

DISTRICT OF COLUMBIA  
+ + + + +  
ALCOHOLIC BEVERAGE AND CANNABIS BOARD  
+ + + + +  
ROLL CALL HEARING

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IN THE MATTER OF:                   :  
  :  
ABT, LLC                               :  
t/a Powerhouse                       :  
Cultivation Center                   :  
2335 Bladensburg Road NE        :  
Class MC - ANC 5C                   :  
License No. 126410                  :  
Case #24-PRO-00003                 :  
  :  
(New Medical                         :  
Cannabis Manufacturer)             :  
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Monday  
January 29, 2024

The Alcoholic Beverage and Cannabis Board met via WebEx videoconference, LaVerne Fletcher, Board's Agent, presiding.

PRESENT:

LAVERNE FLETCHER, ABC Board's Agent

## ALSO PRESENT:

CAMERON MIXON, Applicant Counsel  
ALTHEA CARTER, Protestant  
RICUAD OWENS, Protestant  
RUTH OWENS, Protestant  
PATRICIA BROWN, Protestant  
MAURICE HENDRIX, Protestant  
KEMBA HENDRIX, Protestant  
MORINIA SCOTT, Adams Row Homeowners Association  
KARLYN HUNTER, Adams Row Homeowners Association  
NICHOLAS MALIN, Adams Row Homeowners Association  
GILBERT SMITH, Gateway Community Association  
CINDY SMITH, Gateway Community Association

1 P-R-O-C-E-E-D-I-N-G-S

2 10:18 a.m.

3 MS. FLETCHER: The next case on the  
4 calendar is Powerhouse Cultivation Center, case  
5 number 24-PRO-00003, ABT, LLC, 2335 Bladensburg  
6 Road NE. This is a Class MC application for a  
7 new medical cannabis manufacturer. I would first  
8 like to say that the establishment is located in  
9 the Langdon Park Moratorium Zone, that's first of  
10 all. Is anyone present on behalf of the  
11 Applicant?

12 MS. CARTER: Yes. Oh, I'm sorry, no.

13 MR. MIXON: Good morning, Ms.  
14 Fletcher.

15 MS. FLETCHER: Good morning, Mr.  
16 Mixon.

17 MR. MIXON: This is Cameron Mixon with  
18 the Veritas Law First. That's C-A-M-E-R-O-N M-I-  
19 X-O-N. We are counsel to the Applicant.

20 MS. FLETCHER: Thank you, very much.  
21 The person that just said something, are you a  
22 part of this case?

23 MS. CARTER: Yes, but not for the  
24 Applicant.

25 MS. FLETCHER: Let's start with you

1           then.  Are you a Protestant?

2                       MS. CARTER:  Yes.

3                       MS. FLETCHER:  For which group?

4                       MS. CARTER:  Carter.

5                       MS. FLETCHER:  Let me get your name.

6                       MS. CARTER:  Althea Carter.

7                       MS. FLETCHER:  Are you Althea Carter?

8                       MS. CARTER:  Yes.

9                       MS. FLETCHER:  Okay.  Well, Ms.

10           Carter, let's start with you.  Would you spell  
11           your name for the record, please.

12                       MS. CARTER:  A as in apple, L as in  
13           license, T as in table, H as in history, E as in  
14           ever, A as in apple.  Carter, C as in car, A as  
15           in apple, R as in retro, T as in table, E as in  
16           ever, R as in retro.

17                       MS. FLETCHER:  Ms. Carter, are you  
18           representing a group of three?

19                       MS. CARTER:  Yes.

20                       MS. FLETCHER:  All right.  Any members  
21           of your group present today?

22                       MS. CARTER:  Yes.

23                       MS. FLETCHER:  If those individuals  
24           would state their name and spell it for the  
25           record, please.

1 MS. SCOTT: Morinia Scott. First name  
2 spelled M as in Mary, O as in Oscar, R as in  
3 Roger, I as in igloo, N as in Nancy, I as in  
4 igloo, A as in apple. Last name is Scott, S as  
5 in Sam, C as in cat, O as in Oscar, T as in Tom,  
6 T as in Tom.

7 MS. FLETCHER: Thank you, Ms. Scott.  
8 Anyone else?

9 MS. BOURNES: Mr. And Ms. Owens, I'll  
10 have them state their name.

11 MS. FLETCHER: Okay. Is there anyone  
12 else from this group present?

13 MS. BOURNES: Yes.

14 MS. FLETCHER: Can you state your name  
15 one more time?

16 MR. OWENS: Ricaud Owens, R-I-C-A-U-D  
17 O-W-E-N-S.

18 MS. FLETCHER: That's the first name?

19 MR. OWENS: Ricaud, R-I-C-A-U-D. Last  
20 name Owens, O-W-E-N-S.

21 MS. FLETCHER: Thank you. So, those  
22 are the three members of the protest group.  
23 Because this establishment is located in a  
24 moratorium zone there only needs to be three  
25 members to a protest group. This protest group

1 of three does have standing as a Protestant.

