



SENT VIA MESSENGER AND FAX

December 20, 2011

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Mr. Harvey Grossman
The Roger Baldwin Foundation of ACLU, Inc.
180 N. Michigan Ave, Suite 2300
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Fax (312)- 201-9760

Re: Daley Plaza and the G8/NATO Summits

Chairman
RAHM EMANUEL
Mayor
City of Chicago

Dear Mr. Grossman:

Executive Director
ERIN LAVIN CABONARGI

The Chicago Public Building Commission ("the PBC") is in receipt of your letter dated December 19, 2011, addressed to Mr. Paul Spieles, Chief Operating Officer. I am writing in response to your inquiry whether the Daley Plaza will be available as a forum for First Amendment expression during the Summits. The answer is yes, the Daley Plaza will be open to public assembly and public activity during the G8/NATO Summits in May 2012.

Attached for your reference is a copy of the Amended and Restated Regulations and Procedures Governing the Use of the Daley Center Lobby and Plaza ("the Regulations"). The Regulations describe the procedure for submission of permit applications, as well as the required submittals that must accompany an application before it can be reviewed. Applications to obtain a permit for public assembly and public activity during the May 2012 Summits can be filed with the PBC as early as January 1, 2012.

The PBC will work with the property manager for the Daley Plaza to ensure that permit applications will be reviewed in a timely fashion and permits will be granted or denied in accordance with the Regulations.

Sincerely,

Erin Lavin Cabonargi
Executive Director

**AMENDED AND RESTATED REGULATIONS AND PROCEDURES GOVERNING
THE USE OF THE DALEY CENTER LOBBY AND PLAZA**

**Previously Approved December 13, 1988, as
amended on November 14, 1989, January 13, 2009
and January 11, 2011**

WHEREAS, various individuals and groups have sought from time to time to engage in the exercise of the exposition of ideas and opinions, and the erection of displays, exhibits and structures, in the lobby ("Lobby") and on the outdoor plaza area ("Plaza") of the Richard J. Daley Center (collectively, the "Premises"); and

WHEREAS, in order to ensure the orderly, safe, efficient and effective administration and operation of the Daley Center Lobby and Plaza, the Board of Commissioners of the Public Building Commission determined that it was necessary and appropriate and in the public interest, to adopt procedures governing reasonable time, place, manner and duration regulations; and

WHEREAS, a subcommittee appointed by the Chairman of the Board of Commissioners of the Public Building Commission to consider regulations to be adopted by the Commission governing the use of the Premises elicited recommendations, both written and oral, from various civic, community and religious organizations, and made appropriate recommendations to the Board of Commissioners; and

WHEREAS, the Commission intended that the administration and operation of the Premises conform to principles of First Amendment jurisprudence and that restrictions upon the time, place and manner of use of the Premises be content-neutral, narrowly drawn to serve

significant governmental interest, leave open ample alternative channels of communications and not operate as an unlawful prior restraint on protected First Amendment activity; and

WHEREAS, "Regulations and Procedures Governing the use of the Daley Center Lobby and Plaza" were enacted by the Commission on December 13, 1988 and amended on November 14, 1989 and January 13, 2009; and

WHEREAS, the Commission wishes to further amend, supersede and restate the Amended Regulations and Procedures Governing the use of the Premises; and

WHEREAS, the Commission intends that these Amended and Restated Regulations will conform to principles of First Amendment jurisprudence and all other applicable local, state and federal laws, regulations, ordinances and statutes;

NOW, THEREFORE, following due consideration, the Board of Commissioners of the Public Building Commission of Chicago hereby establishes and promulgates the following amended and restated regulations and procedures governing the use of the Premises for the public exposition of ideas, beliefs and opinions and for the erection of displays, exhibits and structures:

I. Definitions.

- Activity: "Activity" shall mean the public exposition of ideas, beliefs or opinions performed or engaged in by one or more persons, including, but not limited to picketing, chanting, singing, marching, assembling, dancing, protesting, and praying. Neither this definition nor these Regulations shall apply to or include private discussions or meetings by and between person present on or traversing the Plaza or Lobby.
- Applicant: "Applicant" shall mean the person or entity applying for a permit or the authorized agent thereof.
- Authorized Lessee(s) The City of Chicago and its sister agencies, the County of Cook, Illinois, and the Public Building Commission of Chicago.

