

IN THE CHANCERY COURT OF HAMILTON COUNTY, TENNESSEE

BOATHOUSE GRILL, LLC,)
)
 Plaintiff,)
)
 Vs.)
)
 CHATTANOOGA BEER and)
 WRECKER BOARD, and its Board)
 Members (only and solely in their official)
 capacity), ANDRE HARRIMAN,)
 CHRISTOPHER P. KEENE, TREVOR)
 ATCHLEY, RONALD W. SMITH,)
 JACKIE THOMAS, JAMES HOBBS,)
 CYNTHIA D. COLEMAN, and DAN)
 MAYFIELD)
 Defendants.)
)
 _____)

CASE NO: 18-0468

**PETITION FOR WRIT OF CERTIORARI, SUPERSEDEAS
AND OTHER RELIEF**

COMES NOW the Plaintiff, by and through its counsel, and for its complaint against the Defendants, respectfully show the Court as follows:

PARTIES

1. Plaintiff Boathouse Grill, LLC (Boathouse) is a Tennessee limited liability company with its principal place of business located at 1459 Riverside Drive, Chattanooga, Tennessee.
2. Defendant Chattanooga Beer and Wrecker Board (the "Board") is a nine member Board operating under the ordinance and regulation of the municipality of the City of Chattanooga, Tennessee. It is currently believed to have eight Board members.
3. Defendant Andre Harriman is a member of the Board and is named as a defendant solely in his official capacity as a member of the Board.

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4. Defendant Richard P. Keene is a member of the Board and is named as a defendant solely in his official capacity as a member of the Board.

5. Defendant Trevor Atchley is a member of the Board and is named as a defendant solely in his official capacity as a member of the Board.

6. Defendant Ronald W. Smith is a member of the Board and is named as a defendant solely in his official capacity as a member of the Board.

7. Defendant Jackie Thomas is a member of the Board and is named as a defendant solely in her official capacity as a member of the Board.

8. Defendant James Hobbs is a member of the Board and is named as a defendant solely in his official capacity as a member of the Board.

9. Defendant Cynthia D. Coleman is a member of the Board and is named as a defendant solely in her official capacity as a member of the Board.

10. Defendant Dan Mayfield is a member of the Board and is named as a defendant solely in her official capacity as a member of the Board.

11. Collectively, Defendants listed in paragraphs 3 through 10 are referred to as the Board or Board Members. The Board and Board Members may be served through the office of the City Attorney for the City of Chattanooga, Tennessee.

NATURE OF THE ACTION

12. The Boathouse appeals from an action taken against it by the Board on or about June 7, 2018 at one of its regularly scheduled meetings. This appeal and Petition is made pursuant to the provisions of the Chattanooga City Code and provisions applicable to the Board under its adopted Policies and Procedures effective as of December 21, 2017 and provisions of T.C.A. 57-5-108 made applicable thereby.

PERTINENT BACKGROUND FACTS

13. The City is a Tennessee municipal corporation and a political subdivision of the State, operating as a “home rule” municipality within the meaning of Article XI, § 9 of the State’s Constitution. As such, the City is subject to the provisions of its written charter and charter appendices as duly adopted by the Council and approved by the City’s registered voters by public referendum. The Chattanooga City Code is comprised of the variance ordinances voted upon by the City Council or voted upon by referendum.

14. The Board and the Board Members are responsible under the Chattanooga City Code or Charter to “issue permits and revoke or suspend licenses” related to the sale of beer and alcohol among other duties and responsibilities.

15. On or about May 25, 2018 an officer for the Board issued a Notice of Violation to the Boathouse based on an alleged violation of City Code Chapter 5, Article III Section 5-82 a(16) based on a statement given by Hamilton County Riverwalk Park Ranger which was dated on or about May 21, 2018. A copy of the Notice and Statement are attached hereto as Exhibit A (Notice). The Notice set the hearing date for June 7, 2018 and was delivered to a manager on duty at the Boathouse.

FACTUAL ALLEGATIONS

16. The Boathouse alleges after the Notice was issued there were various conversations and emails exchanged with Hamilton County Park Managers and supervisors who had spoken with the Park Rangers involved with the incidents that led to the issuance of the Notice by the City Officer. The Hamilton County Park Managers stated to Boathouse managers and owners the citation or Notice had been resolved and there would be no reason to appear at the June 7 hearing. The Boathouse owners had

scheduled an out of town visit during the June 7 week that had been planned for weeks before the hearing date. Likewise, Boathouse managers were told by Hamilton County Managers there would not be a hearing on the Notice on June 7 and there would be no reason to appear.

17. The Boathouse, upon information and belief, alleges the Hamilton County Park Managers did not notify the City Officer, the Board or others they did not want to pursue the matters that led to the issuance of the Notice.