2 Is there anyone present on behalf of  
3 Adams Row Homeowners Association?

4 MR. MALIN: Yes, Nicholas Malin,  
5 President, here.

6 MS. FLETCHER: Mr. Malin, would you  
7 spell your name for the record, please.

8 MR. MALIN: Sure. It is spelled N-I-  
9 C-H-O-L-A-S, first name. Malin, M-A-L-I-N.

10 MS. FLETCHER: Malin is your first  
11 name and Nicholas is your last name?

12 MR. MALIN: Sorry. Nicholas first  
13 name, Malin last name.

14 MS. FLETCHER: Okay. Mr. Malin.

15 MR. MALIN: Correct.

16 MS. FLETCHER: Homeowners Associations  
17 do not have standing as Protestants, which means  
18 that the protest filed by the homeowners  
19 association has to be dismissed. I am dismissing  
20 the protest filed by the homeowners association  
21 today, but you may petition the ABC Board to  
22 reconsider that decision today.

23 MR. MALIN: Okay. Thank you, Laverne.

24 MS. FLETCHER: You're very welcome.

25 Thank you for coming.

1 We've got two more groups of three.

2 Is Cindy Smith present today?

3 MS. SMITH: Yes, I'm here.

4 MS. FLETCHER: Hi, Ms. Smith, would  
5 you spell your name for the record, please.

6 MS. SMITH: C-I-N-D-Y, S-M-I-T-H.

7 MS. FLETCHER: Ms. Smith, you're  
8 representing a group of three?

9 MS. SMITH: Yes.

10 MS. FLETCHER: Is anyone present from  
11 your group today?

12 MS. SMITH: Yes.

13 MS. FLETCHER: I'm ready for the names  
14 of those individuals.

15 MS. SMITH: Leon Segears.

16 MS. FLETCHER: Is Leon here? Is Leon  
17 present? Ms. Smith?

18 MS. SMITH: Yes.

19 MS. FLETCHER: Is Leon present?

20 MR. SMITH: He's not able to speak.  
21 Ms. Gilbertson.

22 MS. FLETCHER: Did you say Leon is not  
23 able to -- just a second.

24 MS. SMITH: I'm sorry. I'm calling  
25 in, and I'm not able to see who's there in the

1 meeting.

2 MS. FLETCHER: Who's speaking? Ms.  
3 Smith?

4 MS. SMITH: I am speaking. Ms. Smith,  
5 yes.

6 MS. FLETCHER: And what did you just  
7 say?

8 MS. SMITH: I said I'm calling on my  
9 phone, and I cannot see who is in the meeting.

10 MS. FLETCHER: Okay. I see a hand  
11 raised. Just one second. Mr. Smith?

12 MR. SMITH: Yes.

13 MS. FLETCHER: Are you a part of this  
14 protest group, Mr. Smith?

15 MR. SMITH: I am part of the protest  
16 group. I am also president of Gateway Community  
17 Association.

18 MS. FLETCHER: So, Mr. Smith, are you  
19 part of the group of three being represented by  
20 Cindy Smith?

21 MR. SMITH: Yes.

22 MS. FLETCHER: Mr. G. Smith, would you  
23 spell your name for the record, please.

24 MR. SMITH: First name is Gilbert, G-  
25 I-L-B-E-R-T. Last name is Smith, S-M-I-T-H.



1 MS. FLETCHER: S-M-I-T-H.

2 MR. SMITH: That's correct. I raised  
3 my hand as a question in this proceeding is  
4 separate from the group of three.

5 MS. FLETCHER: I'm ready for the  
6 question.

7 MR. SMITH: My question has to do with  
8 the HOA submission. It's not just for the HOA,  
9 it includes a group of three. Three of the  
10 representatives are here from the Adams Row  
11 Homeowners Association. I need to clarify one  
12 other point with regard to the group of three  
13 under Ms. Carter. The three members of Ms.  
14 Carter's protest are Mr. and Ms. Owens. You  
15 heard from Mr. Owens. Ruth Owens is also  
16 present, you can see her to the right of Mr.  
17 Owens. She is part of the group of three with  
18 Ms. Carter. Morinia who spoke during the group  
19 of three for Ms. Carter has been representing the  
20 Adams Row Homeowners Association. The third  
21 person of Adams Row Homeowners Association is  
22 also here, and that is Karlyn Hunter, and she has  
23 her hand up.

24 MS. FLETCHER: Well, let me do this.  
25 Ms. Carter is going to have to speak on behalf of

1 her group. Ms. Carter, did you have anything  
2 else that you wanted to add?

3 MS. CARTER: Not at this time, no.

4 MS. FLETCHER: Okay. Thank you just  
5 a moment, please.

6 MR. SMITH: Can I? I'm sorry.

7 MS. FLETCHER: Just give me one  
8 minute.

9 MR. SMITH: No problem.

10 MS. FLETCHER: For Ms. Carter. Ms.  
11 Carter?

12 MS. CARTER: Yes.

13 MS. FLETCHER: Ms. Carter, can you  
14 unmute yourself for a moment?

15 MS. CARTER: I have.

16 MS. FLETCHER: I need you to clarify  
17 something for me, please.

18 MS. CARTER: Yes.

19 MS. FLETCHER: I'm looking at your  
20 protest letter. You're representing a group of  
21 three.

22 MS. CARTER: Yes.

23 MS. FLETCHER: The names that I have  
24 on your protest letter are Ricaud Owens.

25 MS. CARTER: Yes.

1 MS. FLETCHER: And Ruth T. Owens. Is  
2 that correct?

3 MS. CARTER: Yes. Correct.

4 MS. FLETCHER: And you also have one  
5 other person present today, Morinia Scott?

6 MS. CARTER: No. She's with the  
7 homeowners association.

8 MS. FLETCHER: Morinia Scott did  
9 introduce herself, right?

10 MS. CARTER: Yes, she did.

11 MS. FLETCHER: Just a second.

12 MS. CARTER: Morinia did introduce  
13 herself.

14 MS. FLETCHER: Hold on a second. Hold  
15 on a second. I need to keep straight for the  
16 court reporter who is speaking. Ms. Carter, what  
17 did you just say?

