

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

In the Matter of:)
)
Madaket, LLC.)
t/a Surfside)
)
Application for Retailer's)
Class CR License) License No. 78406
) Order No. 2009-203
at premises)
2444 Wisconsin Avenue, N.W.)
Washington, D.C. 20007)
)

Madaket, LLC, t/a Surfside, Applicant

Melissa Lane, Chair, Advisory Neighborhood Commission (ANC) 3B

BEFORE: Peter B. Feather, Chairperson
Mital M. Gandhi, Member
Nick Alberti, Member
Charles Brodsky, Member
Donald Brooks, Member
Herman Jones, Member

ORDER ON VOLUNTARY AGREEMENT

The official records of the Alcoholic Control Board (Board) reflect that Madaket, LLC, t/a Surfside, Applicant for Retailer's Class CR license located at 2444 Wisconsin Avenue, N.W., Washington D.C., and Melissa Lane, Chairperson, on behalf of Advisory Neighborhood Commission (ANC) 3B, (collectively, the Parties) have entered into a Voluntary Agreement (Agreement) dated July 9, 2009, setting forth the terms and conditions that govern the operation of the Applicant's establishment.

The Agreement restricts the hours of operations every day until 12:30 a.m. The Agreement has been reduced to writing and has been properly executed and filed with the Board. Both the Applicant and Chairperson Lane are signatories to the Agreement.

Madaket, LLC
t/a Surfside
License No. 78406
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Accordingly, it is this 29th day of July 2009, **ORDERED** that:

1. The Application filed by Madaket, LLC, t/a Surfside for a Retailer's Class CR license located at 2444 Wisconsin Avenue, N.W., Washington, D.C., is **GRANTED**

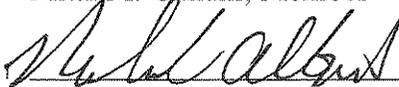
2. This above-referenced Voluntary Agreement submitted by the Parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order; and

3. Copies of this Order shall be sent to the Applicant and to ANC 3B.

District of Columbia
Alcoholic Beverage Control Board


Peter B. Feather, Chairperson

Mital M. Gandhi, Member


Nick Alberti, Member

Charles Brodsky, Member


Donald Brooks, Member


Herman Jones, 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.

AMENDED VOLUNTARY AGREEMENT

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LJC

This Voluntary Agreement (hereafter "Agreement") made the 9th of July 2009 between Madaket, L.L.C., trading as Surfside (hereafter "Surfside") an applicant with a Class CR Alcoholic Beverage License No. 78406 (hereafter "License") for its premises (hereafter "Premises") at 2444 Wisconsin Avenue, N.W., and Advisory Neighborhood Commission 3B (hereafter "ANC 3B").

Surfside entered into and executed a previously recorded Agreement on the 21st of March 2008 between Surfside and ANC 3B, presently on file and in full force with the Alcoholic Beverage Regulation Administration (hereafter "ABRA").

Surfside approached ANC 3B at the March 2009 public meeting requesting to amend its Agreement to allow for specific business enhancements – namely allowing alcoholic beverage service on their existing rooftop ("Summer Garden") – which was expressly prohibited in the prior VA, and where a Resolution was introduced and unanimously passed in favor of, and conditioned upon, successfully entering into an amended voluntary agreement for the support of ANC 3B.

Therefore, in due consideration for the aforementioned, ANC 3B and Surfside agree to the following terms:

1. Entertainment. Surfside shall not apply for an Entertainment Endorsement with ABRA, nor have a disc jockey or offer live music and/or entertainment, but may offer music in the form of recorded, digital, i.e., MP3's or CD's and/or a live-stream in its Premises. Surfside will not provide a dance floor for dancing by its patrons or other facilities for dancing.
 - 1.1. Music on the rooftop will be limited to the hours when Surfside is serving lunch and dinner; and inaudible before and after.
 - 1.2. Music within the enclosed interior will be limited to the hours of operation.
2. Noise. Surfside acknowledges familiarity/compliance with the noise-control provisions of the District of Columbia law and regulations, including the Noise Control Protection Amendment Act of 2007.
 - 2.1 The rear door and windows of the Premises will be kept closed at all times during hours of operation except when persons are in the act of using it for ingress or egress from the Premises.
 - 2.2 Music and vibration from the establishment shall not be audible or felt in any neighboring residential Premises during its hours of operation.
3. Occupancy. Surfside shall not exceed the occupancy provided by its certificate of occupancy.

