



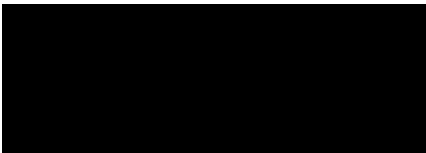
City of Chicago
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March 16, 2010



Re: Chicago Real Property Transfer Tax

Dear Mr. [REDACTED]

We are responding to your request of March 11, 2010, for the City's acceptance and acknowledgment of the date that the Chicago Real Property Transfer Tax (the "Tax") is due on a lease (the "Lease") between [REDACTED] ("Landlord") and [REDACTED] ("Tenant") dated as of October 15, 2009. A copy of the Lease was attached to your request.

Under the terms of the Lease, Tenant has until [REDACTED] to terminate the Lease by written notice to Landlord under the following circumstances:

1. Tenant "does not obtain or reasonably believes that it will be unable to obtain [all required building and other governmental permits required for the construction of the Improvements]." See Subparagraph 3(d) of the Lease.
2. Tenant "is unable to obtain or reasonably believes that it will be unable to obtain [all permits and licenses necessary for the on-premises sale and consumption of ... alcoholic beverages on the Premises]." See Subparagraph 6 of the Lease.

Under the terms of the Lease, Landlord may terminate the Lease by written notice to Tenant prior to 20 days after [REDACTED] if Tenant is unable to provide reasonable evidence of "assurances reasonably satisfactory to Landlord ... that an adequate source ... of funding exists to construct and complete the Improvements and to furnish and equip same for use as a restaurant." See Subparagraphs 3(e) and (f) of the Lease.

The Chicago Real Property Transfer Tax Ordinance, Chapter 3-33 of the Chicago Municipal Code (the "Code"), imposes a tax upon the privilege of transferring title to, or beneficial interest in, real property (including long-term ground leases) located in the city. Code Section 3-33-030(B) provides that "the tax imposed by this chapter is due upon the earlier of the delivery or recording of the deed, assignment or other instrument of transfer." However, Code section 3-33-100 provides that if "any part of the transfer price is contingent upon the



Page 2

occurrence of a future event ... tax shall be due at the time each additional amount of consideration is furnished and ... [a] supplemental real estate transfer declaration shall be filed....”

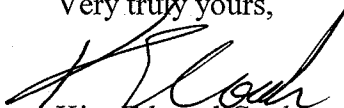
Tenant is not required to make any payments under the Lease,¹ unless it obtains building permits and a liquor license before [REDACTED], and Landlord is satisfied with the evidence of Tenant’s source of funding to construct and equip the proposed restaurant.

Based on the above, Tenant will not be deemed to have received a taxable transfer of the leased premises, until it complies with the two conditions within its control,² and Landlord is satisfied with Tenant’s source of funding. [REDACTED] is the last date on which Tenant can comply with the two conditions within its control. It is possible that Landlord may have until [REDACTED] to terminate the Lease, depending upon the date Tenant provides satisfactory evidence of its source of funding. If Tenant complies with both of its conditions, and Landlord is satisfied with Tenant’s funding source before [REDACTED] the beneficial interest will be deemed to transfer on the date on which all these conditions are first satisfied, and the Tax along with the real property transfer tax declaration will be due on such date. See Code section 3-33-070.

The opinions contained herein apply solely to the facts stated and are expressly intended to constitute written advice that may be relied upon pursuant to section 3-4-325 of the Chicago Municipal Code.

If we may be of further assistance, please call me at (312) 744-1436.

Very truly yours,


Kim Edward Cook

cc: Weston W. Hanscom
Bill Cerney
Gary Michals

¹ It is agreed that the Lease is subject to the Tax, as the primary term of the Lease is 20 years, and the Tenant has the option to renew the Lease for an additional 30 years. See Paragraphs 1 and 2 of the Lease.

² We note that subparagraph 3(b) of the Lease provides that before the end of the “Inspection Period,” Tenant “may elect to terminate this Lease for any reason or for no reason, in Tenant’s sole discretion, by written notice ... of such termination to Landlord.” By the terms of the Lease, the Inspection Period terminated on January 13, 2010; so this condition has been satisfied, and need not be discussed.