

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

In the Matter of:)	
)	
El Tamarindo, Inc.)	
t/a El Tamarindo Adams Morgan)	
)	
Application for Substantial Change)	Case No. 11-PRO-00052
(Sidewalk Café))	License No. ABRA-071179
to a Retailer's Class CR License)	Order No. 2012-078
)	
at premises)	
1785 Florida Avenue, N.W.)	
Washington, D.C. 20009)	

El Tamarindo, Inc., t/a El Tamarindo Adams Morgan (Applicant)

Olivier Kamanda, Commissioner, Advisory Neighborhood Commission (ANC) 1C

Will Stephens, Chairperson, Advisory Neighborhood Commission (ANC) 2B

Denis James, on behalf of Kalorama Citizens Association (KCA)

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Calvin Nophlin, Member
Mike Silverstein, Member
Jeannette Mobley, Member

**ORDER ON REPLACEMENT COOPERATIVE AGREEMENT AND
WITHDRAWAL OF PROTESTS OF ANC 1C, ANC 2B, AND KCA**

The Application filed by El Tamarindo, Inc., t/a El Tamarindo Adams Morgan, for a Substantial Change to include a new sidewalk café with 14 seats, to its Retailer's Class CR License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on January 3, 2012, and a Protest Status Hearing on February 15, 2012, in accordance with D.C. Official Code § 25-601 (2001).

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The official records of the Alcoholic Beverage Control Board (Board) reflect that the Applicant and ANC 1C entered into Voluntary Agreements (Original Agreements) on 1989, 1999, 2008, and 2010, that govern the operation of the Applicant's establishment. This matter comes now before the Board to consider the Applicant, ANC 1C, ANC 2B, and KCA's Replacement Cooperative Agreement (Agreement), dated February 1, 2012, in accordance with D.C. Official Code § 25-446 (2001).

The Parties have agreed to replace the Original Agreements and the Applicant; Commissioner Olivier Kamanda, on behalf of ANC 1C; Chairperson Will Stephens, on behalf of ANC 2B; and Denis James, on behalf of KCA, are signatories to the Agreement. The Agreement has been reduced to writing and has been properly executed and filed with the Board.

This Agreement also constitutes a withdrawal of the Protests filed by ANC 1C, ANC 2B, and KCA.

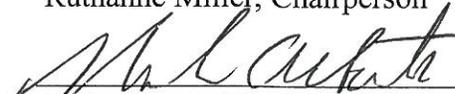
Accordingly, it is this 29th day of February, 2012, **ORDERED** that:

1. The Application filed by El Tamarindo, Inc., t/a El Tamarindo Adams Morgan, for a Substantial Change to include a new sidewalk café with 14 seats, to its Retailer's Class CR License, located at 1785 Florida Avenue, N.W., Washington, D.C., is **GRANTED**;
2. The Protests of ANC 1C, ANC 2B, and KCA in this matter are hereby **DISMISSED**;
3. The above-referenced Replacement Cooperative Agreement, dated February 1, 2012, submitted by the Applicant, ANC 1C, ANC 2B, and KCA to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order; and
4. Copies of this Order shall be sent to the Applicant, ANC 1C, ANC 2B, and KCA.

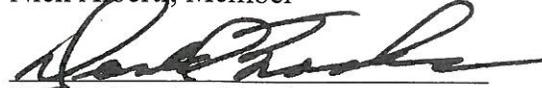
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District of Columbia
Alcoholic Beverage Control Board

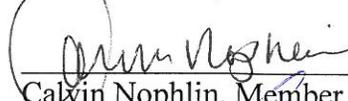
Ruthanne Miller, Chairperson



Nick Alberti, Member



Donald Brooks, Member



Calvin Nophlin, Member



Mike Silverstein, Member



Jeannette Mobley, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), any Party adversely affected by this Order may file a Motion for Reconsideration within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009.

DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE
REGULATION ADMINISTRATION

**REPLACEMENT COOPERATIVE AGREEMENT CONCERNING
ISSUANCE OF ABC LICENSE FOR SALE OF ALCOHOLIC BEVERAGES**

DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE
REGULATION ADMINISTRATION

2012 FEB -8 P 1:35

2012 FEB 8 P 1:35

THIS AGREEMENT is made and entered into this 1st day of February, 2012, by and between El Tamarindo, Inc., trading as El Tamarindo, 1785 Florida Avenue, NW (hereinafter the "Applicant"), the Advisory Neighborhood Commission 1C (hereinafter "ANC 1C"), Advisory Neighborhood Commission 2B (hereinafter "ANC 2B), and the Kalorama Citizens Association (hereinafter the "KCA"), hereinafter together, the Parties.

