

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

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IN THE MATTER OF: :
 :
Kittrell, Edith Mae :
& Jessie L :
t/a Vegas Lounge :
1415 P Street NW : Protest
Retailer CN - ANC 5E : Hearing (Status)
License No. 1273 :
Case #23-PRO-00003 :
 :
(Application to Renew :
the License) :
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Wednesday
February 15, 2023

The Alcoholic Beverage Control Board
met via WebEx videoconference, Chairperson
Donovan W. Anderson presiding.

PRESENT:

DONOVAN W. ANDERSON, Chairperson
BOBBY CATO, JR., Member
EDWARD S. GRANDIS, Member
JENI HANSEN, Member
JAMES SHORT, JR., Member

ALSO PRESENT:

JOSE ORELLANA, DC ABRA Staff
THOMAS VASSAR, Applicant Counsel
JOSEPH FLORIO, ANC 2F
JENNIFER TOTH, Metro Condo Association
LYLE BLANCHARD, Protestant Counsel
TED BROWNFIELD

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

2 11:27 a.m.

3 CHAIRPERSON ANDERSON: Okay. The next
4 case is Case No. 23-PRO-00003, Vegas Lounge,
5 License No. 001273.

6 Mr. Orellana, can you please elevate
7 the rights of the parties in this case, please.

8 MR. ORELLANA: Will do.

9 Thomas Vassar, your access has been
10 elevated.

11 Joseph Florio, your access has been
12 elevated.

13 Lyle Blanchard, your access has been
14 elevated.

15 Ted Brownfield, your access has been
16 elevated.

17 Jennifer Toth, your access has been
18 elevated.

19 That is all, Chairman.

20 CHAIRPERSON ANDERSON: Thank you.

21 Let me apologize now formally to Mr.
22 Vassar now that you are in the right case, then I
23 have your name. That's why I'd asked the
24 questions before, sir, so I apologize for that.

25 MR. VASSAR: No problem.

1 CHAIRPERSON ANDERSON: Can you please
2 identify yourself for the record, please.

3 MR. VASSAR: Of course. Thomas
4 Vassar, T-H-O-M-A-S, V as in Victor, A-S-S-A-R,
5 and I represent the licensee, Vegas Lounge. No
6 apology necessary.

7 CHAIRPERSON ANDERSON: All right.
8 Good morning, sir.

9 The ANC?

10 MR. FLORIO: Joe Florio. That's J-O-
11 E, F as in Frank, L-O-R-I-O. I'm representing
12 ANC 2F.

13 CHAIRPERSON ANDERSON: Thank you.
14 Mr. Blanchard.

15 MR. BLANCHARD: Good morning. My name
16 is Lyle Blanchard, which is spelled L-Y-L-E, B-L-
17 A-N-C-H-A-R-D, and I'm representing one of the
18 protestants.

19 CHAIRPERSON ANDERSON: Good morning.
20 Ms. Toth?

21 You're on mute, ma'am. Unmute your
22 mic, please.

23 MS. TOTH: Good morning. My name is
24 Jennifer Toth, J-E-N-N-I-F-E-R, last name T as in
25 tom, O-T-H, Toth. I'm the spokesperson for the

1 Metro Condo Association.

2 CHAIRPERSON ANDERSON: Thank you,
3 ma'am.

4 Are there any preliminary matters in
5 this case? Let's start with Mr. Vassar.

6 MR. VASSAR: None.

7 CHAIRPERSON ANDERSON: Mr. Florio,
8 you're from ANC 2F or 3, is that correct?

9 MR. FLORIO: Correct.

10 CHAIRPERSON ANDERSON: All right,
11 fine. I guess our agenda has the wrong name
12 sheet. All right, are there preliminary matters
13 on your case, sir?

14 MR. FLORIO: None.

15 CHAIRPERSON ANDERSON: Mr. Blanchard?

16 MR. BLANCHARD: No. No preliminary
17 matters.

18 CHAIRPERSON ANDERSON: And Ms. Toth?

19 MS. TOTH: I have a preliminary
20 matter, which is (audio interference) this case.
21 We are concerned with the nude dancing. The
22 Lounge does not have --

23 CHAIRPERSON ANDERSON: Hold on,
24 please, ma'am. Do me a favor. Your signal is
25 poor. Turn your camera off, and maybe I can hear

1 you better, and I'll let you know, please.

2 Go ahead and speak now, ma'am.

3 MS. TOTH: Okay. The preliminary
4 hearing issue I have that I'm not sure what the
5 issues are in this case. We are interested in
6 the nude dancing. Right now, Vegas Lounge does
7 not have nude dancing. We were wondering if they
8 are going to implement nude dancing or not. If
9 not, we're not interested in protesting.

10 CHAIRPERSON ANDERSON: You can turn
11 your camera back on, ma'am. Ms. Toth, I think
12 your internet is poor, so that's one of the
13 reasons I asked you to turn your camera off to
14 see maybe we could you better. But just wanted
15 to let you know, that is the reason I made that
16 comment.

17 It's my understanding that the purpose
18 of this, what was placarded, is that they are
19 trying to get a nude endorsement on their
20 license. That is my understanding. That was
21 what was placarded, and that is why we are having
22 a protest hearing.