18. On June 7, 2018 the Board held its regular meeting and in fact addressed the Notice and alleged violation noted in the Notice. A Hamilton County Riverwalk Park Ranger apparently gave testimony at hearing consistent with the Statement attached to the Notice. Boathouse alleges the Hamilton County Park Managers apparently did not communicate with the Park Ranger involved that matter had been resolved with Boathouse owners and managers.

19. No Boathouse representative or owner was present for the June 7 hearing due to the communications with Hamilton County Park Managers. As a result of the apparent miscommunications, the Board Members apparently took great offense at the “no show” by Boathouse representatives and voted to issue and levy the maximum fine for the stated offense of \$1500.00 or a multi-day suspension of the beer license or permit at the June 7 hearing.

20. The Boathouse owners and representatives did not learn of the June 7 hearing until local media sources generated news stories or articles about the June 7 hearing and vote of the Board to impose the extensive fine or suspension. The Boathouse

immediately contacted the Hamilton County Park Managers who, while apologetic, had no authority undo the damage done at the June 7 Board meeting.

21. The Boathouse, upon information and belief, alleges the Hamilton County Park Managers contacted the City Attorney for the Board as well as the Board Members to explain the miscommunication and explain the apparent “no show” by the Boathouse.

22. The Policies and Procedures for the Board expressly prohibit rehearing or reconsideration of matters voted upon by the Board thus necessitating this appeal and Petition.

23. After the June 7 hearing, the Boathouse brought to the attention of the Board attorney and the Office of the Hamilton County Attorney the existence of a Lease Agreement, attached hereto as Exhibit B, between the prior owners of the Boathouse property and the City of Chattanooga and Hamilton County, Tennessee, that specifically allows patrons of the Boathouse (or other business on the property) to carry beer or alcoholic beverages onto the portion of the Riverwalk that is on the Boathouse property. Accordingly, the Boathouse alleges there was no violation of any beer or alcohol regulations which was the basis for the Notice.

24. Upon information and belief, Boathouse alleges the Board was simply unaware of the Lease Agreement and the time of June 7 hearing occurred. The Boathouse alleges the Lease Agreement has been in full force and effect since it was approved and signed by the City of Chattanooga and Hamilton County officials on or about June 24, 1994. The Lease Agreement was approved by the governing bodies of the City of Chattanooga and Hamilton County and accordingly is binding and controlling on the Board.

RELIEF REQUESTED

25. The Boathouse adopts and incorporates herein all of the foregoing allegations in paragraphs 1 through 24. The Boathouse would show, based upon the foregoing, that the following relief is appropriate:

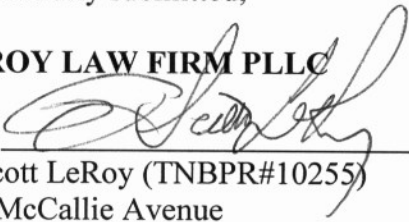
- (a) The Boathouse appeals the decision and vote of the Board at the June 7 hearing and asks that the fine and penalty be reversed and the \$1500 fine paid by the Boathouse be refunded.
- (b) The Boathouse asks that the Court determine and find that conducting the June 7 hearing was improper due to the communication or miscommunications created by the Hamilton County Park personnel and that the actions taken by the Board on June 7 are null and void.
- (c) That the Court review and consider the applicable provisions of the Lease Agreement, Exhibit B, and determine that no violation of the City Code or Charter, as stated in the Notice, occurred based upon the binding and enforceable provisions of the Lease Agreement.
- (d) That the Court grant such other and further legal and equitable relief as the Court deems just and proper under the circumstances.

- (e) That the Boathouse be awarded its attorney's fees and costs associated with the bringing of this action.

Dated: August 2, 2018

Respectfully submitted,

LEROY LAW FIRM PLLC

By: 
F. Scott LeRoy (TNBPR#10255)

920 McCallie Avenue

Chattanooga, TN 37403

Phone: 423.648.7892

sleroy@leroylawfirm.com

ATTORNEYS FOR PLAINTIFF

COSTS BOND

We are surety for court costs incurred in this matter, ~~not to exceed Five Hundred (\$500.00) Dollars.~~ *FSL*

LeRoy Law Firm PLLC

By: 
F. Scott LeRoy

August 2, 2018



Chattanooga Police Department Regulatory Bureau

3410 Annicola Hwy, Chattanooga, Tennessee 37406
Phone: (423) 643-5156



Notification of Violation and Appearance Before the Beer Board

Complaint Number: _____
 Name of Business: HC Park Range
 Business Address: BOARDING
1011 RIVERSIDE DR
 Business Owner's Name: _____
 Date/Time: 5-25-18
 Business Phone #: _____
 Permit Number: _____
 Permit Expiration Date: _____