- Board:** "Board" shall mean the Board of Commissioners of the Commission.
- Commission:** "Commission" shall mean the Public Building Commission of Chicago.
- Display:** "Display" shall mean a free standing object such as a symbol, banner, picture, statue, or similar object, or grouping thereof, which is erected for a certain period of time.
- Executive Director:** "Executive Director" shall mean the Executive Director of the Commission or any person appointed or authorized to act in his or her stead.
- Exhibit:** "Exhibit" shall mean a free standing object, such as a symbol, banner, picture, statue, or similar object or grouping thereof, which is erected for a certain period of time.
- Façade:** "Façade" shall mean the exterior areas of the Daley Center Building facing Washington Street on the South, Dearborn Street on the East, Randolph Street on the North and Clark Street on the West.
- Lobby:** "Lobby" shall mean the area on the ground floor inside the Richard J. Daley Center ("Center"), that is contiguous with the east and west exterior walls of the Center exclusive of the interior areas that are within the boundaries of the security area.
- Plaza:** "Plaza" shall mean the outdoor area in the City of Chicago bounded by Randolph Street to the North, Washington Street to the South, Clark Street to the West and Dearborn Street to the East (exclusive of sidewalks, the Picasso sculpture and its base, the eternal flame, landscaping and pool), commonly known as the Richard J. Daley Center Plaza.
- Premises:** "Premises" shall mean both the "Lobby" and the "Plaza."
- Property Manager:** The firm or entity that is engaged or retained by the Commission to provide property management services for the Richard J. Daley Center.
- Structure:** "Structure" shall mean a free standing object, such as a symbol, banner, picture, statue, or similar object or grouping thereof, which is erected for a certain period of time.

II. Permit Required.

Any individual or group desiring to conduct any public activity or to erect any display, exhibit or structure on the Premises shall first obtain a written permit approved by the Public Building Commission of Chicago or the Property Manager as described herein; except that the failure of an individual or group to obtain a permit to conduct an activity on the Plaza shall not result in any sanctions imposed by the Commission so long as the activity is confined to a number of persons reasonable for the time and place thereof and is not otherwise prohibited by the Amended and Restated Regulations.

III. Applications for Permits.

A. Public Assembly or Activity: Any individual or group seeking the issuance of a permit for use of the Premises in connection with a public activity for which a permit is required shall file a written application therefor on a form which is substantially similar to that attached hereto as Exhibit A.

B. Displays, Exhibits or Other Structures: Any individual or group seeking the issuance of a permit for use of the Premises in connection with the erection of a display, exhibit or other structure shall file a written application therefor on a form which is substantially similar to that attached hereto as Exhibit A which shows the location, quantity, size or dimensions of the proposed display, exhibit or structure.

C. Additional Information: The Property Manager is hereby authorized to require additional information from applicants in order to clarify the information furnished by the applicant or to further a substantial interest in the health, safety or welfare of persons using the Premises.

IV. Submittals Required:

No Application for permit shall be granted unless the applicant has provided the Commission or the Property Manager with the following:

A. An agreement with the Commission in which the applicant promises and covenants to bear all costs of cleaning up and restoring the Premises upon conclusion of the event or activity and to reimburse the Commission for any such costs incurred by the Commission, and

B. The deposit with the Property Manager of the sum of money equal to the amount estimated to pay the Commission's administrative fees and the costs of all labor, utility and equipment provided by the Commission at the request of the applicant in connection with the use or activity for which the permit was sought. Labor costs shall be determined by the Property Manager based upon prevailing union rates and may be revised by the Property Manager on an annual basis. Labor, utilities and equipment will be provided to the applicant at the Commission's cost. Any overcharges or undercharges shall be determined by the Property Manager at the conclusion of the use or activity and payment therefor promptly remitted to the appropriate party upon request. The Commission's administrative fees shall be determined by the Property Manager based upon the type and duration of the use or activity with due regard to principles of First Amendment jurisprudence; and