23 MS. TOTH: Sir (audio interference) --

24 CHAIRPERSON ANDERSON: Hold on. Go
25 ahead, I'm sorry.

1 MS. TOTH: They already have a nude
2 endorsement. They haven't used it, but they have
3 it.

4 CHAIRPERSON ANDERSON: All right, so
5 they have -- I apologize for that.

6 Mr. Vassar, I think you are -- Mr.
7 Blanchard, please mute your line. I think
8 someone is calling. I'm not sure if it's yours,
9 but I'm asking everyone if you're not speaking.

10 All right, let me correct the record.
11 Go ahead, Mr. Vassar. Explain to us, sir.
12 You're on mute, sir.

13 MR. VASSAR: Sorry, can you hear me?

14 CHAIRPERSON ANDERSON: Yes, sir.

15 MR. VASSAR: Sorry. Ms. Toth
16 corrected the record herself. The establishment
17 does have a nude dancing endorsement. They've
18 had it, I believe, since 1969. That is all.

19 CHAIRPERSON ANDERSON: And this is an
20 application to renew the license. What is it
21 that's been renewed? Just to correct the record,
22 what is it that the Vegas Lounge is asking with
23 this renew? What was on the placard? I don't
24 have the placard.

25 MR. VASSAR: They asked for the

1 renewal of their liquor license. I think they
2 have a CN license. And the renewal of the nude
3 dancing endorsement, which is the same renewal
4 they've requested since 1969.

5 CHAIRPERSON ANDERSON: All right. The
6 parties did not participate in mediation?

7 MR. VASSAR: If I might answer, Mr.
8 Chairman, Mr. Blanchard and Mr. Florio
9 participated in the mediation. Ms. Toth was not
10 able to participate in the mediation at that time
11 because there was at that time a motion. They in
12 fact had been dismissed. They then filed a
13 reconsideration of that motion, which the Board
14 granted, that allowed them to participate in
15 these proceedings.

16 CHAIRPERSON ANDERSON: Okay. All
17 right.

18 MR. VASSAR: I would also point out no
19 one has reached out to me since the mediation.
20 And certain documents were promised by Mr.
21 Blanchard's client at the mediation, and I have
22 not received those.

23 CHAIRPERSON ANDERSON: Okay, fine.
24 Yes, Mr. Grandis?

25 MEMBER GRANDIS: May I ask a question?

1 CHAIRPERSON ANDERSON: Sure, sir.

2 MEMBER GRANDIS: Thank you. Thank
3 you, Mr. Chairman.

4 This is to the licensee's
5 representative, that's Mr. Vassar, is that
6 correct?

7 MR. VASSAR: That's correct, sir.

8 MEMBER GRANDIS: So just to clarify
9 this issue about the nude dancing endorsement.
10 Currently, it's in safekeeping which means the
11 establishment is not offering nude entertainment
12 at this time. Is that your understanding?

13 MR. VASSAR: I would have to ask the
14 licensee, but I think that's correct. I would
15 ultimately refer to the licensee who's not with
16 us today, at least on video.

17 MEMBER GRANDIS: It's my understanding
18 from the placard they're simply asking to have
19 the license renewed with the endorsements that
20 they currently are using. And if the licensee
21 does not intend to ask the Board to remove the
22 current nude dancing entertainment endorsement
23 out of safekeeping, the renewal of the
24 application would mean that they would not be
25 utilizing the nude dancing endorsement until they

1 came to the Board and requested that to be
2 removed from safekeeping.

3 Is that your understanding, or do you
4 need to find out from your client?

5 MR. VASSAR: I need to speak with my
6 client, with all due respect.

7 MEMBER GRANDIS: Mr. Chairman, I
8 appreciate your indulgence in letting me, but I
9 think that this can be clarified, hopefully,
10 between the licensee and the agency and with the
11 neighborhood on whether or not this renewal
12 includes the removal from safekeeping of that
13 endorsement. Thank you.

14 CHAIRPERSON ANDERSON: Thank you, Mr.
15 Grandis. I'm not sure if there's any. I believe
16 that the issues were discussed at mediation
17 because I'm not hearing those issues being raised
18 by the ANC or the association. I think it's by
19 their abutting property owner.

20 I think that the group who did not
21 participate who were not granted standing at the
22 roll call, so they did not participate in the
23 mediation. I think that's where the
24 misunderstanding is.

25 So I think, ma'am, I would ask that

1 you reach out. Mr. Vassar said that he is open
2 to speak, that you can reach out to him to
3 ascertain what was discussed.

4 What I'll also ask that you do, ma'am,
5 is also reach out to the ANC because if a
6 settlement agreement is reached between the
7 licensee and the ANC, your protest falls as a
8 representative of the group.

9 So I would ask that you reach out to
10 the ANC to find out what the specific concerns
11 are and whether or not the ANC is in a position
12 to represent your issues or your issues separate
13 and apart from the ANC as a whole.

14 Now, Mr. Blanchard, as an abutting
15 property owner, irrespective of what happened
16 with the ANC, they'll still move on with the
17 hearing -- settlement agreement because they have
18 a separate standard.

