

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

-----=
IN THE MATTER OF: :
:
Exekiel Entertainment, :
LLC :
t/a Liberte/Le Grand :
Restaurant : Fact Finding
2915 M Street NW : Hearing
Retailer CR - ANC 2E :
License No. 109012 :
:
(Request to Extend :
Safekeeping) :
-----=

Wednesday
May 11, 2022

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:

- SARAH FASHBAUGH, DC ABRA Staff
ELY HURWITZ, Applicant Counsel

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

2 10:47 a.m.

3 CHAIRPERSON ANDERSON: The next case
4 on our calendar is we have fact finding hearing
5 on Liberte/Le Grand Restaurant, License No.
6 109012.

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

9 MS. FASHBAUGH: Ely Hurwitz, your
10 rights have been elevated. That is all, Mr.
11 Chair.

12 CHAIRPERSON ANDERSON: Thank you.

13 MR. HURWITZ: Hello?

14 CHAIRPERSON ANDERSON: Mr. Hurwitz,
15 good morning. Do you have a camera so you, you
16 can turn on?

17 MR. HURWITZ: Yes, I do. One second.
18 Okay. That's it.

19 CHAIRPERSON ANDERSON: Good morning,
20 Mr. Hurwitz. Can you please spell and state your
21 name for the record and identify yourself?

22 MR. HURWITZ: Yes, good morning,
23 members of the Board. My name is Ely Hurwitz.
24 I'm an attorney in the District of Columbia. And
25 I am representing the license holder. The

1 spelling of my name is E-L-Y, H-U-R-W-I-T-Z.

2 CHAIRPERSON ANDERSON: Mr. Hurwitz, is
3 the license, does the licensee plan to be here
4 this morning, sir?

5 MR. HURWITZ: No, sir.

6 CHAIRPERSON ANDERSON: All right.

7 Thank you.

8 All right. This matter, then it's a
9 --Liberte has been, that license has been in
10 safekeeping since 2018. On October 21, 2021, the
11 licensee informed us that they have secured a
12 construction permit for renovations and had an
13 open date of March of 2022. They also indicated
14 that they had hired various parties to engage in
15 construction.

16 It is now, today is March 11, 2022.
17 Apparently, the license has not been in, the
18 license is not in operation. So, Mr. Hurwitz,
19 can you please explain to us why is it that the
20 licensee is requesting another safekeeping
21 request since the assurance that were made to the
22 Board is that we would have by now, the license
23 would be by now in operation?

24 MR. HURWITZ: Well, thank you, sir,
25 for the opportunity to be before you today.

1 This license has been in safekeeping
2 for quite a period of time now. We recognize
3 that. And we have been unfortunately continuing
4 to have to pay rent throughout this whole period
5 of time to the landlord even though we've had
6 continuing, extensive delays, initially caused by
7 COVID, as you are quite familiar with, and now we
8 are continuing to have delays that have been
9 caused by delivery and fabrication issues with
10 certain items that have been on order for an
11 extensive period of time. But we still have not
12 received delivery of certain kitchen equipment
13 and bar equipment that is necessary to complete
14 the construction.

15 The major construction has been
16 completed. And I would be happy to arrange for
17 an ABC inspector to come by and visit us and see
18 the work that we have done. It's a large
19 project. We have been working diligently
20 throughout this period. And we are continuing to
21 work.

22 And we hope and expect to be able to
23 be completed in -- actually, it's going to take
24 another couple of months unfortunately because of
25 the delays in the availability of equipment that

1 has been on order.

2 I apologize for that. And, you know,
3 we are very disturbed by this ourselves. We want
4 to be open. We want to be operating. And this
5 has been a very difficult time for my clients.

6 CHAIRPERSON ANDERSON: Now, you are
7 saying that you have a lease. How long is the
8 lease term that you currently --

9 MR. HURWITZ: Well, we have a ten-year
10 lease with a ten-year option there.

11 CHAIRPERSON ANDERSON: So the ten
12 years, so where are you -- where is this
13 establishment in their ten-year lease? Where,
14 what year is this?