On the 21st day of MAY, 2018, at 200 hrs, the Chattanooga Police Regulatory Bureau checked your business and found violations of City Code Chapter 5, Article III, Section and are hereby ordered to appear before the Beer/Wreckage Board on 6-7-18, City Council's Building, 1000 Lindsay Street, Room 101, 9:00 a.m. to show cause why your Beer License should not be suspended or revoked for the following violation(s):

- Hours Regulated Sec. 5-47
- Offenses involving minors; loitering; gambling Sec. 5-48
- Unauthorized use or consumption of beverages on premises Sec. 5-49
- Sales to incapacitated or incompetent person(s) prohibited Sec. 5-50
- Use of premises not authorized by permit Sec. 5-51
- Employment of former violators Sec. 5-52
- Employment of minors Sec. 5-53
- Prohibited acts on premises Sec. 5-54
- Telephone and reports of disorders Sec. 5-55
- Operating a Disorderly Place 5-82.a(1)
- Denied access to law enforcement or inspectors 5-82.a(9)
- Consumed or allow employee(s) to consume alcohol or be intoxicated on premises 5-82.a(14)
- Allowed patrons to leave the premises with an open container of beer or alcohol 5-82.a(16)
- Other Violation (See below): _____

See ATTACHED REPORT FROM HAMILTON COUNTY PARK RANGERS

of the hearing date may be granted for good cause shown by contacting the Office of the City Attorney (423) 643-8250 than the Tuesday immediately preceding the hearing date shown above otherwise the hearing will proceed as a copy of this form will be placed in your file for future reference. Failure to appear could result in the suspension or your beer license.

[Signature]
 Authorized Agent of Permittee or Permittee

 Badge Number _____

Dellana Boss Asst Mgr
 Recipient's Name and Title (PRINT)

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This evening around 8:00 pm, Ranger Dallas Longwith observed three white females drinking mixed drinks (martinis?) on the Riverwalk. As he approached, they asked him if they were allowed to be drinking and he said no. They exited the trail and went back to the restaurant. Ranger Longwith advised that he spoke with the on duty manager (unknown name) and advised him that the alcohol leaving the building continues to be a problem. The manager said that he has told his general manager that alcohol should not be allowed to leave the restaurant but the GM hasn't been receptive to his advice? Ranger Longwith did not cite the female parties because he wanted to speak with management one more time. I advised Ranger Longwith that from this point forward, a citation will need to be issued.

Again, I'm sorry to bother you with this, but they just can't seem to understand that we have we have a problem and they could be the solution. Please let me know if there is anything else I can do other than what you originally suggested.

Thanks,
Kevin Moses
Hamilton County Rangers

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PREPARED BY WILLIAM D. JONES
ATTORNEY AT LAW
513 GEORGIA AVENUE
CHATTANOOGA, TN 37403

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RETURN TO
PIONEER TITLE AGENCY, INC.
513 GEORGIA AVENUE
CHATTANOOGA, TN 37403

Instrument: 2003100800310
Book and Page: GI 6888 822
Data Processing F \$2.00
Misc Recording Fe \$75.00
Total Fees: \$77.00
User: KLYNN
Date: 08-OCT-2003
Time: 04:23:53 P
Contact: Pam Hurst, Register
Hamilton County Tennessee

PTA 96567

ASSIGNMENT OF LEASE AGREEMENT

Papa Properties, LLC, a Tennessee limited liability company, successor to Papa Properties Limited, a Tennessee corporation, whose address is 410 High Street, Suite 5, Chatt., TN 37403 (the "Assignor"), does hereby assign, transfer and set over unto L & M Partners, a Tennessee general partnership, whose address is 1011 Riverside Drive, Chattanooga, TN 37406 (the "Assignee"), its successors and assigns, all right, title and interest of Assignor in and to the following lease agreement

That certain Lease Agreement between Papa Properties Limited, a Tennessee corporation, as Lessor, and Hamilton County, Tennessee, and City of Chattanooga, Tennessee, as Lessee, dated June 24, 1994, a copy of which is attached hereto as Exhibit "A".

This Assignment is given in connection with, and in consideration of, Assignee's purchase of improved real estate known as located at 1011 Riverside Drive, Chattanooga, Tennessee.

Assignor agrees to execute and deliver to Assignee such additional documents, instruments or agreements as may be necessary or appropriate to effectuate the purposes of this Assignment.

Assignee hereby consents and agrees to this assignment and to perform all the obligations of Assignor under the Lease Agreement attached hereto as Exhibit "A".

