

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE AND CANNABIS BOARD
+ + + + +
MEETING

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IN THE MATTER OF: :
 :
I Egg You CH, LLC :
t/a I Egg You :
517 8th Street SE : Protest
Retailer CR - ANC 6B : Hearing (Status)
License No. 124054 :
Case #23-PRO-00050 :
 :
(Application for a :
New License) :
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Wednesday
July 26, 2023

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

PRESENT:

DONOVAN W. ANDERSON, Chairperson
BOBBY CATO, JR., Member
EDWARD S. GRANDIS, Member
JAMES SHORT, JR., Member

ALSO PRESENT:

JOSE ORELLANA, DC ABCA Staff
CAMERON MIXON, Applicant Counsel
CHANDER JAYARAMAN, ANC 6B

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

2 10:40 a.m.

3 CHAIRPERSON ANDERSON: The next case
4 on our calendar is Case No. 23-PRO-00050, I Egg
5 You, License No. 124054.

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

9 MR. ORELLANA: Cameron Mixon, your
10 access has been elevated.

11 Chander Jayaraman, your access has
12 been elevated.

13 I am having issues with elevating Mr.
14 Mixon.

15 CHAIRPERSON ANDERSON: All right, let's
16 wait for a minute. Let it continue.

17 We know that you're present, Mr.
18 Mixon. We have some concern - okay, here you
19 are.

20 Mr. Mixon?

21 He's gone.

22 Mr. Kline or Mr. Mixon, please.

23 MR. MIXON: Good morning.

24 CHAIRPERSON ANDERSON: Mr. Mixon, you'd
25 like me to pick on you, right?

1 MR. MIXON: Yes, sir.

2 CHAIRPERSON ANDERSON: All right, I'll
3 start.

4 Good morning everyone.

5 Let me have the parties identify
6 themselves for the record and please spell your
7 name for the record.

8 Mr. Mixon?

9 MR. MIXON: Cameron Mixon, counsel to
10 the licensee. That's Cameron, C-A-M-E-R-O-N,
11 Mixon, M-I-X-O-N.

12 CHAIRPERSON ANDERSON: Good morning,
13 Mr. Jayaraman. Could you spell and state your
14 name for the record, please?

15 MR. JAYARAMAN: Good morning. My name
16 is Chander Jayaraman, C-H-A-N-D-E-R, last name
17 J-A-Y-A-R-A-M-A-N. I am the designated
18 representative for ANC6B as protestants in this
19 case.

20 CHAIRPERSON ANDERSON: Good morning,
21 everyone.

22 All right, this is an application for
23 a new license. And so let's start off; are there
24 any preliminary matters on your part, Mr. Mixon?

25 MR. MIXON: Not at this time.

1 CHAIRPERSON ANDERSON: Mr. Jayaraman,
2 any preliminary matters?

3 MR. JAYARAMAN: No, sir.

4 CHAIRPERSON ANDERSON: I just want to
5 - it's my understanding that a motion was filed.
6 Is that a motion that still lies or?

7 MR. JAYARAMAN: Yes, sir.

8 CHAIRPERSON ANDERSON: So what was the
9 motion that you filed, sir?

10 MR. JAYARAMAN: We filed a motion for
11 a continuance of the protest hearing from August
12 9th, to occur no earlier than September 20th.

13 CHAIRPERSON ANDERSON: I have not read
14 the motion, so why is it that the protestant is
15 requesting a continuance?

16 MR. JAYARAMAN: A couple of reasons;
17 one is that we have scheduled a meeting with the
18 neighborhood, that it took a long time and it was
19 at mediation that the counsel for the applicant
20 agreed to meet with the community. We tried to
21 arrange for that to occur last Friday, but at the
22 last minute the owner was not available, and so
23 the meeting is now scheduled for tomorrow. And
24 we are hopeful that these meetings tomorrow will
25 begin the process of being able to find a

1 settlement between the applicant and the ANC and
2 the community, and we would like an opportunity
3 for that to work its course. Second of all, a
4 number of our witnesses who are critical to our
5 case are not available to testify on August the
6 9th, and we looked at August 16th as a
7 possibility, but they are not available for those
8 dates either. And a third, if a settlement
9 agreement were to be reached, it would have to be
10 voted on by the ANC which is a sub, which is a
11 substantive matter for this case, and that would
12 not occur until September the 12th. So the
13 soonest date after that, besides the following
14 day, would be September 20th.

