

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

In the Matter of:

Hunan Inn, Inc.

t/a Cobalt/Food Bar

Application for a Retailer's Class CR

License – Substantial change

at premises

1639 R Street, N.W.

Washington, D.C.

Application no.: 6986-05/021P

Order no.: 2005-44

Hunan Inn, Inc., Applicant

Darren A. Bowie, Chairperson, on behalf of Advisory Neighborhood Commission 2B,
Protestant

BEFORE: Charles A. Burger, Chairperson

Vera M. Abbott, Member

Judy Moy, Member

Audrey E. Thompson, Member

Peter B. Feather, Member

Albert G. Lauber, Member

Eartha Isaac, Member

ORDER ON VOLUNTARY AGREEMENT AND WITHDRAWN PROTEST

The substantial change application for a change of license class from a Retailer's Class "CR" License to a Retailer's Class "CT" License, having been protested, came before the Board on January 5, 2005, in accordance with D.C. Official Code § 25-601 (2001). Darren A. Bowie, Chairperson, on behalf of Advisory Neighborhood Commission ("ANC") 2B, filed timely opposition by letter dated December 20, 2004.

The official records of the Board reflect that the Protestant and the Applicant have reached an agreement that has been reduced to writing and has been properly executed and filed with the Board. Pursuant to the agreement, dated January 4, 2005, the Protestant has agreed to withdraw its protest, provided, however, the Board's approval of the pending application is conditioned upon the licensee's continuing compliance with the terms of the agreement.

Hunan Inn, Inc.
t/a Cobalt/Food Bar
Case no. 6986-05/021P
Page two

Accordingly, it is this 16th day of February 2005, **ORDERED** that:

1. The protest of Darren A. Bowie, Chairperson, on behalf of ANC 2B, is **WITHDRAWN**;
 2. The substantial change application of Hunan Inn, Inc., t/a Cobalt/Food Bar, for a change of license class from a Retailer's Class "CR" License to a Retailer's Class "CT" License at 1639 R Street, N.W., Washington, D.C., is **GRANTED**;
 3. The above-referenced agreement, is **INCORPORATED** as part of this Order;
and
 4. Copies of this Order shall be sent to the Protestant and the Applicant.
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Hunan Inn, Inc.
t/a Cobalt/Food Bar
Case no. 6986-05/021P
Page three

District of Columbia
Alcoholic Beverage Control Board

Charles A. Burger

Charles A. Burger, Chairperson

Vera M. Abbott

Vera M. Abbott, Member

Judy D. Moy

Judy Moy, Member

Audrey E. Thompson

Audrey E. Thompson, Member

Peter B. Feather

Peter B. Feather, Member

not voting

Albert G. Lauber, Member

Eartha Isaac

Eartha Isaac, 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.

VOLUNTARY AGREEMENT

THIS AGREEMENT, made and entered into this 4th day of January 2005, by and between Human Inn, Inc., Trading as Cobalt/Food Bar (hereinafter the "Applicant"), and Advisory Neighborhood Commission 2B, (hereinafter the "Protestant"), witnesses:

Whereas, the Applicant, located at 1639 R Street NW, Washington, DC, has filed a license class change application (License No. 71833) with the DC Alcoholic Beverage Control Board (hereinafter the "Board") requesting to change its license from a Class "C" restaurant license to a Class "C" tavern license.

Whereas, the Protestant has filed before the ABC Board a protest opposing the granting of this application.

Whereas, in recognition of the Board's policy of encouraging parties to a protested proceeding to settle their differences by reaching voluntary agreements, the Parties hereto desire to enter into a voluntary agreement whereby (1) Applicant will agree to adopt certain measures to address the Protestant's concerns and to include this agreement as a formal condition of its application, and (2) Protestant will agree to the issuance of the requested license and withdrawal of the Protest *provided* that such agreement is incorporated into the Board's order granting the requested license, which order is thereby conditioned upon compliance with such agreement.

Whereas, the Applicant has recently taken or intends to take certain measures designed to ameliorate Protestant's concerns.

Now agree therefore, in consideration of the mutual covenants and undertakings memorialized herein, the Parties hereby agree as follows:

1. Hours. The hours of operation for Applicant's sidewalk café shall be:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Sidewalk Café:	11 am - 12 am	11 am - 12 am	11 am - 12 am	11 am - 12 am	11 am - 12 am	11 am - 12 am	11 am - 12 am

All patrons shall be cleared from the sidewalk café within fifteen (15) minutes after closing.

2. Noise/Music. Applicant acknowledges familiarity with and will comply with noise-control provisions of District of Columbia law and regulations, including preventing emissions of sound, capable of being heard outside the premises, by any musical instrument or amplification device or other device or source of sound or noise, in accordance with DCMR 905. No outdoor music, live or taped, shall be heard or played in the sidewalk café.
3. Trash/garbage/rodents. Applicant shall maintain regular trash/garbage removal service, and see that the trash/garbage area remains clean. Applicant shall deposit trash/garbage only in rodent-proof dumpsters, and shall see that dumpster covers fit properly and remain fully closed except when trash/garbage is being added or removed. All trash/garbage from the sidewalk café will be stored inside the restaurant, or in appropriate containers in the rear of the building. No trash/garbage storage shall be allowed in the area of the sidewalk café.

4. Exterior and public space and sidewalk café usage provisions.

(a) Applicant shall assist in the maintenance of the alleyway and the space in front of the establishment to at least 18 inches outward from the curb as needed to keep them free of trash/garbage and to remove snow and ice from the sidewalk and comply with all applicable D.C. laws and regulations in these respects. Applicant shall clean and sweep the sidewalk café and adjoining sidewalk and curbside area nightly after closing.

(b) Applicant will comply with all applicable signage regulations, including those for historic districts and will remove those that are in violation.

(c) Applicant will hose down areas in front of and in the rear of the establishment daily to remove food debris, except in below freezing weather.

(d) Applicant shall offer food to sidewalk café patrons. All food and drinks shall be purchased from a waiter by patrons sitting down; no one standing will be served food or drinks. No food or drink shall be transported to or from the interior of the establishment to or from the sidewalk café by patrons. The consumption of food by each sidewalk café patron shall be encouraged.

5. Consideration. Applicant will encourage employees and patrons to be considerate of neighboring residents at all times. Applicant shall make every reasonable effort to prevent or disperse loitering or any other source of noise or disturbance in the areas in front or to the rear of the premises during business hours and at closing, and to cause patrons to leave those areas at closing. Applicant will encourage those leaving the establishment to keep conversations and noise down after 11 pm, including by posting signs at all non-emergency exits requesting that patrons keep conversations and noise down.
6. Modification and Transfer. This agreement can be modified only upon written notice by the ABC Board, or by mutual agreement of all the parties and with written approval of the ABC Board. In the case of ANC 2B, if Applicant desires to modify the terms of this agreement, prior to implementing the changes Applicant shall receive written approval from ANC 2B.
7. Regulations. In addition to the foregoing, Applicant will operate in compliance with all applicable laws and regulations.

8. Withdrawal of protest. Protestant agrees to the issuance of the requested license and the withdrawal of its protest *provided* that the present Voluntary Agreement is incorporated into the Board's order issuing the requested license, which order is thereby conditioned upon compliance with such Voluntary Agreement.

APPLICANT:Hunan Inn, Inc., T/A Cobalt/Food BarBy: Irv MorganVice President, Hunan Inn, Inc.Date: 01-04-2005

*Done with
President*

PROTESTANT:Advisory Neighborhood Commission 2BBy: Darren A. BowieChair, ANC 2BDate: January 4, 2005