

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

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IN THE MATTER OF: :
: :
Serengeti Entertainment :
Group, Inc., :
t/a Serengeti Restaurant :
Lounge :
6210 Georgia Ave NW : Protest
Retailer CR - ANC 4A : Hearing (Status)
License #123439 :
Case # 23-PRO-00022 :
: :
(Application for a New :
License) :
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Wednesday
April 12, 2023

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:

SAMUEL MURIITHI, Applicant
JOSE ORELLANA, DC ABRA Staff
KIM PATTERSON, ANC 4A

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

2 10:55 a.m.

3 CHAIRPERSON ANDERSON: The next case
4 on our calendar is Case number 23-PRO-00022,
5 Serengeti Restaurant Lounge, License number
6 123439. Mr. Orellana, can you please elevate the
7 licensee and the protestant in this case, please.

8 MR. ORELLANA: Mr. Murithi, your
9 access has been elevated. Kim Patterson, your
10 access has been elevated. That appears to be
11 all, Chairman.

12 CHAIRPERSON ANDERSON: Thank you.

13 MS. PATTERSON: Hi. This is
14 Commissioner Kim Patterson.

15 CHAIRPERSON ANDERSON: Yes. Hold on
16 a minute, please. If, both parties, if you have
17 a camera can you please turn your camera on,
18 please?

19 Yes, Mr. Murithi, do you have a camera
20 you can turn on, sir? Mr. Murithi? All right.
21 Thank you. All right. Good morning, everyone.

22 MS. PATTERSON: Good morning.

23 CHAIRPERSON ANDERSON: Let's, I would
24 like the parties to identify themselves for the
25 record by spelling and stating their name. Let's

1 start with the licensee. You need to unmute
2 yourself, sir. I can't hear you.

3 MR. MURIITHI: My name is Samuel
4 Murithi.

5 CHAIRPERSON ANDERSON: How do you
6 spell your name, sir?

7 MR. MURIITHI: S-A-M-U-E-L, last name
8 is M-U-R-I-T-H-I.

9 CHAIRPERSON ANDERSON: And what's your
10 relationship to this establishment, sir?

11 MR. MURIITHI: I'm the, I want to
12 mention that my wife, who is my helper.

13 CHAIRPERSON ANDERSON: Are you the
14 owner of this establishment, sir?

15 MR. MURIITHI: Yes, I am.

16 CHAIRPERSON ANDERSON: Okay.

17 MR. MURIITHI: One of the --

18 CHAIRPERSON ANDERSON: All right.

19 Thank you. Ms. Patterson, can you please
20 identify yourself for the record by spelling and
21 stating your name, please?

22 MS. PATTERSON: Yes. Hi. I'm
23 Commissioner Kim Patterson. I am ANC 4A05. My
24 last name is P-A-T-T-E-R-S-O-N.

25 CHAIRPERSON ANDERSON: Good morning.

1 MS. PATTERSON: Good morning.

2 CHAIRPERSON ANDERSON: All right.

3 This matter is scheduled for a -- Are there, Mr.
4 Murithi, do you have any preliminary matters that
5 you'd like to bring to the attention, not
6 substantive, but just process. But if you have,
7 any issues that you have that you want to bring
8 to the attention of the Board?

9 MR. MURIITHI: Well, we have the
10 mediation. And I don't have much except for
11 Number 9 of the draft settlement that is in our
12 agreement.

13 CHAIRPERSON ANDERSON: All right. So,
14 you guys have had mediation. And you have, are
15 discussing settlement. Okay. That, I don't want
16 to hear the substance. I just want, just if you
17 had any problems. Okay. All right. That's fine
18 then. Ms. Patterson.

19 MS. PATTERSON: Yes. So, I have two
20 issues of concern. During the mediation there
21 was a lot of back and forth. And Ms. Fletcher
22 was very helpful about a summer garden issue,
23 which is a rear deck establishment that is not
24 fully constructed.

25 Because it's not fully constructed,

1 and there is no permits through DCRA, Ms.
2 Fletcher advised us to remove it from the
3 agreement.

4 The owners would like to serve food
5 and alcohol on the summer garden when it is fully
6 constructed and permitted. However, the ANC and
7 the neighbors do not want that to occur.

8 Because the construction is not fully
9 complete or permitted Ms. Fletcher has told us,
10 therefore, it does not exist, although it is
11 halfway built.

12 I am okay with removing any terms
13 about the summer garden out of this agreement.
14 But I am concerned that when it is fully
15 constructed and permitted there will be alcohol
16 and food served on it. And I need to prevent
17 that.

18 CHAIRPERSON ANDERSON: Well, I think
19 at this juncture I don't know the, I have not
20 seen the application. So, if the, if on his
21 application, if there is a summer garden and he's
22 asking for, if he's asking for a license, a
23 summer garden endorsement, then yes, you, these
24 are issues that can be discussed at a, if the
25 parties are discussing settlement.

