

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

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IN THE MATTER OF: :
 :
Rhythm & Eats Bar :
Japonais, LLC :
t/a Bar Japonais :
1520 14th Street NW :
Retailer CT - ANC 2F :
License No. 124706 :
Case #23-PRO-00056 :
 :
(Application for a :
New License) :
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Wednesday
August 16, 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
- JENI HANSEN, Member
- JAMES SHORT, JR., Member

ALSO PRESENT:

- MR. CARTER, DC ABCA Staff
- MATTHEW MINORA, Applicant Counsel
- RUHI MIRZA, Protestant Counsel
- ALLAN ISBITZ, Protestant
- SCOTT HENRY, Protestant
- PATRICK FLEMING, Protestant
- PHIL MORTON, Protestant
- ADEL NOUR, Protestant
- PETER MOCSARY, Protestant
- JOSEPH FLORIO, ANC 2F

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

2 10:54 a.m.

3 CHAIRPERSON ANDERSON: The next case on
4 the calendar is Case Number 23-PRO-00056, Bar
5 Japonais, J-A-P-O-N-A-I-S. License number
6 124706.

7 Mr. Carter, can you please elevate the
8 parties for this case, please.

9 You can remove Mr. Daniels, sir.

10 Okay. Thanks.

11 MR. CARTER: Matt has been elevated.
12 Ruhi Mirza has been elevated. Scott Henry has
13 been elevated. Allan Isbitz has been elevated.
14 Patrick Fleming has been elevated. Phil Morton
15 has been elevated. Peter has been elevated.
16 Adel has been elevated. That's it, Mr. Chair.

17 CHAIRPERSON ANDERSON: Thank you.

18 Good morning, again. Mr. Minora, can
19 you please identify yourself for the record,
20 please.

21 MR. MINORA: Matthew, M-A-T-T-H-E-W M-
22 I-N-O-R-A from the law firm of Mallios, O'Brien
23 and Sandground. And we're ABC license counsel
24 for the Applicant.

25 CHAIRPERSON ANDERSON: Good morning,

1 sir.

2 MR. MINORA: Good morning.

3 CHAIRPERSON ANDERSON: Who is the
4 Designated Representative for this group?

5 MS. MIRZA: Good morning, Ruhi Mirza
6 from the law firm of Rees Broome. Our firm
7 represents the Protestors, 1400 Church Street,
8 Condominium Unit Owner's Association.

9 CHAIRPERSON ANDERSON: I can't -- just
10 elevate your voice, please. So, please spell and
11 state your name again for the record, please,
12 ma'am.

13 MS. MIRZA: Good morning. My name is
14 Ruhi Mirza. It's spelled R-U-H-I M-I-R-Z-A.
15 I'm from the law firm of Rees Bloome and our firm
16 represents the Protestors, 1400 Church Street,
17 Condominium Unit Owner's Association.

18 CHAIRPERSON ANDERSON: So, let me have
19 the protestors identify and spell their name for
20 the record, please.

21 MR. ISBITZ: My name is Allan Isbitz,
22 that's I-S-B-I-T-Z. Last name, first name A-L-L-
23 A-N. I am the President of 1400 Church Street
24 Condominium and one of the Protestors.

25 CHAIRPERSON ANDERSON: Who is next?

1 MR. HENRY: Henry, S-C-O-T-T H-E-N-R-
2 Y. I am one of the Protestors that lives in the
3 Condominium.

4 CHAIRPERSON ANDERSON: Who is next?

5 MR. FLEMING: I'll go. I'm Patrick
6 Fleming. Last name Fleming, F as in Frank, L-E-
7 M-I-N-G. First name Patrick, P-A-T-R-I-C-K. And
8 I am a Protestors and live in the Condo.

9 CHAIRPERSON ANDERSON:

10 MR. MORTON: This is Phillip Morton, P-
11 H-I-L-L-I-P M-O-R-T-O-N. And I am also a
12 resident owner of the 1400 Church Street
13 Condominium and the Protestor.

