

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

_____)	
In the Matter of:)	
3 rd & K Street Market, Inc.,)	License Number: 82665
t/a Cornercopia)	ORDER NUMBER: 2009-233
)	
New Application for Retailer's)	
Class B License)	
at premises)	
1000 Third Street, S.E.)	
Washington, D.C. 20003)	
_____)	

3rd & K Street Market, Inc., t/a Cornercopia, Applicant

Coralie Farlee, Chair, Advisory Neighborhood Commission (ANC) 6D

BEFORE: Peter B. Feather, Chairperson
Mital M. Gandhi, Member
Nick Alberti, Member
Charles Brodsky, Member
Donald Brooks, Member
Herman Jones, Member

ORDER ON VOLUNTARY AGREEMENT

The official records of the Alcoholic Control Board (the "Board") reflect that 3rd & K Street Market, Inc., t/a Cornercopia ("Applicant"), filed an Application for a New Retailer's Class B License located at 1000 Third Street, S.E., Washington D.C. The Applicant and Coralie Farlee, Chair, ANC 6D (the "Parties"), have entered into a Voluntary Agreement (Agreement) dated September 14, 2009, setting forth the terms and conditions that govern 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, ANC 6D Chairperson Farlee, and ANC 6D Vice Chairperson Robert Siegel are signatories to the Agreement.

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t/a Cornercopia
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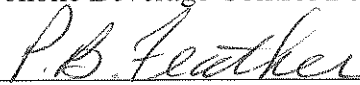
Accordingly, it is this 23rd day of September 2009, **ORDERED** that:

1. The Application filed by 3rd & K Street Market, Inc., t/a Cornercopia, for a new Retailer's Class B license located at 1000 Third Street, S.E., Washington, D.C., is **GRANTED**

2. This above-referenced Voluntary Agreement submitted by the Parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order; and

3. Copies of this Order shall be sent to the Applicant and ANC 6D.

District of Columbia
Alcoholic Beverage Control Board


Peter B. Feather, Chairperson

Mital M. Gandhi, Member


Nick Alberti, Member

Charles Brodsky, Member


Donald Brooks, Member

Herman Jones, Member


Herman Jones, 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.

ABRA



PO Box 71156 • Washington, DC 20024-9998
ANC Office: 202 554-1795 ■ FAX: 202 554-1774
office@anc6d.org

Voluntary Agreement
Between

Advisory Neighborhood Commission 6D
Third & K Street Market, Inc. t/a Cornercopia
Market
License # 082665

THIS VOLUNTARY AGREEMENT ("Agreement") is made on this 14th day of September 2009 by and between 3d & K St. Market t/a Cornercopia Market ("Applicant"), and Advisory Neighborhood Commission 6D ("Protestant"), (collectively, the "Parties").

WITNESSETH

WHEREAS, Applicant has applied for a License Class B for a business establishment located at 1000 Third Street, S.E. Washington, D.C. 20003 ("Premises");

WHEREAS, Protestant is Advisory Neighborhood Commission 6D, which filed a timely protest (the "Protest") against the issuance of 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 Voluntary 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 (i) the peace, order and quiet of the neighborhood and (ii) pedestrian safety and vehicular traffic, 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 Retail Class B License selling beer and wine. Other products such as food, and tobacco products will also be offered. 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 hours of operation and the Applicant's hours for selling alcohol shall be as follows:

Hours of operation

Monday through Saturday: 7 a.m. 10 p.m.,
Sunday 9:00 a.m. to 6:00 p.m.

Hours of alcohol sales (beer and wine)

Monday through Saturday: 9:00 a.m. to 10:00 p.m

Sunday: 9:00 a.m. to 6:00 p.m.

The Applicant will operate its public accessible retail establishment on the first floor of the building.

4. **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 residential properties. Applicant agrees to keep its doors and windows closed when music is being played at the establishment. If necessary, Applicant will take reasonable steps to reduce noise emanating from the Establishment from the opening of the entry or exit doors.

