

IN THE MATTER OF: :
 :
BE2 LLC, Inc., :
t/a Suburban Market :
4600 Sheriff Road, N.E. : Protest Hearing
License No. 108109 : (Status)
Retailer B - ANC 7C :
Case # 21-PRO-00009 :
 :
(Application to Renew :
License) :

Wednesday
March 10, 2021

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

PRESENT:

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

ALSO PRESENT:

SIMONE ANDREWS, DC ABRA Staff
BINIAM HABTEMICHAEL, Applicant
ANTAWAN HOLMES, ANC 7C

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

2 10:12 a.m.

3 CHAIRPERSON ANDERSON: The next case in
4 our calendar is Case No. 21-PRO-00009, Suburban
5 Market, License No. 108109.

6 Ms. Andrews, can you please elevate
7 the rights of the licensees and the protestor,
8 please.

9 MS. ANDREWS: Sure. Stand by.

10 (Pause.)

11 MS. ANDREWS: Commissioner Holmes, your
12 rights have been elevated. That's all, Mr.
13 Chair.

14 CHAIRPERSON ANDERSON: Isn't the
15 licensee on today? The licensee should be -- the
16 licensee is being represented by an attorney.

17 The attorney has informed us that
18 because of a medical appointment, that he would
19 not -- he's not available to participate today,
20 but it's my understanding that the licensee
21 should be on the line.

22 Let me see if I have -- I don't have
23 the name of the licensee -- I have the name of
24 the licensee, but there is a licensee who I
25 believe who should be either in the chat or on

1 the phone to identify himself -- him or herself.

2 MS. ANDREWS: Mr. Chair, the licensee
3 is not on the line.

4 CHAIRPERSON ANDERSON: He's not on the
5 line? All right.

6 (Pause.)

7 CHAIRPERSON ANDERSON: All right. What
8 I'm going to do is I'm going to recall this case.

9 Mr. Holmes, I know that you are there.
10 It's my understanding that the attorney had
11 informed us that he would -- he was unable to
12 represent the establishment today based on a
13 medical appointment, but it was also my
14 understanding that the licensee would
15 participate.

16 So, what I'm going to do is we're
17 going to move on with our calendar and just give
18 us a chance to -- I do not -- and the reason I --
19 this is very important, like, when we have the
20 protest hearing status if the individual does not
21 show up, I will dismiss the case.

22 I don't want to dismiss the renewal in
23 this particular case because the attorney had
24 told us that he could not participate for
25 whatever reason.

1 MR. HOLMES: I was at the meeting
2 yesterday and he also said the applicant was
3 going to come to the meeting, sir.

4 And so, that's why we're still --
5 that's why I'm here and I got to get back to
6 work. So --

7 CHAIRPERSON ANDERSON: Well, both
8 people are expected to be here today.

9 MR. HOLMES: Yes.

10 CHAIRPERSON ANDERSON: So, I will ask
11 you to -- normally what I do is that if -- for
12 participating in person, the hearing was
13 scheduled for ten o'clock. I will recall the
14 case at 10:30.

15 So, I'm going to move on with our
16 calendar and I will recall the case at 10:30.
17 So, give me until 10:30, sir, and let me see what
18 happens between now and 10:30. Okay?

19 MR. HOLMES: All right. Thank you.

20 CHAIRPERSON ANDERSON: I'm not doing a
21 special -- All right. I'm just saying that's the
22 normal procedure that I do, sir. So, I'm sorry
23 for the inconvenience.

24 All right. So, I will recall if
25 someone can assist in finding where the licensee

1 is, but I'll recall this case as the normal
2 procedure that I do.

3 As stated before, I normally -- the
4 calls -- this case was scheduled for ten o'clock.
5 I normally give half an hour.

6 If the person doesn't show up in a
7 half an hour when I recall the case, then I will
8 dismiss it.

9 (Whereupon, the above-entitled matter
10 went off the record at 10:16 a.m. and resumed at
11 10:34 a.m.)

