

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

In the Matter of:

Washington DC Palm, Inc.
t/a The Palm

Substantial Change Application for an
Enclosed Sidewalk Cafe
at premises
1225 19th Street, N.W.
Washington, D.C. 20036

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) License No. 1151
) Order No. 2007-085
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Washington DC Palm, Inc., t/a The Palm, Applicant

William Hewitt, on behalf of Advisory Neighborhood Commission 2B

BEFORE: Peter B. Feather, Acting Chairperson
Vera M. Abbott, Member
Judy A. Moy, Member
Audrey E. Thompson, Member
Albert G. Lauber, Member
Mital M. Gandhi, Member

ORDER ON VOLUNTARY AGREEMENT

The official records of the Alcoholic Control Board (Board) reflect that Applicant and William Hewitt, on behalf of the Advisory Neighborhood Commission (ANC) 6B (collectively, "the Parties") have entered into a Voluntary Agreement (Agreement) dated September 11, 2007 setting forth the terms and conditions by which the Applicant would operate its enclosed sidewalk café with a seating capacity for 48 patrons. The Agreement has been reduced to writing and has been properly executed and filed with the Board. James A. Longo, on behalf of the Applicant and William Hewitt, on behalf of ANC 2B are signatories to the Agreement.

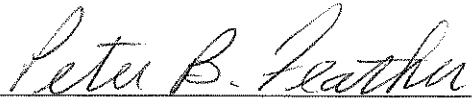
Washington DC Palm, Inc.
t/a The Palm
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Accordingly, it is this 18th day of September 2007, **ORDERED** that:

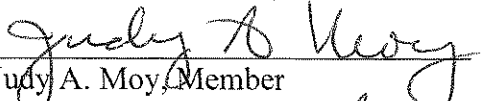
1. The Substantial Change Application of Washington DC Palm, Inc., t/a The Palm, located at 1225 19th Street NW, Washington, D.C., for a enclosed sidewalk cafe with a seating capacity of 48 patrons, is **GRANTED**;
2. The Voluntary Agreement by and between Washington DC Palm, Inc., t/a The Palm, 1225 19th Street, N.W., Washington, D.C., and the ANC 2B is **APPROVED**;
3. The above-referenced Voluntary Agreement is **INCORPORATED** as part of this Order; and
4. Copies of this Order shall be sent to the Applicant and ANC 2B.

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t/a The Palm
License No. 1151
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District of Columbia
Alcoholic Beverage Control Board


Peter B. Feather, Acting Chairperson


Vera M. Abbott, Member


Judy A. Moy, Member


Audrey E. Thompson, Member

Albert G. Lauber, Member

Mital M. Gandhi, 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 VOLUNTARY AGREEMENT made and entered into this 14th day of September, 2007 (the "Agreement") by and between Washington DC Palm, Inc. t/a The Palm ("Applicant") and the Dupont Circle Advisory Neighborhood Commission 2B ("Protestant").

WITNESSETH

WHEREAS, Applicant is the owner and operator of the internationally known Palm Restaurant in the Jefferson Building (the "Building") located at 1225 19th Street, NW, Washington, DC;

WHEREAS, The Palm has operated in the Building since 1972;

WHEREAS, in order to more effectively compete with the great number of steak houses which have opened in Washington, DC, The Palm needs to expand its premises so that it will better be able to accommodate private dining;

WHEREAS, because of the small footprint of the Building, there is little or no interior space in the Building into which The Palm can expand;

WHEREAS, in connection with extending its lease in the Building, The Palm and its current landlord conceived and designed an enclosure for public space to be used as an enclosed sidewalk café under the provisions of The Enclosed Sidewalk Café Act of 1982;

WHEREAS, Protestant has grave concerns about appropriation of public space for private use, favors the open-air feeling of outside seating for dining, and is fundamentally opposed to the establishment of enclosed sidewalk cafes in the Dupont Circle Historic District;

WHEREAS, as a result of its policy concerning enclosed sidewalk cafes, Protestant opposed the Building's application for a public space permit before the Public Space Committee;

WHEREAS, the Applicant's original design for an enclosed sidewalk café was not approved by the Historic Preservation Review Board ("HPRB") as the design was ruled to be inconsistent with the nature of the Dupont Circle Historic District;

WHEREAS, Applicant redesigned its enclosed sidewalk café such that it occupies less space on the sidewalk than the original design and preserves views of the historic structures on Jefferson Place, NW from 19th Street;

