

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE AND CANNABIS BOARD**

In the Matter of:

Philippe DC, LLC

t/a Philippe by Philippe Chow/Merchants Marina

Holder of a

Retailer's Class CR License

at premises

635 Wharf Street, SW

Washington, D.C. 20024

License No.: ABRA-121216

Order No.: 2024-303

Philippe DC, LLC, t/a Philippe by Philippe Chow/Merchants Marina, Licensee

Fredrica Kramer, Chairperson, on behalf of Advisory Neighborhood Commission (ANC) 6D

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Silas Grant, Jr., Member

ORDER ON COOPERATIVE AGREEMENT

The official records of the Alcoholic Beverage and Cannabis Board (Board) reflect that Philippe DC, LLC, t/a Philippe by Philippe Chow/Merchants Marina (Licensee), and ANC 6D entered into a Cooperative Agreement (Agreement), dated April 12, 2024, in accordance with D.C. Official Code § 25-446 (2001).

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Licensee and Chairperson Fredrica Kramer, on behalf of ANC 6D, are signatories to the Agreement.

Accordingly, it is this 1st day of May 2024, **ORDERED** that:

1. The above-referenced Cooperative Agreement submitted by the parties to govern the operations of the Licensee's establishment is **APPROVED** and **INCORPORATED** as part of this Order, except for the following modifications:

Section 1 (Nature of the Business(s)) – First sentence shall be modified to read as follows: “The Applicant manages two concepts under the existing ABRA license...)”

Section 11 (Public Space and Trash) – First sentence shall be modified to read as follows: “The Applicant shall participate in the trash removal and storage program established in the Applicant's lease with the Wharf so long as the program is reasonably made available to the Applicant.”

The parties have agreed to these modifications.

2. Copies of this Order shall be sent to the Parties.

District of Columbia
Alcoholic Beverage and Cannabis Board

eSigned via SeamlessDoc.com
Donovan Anderson
Key: ac43cb96b9d5f0e4e730069d1dccc8

Donovan Anderson, Chairperson

eSigned via SeamlessDoc.com
James Short
Key: 547ae373f920de6ac8d1b352ad2049ec

James Short, Member



Silas Grant, Jr., Member

Pursuant to D.C. Official Code § 25-433(d)(1) (applicable to alcohol matters) or 22-C DCMR § 9720 (applicable to medical cannabis matters), 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 and Cannabis Administration, 2000 14th Street, N.W., Suite 400S, Washington, DC 20009.

Also, pursuant to section II 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 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 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).



Advisory Neighborhood
Commission 6D
1101 4th Street SW, Suite W130,
Washington, DC 20024

ANC Office: (202) 554-1795
6d@anc.dc.gov

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT ("Agreement") is made on this ___ day of _____, 2024, by and between **Philippe DC LLC, (d/b/a "Philippe Chow" and "Merchants Marina")** ("Applicant"), at **635 Wharf Street, SE, Washington, DC** ABRA License # **121216** and Advisory Neighborhood Commission 6D ("the ANC"), (collectively, the "Parties").

PREAMBLE

Through this agreement, both Parties aim to create an environment where the Applicant may operate as a viable contributing establishment in the ANC6D community.

WITNESSETH

WHEREAS, the Applicant holds a Retailer's Class C Restaurant ABC License (ABRA-121216) for a restaurant establishment ("Establishment (s)"); and

WHEREAS, the Applicant is encouraged to work regularly with the ANC6D and its representatives, other neighborhood organizations, and residents to ensure that the business operations facilitate the enjoyment of the surrounding neighborhood; and

WHEREAS, the Parties are desirous of entering into a Cooperative Agreement pursuant to D.C. Official Code § 25-446 for the operation and maintenance of the Establishment (s) in such a manner as to minimize the effect of the Establishment (s) within ANC6D on peace, order, and quiet; and

WHEREAS, all parties believe that the statements and provisions contained in this agreement are reasonable and shall become wholly integrated into the day-to-day operation of the Establishment, and the Parties agree that any substantial change in operations must first be approved by the Alcoholic Beverage and Cannabis Board ("ABC Board"); and

WHEREAS, the Parties have agreed to enter into this 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 set forth above are incorporated herein by reference.

Nature of the Business(s). The Applicant manages and will operate two concepts under the existing ABRA license: 1) a restaurant concept (doing business under the trade name “Phillipe Chow”) serving food and alcoholic beverages with indoor seating and endorsements for an attached summer garden, live entertainment, cover charge, dancing, carry-out and delivery (the “Restaurant Establishment”) and 2) a freestanding outdoor bar café concept (doing business as Merchants Marina) serving food and alcoholic beverages (the “Outdoor Café Establishment”). Each of the foregoing shall be referenced herein as the “Establishments” notwithstanding that they are operate by the same owners, and under the same ABRA license.

2. Floors Utilized and Occupancy. The Applicant will operate on the ground floor of the building with two Summer Gardens: one immediately adjacent to Philippe Chow (together with Philippe Chow being the Restaurant Establishment) and one located on in the adjacent outdoor area (Merchants Marina or the Outdoor Café Establishment).