15 CHAIRPERSON ANDERSON: I know Mr. Mixon
16 that your timeline to respond to this motion has
17 not passed us yet, but are you able to respond to
18 whether you agree or disagree to this motion?

19 MR. MIXON: The licensee has not yet
20 made a decision with respect to the motion;
21 however, they note that they're entitled to a
22 protest hearing within 75 days.

23 CHAIRPERSON ANDERSON: Mr. Jayaraman,
24 one of the concerns that the Board has, this is a
25 protest - like I said, this is a new license and

1 so the Board has specific timelines that we must
2 issue a decision, so the Board cannot agree to
3 any extension without the consent of the licensee
4 because the burden of the applicant, because in
5 this particular case we would be violating our
6 own rules and regulation when we have to issue a
7 decision. So we have to issue a decision, so the
8 Board wouldn't be in a position to grant the
9 continuance unless parties agree. The Board can
10 consider granting a continuance for a license
11 because the establishment has to open, but at
12 this juncture the Board would be preventing the
13 license from achieving a license and we cannot
14 violate our own law. So unless there's some
15 agreement, I would have to - go ahead, sir.

16 Go ahead, Mr. Jayaraman.

17 MR. JAYARAMAN: Thank you very much.
18 The question I have is the 75-day time frame.
19 Please forgive me because I didn't know that was
20 a rule, and when does that 75 days end?

21 CHAIRPERSON ANDERSON: All right, I'm
22 not necessarily agreeing.

23 MR. JAYARAMAN: I'm sorry, sir?

24 CHAIRPERSON ANDERSON: Hold on.

25 Hold on.

1 Oh, sorry. I thought I was responding
2 to - give me a minute.

3 MR. JAYARAMAN: Absolutely, sir.

4 CHAIRPERSON ANDERSON: I need to -
5 I'm gonna look at where in our rules
6 -

7 Can I give the citation a click, so
8 rather than me finding the citation?

9 MR. JAYARAMAN: I think I'm asking -

10 CHAIRPERSON ANDERSON: I'm trying to
11 give you the information now.

12 MR. JAYARAMAN: Thank you, sir.

13 CHAIRPERSON ANDERSON: All right, when
14 was this matter placarded? Do you have the
15 placard notice in front of you?

16 I don't have that.

17 When was this placarded?

18 MR. JAYARAMAN: Okay. One second, sir.

19 Placard posting was April 14th, 2023.

20 CHAIRPERSON ANDERSON: Did you say
21 April - when was the placard notice?

22 MR. JAYARAMAN: April 14th, 2023.

23 CHAIRPERSON ANDERSON: Hold on.

24 Give me a minute. Hold on.

25 All right, 25-432, (b)(1) during the

1 protest hearing the Board shall take the
2 necessary action. The Board shall schedule a
3 protest hearing to be held within 75 days of the
4 end of the protest period when you would like to
5 receive testimony and any other evidence of
6 application of 25-432. There's 75 days from the
7 end of April 14th. So when's 25 days from April
8 14th? I need to look at the calendar.

9 What is 75 days from April 14th?

10 MR. JAYARAMAN: 25 days, sir?

11 CHAIRPERSON ANDERSON: I'm sorry. What
12 is 75 days from April 14th?

13 MR. MIXON: June 28th, Mr. Chair.

14 MR. JAYARAMAN: It would actually be
15 July 28th, assuming that it's calendar days -
16 sorry, business days.

17 CHAIRPERSON ANDERSON: And this protest
18 is?

19 MR. JAYARAMAN: But the end of the
20 protest period is not till -

21 CHAIRPERSON ANDERSON: The protest
22 period is 45 days from the placard notice. So
23 when did the protest period end?

24 Because this hearing is scheduled for
25 - I'm sorry, this hearing is scheduled for

1 August 9th, so I know that - I'm almost positive
2 that the protest hearing would not be scheduled
3 within 75 days.

4 MR. JAYARAMAN: The calendar days would
5 have put it at June 2nd which is - no, hold on.

6 CHAIRPERSON ANDERSON: All right, it
7 was investigated before, under 25-432 we have 75
8 days from the end of the protest period for a new
9 license.