15 MR. HURWITZ: We're probably in our
16 seventh year at this point, I mean, our third
17 year with seven years remaining.

18 CHAIRPERSON ANDERSON: So you're
19 saying that you're currently seven years in a,
20 I'm sorry, third year in a ten-year lease with
21 another ten years --

22 MR. HURWITZ: Optional.

23 CHAIRPERSON ANDERSON: -- option.
24 Now, you said major. Tell me what has been done,
25 sir, in the sense of construction.

1 MR. HURWITZ: Well, the entire
2 premises has been gutted. There has been new
3 electrical equipment, completely new gas
4 supplies, completely new electrical installation,
5 electrical panels, a completely new kitchen, new
6 handicapped bathroom upstairs, and other
7 bathrooms on the lower level, a completely new
8 bar, new ceiling, new walls. Everything inside
9 is new.

10 And as I said, I'd be happy to escort
11 an ABC inspector through the premises. They can
12 get an update for themselves as to see how much
13 progress we've made.

14 And we're basically just waiting for
15 the kitchen equipment. We have the tiles already
16 installed on the kitchen floor. And the flooring
17 in the rest of the restaurant is in. And it's
18 basically equipment that we're waiting for.

19 CHAIRPERSON ANDERSON: What is it --
20 so when is it that you believe? Do you have any
21 idea when this equipment will be delivered?

22 MR. HURWITZ: Some items, I have a
23 recent email that suggested 14 weeks for the
24 completion of fabrication. And they say that --

25 CHAIRPERSON ANDERSON: I'm sorry.

1 What do you mean -- explain that, please --

2 MR. HURWITZ: This is for the
3 fabrication of the bar top, the top of the bar.
4 They have been extensively delayed in the
5 fabrication of the bar top. That was one item.
6 And then we have delivery items of the walk-in
7 refrigerator, which is still not, it still hasn't
8 been received. And we're still waiting for a
9 confirmation on delivery dates on that and
10 substantial other kitchen equipment that has been
11 on order for quite a period of time, and we just
12 haven't received deliveries of them. We are --

13 CHAIRPERSON ANDERSON: So can you tell
14 me approximately when did you get that email
15 regarding, you said that 14 weeks regarding, the
16 approximate 14 weeks regarding this --

17 MR. HURWITZ: Okay. One moment.

18 CHAIRPERSON ANDERSON: -- the bar?

19 MR. HURWITZ: Okay. If I can read to
20 you from the email, it --

21 CHAIRPERSON ANDERSON: I'm just asking
22 the date of the email --

23 MR. HURWITZ: Oh, well, this one is
24 actually dated May 10th, because we contacted
25 them for an update, and we got this email. It's

1 dated May 10th. And it says, as of this past
2 Sunday, it's 15 to 20-week delays are mentioned.
3 This is crazy, same issue with all electronic.
4 As an example, Comcast still could not provide
5 internet service due to Wi-Fi extenders and modem
6 shortages. They unofficially promised June 10th.
7 Horrible to work in these conditions.

8 This is the email I just received
9 yesterday.

10 CHAIRPERSON ANDERSON: All right.
11 Now, what about the -- so when is it that the
12 equipment, like the refrigerator, when was the
13 order made? Approximately when was the order
14 made for the equipment, sir?

15 MR. HURWITZ: The order was made quite
16 a while ago. But it was updated. There were
17 some changes due to onsite measurement changes.
18 So those changes required it to be updated. So
19 it was --

20 CHAIRPERSON ANDERSON: So
21 approximately when were these updates made, sir?

22 MR. HURWITZ: One second. So this is
23 another email, updated May 8th, looking to
24 substitute equipment. It says, this is the best
25 match with K-R-O-W-N-E, drawing attached. Most

1 manufacturers are delaying 15 to 20 weeks. Now
2 L6 we need to wait 15 to 20 weeks for the right
3 side compressor. D08, lead time is 14 weeks.
4 There is no substitute. We can give you a used
5 handseek for your inspection.

6 So one item that they're suggesting to
7 give us a used item. So this is a whole bunch of
8 equipment from many different manufacturers that
9 we're having this continuing delivery problem
10 with.

