

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE AND CANNABIS BOARD
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MEETING

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IN THE MATTER OF: :
 :
UpNSmoke II, LLC :
427 8th Street SE :
Retailer MC - ANC 6B :
License #126850 :
Case # 24-PRO-00008 :
 :
(Application for a New :
License.) :
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Wednesday
March 20, 2024

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

PRESENT:

DONOVAN W. ANDERSON, Chairperson
SILAS GRANT, JR., Member
JAMES SHORT, JR., Member

ALSO PRESENT:

JOSE ORELLANA, DC ABCA Staff
ZACK LEARMAN, Applicant
CHANDER JAYARAMAN, Protestant
DAVID SOBELSOHN, ANC 6B

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

2 (10:34 a.m.)

3 CHAIRPERSON ANDERSON: The next case
4 on our calendar is Case Number 24-PRO-00008,
5 UpNSmoke II, License Number 126850.

6 Good morning, Mr. Orellana. Can you
7 please elevate the rights of the ANC and the
8 licensee in this case, please?

9 MR. ORELLANA: Sure thing. Good
10 morning.

11 ANC Commissioner David Sobelsohn, your
12 access has been elevated.

13 Chander Jayaraman, your access has
14 been elevated.

15 And Zack Learman, your access has been
16 elevated.

17 That is all, Chairman.

18 CHAIRPERSON ANDERSON: Thank you.

19 Mr. Learman, do you have a camera you
20 can turn on?

21 MR. LEARMAN: Can you hear me, sir?
22 I'm sorry. I'm having some trouble connecting.
23 I'm calling in.

24 CHAIRPERSON ANDERSON: Okay. I can
25 now hear you. All right.

1 Good morning, everyone. Let's start
2 with -- let me have the parties identify
3 themselves for the record by spelling and stating
4 their name.

5 Let's start with you, Mr. Learman.

6 MR. LEARMAN: Hey, there. Sorry about
7 the camera situation. I am trying to turn that
8 on, but my name is Zack Learman on behalf of
9 UpNSmoke II.

10 CHAIRPERSON ANDERSON: Spell your name
11 for the record, please, sir.

12 MR. LEARMAN: Yes, sir. Z-A-C-K, last
13 name Learman, L-E-A-R-M-A-N.

14 CHAIRPERSON ANDERSON: Good morning.

15 MR. LEARMAN: Good morning.

16 CHAIRPERSON ANDERSON: All right.

17 Mr. Jayaraman, can you please spell
18 and state your name for the record?

19 MR. JAYARAMAN: Sure. My name is
20 Chander Jayaraman. I am the chair of ANC 6B's
21 Alcohol Beverage and Cannabis Committee. First
22 --

23 CHAIRPERSON ANDERSON: You are -
24 you're --

25 MR. JAYARAMAN: Last name,

1 J-A-Y-A-R-A-M-A-N.

2 CHAIRPERSON ANDERSON: You are -- it
3 appears that you're moving, so your connection is
4 poor. Just want to let you know that, sir.

5 MR. JAYARAMAN: Thank you. My
6 apologies.

7 CHAIRPERSON ANDERSON: All right.

8 Mr. Sobelsohn, can you please spell
9 and state your name for the record?

10 MR. SOBELSOHN: My name is David
11 Sobelsohn. I'm the ANC Commissioner for the
12 Single-Member District that includes the
13 applicant's proposed site. My name is spelled
14 D-A-V-I-D, that's David, Sobelsohn is S, as in
15 Sam, O-B, as in boy, E-L-S, as in Sam, O-H-N as
16 in Nancy, S-O-B-E-L-S-O-H-N.

17 CHAIRPERSON ANDERSON: Good morning,
18 sir. Good morning. Welcome.

19 MR. SOBELSOHN: Good morning.

20 CHAIRPERSON ANDERSON: All right.

21 Mr. Learman, I can see you. I just
22 wanted to let you know that I can see you, sir.
23 Are there any preliminary matters? Meaning that
24 -- are there any preliminary matters that you
25 need to make the Board aware of? You're on mute,

1 sir.

2 MR. LEARMAN: Sorry about that. Yes,
3 none on my end. I can give you a brief overview
4 if you like of where we are if that would be
5 helpful. I think it would.

6 We had reached a settlement agreement
7 and the ANC 6B had voted to approve the terms.
8 We then submitted the settlement agreement for
9 review to ABCA Legal. ABCA Legal had some issues
10 with some of the provisions.

11 And right now, I believe 6B is coming
12 up with some alternative provisions that work,
13 and I'm amenable to, you know, what we previously
14 agreed to. I'm amenable to ABCA Legal's proposed
15 changes, which I don't think 6B is, but from my
16 perspective, we're on the same page, and we're
17 coming to an accord. It's just a matter of
18 getting some alternate wording down.

19 MR. SOBELSOHN: Yes, I agree with Mr.
20 Learman. I think it's just a matter of time.

21 CHAIRPERSON ANDERSON: All right.
22 Well, thanks for the presentation. As you know,
23 settlement agreements are provided to the Agency
24 and for the Board for approval. And from a legal
25 perspective, if there are provisions in an

1 agreement that we believe are unenforceable,
2 that's one of the reasons why legal will inform
3 the parties that because those are unenforceable,
4 they cannot be in a settlement agreement.