19 I'm sorry, give me a minute. We're
20 off the record for one minute.

21 (Whereupon, the above-entitled matter
22 went off the record at 11:39 a.m. and resumed at
23 11:40 a.m.)

24 CHAIRPERSON ANDERSON: I apologize.
25 We're back on the record. I had to get some

1 water speaking, and I apologize for my cough. So
2 please have a conversation with the ANC. You can
3 also reach out to the licensee to get some
4 clarification on the issues at hand.

5 All right, any other preliminary
6 matters from either party?

7 MR. BLANCHARD: No, Mr. Chair, Mr.
8 Anderson. We did have mediation on February 3rd.
9 And as you know, I'm not going to go into those
10 issues because mediation is confidential. And so
11 your advice to Ms. Toth is appreciated because
12 she is not -- doesn't appear to be aware of the
13 issues that were discussed at mediation.

14 CHAIRPERSON ANDERSON: All right,
15 thank you.

16 And, ma'am, you can reach out --

17 MR. BLANCHARD: And we didn't make
18 much progress, so hopefully there will be more
19 discussions between now and the hearing. Thank
20 you.

21 CHAIRPERSON ANDERSON: Mr. Vassar
22 represented that certain assertions were made
23 that he's waiting for documents, and so it
24 appears from what was presented that they're open
25 to further discussions, and the Board supports

1 the discussions by the parties.

2 This is a renewal of a license
3 application, and so therefore the Board supports
4 settlement agreements because if it's a renewal,
5 they are an established establishment.

6 They are there, and if they're going
7 to remain there, then at least if the parties can
8 come to terms about their operation, that's more
9 acceptable than the Board has to make a
10 determination and then the parties may not be
11 happy with whatever decision that the Board
12 makes.

13 That's one of the reasons why we
14 support having the parties settle this matter, if
15 this matter can be settled.

16 So if this matter cannot be settled,
17 this matter then is scheduled for a protest
18 hearing on March 22nd, 2023, at 1:30 p.m. All
19 right, now following this hearing, the parties
20 will receive an email from ABRA Legal that will
21 include a copy of a protest information form,
22 PIP, and a copy of an exhibit form as well as
23 specific instructions for the hearing. You are
24 all required to submit a PIP seven days prior to
25 the hearing.

1 And once the PIP is submitted, the PIP
2 needs to be served on both sides and also ABRA
3 Legal. Failure by either side, the protestants
4 or the licensee, to provide a PIP, the Board is
5 empowered to prevent that person from moving
6 forward.

7 In this particular case now, there are
8 three protestants, so the Board is asking the
9 parties that if this matter goes to a protest
10 hearing, that you designate a designated
11 representative to protest this matter, but we're
12 not going to have three hearings by three
13 parties.

14 If it goes to a hearing, the parties
15 need to work together and jointly agree on a
16 representative who's going to be the focal person
17 as a protestant at that hearing. At the hearing,
18 you're limited to no more than five witnesses,
19 and you have an hour to present your case.

20 If the party believe -- because the
21 nature of this case, if they require more
22 witnesses or more time, then you can make a
23 formal motion to the Board, and the Board will
24 consider that.

25 Is there any other questions?

1 MR. BLANCHARD: Just a quick question.
2 Thank you, Mr. Chairman Anderson. So you're
3 saying that collectively, the protestants have
4 one hour and five witnesses?

5 CHAIRPERSON ANDERSON: Yes, sir.

6 MR. BLANCHARD: Not that each
7 protestant gets one hour and five witnesses times
8 three?

9 CHAIRPERSON ANDERSON: That's
10 collectively.

11 MR. BLANCHARD: Okay.

12 CHAIRPERSON ANDERSON: If you need
13 more time than that or more witnesses, file a
14 formal motion with the Board, and the Board will
15 consider that.

16 MR. BLANCHARD: Understood. Thank
17 you.

18 CHAIRPERSON ANDERSON: You're welcome.

19 Mr. Vassar, yes, sir?

20 You're still on mute, sir.

21 MR. VASSAR: My apologies. Mr.
22 Chairman, just to clarify. At the protest
23 hearing itself, the formal rules of evidence do
24 not apply?

25 CHAIRPERSON ANDERSON: Yes, sir. The

1 formal rules like we do -- and again, it is an
2 administrative process, so no other formal rules,
3 but we try to comply with the rules of evidence.
4 It's not as in court, so they're strictly
5 interpreted that way, sir.

6 MR. VASSAR: Thank you.

7 CHAIRPERSON ANDERSON: All right.

8 Any other questions by anyone?

9 All right. Good luck with your
10 negotiation. If that's all, if this matter then
11 is not settled, we'll see you at the protest
12 hearing on March 22nd at 1:30 p.m.

13 MR. VASSAR: Thank you all.

14 CHAIRPERSON ANDERSON: Have a great
15 day.

16 (Whereupon, the above-entitled matter
17 concluded at 11:45 a.m.)
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This is to certify that the foregoing transcript

In the matter of: Vegas Lounge

Before: DCABRA

Date: 02-15-23

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.



Court Reporter

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