18 MS. CARTER: Morinia Scott did  
19 introduce herself, but she is not with my group  
20 of three. My group of three includes the Owens.  
21 Mr. Owens, Ms. Owens, and me.

22 MS. FLETCHER: Let's clarify  
23 something. Thank you.

24 MS. CARTER: Morinia Scott is with the  
25 homeowners association.

1 MS. FLETCHER: Let's clarify  
2 something. Ms. Scott, where are you?

3 MS. SCOTT: I'm here.

4 MS. FLETCHER: Ms. Scott, you are not  
5 a part of the group of three?

6 MS. SCOTT: No, ma'am.

7 MS. FLETCHER: Okay. So, what I'm  
8 going to do is I'm going to delete you as a  
9 member of the group of three because you're not,  
10 which means, Ms. Carter, only two of you are  
11 present from your group today.

12 MS. CARTER: No, three of us are  
13 present.

14 MS. FLETCHER: Who's the third person?

15 MS. CARTER: Mr. Owens is here, Ms.  
16 Owens is here, and I am here.

17 MS. FLETCHER: Ms. Owens is here?

18 MS. CARTER: Yes.

19 MS. FLETCHER: Ruth Owens is here?

20 MS. CARTER: She is.

21 MS. FLETCHER: Ms. Owens, would you  
22 state your name and spell it for the record  
23 please?

24 MS. OWENS: Ruth, R-U-T-H, T middle  
25 initial, Owens, O-W-E-N-S.

1 MS. FLETCHER: Okay. Ms. Carter.

2 MS. CARTER: Yes.

3 MS. FLETCHER: Because there are three  
4 members from your group present today, your group  
5 still does have standing as a Protestant.

6 MS. CARTER: Thank you.

7 MS. FLETCHER: Okay. Ms. Cindy Smith?

8 MS. SMITH: Yes. Yes.

9 MS. FLETCHER: For you we have you  
10 present today. We have Mr. Gilbert Smith present  
11 today, and we have Leon, is that Segears?

12 MS. SMITH: Mm-hmm.

13 MS. FLETCHER: Because there are three  
14 members present from your group today, your group  
15 does have standing as a Protestant. We have one  
16 more group of three. Is Maurice Hendrix here  
17 today?

18 MR. HENDRIX: I am.

19 MS. FLETCHER: Mr. Hendrix, would you  
20 state your name for the record, please.

21 MR. HENDRIX: Maurice Hendrix. First  
22 name Maurice, M-A-U-R-I-C-E, last name Hendrix,  
23 H-E-N-D-R-I-X.

24 MS. FLETCHER: Are there any other  
25 members from your group present today?

1 MR. HENDRIX: Yes.

2 MS. BROWN: Yes.

3 MS. FLETCHER: I'm ready.

4 MS. BROWN: Yes. Patricia Brown. First  
5 name Patricia, P-A-T-R-I-C-I-A, last name Brown,  
6 B-R-O-W-N.

7 MS. FLETCHER: Thank you, Ms. Brown.  
8 Anyone else? Anyone else from your group present  
9 today, Mr. Hendrix?

10 MR. HENDRIX: Yes, my wife. I'm not  
11 sure that her mic is working. I can hear her  
12 trying to spell her name downstairs, but her mic  
13 is not working. Hold on one second.

14 MS. FLETCHER: Can you tell me her  
15 name.

16 MR. HENDRIX: Kemba Hendrix. K-E-M-B-  
17 A, H-E-N-D-R-I-X.

18 MS. FLETCHER: You can hear her trying  
19 to --

20 MR. HENDRIX: You can see her on the  
21 list of participants, but for some reason her mic  
22 is not working.

23 MS. FLETCHER: Yes, I see it. Thank  
24 you. Mr. Hendrix, three members of your group  
25 are present today which means that your group has

1 standing as Protestants.

2 MR. HENDRIX: Thank you.

3 MS. FLETCHER: You're welcome. Then  
4 we have the Gateway Community Association. Is  
5 anyone present on behalf of the Association?

6 MR. SMITH: Yes, I am, Gilbert Smith.

7 MS. FLETCHER: Mr. Smith, would you  
8 spell your name for the record, please.

9 MR. SMITH: G-I-L-B-E-R-T, last name  
10 is spelled S-M-I-T-H.

11 MS. FLETCHER: Thank you. Mr. Smith,  
12 can you confirm that the applicant was given at  
13 least a seven day notice of the meeting that you  
14 held concerning the application.

15 MR. SMITH: She has been given notice.

16 MS. FLETCHER: I'm sorry. What did  
17 you say, Mr. Smith?

18 MR. SMITH: She has been given notice.

19 MS. FLETCHER: She was given notice.  
20 Thank you. So, in this case we have three groups  
21 of three as Protestants, and we have the Gateway  
22 Community Association as a Protestant. The focus  
23 issues are adverse impact on peace, order, and  
24 quiet, residential parking, and vehicular and  
25 pedestrian safety, real property values and over

1 concentration.