10 MR. JAYARAMAN: Right.

11 CHAIRPERSON ANDERSON: The Board cannot
12 grant any type of motion, any type of extension
13 through September. That's just by operation of
14 law.

15 MR. JAYARAMAN: Yeah, well the - the
16 protest hearing according to my calculations was
17 June 16th, the 75 days would put it at September
18 29th, sir.

19 CHAIRPERSON ANDERSON: All right, so
20 this is the position - I mean, the protest
21 hearing is scheduled for the 9th. Mr. Mixon, you
22 still have an opportunity to respond, so we'll
23 give you an opportunity to respond and the Board
24 will make a ruling based on response. But
25 basically where we are currently is that the

1 Board is not empowered to violate our rules and
2 regulations to extend this period past the
3 timeline pursuant to 25-432(b)(1).

4 Okay?

5 MR. JAYARAMAN: I understand that, sir,
6 with the regulations, but I think the calculation
7 of the date should be re-examined.

8 CHAIRPERSON ANDERSON: I'm not making
9 a decision right now. What I'm saying I'm just
10 letting you know, you file a motion, the
11 applicant has a deadline for the applicant to
12 respond to the motion in that matter. The
13 timeline for the applicant to respond to the
14 motion has not expired yet, so we're waiting for
15 the applicant to respond. Once that timeline has
16 expired the Board will issue a determination.

17 What I'm trying to say to you up
18 front, based on 25-432(b)(1) - I mean, based on
19 our own rules and regulations it's unlikely that
20 the Board will rule on a continuance motion
21 unless the applicant has agreed. This was not a
22 new license, the Board has some flexibility
23 because the establishment is already open and
24 because there is no harm to the - as that
25 portion of the licensee. But there will be

1 significant harm to the applicant if the Board
2 was to grant an extension without their consent.

3 Yes, sir. Mr. Jayaraman?

4 MR. JAYARAMAN: Thank you very much.
5 We believe there would be significant harm to the
6 community, the surrounding community, and that
7 should be factored in. It's not just one
8 establishment; we're talking about seven to ten
9 households right behind that proposed location
10 is.

11 CHAIRPERSON ANDERSON: I'm sorry. The
12 law talks about what the Board has to do.

13 MR. JAYARAMAN: Yes, sir.

14 CHAIRPERSON ANDERSON: And so the Board
15 is gonna comply with our rules and regulations.
16 We're gonna comply with the law, and we will
17 comply with the law in the determination. So the
18 Board cannot make a determination - I don't
19 believe the Board can make a determination on
20 harm, on that harm; that's not part of the
21 analysis. The law says that what the contract
22 needs to be, a decision must be made, and so the
23 Board is gonna comply with its timeline to issue
24 a decision, okay?

25 As I stated before, the applicant

1 still has an opportunity to respond to your
2 motion and the Board will issue a decision based
3 on the response.

4 One more comment and then I'll give
5 him the final word if he needs to say something.

6 Yes, sir?

7 MR. JAYARAMAN: Thank you very much.
8 In terms of the 75 days, is that calendar days or
9 business days, sir?

10 CHAIRPERSON ANDERSON: In reviewing
11 the law it says the Board has 75 days at the end
12 of the protest period for a new licensee to
13 repeat testimony and of the evidence regarding
14 the application in accordance with 25442 and
15 25444.

16 MR. JAYARAMAN: That's correct, sir.
17 I'm just asking whether it's calendar days or
18 business days.

19 CHAIRPERSON ANDERSON: It says 75
20 days, so I believe it's days, sir. Okay?

21 MR. JAYARAMAN: So calendar days?

22 CHAIRPERSON ANDERSON: It says days,
23 so I believe it's calendar days.

24 MR. JAYARAMAN: That has a huge impact
25 on the timeline.

1 CHAIRPERSON ANDERSON: It says 75
2 days. The Board shall schedule a protest hearing
3 to be held within 75 days of the end of the
4 protest period for a new licensed applicant to
5 receive testimony and other evidence regarding
6 the application. And once these -- we have 75
7 days to receive it and then the Board has to
8 issue a decision within 60 days after we have had
9 that hearing.