RECITALS

WHEREAS, the Applicant operates the establishment known as El Tamarindo, 1785 Florida Avenue, NW, Washington, DC 20009 pursuant to a Retailer's Class "CR 02" license ("Establishment");

WHEREAS, the Establishment is within the boundaries of ANC 1C and the membership boundaries of the KCA, and ANC 2B is within the affected area;

WHEREAS, ANC 1C entered into various Voluntary Agreements in 1989, 1999, 2008 and 2010 commemorating certain understandings regarding the operation of the Establishment (collectively such agreements are hereinafter referred to as "Original Agreement");

WHEREAS, the Applicant has initiated case number Case #11-PRO-00052 with the Alcoholic Beverage Control Board for the purpose of licensing the Sidewalk Café for the sale, service and consumption of alcoholic beverages;

WHEREAS, ANC 1C, ANC 2B and KCA have opposed the licensee's request and have filed protests in the ABRA Case, and

WHEREAS, the Parties desire to replace the Original Agreement with this Agreement and resolve the ABRA case.

NOW, THEREFORE, in consideration of the premises above recited, and the mutual covenants and undertakings set forth below, the Parties agree as follows:

1. Hours of Operation

For food service:

Monday-Thursday: 6 am-2 am
Friday-Sunday: 24 hours per day

For alcohol sales service & consumption:

Sunday-Thursday: 11 am-2 am
Friday & Saturday: 11 am-3 am

2. Capacity of patrons shall not exceed 138 inside, 14 on Sidewalk Café.

3. Sidewalk Café

Hours of Operation for sales, service and consumption of food and alcoholic beverages on the Sidewalk Café in front of 1785 Florida Avenue:

Sunday-Thursday: 11 am - 11 pm
Friday & Saturday: 11 am - 12:00 midnight

Applicant agrees to comply with all conditions associated with licensure of the public space sidewalk café.

3. Noise & Entertainment

- a.) 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 the DC Noise Control Act of 1977 (Public Law 2-53), as amended.
- b.) The Applicant agrees to abide by all Alcoholic Beverage Control regulations as amended.
- c.) The doors and windows of the premises will be kept closed at all times during business hours when music is being played, or a sound amplification device is being employed in the premises, except when persons are in the act of using the door for ingress to or egress from the premises.
- d.) Music from inside will not be audible at surrounding residential housing areas.
- e.) The Parties agree that any live music performances will be for the benefit and enjoyment of the establishment's dining and bar patrons, therefore, there will be no cover charge.
- f.) In the case of special events, such as private parties or New Year's Eve, the preceding section does not prevent the licensee from making certain charges to allow participation. For the purposes of this section, special events and private parties are considered separate and apart from the routine operation of the establishment and the regular presentation of live music.
- g.) The Parties agree that in the routine operation of the establishment, the regular presentation of live music performances will end no later than 12:30 a.m. This section does not apply to New Year's Eve on which date any live music performance shall end ONE HOUR before closing time. In the case of special events or private parties any live music performances will end no later than 1:30 a.m.
- h.) There will be no designated dance area.

4) Trash/Garbage/Oils/Recycling

- a) Applicant shall maintain trash/garbage removal with sufficient frequency to ensure that dumpsters/cans never overflow, regularly remove trash from the trash area, and see that the trash area remains clean by regular sweeping and hosing, when weather permits. Applicant shall see that dumpster covers fit properly and remain closed except when trash or garbage is being added or removed. Applicant will make every reasonable effort to eliminate food sources for rodents to help eliminate the rat population.
- b) Applicant agrees to segregate bottles (and recycle, cans and cardboard in accordance with DC Law 7-226) from trash and agrees there will be no loud dumping of bottles, or pickup of the recycling and refuse in the alley behind the restaurant between the hours of 11:00 pm and 8:00 am, seven days a week. No trash, waste or recycling of any kind will ever be left on the ground.
- c) Applicant will provide for the proper removal and recycling of grease and fatty oils from the establishment and will not deposit grease or fatty oils in the trash containers.

5. Bar/Pub Crawls

Applicant agrees not to promote or participate in bar or pub crawls, tours or other similar events.

6. Consideration

Applicant will encourage employees and patrons to be considerate of neighboring residents at all times. Applicant will encourage employees and patrons leaving the establishment to keep conversations and noise to a minimum.

7. Final Agreement and Modification

This agreement amends and supersedes the Original Agreement and any other prior agreements between the Parties, and shall constitute the only agreement between the Parties, except to the extent it is subsequently modified by the Parties. For purposes of DC Official Code Section §25-

446(d)(2)(B), the date of the ABC Board's approval of this agreement shall be considered its initial approval of this Agreement and shall commence the applicable period.

8. Availability of Cooperative Agreement

Applicant agrees to keep available at all times a copy of this Agreement at the establishment and shall familiarize all employees with its conditions.

9. Withdrawal of Protest

ANC 1C, ANC 2B and KCA withdraw their protests, provided that this Agreement is incorporated into the Board's Order approving the Agreement, which order is thereby conditioned upon compliance with such Agreement,

For El Tamarindo

JOSE RIVERA 2/1/12
Signature Date

PRESIDENT
Title

For ANC 1C

Olivier Kamande 2/1/2012
Signature Date

Chair, ABC of Public Safety Committee
Title

For ANC 2B

Walter Johnson 2/1/2012
Signature Date

Chair, ANC 2B
Title

For Kalorama Citizens Association

Denis James 2-1-2012
Denis James, President Date