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Press Release

FOR IMMEDIATE RELEASE

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New Outdoor Dining Concession Rules Upheld in Legal Challenge

— *Miami Beach has right to administer outdoor cafés, judge finds* —

Miami Beach, FL – A Miami-Dade County Circuit Court judge earlier this week upheld the City of Miami Beach’s new contract-based rules for regulating sidewalk cafés, dismissing a legal challenge brought by a small group of restaurants. The new model is set to take effect on Oct. 1, 2022, following the expiration of the city’s previous sidewalk café permit ordinance that was repealed by the City Commission.

“It’s an important ruling because it establishes our right to control our public spaces,” said Miami Beach Mayor Dan Gelber, who along with Vice Mayor Alex Fernandez, introduced the contract-based model. “This will allow us to establish minimum standards that make clear to our businesses and visitors that this is not an ‘anything goes’ city.”

In denying emergency motions for a temporary injunction, Miami-Dade County Judge Alan Fine noted the sidewalk cafés in question are located on public property owned by the City of Miami Beach.

“The city has a continuing interest in what happens on its property,” the court held. “Nothing that has happened created any vested property rights in any of the plaintiffs and all prior ordinances made clear that the grant of a permit was conditional.”

The Miami Beach City Commission voted on June 22, 2022 to transition away from sidewalk café permits to a contract-based model in which operators agree to abide by contractual terms that establish specific requirements relevant to automatic tips, fake specials, soliciting pedestrians, and other business practices that destroy the dining experience for visitors and residents.

The city has entered into 152 concession agreements with existing restaurants to continue offering outdoor dining on City property.

The nine restaurant plaintiff plaintiffs challenged the city’s contract-based model arguing that it was an improper attempt to take away what they viewed to be a vested right to do business on City property.

“The use of city property by private businesses remains at all times a discretionary and revocable privilege,” Fernandez said. “Our job is to ensure residential quality of life is preserved and to support law-abiding businesses that sustain our economy — not those that blatantly disrespect our standards.”

A copy of Judge Fine's well-reasoned order can be viewed by [clicking here](#).

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