12 CHAIRPERSON ANDERSON: Let me recall
13 this case on our calendar, Case No. 21-PRO-00009,
14 Suburban Market, License No. 108109.

15 Ms. Andrews, can you please elevate
16 the rights of the licensee, please.

17 MS. ANDREWS: Mr. Chair, I'm going to
18 go ahead and unmute the line for the licensee.

19 CHAIRPERSON ANDERSON: Thank you.

20 MS. ANDREWS: The licensee's line has
21 been unmuted.

22 Could you please announce yourself?
23 I do not have your name.

24 (Pause.)

25 MS. ANDREWS: Would the licensee for

1 Suburban Market please announce yourself? We do
2 not have your name.

3 (Pause.)

4 CHAIRPERSON ANDERSON: Hello, sir. Can
5 you please identify yourself for the record?

6 MR. HABTEMICHAEL: Oh. Hello. Good
7 morning, everyone. This is Biniam Habtemichael.
8 I'm the owner of the Suburban Market.

9 CHAIRPERSON ANDERSON: Can you please
10 spell your name, sir, please.

11 MR. HABTEMICHAEL: This is Biniam
12 Habtemichael.

13 CHAIRPERSON ANDERSON: Spell your name,
14 sir.

15 MR. HABTEMICHAEL: B like boy, I as
16 international, N as in Nancy, I as international,
17 A as Arthur, M as in Mary.

18 The last name Habtemichael. H like
19 Howard, A like apple, B like boy, T as teacher, E
20 as Edward, M as in Mary, I as international, C as
21 in cat, H as in Howard, A as Arthur, E as Edward,
22 L as in Larry. Habtemichael.

23 CHAIRPERSON ANDERSON: I'm sorry, just
24 one more time for me, sir. Again, one more time
25 for me.

1 I'm just saying just state your name
2 one more -- state your last name one more time
3 for me, sir, please.

4 MR. HABTEMICHAEL: Okay. Sure. H as
5 in Howard, A as in --

6 CHAIRPERSON ANDERSON: No, no, not to
7 spell it.

8 How do you pronounce it, please, sir?

9 MR. HABTEMICHAEL: Oh, "hab-ta-my-col."

10 CHAIRPERSON ANDERSON: Habtemichael.
11 Okay.

12 MR. HABTEMICHAEL: Yes, sir.

13 CHAIRPERSON ANDERSON: Good morning.

14 MR. HABTEMICHAEL: Good morning.

15 CHAIRPERSON ANDERSON: Mr. Holmes,
16 could you please identify yourself on the record,
17 please.

18 (Pause.)

19 CHAIRPERSON ANDERSON: You need to
20 unmute yourself, sir. Mr. Holmes, yes, go ahead.

21 MR. HOLMES: Antawan Holmes, chair of
22 ANC 7C.

23 CHAIRPERSON ANDERSON: Can you please
24 spell your name for the record, please, sir.

25 MR. HOLMES: A- T-A-W-A-N. Last name

1 Holmes, H-O-L-M-E-S.

2 CHAIRPERSON ANDERSON: All right. Good
3 morning, everyone. Are there any preliminary
4 matters that needs to be brought to the attention
5 of the Board by either side?

6 (Pause.)

7 CHAIRPERSON ANDERSON: Mr. Holmes?

8 MR. HOLMES: Okay. So, in terms of
9 preliminary matters, you want to discuss such as
10 what the ANC 7C --

11 CHAIRPERSON ANDERSON: No, just if you
12 have any problems and stuff, not -- I don't want
13 -- not the substance.

14 Just any -- if there is some
15 preliminary type of issues that you're having,
16 you need to bring it to the attention of the
17 Board. That's all.

18 MR. HOLMES: No, I'm not -- I don't
19 know which category that would be.

20 CHAIRPERSON ANDERSON: All right. I'm
21 just saying you don't -- the bottom line is you
22 don't have any issues, right?

