



BY MAIL

April 7, 2008

[REDACTED]

The New York City
Department of
Consumer Affairs
42 Broadway
New York, NY
10004-1716
Jonathan Mintz
Commissioner

[REDACTED]
Sidewalk Café Attorney
[REDACTED]

Re: [REDACTED] Sidewalk Café

Dear Mr. [REDACTED]

Thank you for sharing your questions about your small sidewalk café with the NYC Department of Consumer Affairs ("DCA"). At the Commissioner's request, I am writing to follow up. Specifically you asked (1) whether a "small sidewalk café" may use barriers, including ones perpendicular to the building, to physically separate the café space from the sidewalk, including sidewalk entrances into the restaurant; and (2) whether larger tables may be broken into smaller ones within a small sidewalk café's footprint. The short answer to both questions is no.

In regard to your first question, the physical criteria for unenclosed sidewalk cafes are regulated by DCA pursuant to Title 6, Chapter 2, Subchapter F of the Rules of the City of New York. Small sidewalk cafés, created by the Department of City Planning and adopted by the City Planning Commission in 2004, must also conform to the requirements of Section 14-30 of the Zoning Resolution of the City of New York ("ZR"). Section 14-30(b) of the ZR forbids, "railings, structures or other forms of barriers between a small sidewalk cafe and the remaining area of the sidewalk." Because of this prohibition, the law does not allow the use of any kind of barrier, including ones perpendicular to the building, between your small sidewalk café and any part of the sidewalk.

As for your second question, a small sidewalk café is defined as “an unenclosed sidewalk café containing *no more than a single row of tables and chairs adjacent to the street line* where such tables and chairs occupy a space on the sidewalk no greater than 4 feet, 6 inches from the street line.”¹ (Emphasis added). The allocated space specifically requires a single row of tables, but gives the restaurant the option between using 2-Tops, 4-Tops or even 18” 6-Tops (as you do in your café). Therefore, the law specifically forbids you from breaking down a larger table into smaller ones, even if in doing so you would still be within the 4 feet, 6 inches from the street line.

Still, because DCA’s jurisdiction to regulate tables and chairs is limited to those that are placed on City property (adjacent to the street line), any tables and chairs placed on private property (within the street line) are not so regulated and thus could abut the regulated café. Therefore, you may use as many additional tables on the abutting private property as you would like without violating small sidewalk café legal guidelines.

While we regret that we were not able to provide the answers for which you wished, we do hope we were at least able to clarify the issues at stake and provide some alternatives. Please do not hesitate to contact me with any further inquiries.

Kind Regards,

A black rectangular redaction box covers the signature area. A small, handwritten squiggle is visible to the right of the box.

Sidewalk Café Attorney

cc: Jonathan Mintz (email)

¹ Section 12-10 of the ZR.