Assignee agrees to indemnify and hold the Assignor harmless from and against all claims relating to or arising out of said Lease Agreement accruing on and after the date of this Assignment. Assignor agrees to indemnify and hold the Assignee harmless from and against all claims relating to or arising out of said Lease Agreement accruing prior to the date of this Assignment.

In witness whereof, Papa Properties, LLC, a Tennessee limited liability company, and L & M Partners, a Tennessee

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general partnership, have caused this Assignment to be executed by their respective and duly authorized officers and/or partners as of the 3rd day of October, 2003.

ASSIGNOR:

Papa Properties, LLC, Tennessee limited liability company

By: *A. N. Morgan Jr.*, Chief Manager
A. N. Morgan Jr., Chief Manager

ASSIGNEE:

L & M Partners, a Tennessee general partnership

By: *Lawton C. Haygood*, Partner
Lawton C. Haygood, Partner

STATE OF TENNESSEE
COUNTY OF HAMILTON

Before me, William D. Jones, of the state and county aforesaid, personally appeared A. N. Morgan, Jr. with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who upon oath, acknowledged himself to be Chief Manager authorized to execute the instrument of the PAPA PROPERTIES, LLC, the within named bargainor, a limited liability company, and that he as such Chief Manager executed the foregoing instrument for the purpose therein contained, by signing the name of the company by himself as Chief Manager.

WITNESS my hand and seal, at office in Chattanooga, Tennessee, this 6th day of October, 2003.

William D. Jones
Notary Public

My Commission Expires: 9-10-2005



STATE OF TENNESSEE
COUNTY OF HAMILTON

Before me, William D Jones of the State and County aforesaid, personally appeared Lawton C. Haygood with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who upon oath acknowledged himself to be the partner of L & M Partners, the within named partnership, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the partnership by himself as partner.

WITNESS my hand and seal at office in Chattanooga, Tennessee this 22 day of October, 2003.

William D Jones
Notary Public

My Commission Expires: 9-10-2005



EXHIBIT "A"

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LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into this 24th day of June, 1994, by and between PAPA PROPERTIES LIMITED, a corporation chartered by the State of Tennessee (hereinafter called Lessor), and HAMILTON COUNTY, TENNESSEE, and the CITY OF CHATTANOOGA, TENNESSEE (hereinafter called Lessees).

W I T N E S S E T H:

The parties hereto, for the consideration hereinafter mentioned, covenant and agree as follows:

1. DESCRIPTION. The Lessor hereby leases unto Lessees certain vacant land situated in Hamilton County (hereinafter called the "Premises"), and being more particularly described in Exhibit A attached hereto and incorporated herein and set out in Exhibit B.

2. ACCESS TO PREMISES. Lessor, Papa Properties Limited, and its tenants, customers, and users shall have general access, parking privileges, rights of ingress and egress, and general use for the normal operations of business to the Premises, whether owned by Lessor or Lessees, for the purpose of fulfilling their obligations under this Lease Agreement. All parking lots on the Premises, whether owned by Lessor or Lessees may be used by the Lessees and Lessor, and Lessor's tenants, and the general public for the normal activities associated with the Riverwalk and Riverwalk Park and as to Lessor and its tenants, for the normal operation of business of a restaurant or bar or such other legitimate activity or business as Lessor or its tenants may engage.

3. TERM. The term of this Lease shall be for forty-five (45) years, commencing on the 24th day of June, 1994, and ending on the same day forty-five (45) years hence, with such rights of termination and/or extension as may be hereinafter expressly set forth. Lessees shall further be entitled to an automatic renewal of two (2) years upon the same terms and conditions contained herein provided notice is given to the Lessor ninety (90) days before the expiration of the initial term. Should the Lessees occupy the premises beyond the term of this Lease or the end of the extension period which may be expressly provided for hereinafter,

such occupancy shall in no event be year-to-year but at the will of the Lessor.

4. PURPOSE. The premises hereby leased shall be used to construct, operate, and maintain the Riverwalk and facilities, if any are constructed thereon, for use in conjunction with the Riverwalk. The Lessees may, at their own expense, make such alterations, improvements, additions and changes to the leased property as they may deem necessary or expedient in the operation of the leased property as a Riverwalk. Lessees will make all attempts necessary to prevent their employees from causing any act or event to occur upon the premises which is extra hazardous on the account of fire or explosion but shall not be responsible for such acts of others on the premises. Lessees shall not allow the leased property to be used for commercial purposes which would compete with Lessor's business by selling food and alcohol or other products, services or operations that would compete with or diminish the commercial operations conducted by the Lessor or tenant of Lessor without the Lessor's permission. For the purposes of this Agreement, commercial purposes shall not include concessionaires, vendors or other persons on the premises with the consent of the Lessees and do not sell or give away food and alcoholic beverages.