14 CHAIRPERSON ANDERSON: Fine, thank you.
15 Who else?

16 MR. NOUR: (indiscernible).

17 CHAIRPERSON ANDERSON: I'm sorry.

18 MR. NOUR: This is Adel Nur, O-U-R.
19 And I'm a resident in the same condominium.

20 CHAIRPERSON ANDERSON: And who else?

21 MR. MOCSARY: Peter Mocsary, P-E-T-E-R
22 Last name M-O-C-S-A-R-Y. I am a resident in the
23 building and a Protestor.

24 CHAIRPERSON ANDERSON: And who else do
25 we have?

1 MR. FLORIO: My name is Joseph Florio.
2 I am the ANC Commissioner and Chair of ANC 2F.
3 J-O-S-E-P-H F-L-O-R-I-O.

4 CHAIRPERSON ANDERSON: Do we have
5 anyone else?

6 Everyone has identified themselves.
7 Let me see.

8 All right. So, let me ask the
9 question.

10 Who is protesting this? Who is
11 protesting this matter? It's being protested by
12 whom? The ANC and whom?

13 MS. MIRZA: The 1400 Church Street
14 Condominium Unit Owner's Association.

15 CHAIRPERSON ANDERSON: The condo
16 association cannot. The condo association
17 doesn't have standing to protest a liquor
18 license. So, it has to be a Group of Five or
19 More. So, what are you? Are you -- the Condo
20 itself does not have standing to protest.

21 MS. MIRZA: Right, so the --

22 CHAIRPERSON ANDERSON: I'm sorry. I
23 mean, who is speaking? We have a Court Reporter
24 so identify yourself when you speak, please.

25 MS. MIRZA: This is Ruhi Mirza. The

1 individual unit owners who have identified
2 themselves, that would be Mr. Isbitz, Mr.
3 Mocsary, Mr. Henry, Mr. Fleming, Mr. Morton and
4 Mr. Nour. They are individual condominium unit
5 owners. And they are the protestors.

6 CHAIRPERSON ANDERSON: All right. So,
7 they are a Group of Five or More.

8 MS. MIRZA: That's correct.

9 CHAIRPERSON ANDERSON: And, Mr. Minora,
10 it is my understanding that at the Roll Call four
11 additional individuals had to show up to the
12 Status Hearing. Who was at the Status Hearing,
13 Mr. Minora? Were you at the Status Hearing, sir?

14 I cannot hear you, sir.

15 Mr. Minora, you're on mute.

16 MS. MIRZA: Yes. Sorry about that.

17 I was at the Roll Call Hearing as was
18 Mr. Florio, as was Mr. Isbitz.

19 MS. MIRZA: I believe Mr. Jenkins was
20 also there.

21 MR. MINORA: Correct, I'm sorry.

22 CHAIRPERSON ANDERSON: Well, it's my
23 understanding by trying to review the transcript
24 from the Roll Call Hearing that I was told that
25 four individuals -- four additional individuals

1 had to show up today for a standing to be granted
2 to the Group of Five or More.

3 So, Mr. Minora, for the other four
4 individuals who identified themselves this morning,
5 did they -- were their names on the Protest
6 Group?

7 MR. MINORA: Yes.

8 CHAIRPERSON ANDERSON: All right. So,
9 since we now have, since there are four
10 additional Protestants who showed up today at the
11 Status Hearing, I make a motion that full
12 standing be granted to the Group of Five or More.

13 Is there a second?

14 MEMBER GRANDIS: Mr. Grandis, second.

15 CHAIRPERSON ANDERSON: Mr. Grandis has
16 seconded the motion. We'll now have a Roll Call
17 vote.

18 Mr. Short.

19 MEMBER SHORT: Mr. Short, I agree.

20 CHAIRPERSON ANDERSON: Ms. Hansen.

21 MEMBER HANSEN: Jeni Hanson, I agree.

22 CHAIRPERSON ANDERSON: Mr. Grandis.

23 MEMBER GRANDIS: Edward Grandis, I
24 agree.

25 CHAIRPERSON ANDERSON: And I, Mr.

1 Anderson, and I agree.

2 The matter passes four, zero, zero.

3 So, standing is now granted to the
4 Group of Five or More.

5 All right. So, let's start with you,
6 Mr. Minora. Are there any preliminary matters,
7 sir?

8 Mr. Mirza, are there any preliminary
9 matters as far as the Group of Five or More is
10 concerned?

11 MS. MIRZA: No.

12 CHAIRPERSON ANDERSON: And, I'm sorry.
13 Mr. Florio, are there any preliminary matters as
14 far as the ANC is concerned, sir?