5. **Public Space and Trash.** Applicant shall keep the sidewalk (up to and including the curb), tree box (es), curb, and alley clean and free of litter, bottles, and other debris in compliance with D.C. Code and Municipal Regulations. Applicant shall police these areas sufficiently to assure that refuse and other materials are promptly removed. The Applicant agrees to obtain a dumpster to be placed in the alley of the building. Applicant shall ensure that the area around the dumpster is

kept clean at all times and the dumpster is placed such that it does not encroach on the abutting property owners and so that no garbage is placed on the abutting property.

6. **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 Premises properly cleaned at the end of each night to ensure that there are not garbage and odors present the following morning. The Applicant will keep the inside of the store free of debris and trash.

7. **Security Cooperation in Stemming Illegal Drugs and Public Drinking.** Protestants are concerned that the Applicant's Premises may 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 MPD and other enforcement officials when known or suspected drug activities occur. The Applicant will install and properly maintain at least one surveillance camera inside of the property used by The Applicant to conduct business. An additional camera will be placed on the exterior of the property. The cameras will provide 24-hour continuous surveillance and record activity for a month at a time. The Applicant will contact the MPD and report and log any and all unlawful activity conducted inside or observed outside of the property used by The Applicant for business. This report shall detail the complaint for the police in a securely banded binder notebook that is located on the premises. The bindered notebook will be accessible to MPD and the ANC. Applicant shall to the full extent permissible by law discourage loitering in the vicinity of the Premises. At all times when the Establishment is open to the public, the Manager shall be responsible for ensuring that any individuals who are simply loitering are asked to move along. If requested by Protestant or the Commander 1D, MPD, the Applicant will post "NO LOITTERING" signs in a prominent place on the exterior of its establishment. Furthermore, The Applicant will become familiar with barring notices and practices used by businesses and shall establish a book to include photographs, date barred, and reason. The Applicant will not knowingly sell alcoholic beverages to an intoxicated person. The Applicant will take all reasonable precautions to avoid the sales of alcoholic beverages in any form to anyone accompanying a person who has been denied service if it appears that an attempt is being made to buy alcohol for that person who has been denied.

8. **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.

9. **Participation and Agreements in the Community.** Applicant agrees to seek to maintain open communication with the Protestants, and the community for which the ANC acts. To this end, Applicant shall from time to time be represented at ABC Committee meetings and ANC 6D public meetings. The ANC6D meetings currently occur on the second Monday of each month at 7 p.m. at variously posted locations located in ANC 6D. Applicant, upon notice from the ANC shall send a representative of the Establishment to a meeting(s) to confer and deal in good faith with issues raised under this Agreement.

WHEREAS, The Applicant and the protestors have discussed the concerns of the community and have reached an understanding relating to the operation of the ABC licensed establishment as well as the level of cooperation that shall exist between The Applicant and the community.

NOW, THEREFORE, The Applicant agrees to the following:

- A. The sale of drug paraphernalia is illegal (see 48 D.C. Code section 1103—violation is subject to jail and or fine for the first offense) as is the sale of single or loose cigarettes. The Applicant will not sell any drug paraphernalia or specified items that can assist in drug use, including:
1. Cigarette rolling papers; cocaine freebase kit materials
 2. Pipes of any kind (metal, wooden, acrylic, glass, stone, plastic or ceramic), spoons, marijuana bongs, roach clips, cigar screens
 3. Individual Brillo (other names) pads, scouring pads or steel wool that are not contained in tagged manufactured packaging.
 4. Small plastic zip lock bags (less than 1" in size)
 5. Single or loose cigarettes
 6. "Blunt" papers, blunt wrappers and tobacco leaves
 7. Single/individual razor blades that are not contained in tagged manufactured packaging.
- B. The Applicant agrees also to the following:
1. Licensee may not sell a single container of beer or malt beverage.
 2. Licensee will not sell small bags of less than 3 pounds of ice, and no cups of ice "go-cups".
 3. Single paper cups, or plastic individual cups will not be sold.
- C. The Applicant will not advertise tobacco and alcohol on the exterior walls of the property used by The Applicant to conduct business.