3. Hours.

a) The Applicant’s Hours of Operation, Entertainment, Sales, Service, and Consumption of Alcoholic Beverages shall be:

i) Phillipe Chow (Restaurant Establishment)

The Applicant’s interior Hours of Operation, Sales, Service & Consumption of Alcoholic Beverages in the restaurant Establishment shall not exceed:

Sunday - Thursday, 9:00 am – 2:00 am

Friday– Saturday, 9:00 am – 3:00 am

The Applicant’s interior Hours Live Entertainment **in the Restaurant Establishment** shall not exceed:

Sunday - Thursday, 11:00 am - 1 am

Friday & Saturday, 11:00 am - 2:00 am.

Notwithstanding the foregoing, in connection with private events up to six (6) times annually, the Applicant shall have the right to have live entertainment hours conclude as the same times as Applicant’s interior hours.

The Applicant's Restaurant Establishment's attached exterior (summer garden) Hours of Operations, Sales, Service & Consumption of Alcoholic Beverages shall not exceed:

Sunday - Thursday, 9:00 am - 2 am
Friday & Saturday, 9:00 am - 3:00 am.

The Applicant's Restaurant Establishment's exterior Hours of recorded music shall not exceed its Hours of Operations, Sales, Service & Consumption of Alcoholic Beverages. In the event of a Federal Holiday, the night before shall be deemed a Friday night for all purposes.

ii) Merchants Marina (Outdoor Café Establishment)

The Applicant's Outdoor Café Establishment's Hours of Operations, Sales, Service & Consumption of Alcoholic Beverages shall not exceed:

Sunday - Thursday, 9:00 am - 12:00 am
Friday- Saturday, 9:00 am - 1:00 am

The Applicant's Outdoor Café Establishment's Hours of recorded music shall not exceed: Establishment Hours of Operations, Sales, Service & Consumption of Alcoholic Beverages.

In the event of a Federal Holiday, the night before shall be deemed a Friday night for all purposes.

b) Provided that:

- i) On days designated by the DC ABC Board as "Holiday Extension of Hours," the Applicant may avail itself of the extended hours so provided; ii) In the event the Council of the District of Columbia or the ABC Board grants licensees in general extended operating hours, the Applicant may avail itself of such extended hours; iii) On January 1 of each year, the Applicant may operate until 4:00 a.m.;
- iv) The Applicant may apply for One-Day Substantial Change Permits to operate outside of the typical hours described in this Agreement and/or to add Entertainment as part of a OneDay Substantial Change Permit.

Consistent with ABC Board interpretations, "closing hours" shall be construed as the hours at which no patrons shall remain on the Premises.

5. Prohibited Practices. The Applicant shall not knowingly allow the use of its Premises as part of an organized pub crawl or as an organized event intended to promote the organized, commercial travel of large groups of individuals between licensed premises for the primary purpose of consuming alcoholic beverages at more than one premise.

The Applicant shall not sell and serve alcohol on a ground floor or street level outdoor public or private space not listed on its existing alcohol license; serve alcohol in outdoor public space such as the sidewalk outside an establishment; install or operate an electronic game of skill devices; install or operate sports wagering devices or kiosks; manufacture beer, wine, or spirits on or adjacent to its licensed Premises for off-premises consumption. The Applicant shall not prohibit patrons of the Outdoor Café Establishment from using the restroom facilities of the Restaurant Establishment, which shall be available to such patrons at all times the Outdoor Café Establishment is open to the public.

No alcoholic beverages purchased from the Applicant's Establishments by a consumer shall be permitted to leave the premises unless as permitted by Title 25 of the D.C. Code, Title 23 of the D.C. Municipal Regulations, and other applicable laws and regulations.

6. Exterior Area. Each of the Applicant's Summer Gardens, including the Outdoor Café Establishment, shall be bordered with appropriate barriers to delineate it from the surrounding adjacent areas. Options for such borders may include existing plantings, planters, fencing, shrubbery, or similar aesthetically pleasing techniques as determined by the Applicant in its reasonable discretion and the Applicant shall take reasonable efforts to ensure that all furniture, fixtures, equipment, or other property of the Establishment or property belonging to patrons is contained within the Summer Gardens and does not extend into the pedestrian walkway.

7. Parking Arrangements. Since it is a concern of ANC6D that the Applicant's operation of the Establishment does not create or exacerbate parking problems within ANC6D, the Applicant shall inform patrons (e.g., on Applicant's website) of public transportation options

8. The Applicant shall take all reasonable steps to ensure that all deliveries will be taken into the Applicant's facility or protected loading dock area within a reasonable time period. The Applicant shall not knowingly accept deliveries from vendors parked illegally.

