

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE AND CANNABIS BOARD
+ + + + +
ROLL CALL HEARING

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IN THE MATTER OF: :
 :
Momentux Hospitality, LLC: :
t/a Rush :
1023 9th Street NW #101 : Roll Call
Retailer CT - ANC 1B : Hearing
License No. 125250 :
Case #23-PRO-00061 :
 :
(New Application) :
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Monday
September 11, 2023

The Alcoholic Beverage and Cannabis Board met via WebEx videoconference, LaVerne Fletcher, Board's Agent, presiding.

PRESENT:

LAVERNE FLETCHER, ABC Board's Agent

ALSO PRESENT:

RICHARD BIANCO, Applicant Counsel
JACKSON MOSLEY, Applicant
FRANK CHAUVIN, Group of 9
ZOE LU, Group of 9
JOSH BLACK, Group of 9
ZACHARY D'OUGE, Group of 9
ANDRE ORY, Group of 9
EVAN SCHLOM, Group of 9
SEAN HOLIHAN, ANC 1B

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

2 10:05 a.m.

3 MS. FLETCHER: Good morning, everyone.

4 Thank you for participating in ABRA's roll call
5 hearings via the WebEx platform provided by the
6 DC Office of Open Government. My name is Laverne
7 Fletcher conducting the roll call hearing as the
8 Board's agent.

9 There are two cases on the calendar
10 today. The first case is Rush. Case Number 23-
11 PRO-00061. Momentux Hospitality, LLC, 1023 9th
12 Street NW, #101. This is License Number ABRA
13 125250. This is a Retailer Class CT, new
14 application. The protest issues are adverse
15 impact on peace, order and quiet; residential
16 parking; and vehicular and pedestrian safety;
17 over-concentration; and, a record of the
18 establishment's compliance with DC Official Code
19 and any conditions placed on the Licensee.

20 My name is Laverne Fletcher conducting
21 the roll call hearing as the Board's agent. Is
22 anyone present on behalf of the Applicant?

23 MR. BIANCO: Yes, Ms. Fletcher. Good
24 morning, this is Richard Bianco. I'm here on
25 behalf of the Applicant and with me, I have

1 Jackson Mosley, who is my client in this matter.

2 MS. FLETCHER: Thank you. Mr. Bianco,
3 would you spell your name for the record, please?

4 MR. BIANCO: Absolutely, it's R-I-C-H-
5 A-R-D B-I-A-N-C-O.

6 MS. FLETCHER: And, Mr. Mosley, would
7 you do the same?

8 MR. MOSLEY: Sure, it's J-A-C-K-S-O-N
9 M-O-S-L-E-Y.

10 MS. FLETCHER: Thank you very much.
11 Is anyone present on behalf of ANC 1B?

12 MR. SCHLOM: I believe, Commissioner
13 Holihan just might have messaged the group saying
14 that he had to run out and is running back. I'm
15 not sure if his message in the chat. I believe I
16 saw it pop up.

17 MS. FLETCHER: And for the court
18 reporter, I'm going to say who was just speaking,
19 that was Evan Schlom. I'm going to spell that as
20 well, it's spelled E-V-A-N S-C-H-L-O-M. Thank
21 you, Mr. Schlom.

22 MR. BIANCO: Ms. Fletcher, Richard
23 Bianco. I don't have a protest letter from the
24 ANC. It's my understanding that the parties to
25 this protest are a group of five or more and the

1 WNA or Westminster Neighborhood Association. Am
2 I incorrect about that?

3 MS. FLETCHER: Yes and I will send you
4 a copy, Mr. Bianco, of the protest letter filed
5 by the ANC.

6 MR. BIANCO: Very well.

7 MS. FLETCHER: Is anyone present on
8 behalf of the Westminster Neighborhood
9 Association?

10 MR. CHAUVIN: Yes, Ms. Fletcher, Frank
11 Chauvin here. I am present. I have a remark to
12 make, however, and I need to withdraw our protest
13 on the basis of not our interest and I'm just
14 sending over a letter to you and sending it to
15 also ABCA Legal. We're withdrawing the protest
16 only because of a defect in our administrative
17 procedure. We had not invited the Applicant to
18 our meeting.

19 So, we erred and, unfortunately, I
20 will remain a part of the group of five because
21 the Westminster Neighborhood Association has deep
22 and ongoing concerns regarding this application
23 with regards of all of the grounds of
24 appropriateness and appropriateness standards,
25 including over-concentration for which we have

1 filed a moratorium petition. So, I just needed
2 to clarify that for the record. It was just an
3 error on our part and we need to withdraw because
4 of that fact and we lose standing because of our
5 administrative shortcoming there.