- D. The Applicant will promptly (that is within 30 days) remove or paint over any graffiti written on the exterior walls of the property used by The Applicant to conduct business.
 - E. The Applicant agrees and assures that all its employees will be trained and taught to adhere to the provisions of this agreement, particularly with respect to the sale of alcoholic beverages in any form.
 - F. The Applicant agrees to have a copy(s) of this Cooperative/Voluntary Agreement available upon request at the location of this business.
 - G. In the event any provision of this agreement is deemed to be void, invalid, or unenforceable, or if any provision shall be deemed invalid due to scope or breadth permitted by law, that provision shall be severed from the remainder of this agreement so as not to cause the invalidity or unenforceability of the remainder of this agreement. All remaining provisions of this agreement shall then continue in full force and effect. This agreement may be modified, superseded or voided only upon written and signed Agreement of the Parties. Further, the physical destruction or loss of this document shall not be construed as a modification or termination of the agreement contained herein.
 - a. By Law the agreement runs with the license until modified between the parties and is binding on successors and assigns.
 - H. Each party acknowledges that he/she has had an adequate opportunity to read and fully consider the terms of this Agreement. The terms and conditions of this entire Agreement are agreed and understood by The Applicant or its successors and the community of the ANC 6D or its successors.
 - I. The Applicant is assured that the restricted sales provisions of this agreement will be offered to other members of the ANC 6D Business Community (gas stations, delis, vendors, and all Class A and B liquor stores).
- 10. Notice and Opportunity to Cure.** The Applicant acknowledges the provisions of this agreement will be fully enforced by the effective date. The provisions of this Voluntary Agreement shall remain in force for the duration of the life of the license. Violation of this voluntary agreement by the Applicant or the Applicant's failure to implement measures called for in the voluntary agreement shall be considered just cause for the ABC board to initiate a show cause hearing upon evidence that a licensee has violated a voluntary agreement. Upon a determination that the license has violated this agreement, the board shall penalize the Applicant according to the provisions set forth for violations of a license in Chapter 8 of the D.C. Official Code, Title 25. Notwithstanding anything to the contrary herein, Licensee shall use reasonable efforts to control litter, keep the property clean, maintain signs and placards as required, and monitor activities around the property as more fully set forth in Sections 4, 5, 6, 9, and 11. ANC 6D agrees to provide written notice to Licensee and the opportunity to correct same prior to initiating a "show cause" hearing for such violations, provided however that no more than two notices shall be required in any twelve-month period and, provided further, that no notice shall be deemed necessary for subsequent willful violations. The Applicant agrees to work with the community to resolve problems that were brought to the attention of The Applicant. Specifically, the Applicant agrees to respond within fourteen (14) days to any written complaint that is received also by the ANC 6D. The efforts of The Applicant must be documented in writing to assure

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reasonable efforts to resolve the complaint. The reasonable contact information of The Applicant including telephone and mailing addresses; and also the contact number for ANC 6D complaints will be made available to Protestants. 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.

11. If Applicant or 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: **3d & K Street Market, Inc. t/a Cornercopia
Market**
1000 Third Street, S.E.
Washington, D. C. 20003
Attn: Albert Oh
(202) 525-1653
Fax (202) 525-1654
Email: cornercopiamarket@gmail.com

If to Protestant (s): Advisory Neighborhood Commission 6D
P.O.Box 71156
Washington, DC 20024
Attn: Chair ANC6D
(202)554-1795
Fax (202) 554-1774
Email: office@anc6d.org

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, Protestants shall withdraw the Protest.

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PROTESTANTS:

Advisory Neighborhood Commission 6D

Chair, ABC Committee, ANC6D

Coralie Farlee 9/14/09
Coralie Farlee date

Vice Chair, ANC6D

Robert Michael Siegel 9/14/09
Robert M. Siegel date

APPLICANT:

3rd & K Street Market, Inc. t/a Cornercopia Market

Albert Oh 9/14/09
Albert Oh date