and times (a "call log") when the MPD is called for assistance; and
 - iv. Applicant will maintain a detailed incident log. An incident is defined as any activity by patrons of the establishment inside or immediately outside the establishment that could lead to an ABRA investigation. Each incident will contain the date, time, and location of each incident with a concise summary. Guests and staff involved or witnesses of the incident will be identified and listed. If there is a medical or police response, that information will also be noted.
- j. Upon request of the Board, Applicant's call log and incident log shall be provided to the Board

during meetings or hearings involving future renewals or contested proceedings involving Applicant's license.

- k. Applicant will utilize and maintain high-intensity floodlights on the exterior of its premises so as to fully light any abutting alleyway from dusk until dawn.
- l. Applicant shall provide valet parking services only with valet parking companies as defined, licensed, and in compliance with D.C. Municipal Regulations Title 24 Chapter 16. Applicant will not engage in valet parking that results in vehicles parked in residential parking spaces.
- m. To the extent windows and/or doors are used for ventilation purposes, applicant shall close such windows and doors by 10:00pm to prevent disturbances to the surrounding neighborhood.
- n. Applicant shall not use laser light shows, strobe lights, and/or A-frame signs as methods to attract customers.
- o. To the extent smoking is permitted on the roof deck, Applicant shall not permit smoking on the southern half of the roof deck, to prevent smoking odors from affecting nearby residents.

3. Music / Dancing / Entertainment.

- a. Applicant agrees to ensure that sounds originating from within the establishment are mitigated by installing adequate soundproofing.
- b. No sound, noise, music, or voices emanating from the licensed establishment shall be of such intensity that it may be heard in any premises other than the licensed establishment. This restriction does not apply to: (1) sound, noise, music, or voices heard in any non-residential premises, as defined in the zoning regulations for the District, and (2) sound, noise, music, or voices occasioned by the normal opening of entrance and exit doors for the purpose of ingress and egress.
- c. In order to mitigate noise on a sidewalk café or summer garden the following steps will be taken:
 - i. Applicant shall not offer any type of entertainment or pre-recorded music on the summer garden and/or sidewalk café;
 - ii. A fence or other barrier will enclose the entire perimeter;
 - iii. No fewer than two signs will be clearly posted to remind guests to keep their voices at normal speaking volume;
 - iv. Staff will monitor the outdoor area to make sure guests do not raise their voices above normal speaking tones;
 - v. Potted plants, trees, fountains, or other types of noise mitigation techniques will be incorporated into the décor;
 - vi. Total capacity for the roof deck shall not exceed 50 patrons; and
 - vii. The roof deck shall be utilized only for dining, and therefore shall not be utilized beyond the hours of food service, and will not be used for events in which patrons are standing.
- d. The hours of operation for the summer garden rooftop deck (and any sidewalk café or other summer garden) are limited until 11:00 pm Sunday through Thursday evenings and 12:00 am on Friday and Saturday evenings. The sale and consumption of alcoholic beverages must end at that time and the patio must be cleared of all patrons and staff.
 - i. If the licensed establishment incurs three valid noise complaints during any calendar year, the ANC may, upon a vote at a regular and properly-noticed meeting, elect to restrict the hours of the rooftop summer garden (or any other outdoor space) to a closing time as early as 8:00 pm. Such restriction shall remain in place for six months and will automatically revert to the hours listed in Section 3(d) above after those six months have elapsed, provided there have been no further valid noise complaints during that six month period. Applicant agrees that it shall not challenge such restriction provided that the ANC has identified a sufficient number of valid noise complaints during the calendar year.
 - ii. For purposes of this Section, "valid noise complaint" means (1) A complaint made to ABRA where an ABRA inspector has investigated the complaint and confirmed that the applicant is in violation of any DC noise ordinance and/or Section 3(b) of this Settlement Agreement; or

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- (2) A written citation issued by the DC Metropolitan Police Department for a violation of any DC noise ordinance.
- e. Applicant may offer facilities for dancing for patrons only with an entertainment endorsement and may have recorded and background music without an entertainment endorsement. However, per Section 3(c)(i) above, such entertainment shall not be offered in any outdoor space, including the rooftop deck. "Entertainment" means live music or any other live performance by an actual person, including live bands, karaoke, comedy shows, poetry readings, and disc jockeys.
 - f. All CT license holders with an entertainment endorsement must have an ABRA-accepted security plan in place.
 - g. The kitchens for all CR license holders shall remain open and operational up until at least one hour prior to closing.
4. **Cooperation with ANC 6A.** Applicant agrees to work on resolving issues preventing Applicant from fulfilling its obligations under this Agreement with all of the following: the Single Member District (SMD) ANC Commissioner within whose boundaries the establishment is located, the Chair of the ABL Committee, and other Commissioners whose SMDs are adjacent to the location of the establishment.
5. **Review/Modification of Settlement Agreement.**
- a. This Agreement may be modified and such modification implemented by Applicant only by mutual agreement of the parties and the subsequent approval of the modification by the ABC Board pursuant to DC Official Code Code § 25-446.
 - b. The ANC agrees that its Alcoholic Beverage Licensing ("ABL") Committee will, upon request by Applicant, review and discuss this Settlement Agreement at a regularly-scheduled meeting after at least twelve (12) months have elapsed from the date this Agreement is approved by the Board, and at least every twelve (12) months thereafter. At such meetings, the ABL Committee shall consider whether any terms of the Agreement should be modified and make such recommendation(s) to the ANC for consideration and a vote.
6. **Miscellaneous.**
- a. Applicant shall post a copy of this Settlement Agreement in the establishment in conjunction with the posting of its alcoholic beverage license.
 - b. Applicant will operate in compliance with all applicable DC laws and regulations. Any reference to specific laws and regulations in this Settlement Agreement is meant for informational purposes only. ANC 6A does not intend for a violation of any DC law or regulation to also be considered a violation of this Settlement Agreement.
7. **Enforcement.**
- a. Applicant and ANC 6A agree to enter into this Agreement. If Applicant should breach the conditions of this Agreement, it is understood by all parties that ANC 6A and/or its committees may immediately notify the Applicant and/or file a complaint with the ABC Board, which will be investigated by ABRA's Enforcement Division, and may subject Applicant to a Show Cause proceeding or any other penalty available to the Board under the law.
 - b. This Settlement Agreement is binding on Applicant and its assigns and will continue in force for any and all subsequent license holders at this location.

In Witness Whereof

The parties have affixed hereto their hands and seals.

Applicant:

By: Jayné LaMondue Price Date: 01/06/17

Signature: 

Advisory Neighborhood Commission 6A Representative:

By: Jay Williams, Co-Chair, ANC 6A ABL Committee Date: 01/12/17

Signature: 