WHEREAS, after public hearings, the redesigned plans for the enclosed sidewalk café were approved by the HPRB and the Public Space Committee;

WHEREAS, the public space to be occupied by the enclosed sidewalk café was previously occupied by stone planter boxes which limited the pedestrian walkway on 19th Street in front of the Building;

WHEREAS, the scaled down, redesigned enclosure, will actually allow for more open space than the planters previously at the location, thus opening up the 19th Street streetscape;

WHEREAS, Protestant has filed a protest with the Alcoholic Beverage Control Board (the "Board") against the Applicant's request for approval of the enclosed sidewalk café as part of its premises solely based on its consistent policy of opposing all approvals for enclosed sidewalk cafes;

WHEREAS, although the Protestant remains fundamentally opposed to enclosed sidewalk cafes in the Dupont Circle Historic District, Protestant has agreed to withdraw its protest with the understanding that approval of this request by the Board for a substantial change shall not be a basis for the approval, by the Board, or any other agency, of additional enclosed sidewalk cafes in the Dupont Circle Historic District;

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. **Capacity.** Unless the Board shall, after notice of a substantial change as required by D.C. Code Section 25-404, approve an increase in capacity, the Applicant's capacity shall be as follows :

The capacity for the interior of the establishment shall be 299 seats
The capacity for the enclosed sidewalk café shall be 48 seats.

3. **Hours.** Unless the Board shall, after notice of a substantial change as required by D.C. Code Section 25-404, approve different hours, the Applicant's hours of operation and hours for sale and service of alcoholic beverages, shall be as follows:

Monday-Friday: 11:30 A.M. to 12:00 A.M.
Saturday and Sunday: 5:30 P.M. to 12:00 A.M.

4. **Entertainment.** Applicant acknowledges that it does not have approval for an Entertainment Endorsement and thus is not authorized to offer entertainment nor are there plans to seek such endorsement.

5. **Substantial Change Approval.** Applicant shall work with ANC 2B prior to or contemporaneously with the filing of any request for substantial change to discuss appropriate conditions to such changes in future operations if desired by ANC 2B.

6. **Signage.** Applicant shall comply with all applicable signage regulations, including those for historic districts and shall remove those that are in violation.

7. **Notice.** Any notices required to be given under this Agreement shall be in writing and mailed by certified mail, return receipt requested, postage prepaid, or hand delivered, to the other parties to this Agreement. Notice is deemed to be received upon mailing. Notice is to be given as follows:

If to Applicant

Mr. Jim Longo
Palm Management, Inc.
1730 Rhode Island Avenue, NW
Suite 900
Washington, DC 20036

and

The Palm Restaurant
1225 19th Street, NW
Washington, DC 20036

With a copy to:

Andrew J. Kline, Esquire
1225 Nineteenth Street, NW
Suite 320
Washington, DC 20036

If to Protestant:

ANC 2B
9 Dupont Circle, NW,
Washington, DC 20036

Either party may change the notice addresses listed above by written notice to the other party at the addresses listed above.

8. **Modification.** This Agreement may only be modified by the Board, or by mutual agreement of all the parties hereto with the approval of the Board.

9. **Withdrawal of Protest.** Protestant agrees to the substantial change approval sought by the Applicant for the addition of the enclosed sidewalk café and hereby withdraws its protest, subject to this Agreement being incorporated into the Board's Order approving the substantial change.

10. **Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which when taken together, constitute one and the same document. That signature to any counterpart shall be deemed a signature to, and may be appended to, any counterpart.

11. **Severability.** In the event that any part of this Agreement is found to be invalid, unenforceable or not binding, the remaining portions shall remain in full force and effect and be fully binding on the parties.

IN WITNESS WHEREOF, the parties have executed, or caused this Agreement to be executed as of the date set forth hereinabove.

APPLICANT:

Washington DC Palm, Inc.

By: 

Print Name: JAMES A LONGO

Title: VICE PRESIDENT

Date Signed: 9-11-07

**DUPONT CIRCLE ADVISORY
NEIGHBORHOOD COMMISSION 2B**

By: _____
Ramon Estrada, Chairman

Date Signed: _____

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APPLICANT:

Washington DC Palm, Inc.

By: James A. [Signature]

Print Name: James A. [Signature]

Title: Vice President

Date Signed 9-11-07

**DUPONT CIRCLE ADVISORY
NEIGHBORHOOD COMMISSION 2B**

By: William [Signature]

For Ramon Estrada, Chairman

APC 2002

Date Signed: 9-11-07