C. A Certificate of Insurance listing the Public Building Commission of Chicago, the City of Chicago and the Property Manager as additional insureds against liability for bodily injury, personal injury and property damage arising from or in connection with the presence of the display, exhibit or structure, or dispensing of food or beverages, in an amount to be determined by the Property Manager with limits not less than \$1,000,000 for bodily

injury and personal injury and \$500,000 for property damage, occasioned by or arising out of such use. The Insurance Certificate must also include Workers' Compensation Insurance, as prescribed by applicable Illinois law, covering all employees who are to provide a service regarding the event approved by permit, and Employers Liability Coverage with limits of not less than \$100,000 for each accident, illness or disease. In determining whether such insurance will be required and the amount and type of such insurance coverage, the Property Manager shall consider the following factors:

1. Displays, exhibits or structures.
 - a. the physical characteristics of the display, exhibit, or structure;
 - b. whether the display, exhibit, or structure is situated in a high or low pedestrian traffic area;
 - c. whether the display, exhibit or structure is fenced in, cordoned-off or otherwise sheltered from interference or vandalism from passers-by;
 - d. whether there have been past incidents or accidents or physical injuries resulting from the erection or presence of similar displays, exhibits or structures; and
2. Food or beverages.
 - a. the physical characteristics of the food or whether any alcoholic beverages are proposed to be dispensed by the applicant;
 - b. the manner of preparing, storing and dispensing of such food or beverages;

- c. sanitary precautions provided by applicant or sponsor to prevent contamination; and
- d. whether there have been past incidents of physical injuries resulting from the dispensing of similar food or beverages.

V. Additional Grounds for Denial of Permits:

The Property Manager may also deny an application for permit or revoke any permit previously granted on any of the following grounds:

- A. Because the application for permit is not fully completed or executed in its material terms unless cured by the applicant upon request from the Property Manager;
- B. Because the application for permit is not filed within a reasonably sufficient time before a requested use of the Premises in order to permit the Property Manager to process the application;
- C. Because the activity, exhibit, display or structure intended by the applicant would conflict with previously planned uses or programs scheduled for the same time and place following reasonable efforts by the Property Manager to accommodate the latter applicant with an alternate site, an alternate time period, or both;
- D. Because the application for permit contains a material falsehood or misrepresentation;
- E. Because the proposed dimensions or weight of the display, exhibit or structure exceeds the limitations specified in Section VII hereof, unless increased at the discretion of the Property Manager as specified in Section VII hereof;

F. Because the activity, exhibit, display or structure intended by the applicant would present an unreasonable danger to the health or safety of the applicant or other users of the Premises;

G. Because the use or activity intended is the sale or promotion of goods or services, including food or beverages, in connection with any commercial activity undertaken primarily for the benefit or profit of an individual or group within the Lobby or Plaza (except that commercial activities that are primarily civic, promotional or cultural and sponsored by an Authorized Lessee(s) of the Commission may be permitted on the Plaza as determined by the Property Manager);

H. Because the applicant requests permission to use the Lobby on a holiday, weekend or during non-business hours provided, however, that exhibits, displays or structures may remain in the Lobby during the holidays, weekends or non-business hours throughout the duration of the permit therefor;

I. Because the applicant requests permission to erect a display, structure or exhibit upon the Picasso sculpture, eternal flame or landscaping and pool areas located on the Plaza (except for requests by the Authorized Lessee(s) for displays or exhibits which are primarily civic, promotional or cultural, and will not damage the aforementioned structures);
or

J. Because the applicant requests permission to conduct an activity or erect a display, structure or exhibit in or on the areas located within the secured areas of the Lobby.

K. Because the applicant requests permission to erect a banner on the façade of the Building (except for requests by Authorized Lessee(s) and requests by applicants for whom a permit has been issued for a civic or cultural activity or event on the Plaza).

VI. Processing of Applications for Permit:

A. Time for Filing.

Applications shall be filed on a calendar year basis, beginning January 1, and ending December 31, of each year. No application for permit shall be granted which is filed more than three hundred and sixty-five (365) days before the proposed use or activity, and fewer than thirty (30) days before the proposed use or activity except as provided in Section VI(b) below, provided, however, applications for permits for events or activities to be conducted during the period January 1 to January 31 of each year shall be filed no later than thirty (30) days immediately preceding the date for which the permit is sought except as provided in Section VI(b) below.