9. Noise and Privacy. The Applicant shall comply with D.C. Code § 25-725 and to that end shall use various means, including making reasonable architectural improvements to the property and taking reasonable, necessary actions, to ensure that music, noise, and vibration

from the Establishment(s) are not audible and/or felt in any residential premises other than within the restaurant Establishment or the outdoor bar café Establishment provided in D.C. Code § 25-725. Sound, noise levels, and vibrations from inside the Premises shall not be audible or discernible off the Premises, as required by DC Code.

The Premises have “garage” or “accordion” style doors or windows that open to the exterior. The Applicant shall restrict the inside music to the exterior Hours of Recorded Music, if any, when these doors, retractable roof canopies, or windows are open and any music or Entertainment on the interior premises shall not be audible outside the premises. The Applicant shall take reasonable measures to assure that music, noise (excluding unamplified human voice), and vibration from the Establishment are not audible in a residence with its windows and doors closed.

The Applicant shall be entitled to play recorded music provided within the Establishment (s), however, any speakers used in connection with amplified or recorded music including those speakers for the summer garden(s) and/or the outdoor bar cafe shall be directed inward and not be directed towards any operable doors and windows in the Premises, and music produced by any sound recording shall comply with DC noise laws.

The Applicant shall be entitled to have not more than two (2) televisions in the Outdoor Café Establishment.

The Applicant shall use commercially reasonable efforts to restrict patrons of the Outdoor Café Establishment from congregating outside adjacent residencies and in the ‘vehicular/pedestrian right of way’ to resident’s access and minimize disruption to traffic and pedestrian flow.’

10. Outdoor advertising, billboards, and signs. No sign shall be erected in such a manner as to create a hazard to vehicular traffic or pedestrian safety. All illuminated signs associated with the Outdoor Café Establishment shall be dimmable such that they may be dimmed or otherwise not illuminated at all between the hours of 11:00 pm or 30 minutes after the close of business, whichever is later, and sunrise.

11. Public Space and Trash. The Applicant shall participate in the trash removal and storage program established in the Applicant’s lease with the Wharf. The Applicant will take reasonable measures to ensure that the immediate environs of the Premises are kept free of litter and debris. The Applicant shall take reasonable measures to maintain the Premises, including sidewalks, free of litter, refuse, and debris.

12. Pest Control. The Applicant shall provide rat and vermin control for its property. The

Applicant shall have the Establishment and the area around the Premises properly cleaned at the end of each night to ensure that there are no garbage or odors from the establishment's operations present following the end of business each evening.

- 13. *Security Cameras.*** The Applicant shall have recording cameras that cover the outside areas and the areas where alcoholic beverages are served and/or consumed, to include the outdoor bar café Establishment. If responsible for the video surveillance equipment, the Applicant shall maintain security cameras and: (a) Ensure the cameras are operational; (b) Maintain all footage for a minimum of seven (7) days; (c) Maintain footage of a crime of violence or a crime involving a gun for a minimum of 30 days; and (d) Make the security footage available within 48 hours upon the request of ABCA or the Metropolitan Police Department.
- 14. *Compliance with Applicable Law.*** The Applicant will operate in compliance with all applicable ABCA regulations regarding the ownership of the license and all other provisions applicable to liquor licenses. Any reference to specific laws and regulations in this Settlement Agreement is meant for informational purposes only. It is not intended that a violation of any DC law or regulation also be considered a violation of this Settlement Agreement. The Applicant agrees that ANC6D shall have standing to ask the ABC Board to enforce any violations of the agreement.
- 15. *Participation in the Community.*** The Applicant is encouraged to maintain open communication with ANC6D and the community for which the ANC acts.
- 16. *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 written 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 the 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 diligently pursues such cure) failure shall constitute a cause for filing a complaint with the ABC Board pursuant to D.C. Official Code § 25-447. Written notices and opportunity to cure letters shall be directed to the following:

If to the Applicant:

Philippe DC LLC
48 Wall Street, Floor 33, New York, NY 10005

ANC 6D Cooperative Agreement
Philippe DC LLC, d/b/a Philippe Chow ABRA-121216,
635 Wharf Street, SE, December 2023

Attn: Richard Cohn Phone:
212.871.5602
e-mail: RCohn@merchantshospitality.com

With copy (by email only) to:

The Morris Law Firm LLC
Attn: Sean T. Morris, Esq.
Phone: 301.654.6570
e-mail: STM@morrisesq.com

If to the ANC:

Advisory Neighborhood Commission 6D
1101 4th Street, SW, Suite W130
Washington, DC 20024
Attn: Chair, ANC
Phone: (202) 554-1795 e-mail:
6d@anc.dc.gov

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.

[signatures on the following page]

ANC 6D Cooperative Agreement
Philippe DC LLC, d/b/a Philippe Chow ABRA-121216,
635 Wharf Street, SE, December 2023

The ANC:

Fredrica Kramer

Fredrica Kramer, ANC 6D07, ANC 6D Chairperson

April 12, 2024

Date

APPLICANT:

PHILIPPE DC LLC

By: _____

DocuSigned by:

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Abraham Merchant, Member

Date