

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") by and among Adams Morgan Hotel Owner, LLC (successor in interest to Adams Morgan Church Hotel, LLC) ("Owner") and Champlain Street Neighbors: Hotel Study Group ("CSN"), Teresa Lopez ("Lopez") and Ronald Gluck ("Gluck") (CSN, Lopez, and Gluck are collectively referred to as "Petitioners", and Petitioners and Owner are collectively referred to as "Parties"), is made and entered into as of November 26, 2013.

I. Recitals

First Church of Christ, Scientist and Glancer Properties, LLC own Lots 127, 872 and 875 in Square 2560, located in Northwest, Washington, (the "Hotel Property"). Owner filed an application for a consolidated review and approval of a Planned Unit Development ("PUD") and related Zoning Map amendment to permit development of a hotel on the Hotel Property (the "Project"), and the District of Columbia Zoning Commission ("Z.C.") granted Owner's application by Z.C. Order 11-17 issued February 25, 2013 ("Z.C. Order No. 11-17").

CSN is an unincorporated association of individuals located close to the Hotel Property who opposed the PUD sought by Owner. Lopez and Gluck are residents of the Adams Morgan neighborhood who also opposed the PUD sought by Owner for the Hotel Property.

On April 25, 2013, Lopez petitioned the D.C. Court of Appeals to review Z.C. Order No. 11-17 in Case No. 13-AA-394 ("Lopez Appeal"). Owner is an intervenor in the Lopez Appeal, which is currently pending.

On May 1, 2013, Gluck petitioned the D.C. Court of Appeals to review Z.C. Order No. 11-17 in Case No. 13-AA-443 ("Gluck Appeal"). Owner is an intervenor in the Gluck Appeal, which is currently pending.

On May 1, 2013, CSN petitioned the D.C. Court of Appeals to review Z.C. Order No. 11-17 in Case No. 13-AA-531 ("CSN Appeal"). Owner is an intervenor in the CSN Appeal, which is currently pending.

By Order dated July 24, 2013, the Court of Appeals ordered that the Lopez, Gluck and CSN appeals be consolidated for all purposes.

There are currently a number of motions pending before the Court of Appeals. Owner has moved to dismiss the Gluck appeal as untimely. In turn, Gluck and CSN have filed motions for summary reversal (which Lopez has joined), and Owner and the D.C. Office of Attorney General ("OAG") have opposed the motions for summary reversal.

The Parties wish to settle all pending Appeals, and resolve all legal disputes between them concerning the D.C. zoning commission's PUD approval and subsequent permitting of the proposed Project. In consideration of the promises, obligations, representations, and payments set forth herein, the sufficiency of which the Parties hereby acknowledge, this Agreement now sets forth the terms by which the Parties intend to be legally bound. The collective goal of this Agreement is to seek and protect and preserve the longstanding affordable housing and small

businesses in close proximity to the proposed location of the Project with the collective goal of safeguarding the unique diversity that remains in Adams Morgan.

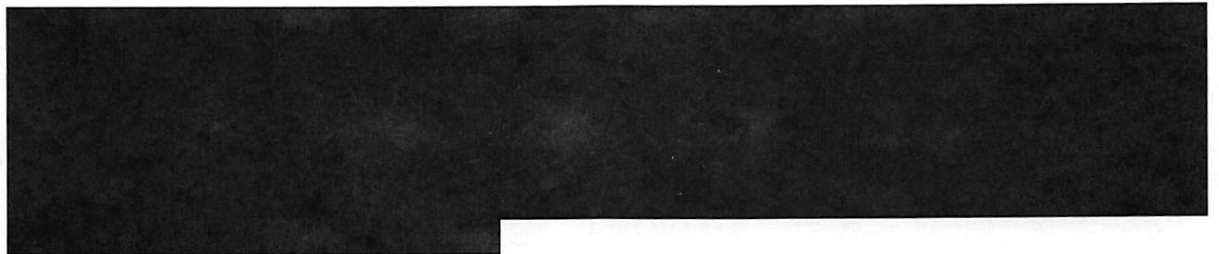
II. Terms of Agreement

A. Obligations of the Owner

Upon dismissal of the Lopez, Gluck and CSN appeals, Owner agrees to make the contributions set forth below. Further, the payments in paragraphs numbered 2, 3, 4 and 7 will be made to a 501(c)(3) or similar charitable organization (the "Fund") as selected by mutual agreement between CSN, Lopez and Owner. To the extent allowed by law, it is agreed and understood that any such payments will be structured in a way which allows these payments treated as tax deductible contributions by Owner.