11 CHAIRPERSON ANDERSON: All right.

12 MR. HURWITZ: So I apologize again for
13 this. But it's been a very difficult situation
14 for us. As I say, we are paying rent to the
15 landlord. We don't have any rent exclusions on
16 this lease. And it's very costly. And we are
17 working diligently to try to get this done.

18 CHAIRPERSON ANDERSON: So you had
19 requested, on March 17, 2022, that's when you
20 requested a six-month extension through, and that
21 extension would be through September 30, 2022.

22 So based on this, based on where we
23 are today, is it anticipated that you would be,
24 would it be anticipated, is it anticipated that
25 you could reopen, could open by October 1st?

1 MR. HURWITZ: At this point in time,
2 I do believe that that date would be a valid
3 date, and that we could open before.

4 CHAIRPERSON ANDERSON: Now, if the
5 Board was to approve this six-week, six-month
6 extension through October 21st, I'm sorry,
7 through September 30, 2022, if that deadline is
8 not made, what is it that, if you were to request
9 another extension, what expectations should the
10 Board have of you, sir?

11 MR. HURWITZ: Okay. Well, I certainly
12 would expect to be open before October 1st. And
13 if it's not open, then I would expect that we
14 would come to the Board with adequate and
15 sufficient documentation to explain to you what
16 may have happened between now and then that
17 prevented the opening. But I don't expect that
18 to be the case. And I certainly expect to be
19 open by October 1st.

20 CHAIRPERSON ANDERSON: All right. Any
21 questions by any other Board members?

22 MEMBER SHORT: Yeah, I have a
23 question.

24 CHAIRPERSON ANDERSON: Go ahead, Mr.
25 Short.

1 MEMBER SHORT: Thank you. Attorney
2 Hurwitz, how are you today?

3 MR. HURWITZ: Very good. Thank you
4 very much, sir.

5 MEMBER SHORT: Great. Now, at this
6 stage, I'm assured that you have all of the
7 architectural drawings, correct?

8 MR. HURWITZ: Yes, they were done two
9 years. And we have all the permits in place. We
10 have contractors. We have the electrical,
11 plumbing, air conditioning.

12 Could I also just mention, we did have
13 one other delay that we're still dealing with?
14 And that is the installation of the new gas meter
15 by the Washington Gas Company.

16 MEMBER SHORT: Would you have a
17 problem at all submitting those drawings or a
18 copy of those drawings to our licensing section?

19 MR. HURWITZ: I would not have a
20 problem. I just would have to just comment that
21 the drawings are gigantic drawings. They're
22 like, you know, they're not --

23 MEMBER SHORT: I can only imagine for
24 the size of your place there. I'm kind of
25 familiar with the 2900 block of M Street.

1 MR. HURWITZ: Right.

2 MEMBER SHORT: I can only imagine.
3 That's a very wonderful location.

4 MR. HURWITZ: Right.

5 MEMBER SHORT: But have we ever
6 discussed that with you before when you appeared
7 before this Board?

8 MR. HURWITZ: Not to my knowledge,
9 sir. But I'd be happy to bring them, personally
10 bring them down and show them to your licensing
11 department. I don't think you'd want to keep
12 them necessarily.

13 MEMBER SHORT: That would mean to us
14 that you are, everything you said is true --

15 MR. HURWITZ: Yeah.

16 MEMBER SHORT: -- because just to walk
17 through a construction site doesn't mean that
18 anything without all of the --

19 MR. HURWITZ: Right. I'd be happy to
20 personally bring the drawings down to be
21 reviewed.

22 MEMBER SHORT: Okay. Well, if you do
23 that, I, as a Board member, I don't know about
24 the other Board members, but I would consider
25 that --

1 MR. HURWITZ: Okay.

2 MEMBER SHORT: -- everything that you
3 have said to us is truthful, and we can
4 understand the holdup now because it's a
5 worldwide issue now because of COVID, these
6 deliveries and all the hold on construction. So
7 thank you very much. That's all I have, Mr.
8 Chair.