2 MS. HUNTER: Excuse me, Ms. Fletcher.

3 MS. FLETCHER: Yes, who's speaking?

4 MS. HUNTER: This is Karlyn Hunter.

5 MS. FLETCHER: Hi, Ms. Hunter.

6 MS. HUNTER: I have a question about  
7 the homeowners association.

8 MS. FLETCHER: About what, Ms. Hunter?

9 MS. HUNTER: The Adams Row Homeowners  
10 Association.

11 MS. FLETCHER: Yes.

12 MS. HUNTER: We are three individuals  
13 who live in the moratorium zone. Our homeowners  
14 association is within that moratorium zone. We  
15 are residents directly behind Mr. Smith, and we  
16 live in the community. I guess I want to  
17 understand why our protest was dismissed if we  
18 are residents that fit within that moratorium  
19 zone.

20 MS. FLETCHER: It was the homeowners  
21 association that was dismissed. If there had  
22 been a protest filed by your group of three, I  
23 understand that you're part of the homeowners  
24 association, Ms. Hunter, but the association  
25 itself does not have standing as a Protestant.



1 In order for you as a member of a group of  
2 individuals to be considered as Protestants the  
3 three of you would have needed to file a separate  
4 protest.

5 MR. MALIN: This is Nicholas Malin of  
6 the homeowners association.

7 MS. FLETCHER: Just a second. Give me  
8 one second to see if Ms. Hunter has anything to  
9 add.

10 MS. HUNTER: I'll defer to Nicholas  
11 who lives a couple of doors down.

12 MS. FLETCHER: What is Nicholas' last  
13 name?

14 MR. MALIN: Malin, A-L-I-N.

15 MS. FLETCHER: Mr. Malin. Okay.  
16 You're the president of the Adams Row Homeowners  
17 Association.

18 MR. MALIN: That's correct. We did  
19 file such a letter with three separate  
20 individuals, signed by three individuals in our  
21 particular section of the community protesting.

22 MS. FLETCHER: Have those three  
23 individuals been a part of either of the other  
24 groups of three that have been granted standing  
25 today?

1 MR. MALIN: They have not.

2 MS. FLETCHER: Well, I'm looking at  
3 your protest letter, Mr. Malin. I see that you  
4 signed it. I see that the treasurer signed it  
5 and that a member at large signed it.

6 MR. MALIN: That's correct.

7 MS. FLETCHER: They all signed as  
8 members of the association. So, that's not  
9 considered a group of three.

10 MR. MALIN: So, because we put, just  
11 to understand --

12 MS. FLETCHER: Mr. Malin, before you  
13 speak, could you state your name.

14 MR. MALIN: Yes, Nicholas Malin  
15 speaking. So, just to totally understand the  
16 procedural issue here. Because we signed using  
17 our Board titles, that nullifies our protest  
18 letter. Whereas, had we signed with no Board  
19 titles we would be admitted to the protest. Is  
20 that correct?

21 MS. FLETCHER: Well, actually, your  
22 protest letter says, on behalf of the Board  
23 members of the Adams Row Homeowners Association.  
24 That's what your protest letter says.

25 MR. MALIN: That's correct.

1 MS. FLETCHER: So, that's who filed  
2 the protest, the association, not the three  
3 individuals. Although three members of your  
4 association signed the protest letter, your  
5 protest letter says that you filed the protest on  
6 behalf of the homeowners association. If was the  
7 homeowners Association that was dismissed as a  
8 Protestant.

9 MR. MALIN: Okay.

10 MS. HUNTER: Is that -- I'm sorry,  
11 this is Karlyn Hunter.

12 MS. FLETCHER: Okay. What did you say  
13 Ms. Hunter?

14 MS. HUNTER: Is that in Section 25-601  
15 that prevents --

16 MS. FLETCHER: If you look at 25-601  
17 you will not see that homeowners associations  
18 have standings as Protestants. Mr. Smith, you  
19 were going to say something?

20 MR. SMITH: Yes, thank you. I've been  
21 working with ABRA's administrative assistant that  
22 has received the various protests on behalf of  
23 the Gateway residents. I specifically asked her  
24 whether the homeowners association was  
25 acceptable, she said it was, she acknowledged it.

1 I also asked her, procedurally, how many people  
2 needed to be represented here at this hearing.  
3 She specifically said, and I can send you the  
4 email, in fact I will send you the email, that  
5 the homeowners association did not have to the  
6 three members. So, therefore, the president  
7 represented, the other members who signed the  
8 letter are also represented. There is a bit of  
9 confusion procedurally. I know you don't have  
10 much control here. We may not resolve it here,  
11 but there is absolutely confusion on the regs.

12 MS. FLETCHER: Mr. Smith, I understand  
13 exactly what you're saying, and I am assuming,  
14 and I don't know this, that our administrative  
15 assistant would have said that the homeowners  
16 association's protest was received, acknowledged  
17 and received, and not said whether or not the  
18 homeowners association had standing as a  
19 Protestant.

20 MR. SMITH: If I may --

21 MS. FLETCHER: When a homeowners  
22 association files a protest, if the three  
23 individuals that sign the protest letters are  
24 members of the association, in this case it was  
25 the treasurer and an at-large member, those

1 individuals are considered a part of the  
2 association, they're not considered as members of  
3 or part of a group of three. Mr. Caymerlain  
4 (phonetic)? Mr. Mixon?