Lessees further agree that they shall improve the leased parking area or the portion of the leased property described as the leased parking area at their own expense provided, however, that for the duration of this Lease the maintenance of said parking area shall be the responsibility of the Lessor.

Further, Lessees covenant to comply with all City laws and ordinances and State and Federal laws in regard to nuisances, insofar as the premises are concerned and to make no unlawful or offensive use of the premises.

5. ASSIGNMENT AND SUBLETTING. The Lessees shall neither assign this Lease nor sublease the premises in whole or part without the written consent of the Lessor. The Lessees shall not be obligated to take any action to remove anyone on the premises

except those that are there with Lessees' express consent or holding over after the consent has been removed.

6. REPAIR/MAINTENANCE. The Lessees accept the premises in their present physical condition. The Lessees at their expense may maintain in good, safe and orderly condition the premises, landscaping, public buildings, public restrooms, parking lots, sidewalks and other facilities to be constructed by Lessees. Lessor shall maintain at its expense the portion of the premises described as the Sandbar parking area as shown on the map attached hereto and marked Exhibit B. Lessees at their expense shall maintain in good, safe and orderly condition the premises, and landscaping. Lessor has no obligation for the maintenance, repair or security of the leased premises or the Riverwalk, public buildings, public restrooms, sidewalks, and other facilities to be constructed by the Lessees. Lessees shall not be responsible for the maintenance, repair or security of any property of the Papa Properties Limited which is not leased herein. Lessor shall provide to Lessees as needed for all maintenance and repairs as determined by Lessees, easements to construct and maintain the Riverwalk and utilities and Lessor or its invitees shall have access to over or through the leased premises.

7. UTILITIES. The Lessees shall pay, as they become due, for their utilities, including but not limited to water, sewer, electrical, gas, fuel, and telephone services that are used exclusively for the general public and not by any others, including Lessor.

8. INSPECTION. The Lessor shall have the right to enter the leased premises at reasonable times in order to inspect.

9. LIABILITY. It is agreed that the Lessor shall not be liable for any loss, damage or injury to property or person from any source whatsoever upon the premises as the rental herein charged is made on the basis of the Lessees and invitees and visitors assuming for themselves such risks. Lessor shall not be liable for any property or valuables destroyed, damaged, lost, stolen, taken or missing from the leased premises except those

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which are resulting from or caused by the Lessor's agents or employees. Any property placed on or within the premises by Lessees is maintained strictly at Lessees' own risk, provided that Lessor shall not damage same. Any property Lessor places on leased property is placed there at his own risk.

Lessees, in further consideration for the grant of the Lease herein conveyed, hereby covenant and agree on behalf of themselves, their successors and assigns, to take all reasonable steps and precautions to prevent injuries to persons and property either occurring within the boundaries of the premises herein conveyed or arising from events occurring therein. Lessees shall be solely liable for any and all claims and causes of action arising from the negligence of their employees for damages to person or property arising from the use by Lessees or the public of the premises herein conveyed. Lessor shall be solely liable for any and all claims and causes of action arising from the negligence of its employees for damages to person or property arising from the use of the premises herein conveyed. Lessees shall have no obligation to maintain, repair or monitor the use of any facilities or equipment (including public exhibits or displays) owned by Lessor and situated within said right-of-way.

10. INSURANCE. During the term of this Lease, Lessees may obtain and maintain at their expense, liability insurance for bodily injury and property damage, all to be in such amounts and forms of insurance policy as may be required to match the exposure and limits of the Lessees' liability under Tennessee Code Annotated, §29-20-101, et seq. with the Lessor as additional insured.

11. TAXES AND ASSESSMENTS. The Lessees shall pay or cause to be paid and shall indemnify the Lessor against all taxes to the extent any are assessed as a result of the Lessees' use of or improvements to the premises, including sales taxes, license fees, and special charges and assessments levied by any taxing authorities, including without limitation any special assessments or charges for water and/or sewers and the Lessees shall further

pay all ad valorem real estate taxes and special assessments assessed against the improvements; provided, however, that such payment of taxes, if any, shall be prorated with regard to any tax year within which the Lease shall commence, expire, or be terminated, so that occupancy of the leased premises does not extend throughout the entire tax year.

12. EXPIRATION/TERMINATION. Should the Lessees fail to begin utilizing the above-described property for the above-described purpose within thirty-six (36) months of the date of this Lease, or shall cease to use the above-described land for the purpose set forth above, this Lease shall terminate. Upon termination or expiration of this Lease, Lessees shall peacefully and quietly surrender and deliver the demised premises and improvements to the Papa Properties, including all buildings, additions and improvements constructed thereon. Notwithstanding any other provision to the contrary in the event that the Lessees become insolvent or bankruptcy proceedings are filed against or by the Lessees, their heirs or assigns, in any court whatsoever, it shall give the right to Lessor or its assigns, at their option, to immediately declare this contract null and void and at once resume possession of the property. No receiver, trustee or other judicial officer shall have any right, title or interest in or to the above-described property by virtue of this contract.