- 3.1. Seating for patrons on the rooftop will not exceed eighty (80) persons at any given time.
 - 3.2. Seating for patrons inside will not exceed one hundred-ten (110) persons at any given time.
 - 3.3. Seating for eight (8) persons will be allowed at the service bar downstairs but strictly prohibited upstairs on the rooftop, should Surfside build a service bar to accommodate its patrons.
4. Parking. Surfside shall encourage and guide its patrons to complimentary or discounted parking for its patrons at a lot or lots within reasonable proximity of the Premises. Surfside shall provide its employees off-street commercial parking for the duration of their time at Premises, and shall notify employees of its availability. Surfside shall publicize the availability of complimentary or discounted parking in all advertising. Finally, Surfside shall maintain signage at its front and rear entrances providing notice to its patrons of such parking.
 5. Signage. Surfside shall post signage at its front and rear entrances of the interior of its Premises, reminding patrons to be considerate of residential neighbors when exiting and shall post all other signage as required by the District of Columbia.
 6. "Cover Charges"/Entrance Fees. Surfside shall not charge for entrance to its establishment unless such a fee is associated with a special event or fundraising evening.
 7. Restaurant. Surfside will at all times conduct itself – in its current and future business model(s) - as a bona fide restaurant, within a mixed commercial/residential neighborhood. Catering for offsite business/events will not be the primary and/or secondary source of revenue for its Premises.
 8. Deliveries. Surfside shall have beer/wine/spirits delivered no more than three (3) times per week during daily business hours. Food and/or maintenance related-deliveries may occur on a daily basis within daily business hours.
 9. Loitering, Trash Removal, Recycling and Outside Maintenance.
 - 9.1. Surfside shall on a daily basis clean the public's easement (sidewalk) in the front and rear of its establishment, and the immediate neighboring properties to its north and south, within a least eighteen (18) inches outward, from the curb so these areas are respectively free of trash, debris, snow and ice.
 - 9.2. Surfside shall make every reasonable and lawful effort to prevent and/or disperse loitering or any other sources of noise and/or disturbances in the areas in front of the Premises during business hours and at closing, and guide patrons to leave its Premises at closing, in a quiet and respectful manner.

- 9.3. Surfside shall provide its patrons, at all and feasible times, with glassware and/or bottles for its patron's beverages. Surfside shall prohibit patrons from leaving the Premises with alcoholic beverages. Surfside shall maintain regular trash, refuse, recycling removal services, by regularly removing trash from their secondary-exit into their trash container areas, and maintain and keep this area clean and tidy. Surfside will fully adhere to all laws and regulations of the District of Columbia concerning the proper storage and collection of trash, refuse and recyclables.
- 9.4. Surfside shall deposit trash and garbage in rodent-proof dumpsters with covers fitting properly and remaining fully closed at all times, except when being added or removed. Surfside shall contract with a pest control company to regularly treat the Premises and trash facilities for rodent and pest control/infestation.
- 9.5. Surfside being fully aware and willingly compliant with the aforementioned laws of the District of Columbia's regulations for proper storage and collection of trash, refuse and recyclables shall abide by the Department of Health's regulations for proper storage, collection of trash, refuse and recyclables. Surfside shall not dispose of its recyclable, e.g., glass bottles outside the Premises after, and in due consideration for its neighbor's peace and quiet, between the hours of ten-thirty (10:30 p.m.) and eight o'clock (8:00 a.m.).
- 9.6. Surfside shall provide (educate) its employees/contractors with the aforementioned terms, so as not, to be in violation of the terms established in this Agreement.

10. Hours of Operation.

The hours of operation shall be:

Sunday – Saturday, 10 a.m. to 12:30 a.m.

Last call for alcohol will be fifteen (15) minutes before closing.

11. Outside Seating. The Summer Garden shall be subject to the following restrictions:

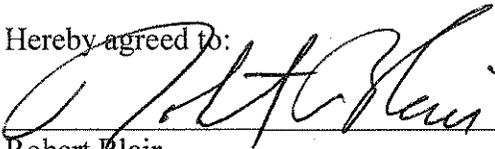
- 11.1. Seating for patrons on the Summer Garden will not exceed eighty (80) persons at any given time.
- 11.2. Construct a sound-deflecting wall along the west side of the Summer Garden (so as to remedy noise complaints from residential neighbors). The wall will be faced with sound absorbent acoustical foam and composite fencing/lattice work.
- 11.3. Install noise absorbing acoustical foam on the underneath surface of all tables in the Summer Garden seating area.
- 11.4. Plant, maintain and provide a very green-environment consisting of shrubs, trees, and other flora for beautification and noise abatement purposes throughout the Summer Garden seating area, especially along the west side.

11.5. Hours of service on the Summer Garden area shall be strictly limited to:
Sunday – Saturday: 11:00 a.m. to 12:00 a.m., cleared of patrons by 12:00
a.m.

11.6. Surfside shall construct a permanent inclement weather canopy for its
patrons.

12. This Agreement supercedes and replaces the original dated 21st March 2009 and
hereby becomes in full force and effect upon this document being executed, and
therefore, shall be attached to the License upon approval of the Alcoholic
Beverage Control Board without regard to sale and/or transfer. Violations of the
Agreement shall provide just cause for the Alcoholic Beverage Control Board to
issue an order requiring Surfside to show cause why its license should not be
suspended or revoked.

Hereby agreed to:



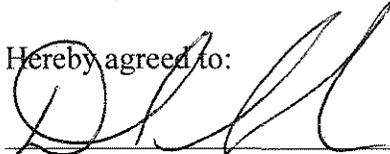
Robert Blair

Duly authorized officer and partner of
Madaket, L.L.C. t/a Surfside

Date

7/13/09

Hereby agreed to:



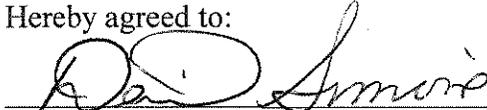
David Scribner

Duly authorized officer and partner of
Madaket, L.L.C. t/a Surfside

Date

7/14/9

Hereby agreed to:



David Simone

Duly authorized officer and partner of
Madaket, L.L.C. t/a Surfside

Date

7/14/09

Hereby agreed to:



Melissa J. Lane, Chair

Advisory Neighborhood Commission 3B

Date

7/13/09