1. Owner will pay the sum of \$100,000.00 to the Client Trust Account held by Daniel Horal, or to any other account as directed by counsel for CSN provided that such account can provide a TIN, within 10 (ten) days after (1) execution of this Agreement by all Parties and (2) filing of consent motions to dismiss each of the Lopez, Gluck and CSN Appeals.
2. Owner will contribute the sum of \$500,000.00 to the Fund within fifteen (15) days of issuance of all necessary building permits for the Project. Owner estimates that such permits will issue in mid-2014.
3. Owner will contribute the additional sum of \$400,000.00 to the Fund upon filing of the ABRA application(s) for a liquor license(s) and the expiration of the time period for objection, with no objections raised. If objections are raised, the payment will be made within ten (10) days after a liquor license issues. Regardless of when the ARBA application is made, this sum will be paid no later than June 30, 2015. If this contribution has been made and the liquor permit is ultimately denied, and said denial prevents the Project from going forward, the Fund will return this sum to Owner. Owner estimates that this will occur in 2015.
4. Owner will contribute \$250,000.00 to the Fund upon issuance of a final certificate of occupancy and all other permits necessary for the opening and operation of the Hotel. Notwithstanding the non-issuance of any permits, this contribution will be made no later than the day in which the first paying guest stays in the hotel. Owner estimates that this will occur in 2016.





6. Owner has already agreed as part of the PUD (and as required by Z.C. Order No. 11-17) to organize and set up a neighborhood cleaning fund for the five year period following issuance of the final certificate of occupancy. As part of this Agreement, Owner will invite the Fund to participate in the planning and organization of our neighborhood cleaning fund to ensure that all business get the benefit of this service.

7. Assuming Petitioners execute this Agreement, dismiss all pending appeals, and agree not to legally challenge any further permit application associated with the Project and/or Hotel Property, Owner agrees to contribute an additional \$50,000 per year (paid on each one year anniversary of the issuance of the final certificate of occupancy), for a period of fifteen (15) years, to the Fund.

8. Owner commits to fully support and endorse a petition by any individual, community group or governmental agency to prohibit parking on one side of the street within the bounds of ANC-1C by any non ANC-1C resident. Owner agrees to submit written comments favoring any such proposal within 30 days of notice of said petition, and issue oral support at any hearing. Notice may be given by any person. Owner agrees that construction workers, construction vehicles, and employees of the Owner will be instructed not to park in on-street parking which is so restricted. Owner will require the lessees and sublessees inside the hotel to take measures to prevent any of their employees from parking within the boundaries of ANC-1C.

9. Owner agrees that they will provide the maximum number of garage parking spaces authorized in ZC Order 11-17.

10. Owner agrees to pay Gluck \$400 to cover his court costs and costs of litigation.

11. Owner has already agreed as part of the PUD (and as required by ZC Order No. 11-17) to invest monies to refurbish Unity Park after a community discussion process. As part of this Agreement, Owner will ensure the Fund will be invited as an active participant in the process.

12. Owner has already agreed as part of the tax abatement from the District of Columbia, as well as in the PUD (and as required by ZC Order No. 11-17), to provide a 4,000 square foot community center within the Hotel. Owner ensures that reasonable use of space in this community center will be offered to the Fund to assist the Fund in its operations.

B. Obligations of Petitioners

1. Dismissal of Appeals/Covenant Not to Sue or Interfere. Within one business day after execution of this Agreement, Petitioners shall file with the D.C. Court of Appeals Motions for Dismissal with Prejudice of all pending Appeals. Petitioners (which for purposes of this paragraph, "Petitioner" is defined to include the current and future principals of CSN, CSN's counsel, Daniel Hornal¹, Ron Gluck, Teresa Lopez and Chris Otten) agree not to take a position adverse to Owner in any legal action in a District of Columbia Court or D.C. administrative hearings, directly or indirectly, that would interfere with or otherwise prevent Owner's ability to complete the administrative steps needed to develop the Project and open the Hotel within the parameters stated in the PUD. If such action is taken by one or more Petitioners, it will constitute a breach of this Agreement, and Owner will be relieved of any future contribution obligation described above. However, this paragraph is only intended to limit the activity identified above, and it will not constitute a breach of this Agreement if Petitioners publicly discuss the Project or the Hotel with third parties, share documents with third parties, or generally exercise free speech rights concerning the growth of Washington, D.C. and its impact on current residents. Further, this Agreement will be provided to the Fund identified above, with the understanding that Owner reserves the right to recover any contribution to the Fund made by Owner if this Agreement is breached. Further, all parties reserve the right to pursue claims for monetary or injunctive relief against any party which may arise as a result of a breach of this Agreement. This paragraph will no longer be in effect once the Hotel is open for business.