5 MR. SMITH: I'm sorry. I wasn't  
6 finished, but I can raise that --

7 MS. FLETCHER: I'm sorry. Go ahead,  
8 Mr. Smith.

9 MR. SMITH: Again, I want to clarify,  
10 it was not with regard to the group of three, the  
11 question I had with the administrative assistant.  
12 She did not confirm standing. This meeting, as I  
13 understand it, is to determine standing. What I  
14 was trying to get clear procedurally, who needs  
15 to be at this meeting to determine standing, and  
16 she specifically said, for homeowners  
17 association, ANC members only one representative  
18 was needed. I understand that three people  
19 signed. In addition, she said, for other members  
20 such as group of three or more, those individuals  
21 need to be here as separate from a homeowners  
22 association. So, again, for the record, I'm  
23 confused. And I think the homeowners association  
24 is confused. Let me also say, if I may.

25 MS. FLETCHER: Go ahead.

1 MR. SMITH: I have been through these  
2 proceedings at least three times. The last time  
3 we went through this roll call hearing there was  
4 also confusion. So, I'll go on the record that  
5 it's continuous confusion. Now, we will follow  
6 the procedures as has been set. We vehemently  
7 protest this Applicant. I will yield back to you  
8 on this point, but it's a bit of frustration.  
9 We're spending our time as residents to protest  
10 this proceeding and procedurally it's just a  
11 mess. Thank you.

12 MS. FLETCHER: Homeowners associations  
13 do not have standing as Protestants.

14 MR. SMITH: But the rules are now  
15 being -- we read the rules, we asked the  
16 procedures, we followed the procedures, but it is  
17 now being dismissed. I'm not trying to be  
18 disrespectful. I do appreciate your time. I  
19 really do appreciate the fact that you allowed  
20 this to be virtual. So, we'll concede  
21 accordingly, but we're on the record as not  
22 agreeing with the procedures.

23 MS. FLETCHER: Okay. So, homeowners  
24 associations do not have standing as Protestants.  
25 Ms. Scott, you referenced DC Code 25-1601. Take

1 a look at that, and you will see that homeowners  
2 associations are not listed as entities that have  
3 standing as Protestants. I'm going to move  
4 along. Mr. Mixon, you have your hand raised.

5 MR. MIXON: Yes, thank you, Ms.  
6 Fletcher. As stated in Applicant's motion to  
7 dismiss the initial group of three, unfortunately  
8 was not addressed to the full range of  
9 Protestants, but applicable, I would say across  
10 all of them, is that DC Council has only bestowed  
11 standing to protest medical cannabis licenses to  
12 Advisory Neighborhood Commissions. To my  
13 knowledge, none of the protest groups here today  
14 are Advisory Neighborhood Commissions. It's  
15 opposition to the motion to dismiss that is from  
16 Cindy Smith's group of three. She cites to the  
17 statute section giving standing to various groups  
18 to protest alcoholic beverage licenses, but  
19 that's inapplicable to medical cannabis  
20 applications.

21 MS. FLETCHER: Okay. So, Mr. Mixon,  
22 you're going to be filing motions to dismiss each  
23 of the groups of three?

24 MR. MIXON: I will if needed, but I'm  
25 raising it here as a preliminary issue. I don't

1 think they should be granted standing in the  
2 first place.

3 MS. FLETCHER: You don't think they  
4 should be granted standing because groups of  
5 three are not allowed to file protests in medical  
6 cannabis cases?

7 MR. MIXON: Yes, it's nowhere in the  
8 medical cannabis statute. The Board's own regs  
9 only describe Advisory Neighborhood Commissions  
10 as having standing or participating in protest  
11 hearings. In fact, I'm looking at the Board's  
12 official response to the second cannabis rule  
13 making and it itself states that only Advisory  
14 Neighborhood Commissions have been granted  
15 standing.

16 MS. FLETCHER: It states only Advisory  
17 Neighborhood Commissions can be granted standing  
18 as Protestants?

19 MR. MIXON: Yes.

20 MS. FLETCHER: Mr. Mixon, do you have  
21 any other information regarding the order that  
22 you're looking at? For example, an order number?

23 MR. MIXON: This is not an order from  
24 a contested case but rather the Board's own  
25 rulemaking in response to public comment. Just



1 moreover, if you go to Title 7 which deals with  
2 procedures for applications, requirements for  
3 licenses and then procedural requirements for the  
4 Board to adjudicate protests, the only group  
5 within described is Advisory Neighborhood  
6 Commissions. We've been discussing the  
7 moratorium zone, but that itself is also part of  
8 Title 25 and only applicable to alcoholic  
9 beverage license.

10 MS. FLETCHER: So, the rulemaking  
11 doesn't specifically say that groups of three  
12 cannot file protests, but it does say that ANCs  
13 can be granted standing. It doesn't specifically  
14 refer to groups of three, but it only refers to  
15 the ANCs?

16 MR. MIXON: Yes. And Title 7 is for  
17 medical cannabis, title 25 is for alcohol, they  
18 don't overlap.

19 MS. FLETCHER: Thank you, Mr. Mixon.  
20 Mr. Mixon, for the purpose of the roll call  
21 hearing I am going to grant standing to the  
22 groups of three because I'm not aware that they  
23 cannot be granted standing. I'm going to  
24 research the information that you provided when I  
25 get back to my desk, and I am going to make a

1 note here that there's a possibility that you'll  
2 be filing a motion to dismiss the groups of  
3 three.

4 MR. MIXON: Yes and the other two  
5 parties.

6 MS. FLETCHER: Ms. Carter, Ms. Smith,  
7 and Mr. Hendrix, what that means is that if Mr.  
8 Mixon files a motion to dismiss your groups of  
9 three you'll receive a copy of the motion, and  
10 you will have an opportunity to respond to the  
11 motion and the ABC Board will take your responses  
12 into consideration as well.