1 Of course, if the license is granted,
2 the Agency's not going to grant the license until
3 they have had a certificate of occupancy, or
4 anything like that.

5 But I'm just saying these are issues
6 that can be discussed if as, if on his
7 application itself he is requesting a summer
8 garden. So, what I'll ask you to do, I'm sorry,
9 go ahead, ma'am.

10 MS. PATTERSON: So, Mr. Anderson, are
11 you saying at this juncture the summer garden in
12 the settlement agreement, any mention of it
13 should be removed, because there's no certificate
14 of occupancy?

15 CHAIRPERSON ANDERSON: I'm not saying
16 that, ma'am. I'm not saying that.

17 MS. PATTERSON: Okay.

18 CHAIRPERSON ANDERSON: I'm going to
19 also have you direct, I'm also going to have you
20 speak to our legal division.

21 MS. PATTERSON: Okay. Okay.

22 CHAIRPERSON ANDERSON: However, what
23 I'm saying is that what was placarded? On the
24 placard notice was there a summer garden on the
25 placard notice, ma'am?

1 MS. PATTERSON: Yes.

2 CHAIRPERSON ANDERSON: All right. So,
3 if there was, if it was placarded that he plans
4 to have a summer garden that can be discussed in
5 a settlement agreement.

6 But I'm going to direct to both
7 parties that you can contact our legal office.
8 And our legal office will provide you more
9 guidance in how to, what can or cannot be
10 included in a settlement agreement if the parties
11 are planning, or truly believe that this matter
12 can be settled. Okay.

13 MS. PATTERSON: Okay.

14 CHAIRPERSON ANDERSON: Sir, do you
15 have a question you want to raise, sir? Just
16 procedure, not substantive, just procedural, like
17 she had asked. So, what's your question, sir?

18 MR. MURIITHI: Well it is not a
19 question related. But the summer garden is
20 already out. It's not on the application
21 anymore. When the settlement going to just get
22 out, and continue with the licensing. Number 1,
23 the summer garden is on the occupancy.

24 CHAIRPERSON ANDERSON: I'm sorry. No,
25 I'm having, raise your voice a little bit, sir.

1 I'm having some trouble hearing you.

2 MR. MURIITHI: The summer garden is on
3 the occupancy permit. We have been approved by
4 the DCRA. And the --

5 MS. PATTERSON: When did that occur?
6 Because --

7 CHAIRPERSON ANDERSON: I'm sorry.

8 MS. PATTERSON: Because it's not
9 completed.

10 CHAIRPERSON ANDERSON: I'm sorry.
11 Hold on. Hold on. Hold on. I'm not, this is,
12 what I will say, I think that you guys need to
13 discuss this further. Maybe you need another
14 mediation.

15 Or maybe you could, maybe you can
16 also, I don't know what information was provided
17 to the Agency. But one of the things I'll say to
18 you. If we're going to, this is an application
19 for a new license.

20 And whether or not the Agency will
21 agree to issue the license or not issue the
22 license, a license will not be issued for any
23 establishment unless we have a certificate of
24 occupancy for whatever structure is there.

25 So, at some point if this Agency is

1 going to issue an approval of the license we have
2 to be provided an occupancy of the entire
3 establishment along with a summer garden, whether
4 or not there's a summer garden and the occupancy
5 of the summer garden.

6 That, so we would have to receive that
7 information by, from the Department of Buildings.
8 So, that's what I'm saying, Ms. Patterson. So
9 yes, if the summer garden was placarded it can be
10 discussed in a settlement agreement.

11 And before this Agency moves, before
12 the Agency moves forward to either grant the
13 license, the Agency would not grant the license
14 for that portion unless we have a certificate of
15 occupancy from the Department of Buildings.

16 So, whether or not you're, you're
17 saying it doesn't, it's not included. And he's
18 saying that it is. There has to be a document
19 from the Department of Buildings that will
20 clearly list the occupancy for whatever other
21 structure he's talking about. Okay.

22 But I will direct both parties, you
23 can reach out to our legal office. And if you
24 have any questions about what can or can't be in
25 a settlement.

1 If the parties about serious about
2 settling this matter, our legal office will
3 provide you whatever guidance you need about what
4 can be included in a settlement or not. Any
5 other questions?

6 MR. MURIITHI: Yes, I have one. On
7 the draft, settlement agreement draft --

8 CHAIRPERSON ANDERSON: I'm, sir, I
9 can't go into, I'm not going to deal with
10 substance.

11 MR. MURIITHI: Okay.

12 CHAIRPERSON ANDERSON: So, I don't,
13 it's like if there's provisions in the draft that
14 you don't agree with, and stuff, I mean, that's
15 something that has to be negotiated.