13. SPECIAL USE AND LICENSE. Lessor, its tenants, and Lessees acknowledge and agree that the present commercial business, as well as future operations of a commercial business on the Premises of Lessor, is substantially related to Lessor's unrestricted use and access of the riverfront property and dock facilities. Lessees acknowledge that the intent or purpose of this Agreement is to not restrict or limit in any manner the Lessor and its tenants access, use or other rights of ingress and egress to the riverfront area and dock facility by the general public and patrons and customers of the present business operation as well as future business operations. Lessor hereby reserves and Lessees acknowledge that Lessor reserves the rights for itself, its

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patrons, and customers of the present business operation as well as future business operations license to use, consume, sell or otherwise carry upon and about the Premises from the restaurant's access to the Riverwalk and between the overlook adjacent to the restaurant and the ramp to the Lessor's boat docks any food and beverages sold or served by Lessor or its tenants. This license and special use are part of and in consideration of the granting of this Lease and Easement for the Riverwalk Park.

14. NOTICES. All notices herein provided to be given or which may be given by either party to the other shall be made in writing and either delivered in person or by certified mail as follows:

To the Lessor:

Papa Properties, Limited
Attention: A. N. Morgan, Jr.
6052 Lee Highway
Chattanooga, Tennessee 37421

To the Lessees:

Administrator of Department of Parks & Recreation
Chattanooga Municipal Building
100 E. 11th Street
Chattanooga, TN 37402

Administrator of Human Services
Martin Luther King Building
Chattanooga, TN 37402.

15. MEMORANDUM OF LEASE. The parties may prepare a memorandum of lease for recording in lieu of this document provided, however, such memorandum shall not amend, modify, alter or explain the terms of this document.

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IN WITNESS WHEREOF, this Lease has been executed by the parties hereto on the day and year first above written.

Lessor:

PAPA PROPERTIES LIMITED

By:

Title: Managing General Partner

Lessees:

HAMILTON COUNTY, TENNESSEE

By:

Title: County Executive

~~CITY OF CHATTANOOGA, TENNESSEE~~

By:

Title: Mayor

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STATE OF TENNESSEE:
COUNTY OF HAMILTON:

Before me, the undersigned, of the State and County aforesaid, personally appeared A. N. Morgan, Jr., with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the Managing General Partner of PAPA PROPERTIES LIMITED, being authorized so to do, executed the foregoing Lease for the purpose therein contained by signing the name of PAPA PROPERTIES LIMITED by himself as Managing General Partner.

Witness my hand and seal at Chattanooga, Tennessee on this the 24 day of June, 1994.

Dot Baker
NOTARY PUBLIC

My commission expires: 7-26-94.

STATE OF TENNESSEE:
COUNTY OF HAMILTON:

Before me, the undersigned, of the State and County aforesaid, personally appeared Dalton Roberts, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the County Executive of HAMILTON COUNTY, TENNESSEE, being authorized so to do, executed the foregoing Lease for the purpose therein contained by signing the name of HAMILTON COUNTY, TENNESSEE by himself as County Executive.

Witness my hand and seal at Chattanooga, Tennessee on this the 21 day of August, 1994.

Ken T. [Signature]
NOTARY PUBLIC

My commission expires: 1-24-98.

STATE OF TENNESSEE:
COUNTY OF HAMILTON:

Before me, the undersigned, of the State and County aforesaid, personally appeared Gene Roberts, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the Mayor of the CITY OF CHATTANOOGA, TENNESSEE, being authorized so to do, executed the foregoing Lease for the purpose therein contained by signing the name of the CITY OF CHATTANOOGA, TENNESSEE by himself as Mayor.

Witness my hand and seal at Chattanooga, Tennessee on this the 20th day of July, 1994.

Gene A. [Signature]
NOTARY PUBLIC

My commission expires: 2-18-98.