5 I don't know what the concerns are.
6 I'm just saying, generally, those are -- so if
7 it's brought back to the parties to say that
8 certain provisions needs to be removed from a
9 settlement, it is not because we do not agree
10 with their provision. It is because, from a
11 legal perspective, the Agency has determined that
12 it is unenforceable, okay?

13 So, I just want to give you, just,
14 that's the perspective of the Agency. So
15 whenever a settlement agreement is brought to the
16 Board, because legal has reviewed it and legal
17 has said to us that all the provisions can be
18 enforced, they are enforceable and once they
19 believe that it's legally, that all the
20 provisions in an agreement are legally
21 enforceable, then the Board will be asked to vote
22 to approve or disapprove with the settlement
23 agreement.

24 Mr. Jayaraman, I see you have your
25 hand up, sir.

1 MR. JAYARAMAN: Yes. Thank you very
2 much. I want to --

3 (Audio interference.)

4 CHAIRPERSON ANDERSON: I can hardly
5 hear you, sir. I can hardly -- maybe turn your
6 video off, and maybe I can hear you better.

7 MR. JAYARAMAN: Let me see. Better
8 now?

9 CHAIRPERSON ANDERSON: Not really. I
10 think it's because you're moving so, that's why
11 I'm saying if you turn your video off, maybe I'll
12 be able to hear you better because I cannot hear
13 you.

14 No, sir, I can't hear you. No, I
15 can't hear you. I cannot hear you, sir.

16 MR. JAYARAMAN: Can you all hear me
17 now?

18 CHAIRPERSON ANDERSON: Yes, I can hear
19 you better, yes.

20 MR. JAYARAMAN: I wanted to --

21 (Audio interference.)

22 CHAIRPERSON ANDERSON: Mr. Jayaraman,
23 I can't hear you now. No. I cannot hear
24 anything you're saying, sir. All right. I think
25 that -- our IT person says that if you want to

1 call in maybe, you can. If you want to call in,
2 I'll wait a minute for you to call in if you want
3 to do that, sir. Are you going to call in? No?
4 All right. Fine. Okay. Thank you.

5 All right. It appears that this
6 matter will be settled since the parties have
7 provided a settlement agreement to the Agency, or
8 it's undergoing legal review, but if this matter
9 is not settled, then we'll have a protest hearing
10 on April 3rd at 1:30 p.m.

11 And the only thing I just want to
12 remind the parties if this matter actually goes
13 to a hearing, you have to do the PIP and seven
14 days -- oh, I will answer that question in a
15 minute -- and seven days prior to the hearing,
16 you have to do the PIP.

17 If the parties -- I think in this case
18 because a settlement agreement was provided to
19 the Agency, and it's under legal review, the
20 parties can jointly file a motion to continue
21 this hearing because the hearing is scheduled for
22 April 3rd, so the parties can jointly file a
23 motion to the Board to ask to continue the
24 hearing, and we will continue it because as was
25 presented today, a settlement agreement was

1 provided to the Agency, and it's under legal
2 review.

3 So, just send something in writing,
4 and the Board will grant the extension, the
5 postponement of the hearing so the parties can
6 continue discussing settlement, okay?

7 MR. SOBELSOHN: What's the deadline?

8 CHAIRPERSON ANDERSON: You can do it
9 at any point. I will also alert our Agency.
10 I'll alert the Agency. And legal is on top of it
11 because, as I stated before, this matter is
12 scheduled for a hearing on the 3rd, and a
13 settlement agreement was provided to the Agency,
14 and it's under legal review.

15 I believe that there should be no
16 problem with the Board agreeing to postpone the
17 hearing so the parties can finalize the points
18 with legal prior to the Board approving the
19 agreement, okay?

20 MR. SOBELSOHN: Thank you.

21 CHAIRPERSON ANDERSON: All right.
22 Thank you. All right.

23 So, Mr. Learman, did you have
24 something to say, sir?

25 MR. LEARMAN: Thank you, sir. I was

1 just going to say I can draft the continuance and
2 run it by the Commissioners to review before --
3 like, logistically, I can draft it and have you
4 guys take a look at it, and then I'll send it to
5 --

6 CHAIRPERSON ANDERSON: Yes, that's
7 fine. Thank you.

8 MR. LEARMAN: Thank you, sir.

9 CHAIRPERSON ANDERSON: All right.
10 Thank you. Have a great day then. All right,
11 then, bye-bye.

12 (Whereupon, the above-entitled matter
13 went off the record at 10:44 a.m.)
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A	<p>call 8:1,1,2,3 calling 2:23 camera 2:19 3:7 Cannabis 1:2,13 3:21 case 1:8 2:3,4,8 8:17 certain 6:8 chair 3:20 Chairman 2:17 Chairperson 1:13,16 2:3,18,24 3:10,14,16 3:23 4:2,7,17,20 5:21 7:4,9,18,22 9:8,21 10:6,9 Chander 1:20 2:13 3:20 changes 5:15 COLUMBIA 1:1 coming 5:11,17 Commissioner 2:11 4:11 Commissioners 10:2 Committee 3:21 concerns 6:5 connecting 2:22 connection 4:3 continuance 10:1 continue 8:20,23,24 9:6</p>	<p>give 5:3 6:13 goes 8:12 going 8:3 10:1 Good 2:6,9 3:1,14,15 4:17,18,19 grant 1:17 9:4 great 10:10 guys 10:4</p>	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: UpNSmoke II

Before: DC ABCA

Date: 03-20-24

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.

Neal R Gross

Court Reporter

NEAL R. GROSS

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