13 MS. CARTER: All right.

14 MR. HENDRIX: Okay.

15 MS. SMITH: All right.

16 MS. FLETCHER: Mr. Smith.

17 MR. SMITH: Yes, Ms. Fletcher.

18 MS. FLETCHER: I saw your hand.

19 MR. SMITH: Thank you for  
20 acknowledging my hand. Ms. Fletcher, this  
21 continues to be confusing as the attorney just  
22 mentioned the procedures. And I'm no lawyer, but  
23 I find it hard to follow the motion to dismiss  
24 was for one group, and now it may be covering the  
25 entire group. If the intent was to cover the

1 entire group they should've issued a dismissal  
2 for the entire group of three. It seems like  
3 were are arbitrarily coming up with procedures.  
4 I realize he's quoting a reg. We quoted a reg in  
5 our request for dismissal. We quoted regs in our  
6 protest. So, unless the regs are not clear,  
7 well, let me just say this, they're not clear to  
8 me as a lay person, a non-lawyer, but I am  
9 educated well enough to follow procedures as I've  
10 represented the Gateway community until this day.  
11 I strongly recommend that clarity be provided,  
12 otherwise, we're literally wasting our time.  
13 Just go ahead and approve the Applicants and  
14 we'll be done, and we'll deal with our way.  
15 Thank you.

16 MS. FLETCHER: You're welcome. So,  
17 the roll call hearing must be held. What Mr.  
18 Nixon said is that he will be filing a motion to  
19 dismiss each group of three. We have three  
20 separate groups. So, he will be filing a motion  
21 to dismiss the group represented by Ms. Carter,  
22 the group represented by Ms. Smith, and the group  
23 represented by Mr. Hendrix. Those will be three  
24 separate motions to dismiss. So, I hope that  
25 provides some clarity.

1 MR. SMITH: It does not. It  
2 absolutely does not.

3 MS. FLETCHER: Mr. Smith, let me do  
4 this because I'm going to have to move on. If  
5 you can just tell me why that's not clear maybe I  
6 can further clarify.

7 MR. SMITH: Ms. Fletcher, I followed  
8 absolutely everything he said, but the procedures  
9 do not seem to fair in terms of process. If the  
10 Applicant were to dismiss the group of three,  
11 they should've done it early on. It seems like  
12 you're now allowing her to do something that  
13 should've been done. You granted us standing and  
14 now that process may be negated. So, it just  
15 seems like they're arbitrary, capricious  
16 procedures that are just being generated at the  
17 time of this process. I'm going to defer to Ms.  
18 Hunter who also has her hand up. I'm livid. I'm  
19 a 30 plus year resident in Gateway Community  
20 trying to represent 400 homes in this community.  
21 It's absolutely frustrating. I have my members  
22 of the Gateway Community online. We're the  
23 largest group of this Protestant, and it's just a  
24 waste of time. I defer to Ms. Hunter. Thank  
25 you.

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MS. FLETCHER: Well, the Gateway Association was granted standing, so you'll have an opportunity to represent your constituents. I'm going to hear from Ms. Hunter first. You have your hand raised.

MS. HUNTER: Yes, thank you. Just to echo Mr. Smith's point, your website has a link that tells people how to protest applications. On that website it corresponds with what you're saying with respect to groups of three, ANCs, et cetera. It makes no distinction between what to do for a cannabis license protest versus an alcohol protest. So, the public is left with a set of rules, and in this case everyone here as abided by those rules. So, to the extent Mr. Mixon files a motion to dismiss, you all should consider the undue burden and prejudice that will be had to all the applicants who follow the rules published by this body.

MS. FLETCHER: Yes. Ms. Hunter, is Mr. Mixon does file a motion to dismiss, you'll have an opportunity to make exactly that point, and I understand what you're saying. I can understand why it's not clear. I understand what

1 you're saying. I granted standing.

2 MS. HUNTER: Now, the second point is,  
3 I'm sorry, with respect to his ability to file a  
4 motion of protest. So, this meeting, as I  
5 understand it, is to establish standing. So, any  
6 objections to the establishment of standing  
7 should be made prior to the standing hearing.

8 MS. FLETCHER: That's actually done  
9 during the roll call hearing. These kind of  
10 issues are resolved during the roll call hearing.

11 MS. HUNTER: This is the roll call.

12 MS. FLETCHER: Yes.

13 MS. HUNTER: Exactly. So, that's my  
14 point. So, he filed a motion, properly filed, to  
15 dismiss one group so that that group would not  
16 have standing. That motion that he filed has  
17 been determined by you because you've granted  
18 standing. And to Mr. Smith's point, he's out of  
19 time for filing procedurally because this is the  
20 place that it should be addressed. He's out of  
21 time procedurally for filing additional motions  
22 to dismiss, one because you've already granted  
23 the standing to these groups, number one. And  
24 number two, the opportunity for those groups who  
25 he's now objecting to to respond has also

1        elapsed.