9 MR. HURWITZ: Thank you, sir.

10 CHAIRPERSON ANDERSON: Any other
11 questions from any other Board members?

12 All right. Mr. Hurwitz, thank you for
13 your presentation.

14 MR. HURWITZ: Okay. Should I sign off
15 now, sir?

16 CHAIRPERSON ANDERSON: We're not done
17 yet. Hold on one minute, sir. Hold on. All
18 right. Yes, sir.

19 The Board will take this matter under
20 advisement. And we will inform you whether or
21 not the Board will grant this extension, this,
22 your request for a six-month extension through
23 September 30, 2022, sir. Okay? Thank you very
24 much.

25 MR. HURWITZ: Thank you, sir. Thank

1 you, members of the Board.

2 (Whereupon, the above-entitled matter
3 went off the record at 11:02 a.m.)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

A

a.m 2:2 14:3
ABC 4:17 6:11
able 4:22
above-entitled 14:2
ABRA 1:22
adequate 10:14
advisement 13:20
ago 8:16
ahead 10:24
air 11:11
Alcoholic 1:2,14
ALIYA 1:18
ANC 1:8
Anderson 1:15,17 2:3
 2:12,14,19 3:2,6 5:6
 5:11,18,23 6:19,25
 7:13,18,21 8:10,20
 9:11,18 10:4,20,24
 13:10,16
anticipated 9:23,24,24
apologize 5:2 9:12
Apparently 3:17
appeared 12:6
Applicant 1:22
approve 10:5
approximate 7:16
approximately 7:14
 8:13,21
architectural 11:7
arrange 4:16
asking 7:21
assurance 3:21
assured 11:6
attached 8:25
attorney 2:24 11:1
availability 4:25

B

bar 4:13 6:8 7:3,3,5,18
based 9:22,22
basically 6:14,18
bathroom 6:6
bathrooms 6:7
believe 6:20 10:2
best 8:24
Beverage 1:2,14
block 11:25
Board 1:2,14 2:23 3:22
 10:5,10,14,21 12:7,23
 12:24 13:11,19,21
 14:1
BOBBY 1:18
bring 12:9,10,20
bunch 9:7

C

calendar 2:4

camera 2:15
case 2:3,8 10:18
CATO 1:18
caused 4:6,9
ceiling 6:8
certain 4:10,12
certainly 10:11,18
Chair 2:11 13:8
Chairperson 1:14,17
 2:3,12,14,19 3:2,6 5:6
 5:11,18,23 6:19,25
 7:13,18,21 8:10,20
 9:11,18 10:4,20,24
 13:10,16
changes 8:17,17,18
clients 5:5
Columbia 1:1 2:24
Comcast 8:4
come 4:17 10:14
comment 11:20
Company 11:15
complete 4:13
completed 4:16,23
completely 6:3,4,5,7
completion 6:24
compressor 9:3
conditioning 11:11
conditions 8:7
confirmation 7:9
consider 12:24
construction 3:12,15
 4:14,15 5:25 12:17
 13:6
contacted 7:24
continuing 4:3,6,8,20
 9:9
contractors 11:10
Control 1:2,14
copy 11:18
correct 11:7
costly 9:16
Counsel 1:22
couple 4:24
COVID 4:7 13:5
CR 1:8
crazy 8:3
CROCKETT 1:18
currently 5:8,19

D

D08 9:3
date 3:13 7:22 10:2,3
dated 7:24 8:1
dates 7:9
DC 1:22
deadline 10:7
dealing 11:13
delay 11:13

delayed 7:4
delaying 9:1
delays 4:6,8,25 8:2
delivered 6:21
deliveries 7:12 13:6
delivery 4:9,12 7:6,9
 9:9
department 12:11
different 9:8
difficult 5:5 9:13
diligently 4:19 9:17
discussed 12:6
District 1:1 2:24
disturbed 5:3
documentation 10:15
Donovan 1:15,17
drawing 8:25
drawings 11:7,17,18,21
 11:21 12:20
due 8:5,17