B. Failure to Timely File.

Failure to submit an application for permit within thirty (30) days as required herein shall not be grounds alone for denial of an application for permit, and the Property Manager shall endeavor to process the application as expeditiously as possible under all circumstances. However, the opportunity of the applicant to process an appeal pursuant to Section X hereof may be adversely affected if the application is not received in a timely manner.

C. Priority of Permits.

Applications for permits shall be processed by the Property Manager and time and date reservations assigned in order of their receipt on a first come, first served basis with no distinction being made between governmental and private applicants, except applications by governmental bodies to exercise governmental purposes may be given priority at the Property Manager's discretion. Nothing in these Amended and Restated Regulations shall prevent the Property Manager from reserving certain time periods and certain areas of the Premises for

activities and uses sponsored by the Authorized Lessee(s) of the Commission for cultural, civic, promotional, educational or governmental purposes, but the Property Manager shall make reasonable efforts to accommodate conflicting requests with an alternate site, and alternate time period, or both. Permits may only be granted to use the Daley Center Lobby for an activity during the hours from (9 a.m. to 5 p.m.) on Mondays through Fridays, excluding court holidays. Exhibits, structures and displays may remain in the Lobby continuously throughout the length of the permit therefor.

If the applicant or sponsor has on prior occasion failed to reimburse the Commission in full for labor, utility or equipment provided by the Commission, at the applicant's request, damaged Commission property without payment therefor, or has other outstanding and unpaid debts to the Commission, any request by the applicant or sponsor that the Commission provide additional labor, utilities or equipment in connection with a proposed activity or the erection of an exhibit, structure or display may be denied.

VII. Special Provisions:

A. Displays, Exhibits and Structures, Configurations and Duration.

Displays, exhibits or structures may be erected and maintained on the Premises for specified periods up to fourteen (14) calendar days or such longer period of time as the Property Manager deems reasonable. The weight of such exhibits, displays or structures shall not damage the granite paving or interfere with drainage of the Plaza, nor shall the dimensions exceed 400 square feet provided, however, that the permissible dimensions of such displays, exhibits or structures may be increased at the discretion of the Property Manager. The dimensions of any display shall not be unreasonably configured so as to: (a) cause any danger to the health or safety of persons using the Plaza or Lobby; (b) block access to subway

entrances, the building, elevators, door-ways, utility outlets or similar, functional objects or equipment; (c) unreasonably obstruct or unreasonably interfere with public enjoyment of permanent fixtures on the Premises, such as the Picasso sculpture or the eternal flame; or (d) unreasonably obstruct or interfere with any other display, exhibit or structure. The Property Manager is directed to obtain and cause to be erected on the Premises an architecturally appropriate plaque or sign disclaiming endorsement by the Public Building Commission of Chicago or any other governmental entity of all displays, exhibits and structures that may be erected on the Premises from time to time.

In the event that an Authorized Lessee or other applicant submits an application for a permit to erect an exhibit or display on the fountain area of the Plaza, the Property Manager must ensure that such exhibit or display will not cause any physical damage to the surface or underlying foundation. The Property Manager may, in its sole discretion, deny any permit application on the fountain area if it is not both structurally safe as determined by a licensed structural engineer selected by the Property Manager and will not cause damage to the fountain or its foundation.

The applicant shall be entitled to choose the site of the placement of the display, exhibit or structure; however, the Property Manager, in the interests of health, safety and welfare, may overrule that choice and direct that the display, exhibit or structure be placed on a different site on whichever forum (the Lobby or Plaza) the applicant chooses. In determining the location of multiple displays, exhibits and structures by different applicants, the Property Manager shall consider preserving sufficient open areas in order to facilitate pedestrian traffic, to maintain the aesthetic value of an open, outdoor expanse of space and to maintain access to the public monuments situated on the Plaza, while providing ample space

for First Amendment Activities. The Property Manager shall also specify the time of day for the erection and dismantling of such displays, exhibits or structures.