2                                MS. FLETCHER:    Ms. Hunter, just so you  
3        know, it hasn't lapsed, it hasn't started.    That  
4        doesn't start until you see those groups, I'm  
5        going to say this, and then I'm going to move on,  
6        Ms. Hunter.    I'll give you my email address, and  
7        we can follow up with any other questions that  
8        you have.    The time has not lapsed for the groups  
9        of three to respond to Mr. Mixon's motion.    He  
10       has not yet filed it.    That time doesn't start to  
11       run until the Board issues an order one way or  
12       the other.    So, if Mr. Mixon files his motion to  
13       dismiss the three groups of three, the designated  
14       representatives for those groups of three will be  
15       so informed, they'll receive a copy of the  
16       motion, Mr. Mixon will have to send a copy of the  
17       motion to each one of those designated  
18       representatives at which time they will have an  
19       opportunity to respond to those motions.    The  
20       Board will look at Mr. Mixon's motion and the  
21       responses from the designated representatives  
22       from the group at the same time and make a  
23       decision as to whether or not to dismiss the  
24       groups of three.    They have not been dismissed at  
25       this point.    That would be an ABC Board decision.

1 That doesn't happen today. I haven't ruled on a  
2 motion. The Board's agent does not rule on  
3 motions. So, they will have an opportunity to  
4 respond. Ms. Carter.

5 MS. CARTER: How much time will we  
6 have to respond?

7 MS. FLETCHER: The Board order will  
8 tell you. I believe it's maybe 10 days, 14 days,  
9 I don't recall at this moment, but you'll have a  
10 period of time to respond.

11 MS. CARTER: Okay. And then I have  
12 one more question.

13 MS. FLETCHER: If Mr. Mixon files the  
14 motion to dismiss, I believe you would respond  
15 within seven days, but you'll be informed as you  
16 go along.

17 MS. CARTER: Okay. Now, on the regs,  
18 if it says ANC only, even though it says only  
19 it's not specifically precluding us from filing  
20 the protest, it's not including our group in the  
21 regs.

22 MS. FLETCHER: That's a decision, Ms.  
23 Carter, that the Board would make. When Mr.  
24 Mixon, if he files his motion to dismiss, in your  
25 response I suppose that would be the point you



1 would make. I'm going to move on to Mr. Mixon,  
2 and then I'm going to move on. Mr. Mixon.

3 MR. MIXON: I understand and attune to  
4 the need to file an amended motion, and we will  
5 be planning to do so for the Board's  
6 consideration as soon as possible. It's another  
7 preliminary matter that the Protestants are  
8 simply not contained within the scope of  
9 standing. It's not prescribed by the statute  
10 applicable to medical cannabis licenses.

11 MS. FLETCHER: And the ABC Board will  
12 sort that out if Mr. Mixon files his motion. But  
13 for the purpose of the roll call hearing today,  
14 each group of three has been granted standing as  
15 Protestants.

16 MR. MIXON: I understand.

17 MS. FLETCHER: I'm just making that  
18 point for the Protestants.

19 MS. CARTER: Thank you.

20 MR. MIXON: Will we receive notices  
21 with the contact information and designated  
22 representatives of each party?

23 MS. FLETCHER: I'm sorry, who's  
24 speaking?

25 MR. MIXON: Still Mr. Mixon.

1 MS. FLETCHER: Who's speaking?

2 MR. MIXON: The Applicant.

3 MS. FLETCHER: What was the question,  
4 Mr. Mixon?

5 MR. MIXON: Will we be receiving  
6 notices with contact information and the  
7 designated representatives of the various  
8 Protestants?

9 MS. FLETCHER: I will provide you, Mr.  
10 Mixon, with the contact information for the  
11 designated representatives so that you can serve  
12 them with the motion.

13 MR. MIXON: Excellent. Thank you, Ms.  
14 Fletcher.

15 MS. FLETCHER: Thank you. I'm going  
16 to make a note of that, one second please. Mr.  
17 Smith.

18 MR. SMITH: Thank you, Ms. Fletcher.  
19 I have two questions. Are there two applications  
20 in this proceeding?

21 MS. FLETCHER: For Powerhouse?

22 MR. SMITH: Yes.

23 MS. FLETCHER: Yes. The next case is  
24 also for Powerhouse.

25 MR. SMITH: When you say the next

1 case, are we continuing the roll call for the  
2 other Powerhouse application?

3 MS. FLETCHER: So, there are two  
4 separate applications. This proceeding right now  
5 is for the medical cannabis cultivation center,  
6 no, not the medical cannabis, sorry. It's for  
7 the medical cannabis manufacturer.

8 MR. SMITH: Okay. Thank you.

9 MS. FLETCHER: The next one is for the  
10 cultivation center, so they're two separate  
11 cases. I know the parties the same in both.

12 MR. SMITH: Okay. Thank you.

13 MS. FLETCHER: You're welcome.

14 MR. SMITH: So, that's what I needed  
15 to clarify. I know we're short on time.

16 MS. FLETCHER: No, that's okay. We  
17 have time. I'm glad you asked because pretty  
18 much what we discussed in this case is going to  
19 apply to the next one, but there's some other  
20 parties in the next case as well.

21 MR. SMITH: I'm running a little short  
22 on time as well because I have another meeting,  
23 but I will try to stay on just for the record.

24 MS. FLETCHER: Okay.

25 MR. SMITH: Let me just, for the

1 record, clarify that the motion of dismissal. I  
2 saw the motion of dismissal for the party of  
3 three that included Cindy Smith as  
4 representative. It did not give a time frame.  
5 The motion to dismiss came on the 23rd. It did  
6 not have a seven day time frame. There was  
7 continuous follow-up on that motion for a  
8 response, and therefore, that's why you got the  
9 response on Sunday, obviously, before this  
10 proceeding. So, it was rushed to get you a  
11 response, but it was put on the record. I just  
12 want to be clear on that. So, when you say there  
13 is a seven day time frame, that did not happen.  
14 It is also not clear whether the dismissal was  
15 for the protest for both applications. Now, I'll  
16 go back and look at it, but I just want to make  
17 sure we're absolutely clear what is being done.  
18 So, for the record, I think we need to follow up  
19 and research that most of all. Thank you.