E

E-L-Y 3:1
EDWARD 1:19
electrical 6:3,4,5 11:10
electronic 8:3
elevate 2:7
elevated 2:10
Ely 1:22 2:9,23
email 6:23 7:14,20,22
 7:25 8:8,23
engage 3:14
Entertainment 1:6
entire 6:1
equipment 4:12,13,25
 6:3,15,18,21 7:10
 8:12,14,24 9:8
escort 6:10
establishment 5:13
example 8:4
exclusions 9:15
Exekiel 1:6
expect 4:22 10:12,13
 10:17,18
expectations 10:9
explain 3:19 7:1 10:15
Extend 1:10
extenders 8:5
extension 9:20,21 10:6
 10:9 13:21,22
extensive 4:6,11
extensively 7:4

F

fabrication 4:9 6:24 7:3
 7:5
fact 1:7 2:4
familiar 4:7 11:25

Fashbaugh 1:22 2:7,9
finding 1:7 2:4
floor 6:16
flooring 6:16

G

gas 6:3 11:14,15
gigantic 11:21
give 9:4,7
Grand 1:7 2:5
GRANDIS 1:19
grant 13:21
gutted 6:2

H

H-U-R-W-I-T-Z 3:1
handicapped 6:6
handseek 9:5
HANSEN 1:19
happened 10:16
happy 4:16 6:10 12:9
 12:19
hearing 1:8 2:4
Hello 2:13
hired 3:14
hold 13:6,17,17
holder 2:25
hope 13:4
hope 4:22
Horrible 8:7
Hurwitz 1:22 2:9,13,14
 2:17,20,22,23 3:2,5
 3:18,24 5:9,15,22 6:1
 6:22 7:2,17,19,23
 8:15,22 9:12 10:1,11
 11:2,3,8,19 12:1,4,8
 12:15,19 13:1,9,12,14
 13:25

I

idea 6:21
identify 2:21
imagine 11:23 12:2
indicated 3:13
inform 13:20
informed 3:11
initially 4:6
inside 6:8
inspection 9:5
inspector 4:17 6:11
installation 6:4 11:14
installed 6:16
internet 8:5
issue 8:3 13:5
issues 4:9
item 7:5 9:6,7
items 4:10 6:22 7:6

J

JAMES 1:20
JENI 1:19
JR 1:18,20
June 8:6

K

K-R-O-W-N-E 8:25
keep 12:11
kitchen 4:12 6:5,15,16
 7:10
knowledge 12:8

L

L6 9:2
landlord 4:5 9:15
large 4:18
lead 9:3
lease 5:7,8,10,13,20
 9:16
level 6:7
Liberte 3:9
Liberte/Le 1:7 2:5
license 1:9 2:5,25 3:3,9
 3:17,18,22 4:1
licensee 2:8 3:3,11,20
licensing 11:18 12:10
LLC 1:6
location 12:3
long 5:7
looking 8:23
lower 6:7

M

M 1:8 11:25
major 4:15 5:24
manufacturers 9:1,8
March 3:13,16 9:19
match 8:25
matter 1:5 3:8 13:19
 14:2
mean 5:16 7:1 12:13,17
measurement 8:17
MEETING 1:3
member 1:18,18,19,19
 1:20 10:22 11:1,5,16
 11:23 12:2,5,13,16,22
 12:23 13:2
members 2:23 10:21
 12:24 13:11 14:1
mention 11:12
mentioned 8:2
met 1:14
meter 11:14
minute 13:17
modem 8:5
moment 7:17

months 4:24
morning 2:15,19,22 3:4

N

name 2:21,23 3:1
necessarily 12:12
necessary 4:13
need 9:2
new 6:2,3,4,5,5,7,8,9
 11:14
NW 1:8

O

October 3:10 9:25 10:6
 10:12,19
onsite 8:17
open 3:13 5:4 9:25 10:3
 10:12,13,19
opening 10:17
operating 5:4
operation 3:18,23
opportunity 3:25
option 5:10,23
Optional 5:22
order 4:10 5:1 7:11 8:13
 8:13,15