Encl: Exhibits A & B

This Instrument was
Prepared by:

David W. Norton, Assistant
County Attorney
111 Courthouse
Chattanooga, TN 37402
615/757-2306

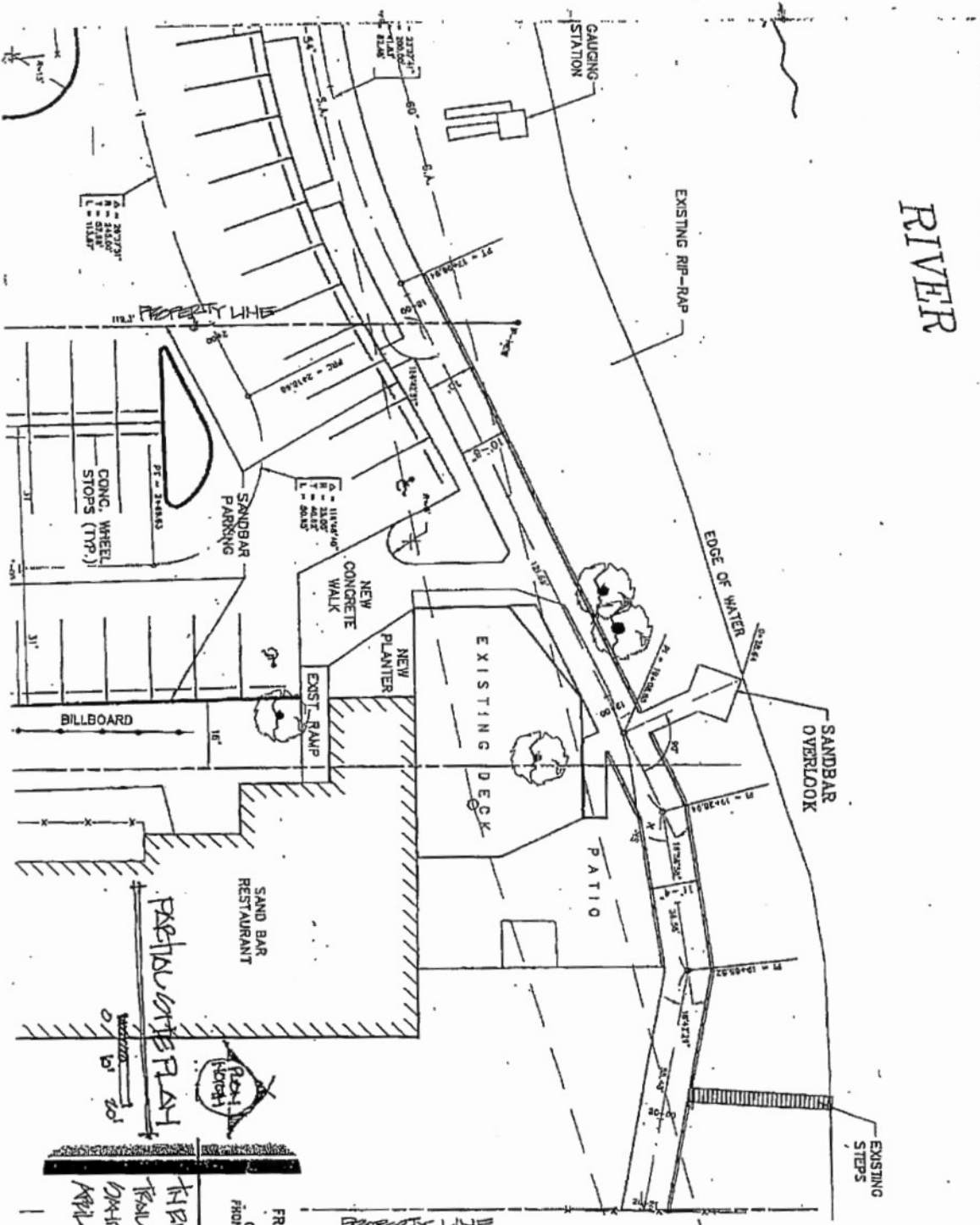
Book and Page: GI 6888 833

EASEMENT DESCRIPTION**DESCRIPTION OF PART OF THE PROPERTIES OF PAPA PROPERTIES LIMITED;
SHOWING PROPOSED EASEMENT TO HAMILTON COUNTY FOR THE
CONSTRUCTION OF THE RIVERWALK**