15 MR. FLORIO: No.

16 CHAIRPERSON ANDERSON: All right.
17 Then, hold on a bit. Let me --

18 Then this matter is then scheduled for
19 a Protest Hearing on September 13th, at 1:30 p.m.

20 All right. Give me a minute, please.

21 All right. I want to remind and
22 advise the parties that now that this matter has
23 been scheduled for a Protest Hearing there are a
24 couple of things I would like to inform the
25 parties regarding we want to make sure that if

1 this matter goes to a Protest Hearing that the
2 Protest Hearing is focused and addresses only
3 those issues that are being protested.

4 The Board does not intend to hear
5 testimony on matters that are not relevant to
6 this case. You should have received by
7 electronic or regular mail a letter explaining
8 the protest process, a copy of the protest
9 information form information and a copy of the
10 exhibit form. If you do not have these documents
11 please contact our Legal Office following this
12 hearing.

13 It is imperative that you review the
14 rules closely and adhere to them during the
15 protest Hearing. You are also required to
16 complete and submit the protest information form,
17 PIF, and the exhibit form seven days before the
18 date of the hearing.

19 These two forms and accompanying
20 documents need to be submitted to ABCA's Legal
21 Division and to all opposing parties in this
22 matter. If we do not receive a copy of your PIP,
23 your application or your protest whichever side
24 you're representing may be subject to dismissal.

25 Likewise, if we do receive a copy of

1 the exhibit form, and the exhibits themselves,
2 your exhibits may be excluded from the record
3 upon a finding that the opposing party has been
4 prejudiced for no good cause for failure to
5 submit has been shown. Likewise, witnesses other
6 than the parties may also be subject to exclusion
7 if not identified in the PIP.

8 Additionally, these forms are very
9 important. They greatly assist the Board in
10 narrowing the protest issues facilitating the
11 process and keeping the parties on point during
12 the hearing. They, likewise, provide notice to
13 the opposing parties enabling them to better
14 prepare for the hearing.

15 Finally, as you are all aware, all
16 hearings are now conducted virtually. You will
17 have one hour to present your case and you will
18 only be allowed to call five witnesses. If you
19 require more time to present your case and
20 require more than five witnesses, please file a
21 motion with the Board.

22 For cases as this case where there is
23 more than one protestant group, pursuant to
24 Section 1612.8 we are requesting that the
25 protestant designate one person to represent the

1 protest at the hearing.

2 I would also like to advise the
3 protest group, the Group of Five or More, because
4 also the ANC is also a protestant in this case.

5 If a settlement agreement is reached
6 between the Applicant and the ANC, your protest
7 automatically falls. I just want to let the
8 Group of Five or More know.

9 The Board cannot order the Applicant
10 to include a Group of Five or More in a
11 settlement agreement. If there is a settlement
12 agreement, and both the ANC and the protestant
13 Group of Five or More signs on that is fine. But
14 the Board cannot order the Applicant to make a
15 Group of Five or More a part of a settlement
16 agreement if that's not so.

17 I'm saying this before because I've
18 had cases where there's a settlement agreement
19 received. There has been a settlement agreement
20 between the Applicant and the ANC and the
21 Protestant, Group of Five or More, has been
22 requesting that ABC Board continue the case or
23 that we make you a part of the settlement
24 agreement. So, that's one of the reasons why I'm
25 just stating that up front that by Operation of

1 Law if a settlement agreement is reached between
2 the ANC and Applicant then the Group of Five or
3 More, their protest automatically falls.

4 Any questions by anyone?

5 MR. FLORIO: No, Mr. Chair.

6 MS. MIRZA: No.

7 CHAIRPERSON ANDERSON: Thank you.

8 All right. Then good luck with your
9 settlement discussions, if that's possible. If
10 this matter is not settled then I'll see you, the
11 Board will see you on September 13th at 1:30 p.m.

12 Have a great day and have a great
13 summer.

14 Thank you.

15 MS. MIRZA: Thank you.

16 MR. MINORA: Thank you.

17 (Whereupon, this proceeding was
18 concluded at 11:09 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: Bar Japonais

Before: DC ABCA

Date: 08-16-23

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.



Court Reporter

NEAL R. GROSS

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