P

P-R-O-C-E-E-D-I-N-G-S
 2:1
panels 6:5
parties 3:14
pay 4:4
paying 9:14
period 4:2,4,11,20 7:11
permit 3:12
permits 11:9
personally 12:9,20
place 11:9,24
plan 3:3
please 2:7,8,20 3:19 7:1
plumbing 11:11
point 5:16 10:1
premises 6:2,11
PRESENT 1:16,21
presentation 13:13
presiding 1:15
prevented 10:17
probably 5:15
problem 9:9 11:17,20
progress 6:13
project 4:19
promised 8:6
provide 8:4

Q

question 10:23
questions 10:21 13:11

quite 4:2,7 7:11 8:15

R

RAFI 1:18
read 7:19
received 4:12 7:8,12
 8:8
recognize 4:2
record 2:21 14:3
refrigerator 7:7 8:12
regarding 7:15,15,16
remaining 5:17
renovations 3:12
rent 4:4 9:14,15
reopen 9:25
representing 2:25
request 1:10 3:21 10:8
 13:22
requested 9:19,20
requesting 3:20
required 8:18
rest 6:17
restaurant 1:7 2:5 6:17
Retailer 1:8
reviewed 12:21
rights 2:8,10

S

S 1:19
safekeeping 1:10 3:10
 3:20 4:1
SARAH 1:22
saying 5:7,19
says 8:1,24
second 2:17 8:22
section 11:18
secured 3:11
sense 5:25
September 9:21 10:7
 13:23
service 8:5
seven 5:17,19
seventh 5:16
Short 1:20 10:22,25
 11:1,5,16,23 12:2,5
 12:13,16,22 13:2
shortages 8:6
show 12:10
side 9:3
sign 13:14
sir 3:4,5,24 5:25 8:14
 8:21 10:10 11:4 12:9
 13:9,15,17,18,23,25
site 12:17
situation 9:13
six-month 9:20 10:5
 13:22
six-week 10:5

size 11:24
sorry 5:20 6:25 10:6
spell 2:20
spelling 3:1
Staff 1:22
stage 11:6
state 2:20
Street 1:8 11:25
submitting 11:17
substantial 7:10
substitute 8:24 9:4
sufficient 10:15
suggested 6:23
suggesting 9:6
Sunday 8:2
supplies 6:4

T

t/a 1:7
tell 5:24 7:13
ten 5:11,21
ten-year 5:9,10,13,20
term 5:8
thank 2:12 3:7,24 11:1
 11:3 13:7,9,12,23,25
 13:25
third 5:16,20
tiles 6:15
today 3:16,25 9:23 11:2
top 7:3,3,5
true 12:14
truthful 13:3
try 9:17
turn 2:16
two 11:8

U

understand 13:4
unfortunately 4:3,24
unofficially 8:6
update 6:12 7:25
updated 8:16,18,23
updates 8:21
upstairs 6:6

V

valid 10:2
various 3:14
videoconference 1:14
visit 4:17

W

W 1:15,17
wait 9:2
waiting 6:14,18 7:8
walk 12:16
walk-in 7:6
walls 6:8

Washington 11:15
WebEx 1:14
Wednesday 1:12
weeks 6:23 7:15,16 9:1
 9:2,3
went 14:3
Wi-Fi 8:5
wonderful 12:3
work 4:18,21 8:7
working 4:19 9:17
worldwide 13:5

X

Y

year 5:14,16,17,20
years 5:12,17,19,21
 11:9
yesterday 8:9

Z

0

1

10:47 2:2
109012 1:9 2:6
10th 7:24 8:1,6
11 1:12 3:16
11:02 14:3
14 6:23 7:15,16 9:3
15 8:2 9:1,2
17 9:19
1st 9:25 10:12,19

2

20 9:1,2
20-week 8:2
2018 3:10
2021 3:10
2022 1:12 3:13,16 9:19
 9:21 10:7 13:23
21 3:10
21st 10:6
2900 11:25
2915 1:8
2E 1:8

3

30 9:21 10:7 13:23

4

5

6

7

8

8th 8:23

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Liberte

Before: DC ABRA

Date: 05-11-22

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

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701