Beginning at an iron pipe in the north line of Amnicola Highway, said point being the southwest corner of Lot 4 of Riverside Garden Farms, Plat Book 10, Page 2; thence North 20 degrees 05 minutes 59 seconds West, a distance of 110.28 feet to the true point of beginning of an easement for the construction of a portion of the Tennessee Riverwalk; thence North 20 degrees 05 minutes 59 seconds West, a distance of 22.63 feet; thence North 41 degrees 56 minutes 01 seconds East, a distance of 32.35 feet; thence along a curve to the right having a radius of 185.00 feet, a length of 35.16 feet; thence North 52 degrees 49 minutes 33 seconds East, a distance of 22.43 feet; thence North 37 degrees 20 minutes 07 seconds West, a distance of 20.00 feet; thence North 52 degrees 49 minutes 33 seconds East, a distance of 15.00 feet; thence South 37 degrees 20 minutes 07 seconds East, a distance of 20.00 feet; thence along a curve to the right having a radius of 225.00 feet, a length of 94.69 feet; thence North 76 degrees 46 minutes 39 seconds East, a distance of 11.10 feet, to a point in the east line of Lot 6; thence along said east line South 19 degrees 38 minutes 59 seconds East, a distance of 20.13 feet; thence South 76 degrees 46 minutes 39 seconds West, a distance of 13.35 feet, thence along a curve to the left having a radius of 205.00 feet, a length of 86.27 feet; thence South 52 degrees 49 minutes 32 seconds West, a distance of 37.48 feet; thence along a curve to the left having a radius of 165.00 feet, a length of 31.36 feet; thence South 41 degrees 56 minutes 01 seconds West, a distance of 40.66 feet; thence along a curve to the right having a radius of 212.00 feet, a length of 2.30 feet to the true point of beginning of the easement.

All as shown on Betts Engineering Associates, Inc. Drawing No. 9676-4A-37X dated February 17, 1994.

EXHIBIT A.



RIVER

FRANK McDONALD ARCHITECTS
 335 E. 10th Street
 CHATTANOOGA, TENNESSEE 37403
 PHONE (615) 265-0025 FAX (615) 756-1343

TRAVEL AGENCY AT
 SANDBAR RESTAURANT
 APRIL 14, 1994

EXHIBIT B

Book and Page: GI 6888 835

TENANT ACKNOWLEDGEMENT AND CONSENT

The undersigned officers of Sandbar Restaurant, Inc., the current tenant under a certain Lease Agreement dated July 1, 1986, as amended by Addendum dated November 6, 1986, and Addendum dated June 15, 1987, and under a Lease for the adjacent parking and billboard property dated April 15, 1987, for property owned by Papa Properties, Limited, Lessor, located at 1011 Riverside Drive, Chattanooga, Tennessee, currently occupied by the Lessee, Sandbar Restaurant, Inc., hereby acknowledges and consents to the following:

1. Sandbar Restaurant, Inc. is the Lessee under the Leases described above for property located at 1011 Riverside Drive, Chattanooga, Tennessee.

2. Lessee acknowledges the receipt of a copy of a certain Lease Agreement, a copy of which is attached hereto, by and between the Lessor and Hamilton County, Tennessee and the City of Chattanooga, Tennessee, granting a certain easement and rights to Hamilton County and the City of Chattanooga for extension of the Riverwalk Park across a portion of the premises which is the subject of the Lease Agreement between Lessor and Lessee.

3. Lessee acknowledges that it has reviewed the Lease Agreement attached hereto, is familiar with its terms and hereby consents to Lessor entering into the attached Lease Agreement with Hamilton County and the City of Chattanooga.

4. Lessee acknowledges that the Lease Agreement attached hereto amends and modifies the Lease Agreements by and between Lessor and Lessee as described above and acknowledges that except as modified in the Lease Agreement attached hereto, all other terms and obligations of Lessee and Lessor as set forth in the original Lease Agreements, as amended, remain in full force and effect subject only to any modification which may arise out of the attached Lease Agreement.

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5. Lessee is a Tennessee corporation and hereby acknowledges that the officers signing below have full power and authority on behalf of the Corporation to execute this Acknowledge and Consent on behalf of the Corporation.

EXECUTED this 23rd day of June, 1994.

SANDBAR RESTAURANT, INC.

By: Leslie H. Pearse, Jr.
Leslie H. Pearse, Jr.
President

By: Dan LaGriff
Dan LaGriff
Vice President

STATE OF TENNESSEE *
*
COUNTY OF HAMILTON *

Before me, Gwendolyn Brimer, a Notary Public in and for the County and State aforesaid, personally appeared Leslie H. Pearse, Jr., with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who, upon oath, acknowledged himself to be the President of Sandbar Restaurant, Inc., and that he as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Corporation by himself as President.

WITNESS my hand and seal at this office in Chattanooga, Tennessee, this 23rd day of June, 1994.

Gwendolyn Brimer
NOTARY PUBLIC

My Commission Expires: 3/25/96

STATE OF TENNESSEE *
*
COUNTY OF HAMILTON *

Before me, Gwendolyn Brimer, a Notary Public in and for the County and State aforesaid, personally appeared Dan LaGriff, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who, upon oath, acknowledged himself to be the Vice President of Sandbar Restaurant, Inc., and that he as such Vice President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Corporation by himself as Vice President.

WITNESS my hand and seal at this office in Chattanooga, Tennessee, this 23rd day of June, 1994.

Gwendolyn Brimer
NOTARY PUBLIC

My Commission Expires: 3/25/96