

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

In the Matter of:)

Tupp, Inc.)
t/a Thaiphoon)

Application for a Retailer's Class CR)

License – renewal)

at premises)

2011 S Street, NW)

Washington, D.C.)

Application no.: 24559-04/109P

Order no.: 2005-08

Tupp, Inc., Applicant

Darren A. Bowie, Chairperson, on behalf of the 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ORDER ON VOLUNTARY AGREEMENT AND WITHDRAWN PROTEST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 application, having been protested, came before the Board on September 29, 2004, in accordance with D.C. Official Code § 25-601 (2001). Darren A. Bowie, Chairperson, on behalf of the Advisory Neighborhood Commission 2B, filed timely opposition by letter dated August 17, 2004.

The official records of the Board reflect that the parties have reached an agreement that has been reduced to writing and has been properly executed and filed with the Board. The Board is approving the agreement subsequent to the following change. The Board is striking the phrase "including those for historic districts and will remove those that are in violation" in provision 3(b) of the agreement for not being a term covered by Title 23 of the District of Columbia Municipal Regulations ("DCMR") § 1609.1 (2004). Pursuant to the agreement, dated October 28, 2004, the Protestant has agreed to withdraw the 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.

Tupp, Inc.
t/a Thaiphoon
Case no. 24559-04/109P
Page two

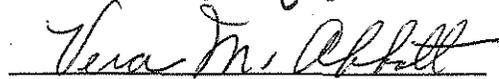
Accordingly, it is this 5th day of January 2005, **ORDERED** that:

1. The protest of Darren A. Bowie, Chairperson, on behalf of the Advisory Neighborhood Commission 2B, is **WITHDRAWN**;
2. The application of Tupp, Inc., t/a Thaiphoon for a retailer's class CR license (renewal) at 2011 S Street, N.W., Washington, D.C. is **GRANTED**;
3. The above-referenced agreement, as amended by the Board, is **INCORPORATED** as part of this Order; and
4. Copies of this Order shall be sent to the Protestant and the Applicant.

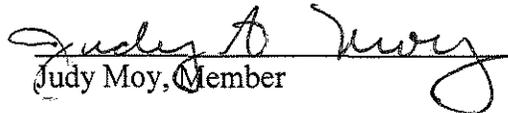
District of Columbia
Alcoholic Beverage Control Board



Charles A. Burger, Chairperson



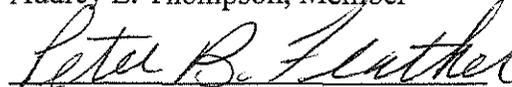
Vera M. Abbott, Member



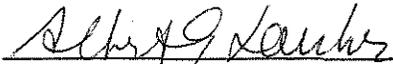
Judy Moy, Member

NON VOTING

Audrey E. Thompson, Member



Peter B. Feather, Member



Albert G. Lauber, Member

NON VOTING

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.

Rec'd 11/3/04 1
by ABC Board

VOLUNTARY AGREEMENT

THIS AGREEMENT, made and entered into this 28 day of Oct 2004, by and between XXX Corp., Trading as Thaiphooon (hereinafter the "Applicant"), and Advisory Neighborhood Commission 2B, (hereinafter the "Protestant"), witnesses:

Whereas, the Applicant has filed a renewal application (#XXXXXX) with the DC Alcoholic Beverage Control Board (hereinafter the "Board") for premises known as Thaiphooon located at 20?? S Street, in Washington, DC.

100k into

Whereas, the Protestant has filed before the ABC Board a protest opposing the granting of this substantial change 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 substantial change related to this license and withdrawal of the Protest *provided* that such agreement is incorporated into the Board's order renewing the 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. Noise/Music/Dancing. 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.
2. Trash/garbage/rodents. Applicant shall maintain regular trash garbage removal service, regularly remove trash from the trash area, and see that the trash area remain clean. Applicant shall deposit trash, grease, and garbage only in rodent-proof dumpsters, and shall see that dumpster covers fit properly and remain fully closed except when trash, grease, or garbage is being added or removed.
 - (a) The applicant shall use their garbage disposal to dispose of food wastes. They shall purchase a more heavy duty garbage disposal if necessary to handle the wastes.
 - (b) The applicant shall use garbage disposal bags that their trash removal service can provide for those food wastes that can not go into their garbage disposal.
 - (c) The applicant shall keep the dumpster clean by washing it out weekly.

- (d) The applicant shall keep the plugs in all of their dumpsters and prevent liquid garbage/grease from leaking onto the alley and street.
 - (e) The applicant shall maintain 6-day a week pick up of trash.
 - (f) The applicant shall direct their trash removal service to pick up from in front of Thaiphon rather than further east so that if any thing does spill or leak out of the truck, it fall in front of their establishment.
 - (g) The applicant shall direct their trash removal service to keep the plugs in their hopper so that liquid garbage/grease does not leak on the road.
 - (h) The applicant shall keep the alley and street free of liquid garbage/grease build up.
3. 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 need to keep them free of trash and to remove snow and ice from the sidewalk and comply with all applicable D.C. laws and regulations in these respects. 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.
 - (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.
4. Consideration. Applicant will encourage employees and patrons to be considerate of neighboring residents at all times. Applicant will encourage those leaving the establishment to keep conversations and noise down after 10 pm.
5. Modification. This agreement can be modified only by the ABC Board, or by mutual agreement of all the parties with the 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 agreement from ANC 2B.
6. Regulations. In addition to the foregoing, Applicant will operate in compliance with all applicable laws and regulations.
7. Withdrawal of protest. Protestant agrees to the issuance of the substantial change to the license and the withdrawal of their protest *provided* that the present Voluntary Agreement is incorporated into the Board's order renewing the license, which order is thereby conditioned upon compliance with such Voluntary Agreement.

APPLICANT:

(Name of Business) TUPP, FNC.

PROTESTANT:

Advisory Neighborhood Commission 2B

By: VIC PRESIDENT

By:

~~Wade W. Jones~~

Darren A. Bowie

(Owner's Name) WOODHICKIA TONGA

Darren Bowie

Owner, (Name of Business) Thaiphoon

Chair, ANC 2B

Date: 28 AUGUST 04.

Date: November 1, 2004