23 So, what you're saying is that I guess
24 you had -- you had a mediation yesterday. So --

25 MR. HOLMES: Yes.

1 CHAIRPERSON ANDERSON: All right. Is
2 there a follow-up mediation or --

3 MR. HOLMES: Yeah. The mediation
4 yesterday was the applicant and the lawyer. The
5 applicant, we -- ANC 7C asked for the applicant
6 and the lawyer to work with the affected
7 neighborhood, which is the Deanwood Citizens
8 Association, to work on a settlement agreement.

9 The applicant --

10 CHAIRPERSON ANDERSON: I'm not -- thank
11 you. I don't want to hear the substance. And
12 the reason I'm saying that -- I'm not trying to
13 cut you off -- is that -- well, like, I don't
14 want to hear the nature of the discussions that
15 you guys had because that's -- I'm sorry, that's
16 confidential.

17 MR. HABTEMICHAEL: Sure.

18 CHAIRPERSON ANDERSON: So, that's why
19 I cut you off.

20 MR. HABTEMICHAEL: That's fine.

21 CHAIRPERSON ANDERSON: Yeah. It's just
22 to let you know that what happens in mediation is
23 confidential. So, it not necessarily should be
24 shared with the Board.

25 So, say, for example, if you're having

1 problems getting in contact with the licensee or
2 those type of issues, that's what -- when I ask
3 if there are preliminary issues, that's what I am
4 asking for.

5 MR. HABTEMICHAEL: Okay. Not a
6 problem. Based on what you said, we don't have
7 any issues.

8 CHAIRPERSON ANDERSON: Okay. Thank
9 you. I'm fine.

10 Mr. Habtemichael, is there any issue
11 that you need to present to the Board?

12 MR. HABTEMICHAEL: I'm sorry, Judge, I
13 mean, I have sort of understanding of the
14 decision. That's why I have the lawyer, you
15 know. He know more, you know.

16 I mean, I agree with all of the idea
17 of the one they are going to ask to me, but I not
18 agree about the -- I mean, they ask me about the
19 hours of am I open the --

20 CHAIRPERSON ANDERSON: All right. Mr.
21 Habtemichael, I'm sorry, sir. I don't mean to
22 cut you off, but, as I stated to Mr. Holmes, the
23 nature of the conversation that you have had
24 during mediation, that's not something that
25 should be shared with the Board.

1 I know that you have an attorney and
2 I guess you, your attorney and the agency and the
3 civic association that you guys are negotiating
4 and fine.

5 If you are able to -- if both sides
6 are able to have a settlement agreement, then
7 that's fine. If not, we'll have a protest
8 hearing.

9 All right. I don't have a date at
10 this moment for the protest hearing, but the
11 Agency will provide both sides with the date for
12 the protest hearing; is that okay?

13 MR. HABTEMICHAEL: I'm sorry, say again
14 one more time, please.

15 CHAIRPERSON ANDERSON: What I'm saying
16 is that normally I will schedule -- I will give
17 you a date for the hearing.

18 MR. HABTEMICHAEL: Okay.

19 CHAIRPERSON ANDERSON: I do not have a
20 date at this time when the hearing is scheduled
21 for, but the Agency will inform both yourself,
22 the Agency and your attorney of the date --
23 excuse me, of the protest hearing; do you
24 understand?

25 MR. HABTEMICHAEL: Okay. I understand.

1 Okay. We need to -- okay. This hearing -- okay.

2 CHAIRPERSON ANDERSON: Right. So, if
3 the parties are unable to come to a settlement
4 agreement, we'll have the hearing, but we'll
5 provide the date and time of the hearing. Okay?

6 MR. HABTEMICHAEL: Okay.

7 CHAIRPERSON ANDERSON: Now that we're
8 scheduling this matter for a protest hearing,
9 there are a few things that I would like to
10 instruct you about because the Board's practices
11 under the COVID-19 restrictions have changed.