20 MS. FLETCHER: I will do that. I'm  
21 not aware of any motions that Mr. Mixon has  
22 filed. As of this moment right here I'm not  
23 aware of any motion that has been filed already.  
24 But for the purpose of the roll call this case  
25 stands where it stands as of today. It could

1 change once the Board reviews any motions or  
2 responses to motions. Mr. Smith, yes, I'm going  
3 to have to do some research of my own based on  
4 what you're saying and based on some of what I've  
5 heard today related to medical cannabis.

6 MR. SMITH: Thank you. Thank you very  
7 much.

8 MS. FLETCHER: Thank you very much.  
9 Let's see. Mr. Hendrix, I'm going to hear from  
10 you, and then I'm going to move to the next case.

11 MR. HENDRIX: Thank you. I just had  
12 a question. There's another roll call for  
13 another case that I'm involved in, the next  
14 Powerhouse. Do we all have to stay on again to  
15 spell our names?

16 MS. FLETCHER: You sure do because  
17 they're two separate cases and maybe you'll have  
18 more clarity the next go around, so the next case  
19 won't take as long.

20 MR. HENDRIX: I don't need more  
21 clarity, I just need to spell my name for the  
22 next one so I can go.

23 MS. FLETCHER: The next case will go  
24 by much faster because you won't have the same  
25 questions.

1 MR. HENDRIX: Okay.

2 MS. FLETCHER: Now, we need to set a  
3 date for mediation, a status hearing, and a  
4 protest hearing. I'm going to give you the date  
5 for the status and protest hearing first. The  
6 status hearing is scheduled for February 14, 2024  
7 at 10:30 a.m. That's for the status hearing.

8 The protest hearing is set for March  
9 20, 2024 at 1:30.

10 I will give you the next available day  
11 for mediation. The next available day for  
12 mediation is Wednesday, February 7 anytime  
13 between 10:30 and 1:30. My first question is, is  
14 that a good day for you, Mr. Mixon? February 7  
15 anytime between 10:30 and 1:30. Ms. Carter, Ms.  
16 Smith, Mr. Hendrix, Mr. Smith, you can be looking  
17 at that date as well. That would be Wednesday,  
18 February 7 anytime between 10:30 and 1:30. If  
19 that's not good for everyone I'll choose a  
20 different date to consider.

21 MR. HENDRIX: Are these virtual also?

22 MS. FLETCHER: Yes. Mr. Hendrix, was  
23 that you asking that question?

24 MR. HENDRIX: Yes, ma'am..

25 MS. FLETCHER: Yes, it's virtual.

1 MR. HENDRIX: Then, yes, that's fine  
2 for me.

3 MS. CARTER: Ms. Carter, the time is  
4 fine for me.

5 MS. FLETCHER: Fine for Ms. Carter,  
6 fine for Mr. Hendrix. What about you, Ms. Smith?

7 MR. SMITH: Ms. Smith had to drop off.

8 MS. FLETCHER: Cindy Smith, are you  
9 still here? Mr. Mixon, what about you? Mr.  
10 Mixon, you're muted right now.

11 MR. MIXON: I'm sorry. Were we still  
12 discussing February 7?

13 MS. FLETCHER: February 7 anytime  
14 between 10:30 and 1:30.

15 MR. MIXON: I'm sorry, could you  
16 choose a different day? I will be in hearing at  
17 the Board.

18 MS. FLETCHER: Well, we can move to  
19 Friday, February 9. Is that a good day, Mr.  
20 Mixon?

21 MR. MIXON: Yes, that works.

22 MS. FLETCHER: So, mediation is  
23 available on Friday, February 9 anytime between  
24 10:30 and 1:30.

25 MR. MIXON: 10:30.

1 MS. FLETCHER: Ms. Carter, will 10:30  
2 work for you?

3 MS. CARTER: That will work.

4 MS. FLETCHER: What about you, Mr.  
5 Hendrix?

6 MR. HENDRIX: Yes.

7 MS. FLETCHER: Mr. Smith, will that  
8 work for you?

9 MR. SMITH: Yes, I'll make it work.  
10 I cannot speak for Ms. Smith, but for myself,  
11 I'll make it work.

12 MS. FLETCHER: Okay. Thank you.  
13 Mediation is set for Friday, February 9 at 10:30  
14 a.m., and I will send out the WebEx invitation.

15 MR. MIXON: I'm sorry, one second, Ms.  
16 Fletcher, if I may, just to confirm. Was that  
17 status on February 14?

18 MS. FLETCHER: The status hearing, Mr.  
19 Mixon?

20 MR. MIXON: Yes.

21 MS. FLETCHER: The status hearing is  
22 February 14.

23 MR. MIXON: Yes. Okay. Thank you.

24 MS. FLETCHER: 10:30 a.m. You're  
25 welcome. Okay. The roll call hearing in this



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matter is concluded.

(Whereupon, the above-entitled matter  
went off the record at 11:09 a.m.)

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This is to certify that the foregoing transcript

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Before: DC ABCA

Date: 01-29-24

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate complete record of the proceedings.



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Court Reporter

**NEAL R. GROSS**

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