16 Or if we go to a hearing then that's
17 the, that tells us that a settlement has not been
18 reached. But I would ask that these, you can
19 continue to have these discussions.

20 If you believe that you want our
21 Agency to schedule another mediation we can
22 schedule another mediation. And so, is that
23 something that you'd also like, Ms. Patterson?
24 All right.

25 MS. PATTERSON: Yes. That would be

1 helpful.

2 CHAIRPERSON ANDERSON: All right. I
3 will ask --

4 MS. PATTERSON: Because we're close.
5 We're just not there yet. But we're close.

6 CHAIRPERSON ANDERSON: All right.
7 Okay. So, I will ask our legal office to have Ms.
8 Fletcher schedule another mediation in this case.

9 And I'll also have Ms., our legal
10 office provide Ms. Fletcher with guidance on, to
11 address the issue that you're talking about, the
12 summer garden.

13 Because it appears that there's some
14 confusion. It appears there some confusion about
15 whether or not it can or can't be included in a
16 settlement agreement. So, I'll have the legal
17 office provide that guidance. Okay.

18 So, I will have our legal office
19 schedule another mediation, and also provide some
20 guidance to the parties about what can or cannot
21 be included in a settlement agreement regarding
22 this matter. All right.

23 If this matter is not settled through
24 a settlement agreement then we're going to have a
25 protest hearing on May 10th, 2023 at 1:30 p.m.

1 So, you should have received, if you
2 have, you should have received a, by electronic
3 or regular mail a letter explaining the protest
4 process, a copy of the protest information form,
5 and a copy of the exhibit form.

6 If you have not received these
7 documents please reach out to our legal office,
8 and we will provide them. Now, it is imperative
9 that you read these documents and adhere to them
10 during, if this matter goes to a protest.

11 You are also required to complete and
12 submit the protest information form, PIF, and the
13 exhibit form seven days before the hearing.
14 These two forms and accompanying documents need
15 to be submitted to ABRA's legal and to opposing
16 parties in this matter.

17 If we do not receive a copy of your
18 PIF, your application, or your protest, whichever
19 side you represent is, may be subject to
20 dismissal.

21 Likewise, if we do not receive a copy
22 of the exhibit form and the exhibits themselves,
23 your exhibits may be excluded from the record
24 upon a finding that the opposing party has been
25 prejudiced if no good cause for failure has been

1 submitted.

2 Likewise, witnesses other than the
3 parties may also be subject to exclusion if not
4 identified on the PIF. Accordingly, these forms
5 are very important.

6 They greatly assist the Board in
7 narrowing the protest issues, facilitating the
8 process, and keeping the parties on point during
9 the hearing. They likewise provide notice of
10 important parties, enabling them to better
11 prepare for the hearing.

12 If we do go to a hearing, the hearing,
13 you only have one hour to present your case. And
14 you will not be, you will, and you can also, you
15 can only call five witnesses. Okay.

16 So, what I will do, I will ask our
17 legal office to schedule another, make sure that
18 another mediation is scheduled. And that, so
19 some guidance be provided regarding what can be
20 placed in a settlement agreement. Okay. Any
21 other questions?

22 MS. PATTERSON: Thank you, Mr.
23 Anderson. I'm hoping that we do not have to go
24 to a protest hearing. I'm very hopeful that we
25 can have a settlement agreement before May 10th.

1 CHAIRPERSON ANDERSON: And in support,

2 --

3 MS. PATTERSON: That is our goal.

4 CHAIRPERSON ANDERSON: Thank you. And
5 the Board is in support of a settlement
6 agreement. Because if a license is granted in
7 this case, this is your neighborhood.

8 And at least if you are able to sign
9 a settlement agreement then the parties, it says
10 that the parties have come to some agreement that
11 how we can coexist.

12 If the Board has to issue a decision,
13 which we will if we have to, then one side might
14 be happy, and the other side might not be happy.
15 So, the Board does support settlement agreements
16 if these matters can be settled.

17 So, as I said before I will ensure
18 that another mediation is scheduled before. And
19 hopefully that can assist in, assist the parties.
20 Okay.

21 MS. PATTERSON: Thank you.

22 CHAIRPERSON ANDERSON: All right.

23 Thank you very much.

24 (Whereupon, the above-entitled matter
25 went off the record at 11:10 a.m.)

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went 14:25
whichever 12:18
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X

Y

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1 7:22

1:30 11:25

10:55 2:2

10th 11:25 13:25

11:10 14:25

12 1:13

123439 1:9 2:6

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2023 1:13 11:25

23-PRO-00022 1:9 2:4

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4A05 3:23

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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: Serengeti Restaurant

Before: DC ABRA

Date: 04-12-23

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.

Neal R Gross

Court Reporter

NEAL R. GROSS

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