12 MR. HABTEMICHAEL: Okay.

13 CHAIRPERSON ANDERSON: As you know, the
14 Board's hearings are conducted virtually.

15 Are you still there, Mr. Holmes?

16 MR. HABTEMICHAEL: Yeah, I hear you.

17 CHAIRPERSON ANDERSON: No, not you.
18 I'm talking about Mr. Holmes, the ANC Commission
19 Chair. Are you still there?

20 I just want to make -- you don't
21 necessarily have to be on camera, I just want to
22 make sure that you're still there, but that's
23 fine. All right.

24 As you know, the Board's hearings are
25 conducted virtually. So, it is more important

1 than ever that protest hearings are focused and
2 addresses only those issues that are being
3 protested.

4 Following this hearing, you will
5 receive an email from AGC April Randall that will
6 include a copy of the protest information form
7 and a copy of an exhibit form, as well as
8 specific instructions for the hearing.

9 You are required to complete and
10 submit the PIP and exhibit forms at least seven
11 days before the date of the hearing.

12 If we do not receive a copy of your
13 forms seven days before the hearing, your
14 application or your protest may be subject to
15 dismissal.

16 These documents need to be submitted
17 to the abra.legal.dc.gov and to the opposing
18 parties.

19 Please know that these documents
20 greatly assist the Board and narrow the protest
21 issues, facilitate the process and keeping the
22 parties on point during the hearing.

23 Third, each side is limited to no more
24 than five witnesses and you will only have 60
25 minutes to present your case.

1 This includes all direct and cross
2 examination. The Board does not intend to hear
3 testimony on matters that are not relevant to
4 those issues that are being protested.

5 Are there any questions by either
6 side?

7 MR. HOLMES: And all of that will be
8 sent to us in email, too, because I wanted to
9 make sure I --

10 CHAIRPERSON ANDERSON: Yes. Ms.
11 Randall will send you an -- I'm sorry, Ms.
12 Randall will send you an email to provide all the
13 information that I just read.

14 MR. HOLMES: Excellent. Thank you.

15 CHAIRPERSON ANDERSON: I just want to
16 say to you if you hear nothing else that I've
17 stated this morning, and Ms. Randall will also
18 send you the information, please make sure that
19 if we go to a protest hearing, several days
20 before the hearing each side needs to exchange
21 documents or witnesses, provide a copy to the
22 Board, and provide a copy to each side.

23 And also you will -- if we go to a
24 hearing, you only have one hour and you can only
25 have no more than five witnesses. All right?

1 MR. HABTEMICHAEL: Okay.

2 CHAIRPERSON ANDERSON: All right. We
3 thank you greatly for your cooperation. If you
4 have any questions at any time leading up to the
5 hearing, please do not hesitate to contact
6 Assistant General Counsel April Randall at 202-
7 329-6354.

8 Thank you very much for your
9 participation today. If you have any questions,
10 please reach out to Ms. Randall. Ms. Randall
11 will provide any type of guidance to either side
12 that you need moving forward. Okay?

13 MR. HOLMES: Thank you.

14 CHAIRPERSON ANDERSON: All right. Have
15 a great day. Thank you very much.

16 MR. HABTEMICHAEL: Excuse me. Can you
17 repeat the phone number, please.

18 CHAIRPERSON ANDERSON: 202-329 --

19 MR. HABTEMICHAEL: Two?

20 CHAIRPERSON ANDERSON: 202-329-6354.

21 MR. HABTEMICHAEL: Yeah. 202-329-6354.

22 CHAIRPERSON ANDERSON: Yes.

23 MR. HABTEMICHAEL: Okay. Thank you so
24 much. Thank you.

25 CHAIRPERSON ANDERSON: All right.

1 Thank you. Have a great day.

2 MR. HABTEMICHAEL: All right. Have a
3 good day.

4 CHAIRPERSON ANDERSON: All right. Bye-
5 bye.

6 MR. HABTEMICHAEL: Bye-bye.

7 (Whereupon, the above-entitled matter
8 went off the record at 10:45 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: Suburban Market

Before: DC ABRA

Date: 03-10-21

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

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