B. Written Material:

No permit shall be required to circulate any petition, or to distribute any leaflets, documents, pamphlets, notices or other papers on the Plaza, provided that no such use or activity shall obstruct any traffic or pedestrians or unreasonably interfere with any other activities taking place on the Plaza at the same time, and provided, further, that no such distribution shall occur more than 25 feet from a suitable waste paper receptacle. No distribution of any written materials whatsoever, including petitions and pamphlets, shall be permitted within the Lobby without a permit issued in conjunction with an authorized use or activity.

C. Vehicles:

Parking of vehicles by persons sponsoring, attending or participating in an activity or use of the Plaza shall not be permitted. Equipment must be unloaded at curbside only, unless the permission of the Property Manager along with the area and time designated therefor is first obtained.

D. Flag Poles:

The flag poles on the Daley Center Plaza are the property of the Public Building Commission of Chicago (PBC). The flag poles are not a public forum; their purpose is government speech to express the fundamental principles of the United States of America, State of Illinois, County of Cook and the City of Chicago. PBC expressly reserves the right to deny a request to display any flag which, in its sole discretion, does not express the principles

identified above. The Executive Director is authorized to issue guidelines to the Property Manager to implement this provision.

E. Façade:

The use of the façade of the Daley Center is limited to the display of banners on the exterior area of the building facing the Plaza during civic or cultural events or activities on the Plaza for which a permit has been issued. The display of any such banner may not extend beyond the period of the permitted event or activity. Banners may only be raised using the hoist or other equipment provided by the Property Manager. The Property Manager may, in its sole discretion, deny any application to display a banner that poses a risk of harm or physical damage to the façade.

VIII. Prohibited Activities:

No person shall erect any display, exhibit, or structure, or perform, conduct or engage in any of the following acts in the Daley Center Lobby or on the Daley Center Plaza:

- A. Prevent or unreasonably interfere with the use of the Premises by others, including the free, orderly and safe flow of pedestrian traffic;**
- B. Perform any act or do any thing, including, but not limited to assault, battery, or do any other act which is otherwise prohibited by federal, state or municipal law, statute, rule, regulation, code or ordinance;**
- C. Engage in any activity, which is legally obscene, sexually explicit, displays graphic violence or incites imminent violent conduct or threatens the health and safety of persons on the Premises.**

IX. Governmental Exemptions:

The cost of maintenance and operation of the Richard J. Daley Center is underwritten by rental payments received from the County of Cook, City of Chicago and the Public Building Commission of Chicago. Therefore, the Executive Director may, in her or his sole discretion, exempt the agencies and departments of the City of Chicago and its sister agencies, County of Cook and the Public Building Commission of Chicago from any and all of the requirements specified herein which relate to issuance of permits for the use of the Premises including but not limited to administrative fees, duration, dimensions, insurance, vehicular restrictions but not excluding health and safety requirements and the requirement of Section VI(c) that applications be processed on a first come, first served basis, except when a governmental body is exercising a governmental purpose.

X. Appeal Procedures:

A. Grant or Denial of Permits.

The Property Manager shall grant or deny any and all applications for permit within fourteen (14) days following the date on which the application for permit was received by the Property Manager and provide prompt written notice thereof to the applicant. Notice of a denial of an application for permit shall clearly set forth the grounds upon which the permit was denied. Where feasible, the Property Manager and the applicant or sponsor shall explore measures by which the application may be cured of any defects or that the applicant may otherwise procure a permit.

B. Appeals.

Any applicant aggrieved by the determination of the Property Manager denying a permit may, within ten (10) calendar days of the service of such determination or such

shorter time as it chooses, file a written appeal from such determination with the Executive Director. Every such appeal shall state the grounds upon which it is asserted that the determination of the Property Manager shall be modified or reversed and shall be accompanied by copies of the application for permit, the written notice of the determination of the Property Manager, and any other papers material to the determination. The Executive Director shall have ten (10) calendar days from the date on which the appeal was filed in which to notify the applicant that the appeal from the determination of the Property Manager has been affirmed, modified or reversed. The applicant must follow the procedures set out in this Section X and receive the Executive Director's final decision as a condition precedent to seeking judicial review of the decision by common law writ of certiorari or pursuant to the Administrative Review Law.

XI. The effective date of these regulations shall be January 13, 2009, and shall supersede any and all prior regulations approved by the Commission for use of the Premises.