

VOLUNTARY AGREEMENT

Made this 12th day of Sept. 2004 by and between Hibachi Brothers T/A Hibachi Brothers (the Applicant) and Advisory Neighborhood Commission 3F, North Cleveland Park, Forest Hills, and Tenleytown (the ANC).

WHEREAS, pending before the District of Columbia Alcoholic Beverage Control Board, is the Applicant's application for renewal of a Retailer's Class "CR" (Restaurant) liquor license for its premises at 4441B Wisconsin Avenue, N.W., Application # 50154; and

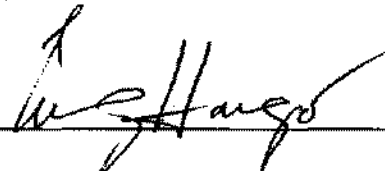
WHEREAS, both Applicant and the ANC ("the parties") desire to enter into an agreement commemorating certain understandings regarding Applicant's operating plans;

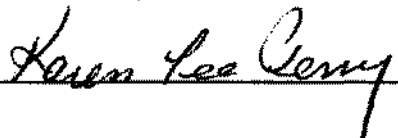
NOW, THEREFORE, in consideration of the premises above recited, and the mutual covenants and promises set forth below, the parties agree as follows:

1. Applicant shall operate a *bona fide* restaurant on its premises.
2. The restaurant shall have a maximum of 45 seats for the exclusive use of dining patrons.
3. Applicant's hours of operation will be 11:00 a.m. to 11:00 p.m., Monday through Sunday.
4. Alcoholic beverages will be served primarily in conjunction with full meal service. Applicant shall offer food service to its patrons at all times it is open. At no time shall a patron be able to purchase an alcoholic beverage from the Applicant and not be able to purchase food from the Applicant.
5. Applicant plans to offer take-out food and delivery service, but will not provide alcoholic beverages on a take-out or delivery basis.
6. Applicant will offer only soft, recorded background music for dining. Applicant will offer no form of live entertainment. Applicant shall permit no form of dancing.
7. Applicant shall not install or utilize any equipment for video games or juke boxes.
8. Applicant shall post no signs in the windows or outside the restaurant advertising liquor sales, happy hours, or the like.
9. Applicant will take care of the public spaces that border the restaurant on Wisconsin Avenue, including provision of suitable plantings.
10. Applicant shall comply with all aspects of the Civil Infractions Act and the Litter Control Administration Act. Applicant shall ensure that its trash is removed in a timely manner. Applicant shall ensure that trash receptacles remain closed and free of vermin at all times. Applicant will limit noise after closing when disposing of trash and bottles in the receptacles.

11. Applicant shall maintain its ventilating system in proper working order at all times and shall immediately address any neighborhood concerns regarding odors.
12. Applicant shall comply with Section 5(d)(3) of the D.C. Noise Control Act as it pertains to businesses and ensure that noise from all mechanical equipment (air-conditioning, refrigerator, heat pump, fan, or other mechanical equipment regardless of location) shall be prohibited in excess of sixty (60) dB (A) when measured at the property line or as close to the property line as practical if there is an obstruction.
13. An ABC licensed manager, conversant with all aspects of this agreement, shall be on site at Applicant's premises during all hours of operation.
14. Any and all contemplated changes to Applicant's operation, as set forth herein or otherwise, will be brought to the attention of the ANC prior to implementation and will be implemented only after ANC approval, and when required by rules and regulations, ABC Board approval.
15. In consideration of and in reliance upon the commitments reflected in paragraphs 1-15 above, the ANC will advise the ABC Board that it does not oppose renewal of Application # 50154 for a Retailer's Class "CR" license.
16. The parties further agree that any failure of Applicant to adhere to the foregoing commitments would constitute grounds for the ANC to petition the ABC Board for issuance of an order to show cause to gain the Applicant's compliance with the terms of this Agreement.

IN WITNESS WHEREOF, the parties have affixed hereunto their hands and seals on the year and day first above written

By: , for Applicant

By: , Chair, ANC 3F