10 MR. JAYARAMAN: Well, it says the
11 Board has to schedule a protest hearing within 75
12 days, not to issue a decision.

13 CHAIRPERSON ANDERSON: But what I'm
14 saying to you, sir; there's another portion that
15 says that you have to issue a decision within 60
16 days after. But it's 75 days to receive and then
17 there's another provision that says that -- if
18 you look at 25443-C it says that for a new
19 license application the Board shall issue a
20 written decision and accompanied by findings of
21 fact and conclusion of law within 60 days after
22 the close of the record, okay?

23 MR. JAYARAMAN: That's correct, sir.

24 CHAIRPERSON ANDERSON: So that's what
25 I'm saying; that is the timeline that the Board

1 has to issue a decision for a new license, okay.
2 So we can't -- we have to comply with the law.
3 So as I'm stated, I'm not gonna make a ruling on
4 your motion; I'm waiting for the timeline for the
5 licensee to respond, the applicant to respond
6 within -- I think you have -- on this calendar I
7 believe they have seven days to respond. I
8 forgot what timeline the licensee has to respond
9 to a motion because it's--recently filed your
10 motion, so once the expiration of that timeline
11 the Board will issue a determination on your
12 request for a continuance. But as we speak this
13 matter is scheduled for a protest hearing on
14 August 9th at 1:30 p.m.

15 Do you have any comments, Mr. Mixon?

16 MR. MIXON: Not at this time. The
17 applicant will consider the motion and whether to
18 use the response period.

19 CHAIRPERSON ANDERSON: Thank you, sir.
20 Any other comments or concerns that we have for
21 this case?

22 As I stated, this matter is scheduled
23 for -- currently scheduled for -- so the Board
24 will take the motion under consideration and
25 we'll issue a decision once the time period for

1 the applicant to respond, we'll issue a decision.
2 But currently the matter is scheduled for a
3 protest hearing on August 9th at 1:30 p.m. Okay?

4 MR. JAYARAMAN: Thank you, Mr. Chair.

5 CHAIRPERSON ANDERSON: I just want to
6 remind the parties that seven days before the
7 hearing the parties must disclose. All right?

8 I know that both parties have been to
9 the protest hearing before, I believe that both
10 parties are familiar with the process of the
11 protest hearing.

12 Mr. Jayaraman?

13 MR. JAYARAMAN: If the counsel for the
14 applicant objects to our request, would we have
15 an opportunity to respond to that in writing?

16 CHAIRPERSON ANDERSON: It's not
17 required, but I'm not -- that you can consult our
18 legal office -- because I think part of the
19 problem I mean because we can go back and forth.
20 But as I stated, sir, we have the law and terms
21 of the law, so it's not a matter of the response
22 by counsel, it's that I am pointing out to you
23 what the law states.

24 MR. JAYARAMAN: Yes, sir. And looking
25 at the definition I believe it's business days

1 and not calendar days.

2 CHAIRPERSON ANDERSON: No, sir. It's
3 calendar days, it's 75 calendar days. If it was
4 business days the document would say business
5 days. The law says 75 days and 75 days means to
6 me -- a strict reading of the document is that 75
7 days means 75 days. You will have an opportunity
8 to file a reply, you can file a reply to the
9 response that was -- if the applicant files a
10 response to your motion. You will have an
11 opportunity to file a response. But as I stated
12 to you, you need to review, make sure that
13 whatever motion that you're making, you are
14 covered by 25-432(b)(1). Okay?

15 MR. JAYARAMAN: Yes, sir.

16 CHAIRPERSON ANDERSON: All right.
17 Thank you very much then. Unless this matter
18 some other agreement is made, then I will see you
19 on August 9th at 1:30 p.m. for the protest
20 hearing.

21 All right?

22 Thank you very much. Have a great
23 day.

24 (Whereupon, the above-entitled matter
25 went off the record at 11:07 a.m.)

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Before: DC ABCA

Date: 07-26-23

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Court Reporter

NEAL R. GROSS

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