

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

2 10:39 a.m.

3 CHAIRPERSON ANDERSON: Our first order
4 of business is protest hearing status for Case
5 Number 22-PRO-00004, Lidl, License Number 119890.

6 Ms. Fashbaugh, can you please elevate
7 the rights of the parties in this case?

8 MR. JAIN: Good morning, Mr. Chair.
9 Please stand by.

10 CHAIRPERSON ANDERSON: Thank you.

11 MR. JAIN: Commissioner Brown, your
12 rights have been elevated. Stephen O'Brien, your
13 rights have been elevated. And Manelle Mahmoud
14 (phonetic), I do not see on the list. That's
15 all, Mr. Chair.

16 CHAIRPERSON ANDERSON: Thank you.
17 Good morning.

18 MR. O'BRIEN: Good morning, Mr. Chair.

19 CHAIRPERSON ANDERSON: Good morning,
20 Mr. O'Brien. Good morning, everyone. I would
21 like -- could the parties please identify
22 themselves for the record, please, starting with
23 the ANC. I'm sorry.

24 COMMISSIONER BROWN: Tiffany Brown, T-
25 I-F-F-A-N-Y, middle initial L, last name Brown,

1 B-R-O-W-N. I am the chair of ANC 7B. I am also
2 the single member commissioner for 7BL2.

3 CHAIRPERSON ANDERSON: Good morning.
4 Mr. O'Brien.

5 MR. O'BRIEN: Yes. Stephen O'Brien
6 for the applicant, Lidl. It's S-T-E-P-H-E-N,
7 last name O-apostrophe-B-R-I-E-N.

8 CHAIRPERSON ANDERSON: Perfect. Mr.
9 O'Brien, do you have a camera?

10 MR. O'BRIEN: Yes. I thought I had --
11 how about now.

12 CHAIRPERSON ANDERSON: Yes. I can see
13 you now. I also would like for the record to
14 reflect at some point, I was an ANC Commissioner
15 in ANC 7B, and so while I was an ANC
16 Commissioner, I have not been an ANC Commissioner
17 in this ANC for over four years now. I did work
18 with Ms. -- Commissioner Brown as an ANC
19 Commissioner, and I do -- although this is not my
20 single member district, but I do live in the
21 vicinity where this supermarket potential
22 licensee is located. However, based on although
23 I am -- I'm familiar with the area, I know
24 Commissioner Brown, I believe that my previous
25 knowledge of Ms. Brown and knowing the area will

1 not impact the decisions that I can make in this
2 case. I just wanted the record to reflect that,
3 my familiarity with the Commissioner and also
4 with the area. But I believe that I can make, as
5 I've always made, decisions that are in the best
6 interest overall for the residents of the
7 District of Columbia.

8 MEMBER SHORT: Mr. Chairman?

9 CHAIRPERSON ANDERSON: Yes, Mr. Short.

10 MEMBER SHORT: Yes. I would also like
11 to go on the record as stating that I do live in
12 7B, in Hillcrest, Southeast Washington, D.C.,
13 have for the last 33 years. And that will have
14 no bearing on my decision-making involving this
15 case. I can do this fairly and will do it fairly
16 and in the best interests of all the citizens of
17 the District of Columbia. Thank you.

18 CHAIRPERSON ANDERSON: Mr. O'Brien,
19 I've stated my position. Do you have anything
20 you want to state for the record?

21 MR. O'BRIEN: I certainly have no
22 objection to the Chair or Chief Short hearing
23 this case. This is -- what, the District is only
24 64 square miles. If physical proximity to a
25 location were grounds for disqualification,

1 there'd be disqualifications in every single case
2 that comes before the Board. So we certainly
3 have no objection to the full Board including the
4 Chair and Chief Short hearing this case.

5 CHAIRPERSON ANDERSON: Thank you, Mr.
6 O'Brien. Part of the licensing it was important
7 enough, so I want the record to reflect my -- I
8 normally don't have one of these things I'll
9 state as living in Ward 7, one of the -- at least
10 in the area of Ward 7, but I live -- I usually do
11 not have to make these disclosures because we do
12 not have many licensees, at least in my specific
13 area. So it does shield me from making these
14 statements, because of the -- I live, for me for
15 choice, my choice, that there are not necessarily
16 a lot of licensees where I specifically live.

17 All right. Are there any preliminary
18 matters in this case that the parties wish to
19 bring to the Board? We'll start with you, Mr.
20 O'Brien.

21 MR. O'BRIEN: No, sir.

22 CHAIRPERSON ANDERSON: Ms. Brown?

23 COMMISSIONER BROWN: No.

24 CHAIRPERSON ANDERSON: All right.

25 This matter then -- if this matter goes to a

1 hearing, it's scheduled for a show cause -- I'm
2 sorry -- a protest hearing on April 6, 2022 at
3 1:30 p.m. I just want to remind the parties that
4 if this matter goes to a show cause -- I'm sorry,
5 why am I saying show cause -- a protest hearing,
6 that each party is required to exchange documents
7 and witnesses seven days prior to the hearing.
8 If the parties fail to disclose these documents
9 to each side and to the agency, the -- either
10 side might be prevented from relying on documents
11 or witnesses that were not disclosed prior. And
12 again, because these hearings are now done
13 virtually, each side is no -- each side will have
14 one hour to present its case, and you can have no
15 more than five witnesses, but -- I'm sorry, let
16 me -- one of the -- hold on one minute, please.
17 I want to make sure that I'm reading the -- yes,
18 each side will have no more than five witnesses
19 if this matter goes to a protest hearing.

20 As I always do, I -- the agency or the
21 Board supports the parties settling or having a
22 settlement agreement. We support that and we
23 prefer that if there's an agreement, at least
24 both sides will leave happy rather than having
25 the Board make a decision, because once the Board

1 makes the decision, one side might be happy, the
2 other side might be unhappy. So the Board always
3 supports settlement in all these protest matters.

4 Are there any questions while you
5 decide?

6 COMMISSIONER BROWN: No, none for me.

7 MR. O'BRIEN: That's right.

8 CHAIRPERSON ANDERSON: All right.

9 Then if the matter is not settled, I will see you
10 then on April 6th at 1:30 p.m.

11 MR. O'BRIEN: Thank you.

12 CHAIRPERSON ANDERSON: Have a great
13 day.

14 COMMISSIONER BROWN: Thank you.

15 (Whereupon, the above-entitled matter
16 went off the record at 10:46 a.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Lidl

Before: DC ABRA

Date: 03-09-22

Place: teleconference

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



Court Reporter

NEAL R. GROSS

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