C. Miscellaneous

- Entire Understanding. This Agreement constitutes a single, integrated contract expressing the entire understanding between and among the Parties with respect to the subject matter hereof, superseding all negotiations and prior and/or contemporaneous discussions, communications, and contracts of agreement, whether oral or written. The Parties hereby acknowledge that there have been no representations, warranties, covenants or understandings other than those expressly set forth herein. This Agreement, or any part hereof, may not be amended, modified, changed, waived, or abrogated except in writing executed by all Parties identified herein.
- Confidentiality. Without any assignment of blame, it is understood that certain of the Parties believe that the Zoning process was unfair and believed that their interests, needs and voices, were disregarded by the process. In the spirit of collaboration and to maximize the potential to grow the fund for the benefit of the community, the Parties agree that before any press release or similar instrument is released to any member of the media concerning this Agreement, a copy shall be provided via email to CSN and Owner with sufficient time and opportunity for feedback and discussion. The Parties further agree that Petitioners will not disclose any part of this Agreement for thirty (30) days

¹ All parties understand that under the Rules of Professional Responsibility, to which counsel for CSN is bound, he cannot agree to limit his representation of other parties. However, it is understood that counsel for CSN believes that representing a client in any situation that could be adverse to the completion of all contributions to the Fund would violate the duty of loyalty to CSN, and counsel for CSN would therefore decline said representation.

following the execution of the agreement [REDACTED]

- Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties and their executors, administrators, personal representatives, heirs, successors, assigns, affiliates, subsidiaries, and parent corporations, and any new owner(s) of the Hotel Property and/or the Project.
- Authority to Bind Party. Each person signing this Agreement on behalf of a Party represents and warrants that he or she has the full right and authority to enter into this Agreement on behalf of such Party to fully bind such Party to the terms and obligations of this Agreement.
- Construction of Agreement. Each Party acknowledges that it has had the opportunity to negotiate the terms of this Agreement. Accordingly, each Party agrees that in any dispute regarding the interpretation or construction of this Agreement, no presumption will operate in favor of or against any party hereto by virtue of its role in drafting or not drafting the terms and conditions set forth herein.
- Choice of Law; Venue. This Agreement shall be construed and enforced in accordance with the laws of the District of Columbia. Any dispute regarding any term of this Agreement shall be construed under and governed by the laws of the District of Columbia. Any action at law, suit in equity, or other judicial proceeding to enforce the terms of this Agreement shall be brought, if at all, in the Superior Court of the District of Columbia. Each Party acknowledges the right of the Superior Court of the District of Columbia to assert personal jurisdiction in any such action over the Parties, and each of these Parties waive and release now and forever any defense that might otherwise exist to the assertion of personal jurisdiction by the Superior Court of the District of Columbia.
- Settlement and Compromise. The Parties acknowledge and agree that this Agreement is the result of a settlement and compromise. This Agreement shall not be used in any proceeding for any purpose, except to enforce the provisions of this Agreement. The negotiations and statements made in connection herewith shall not be deemed to be admissions by any Party of any fact or liability and are not admissible in any proceeding, except to enforce any provision of this Agreement. Each party will bear its own costs and legal fees for any previous litigation, except for the payment provided for in Paragraph II.A.10.
- Violations; Opportunity to Cure. The Parties agree that, should circumstances occur in which one Party believes that there has been a violation of any provision of this Agreement by the other Party, the Party who claims such violation must provide prompt written notice to the other Party and must allow the other Party the opportunity to cure the breach or otherwise respond. Said notice must provide the circumstances of the alleged breach in sufficient detail to allow the Party receiving the notice to investigate the allegations in the notice and must allow fourteen (14) days for that Party to respond

concerning whether it will make efforts to cure the breach or otherwise respond. Should the Parties not be able to reach an agreement as to a cure within the fourteen (14) day period, the Party who claims the alleged violation may then pursue legal action. Said notice and said fourteen (14) day period is a condition precedent to pursuing any further action (legal or otherwise) pursuant to this Agreement.

- **Notice.** Notices under this Agreement will be deemed sufficient if given by first-class mail or electronic mail, addressed to the individuals specified below, or to such other individuals as the respective Parties may designate by notice from time to time. Notices so given will be effective upon receipt by the Party to which the notice is given. If a Party does not receive a response or acknowledgement of a notice given under this agreement within 5 days, the Party will take reasonable efforts to confirm the delivery of said notice.

If to Owner:

Holland & Knight LLP
800 17th Street, N.W., Suite 1100
Washington, D.C. 20006
Attn: Norman M. Glasgow, Jr.
(202)-955-3000
norman.glasgowjr@hklaw.com

If to CSN:

Daniel Hornal
Talos Law Firm
705 4th Street, N.W., Ste. 403
Washington, DC 20001
Daniel@taloslaw.com

If to Lopez:

Teresa Lopez
1771 Columbia Rd., N.W., #3
Washington, DC 20009
Teresalopez100@yahoo.com

If to Gluck:

Ronald Gluck
2478 Ontario Rd. N.W.
Washington, DC 20009
rongluck@comcast.net

- **Headings.** The headings used in this Agreement shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this Agreement.
- **Severability.** If any provision or application of a provision of this Agreement is held to be unconstitutional or otherwise invalid, the declaration of invalidity shall not affect other provisions or applications of the Agreement which can be given effect without the invalid

provision or application, and to this end the provisions of the Agreement are deemed severable.

- Execution in Counterparts. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement. A facsimile signature is acceptable under this agreement provided that such signature is delivered to Holland & Knight and Talos Law.

WHEREFORE, the Parties execute this Agreement effective as of the date the last Party signs it.

(signature pages to follow)