6 MS. FLETCHER: That's exactly right,
7 Mr. Chauvin, and thank you very much. Would you
8 spell your name for the record?

9 MR. CHAUVIN: C-H-A-U-V as in Victor-
10 I-N is my last name. F-R-A-N-K is my first name.

11 MS. FLETCHER: Thank you very much for
12 that Mr. Chauvin. We'll get a Board order out
13 upon receipt of your withdrawal of the protest.

14 MR. CHAUVIN: And we will continue to
15 be part of the group of five to represent our
16 interests on this matter.

17 MS. FLETCHER: Mr. Chauvin, did you
18 also sign the protest letter filed by the group
19 of five?

20 MR. CHAUVIN: I did, yes.

21 MS. FLETCHER: Thank you very much.
22 I'm going to check mail to see if anyone has
23 appeared on behalf of ANC 1B. Okay, we also have
24 a group of nine. Is anyone present on behalf of
25 the group of nine?

1 MS. LU: Hi, good morning. It's Zoe
2 Lu, Z-O-E and the last name Lu, L-U, and I am
3 present for the nine.

4 MS. FLETCHER: And, Ms. Lu, you're the
5 designated representative of the group?

6 MS. LU: Correct.

7 MS. FLETCHER: Are any other members
8 of the group present today?

9 MS. LU: Yes, so other members include
10 Andre Ory, Evan Schlom, Fran Chauvin, Josh Black
11 and Zack D'Ooge.

12 MS. FLETCHER: And if each one of
13 those individuals would state their names and
14 spell it for the record, please.

15 MS. LU: Sure, so I guess we'll go in
16 alpha order with Andre.

17 MR. ORY: Hi, Andre Ory. Andre is A-
18 N-D-R-E last name Ory, O-R-Y. Thank you.

19 MS. FLETCHER: Thank you.

20 MS. LU: Evan?

21 MR. SCHLOM: Good morning, Evan Schlom
22 that's E-V as in Victor-A-N as in Nancy. Last
23 name S as in Sam-C as in Charlie-H-L-O-M as in
24 Mary.

25 MS. FLETCHER: Thank you, Mr. Schlom.

1 Who is the next person present?

2 MS. LU: Frank Chauvin.

3 MS. FLETCHER: Okay, Frank Chauvin?

4 MR. CHAUVIN: Frank Chauvin, F-R-A-N-K
5 C-H-A-U-V as in Victor-I-N.

6 MS. FLETCHER: Thank you. The next
7 person?

8 MS. LU: Josh, do you want to go and
9 then Zack?

10 MS. FLETCHER: Whoever has a number
11 ending in 24 needs to mute themselves, please.
12 So, who is the next person?

13 MR. BLACK: This is Josh Black, J-O-S-
14 H B-L-A-C-K. Thank you.

15 MS. FLETCHER: Thank you, Mr. Black.
16 Anyone else?

17 MS. LU: Zack?

18 MR. D'OUGE: Hey, this is Zachary
19 D'Ooge, Z-A-C-H-A-R-Y D'-O-O-G-E.

20 MS. FLETCHER: Anyone else? Okay, was
21 there anyone else?

22 MS. LU: No, I believe six of the
23 signatories showed up for this morning's meeting.

24 MS. FLETCHER: And, Ms. Lu, you also
25 signed the protest letter, right?

1 MS. LU: Correct.

2 MS. FLETCHER: So, I count a total of
3 six individuals present today --

4 MS. LU: Correct.

5 MS. FLETCHER: Which means -- was
6 somebody going to say something?

7 MS. LU: Oh sorry, I was just
8 confirming. I apologize.

9 MS. FLETCHER: Okay, okay. So, I
10 count a total of six people present today, which
11 means that the group of nine is granted standing
12 as protestants. Is anyone present on behalf of
13 ANC 1B? The time is approximately 10:13, there's
14 no one present on behalf of ANC 1B, therefore,
15 the protest is dismissed, but the protest is
16 dismissed for another reason as well, the protest
17 letter itself does not state that a dually
18 publicized meeting was held with a quorum present
19 when the vote was taken.

20 A Board Order will be issued
21 dismissing the protest for the reasons that I
22 just stated and, Mr. Bianco, you know what
23 happens next, after the Board Order is issued,
24 the Applicant will have an opportunity to respond
25 if the ANC seeks reinstatement of the protest.

1 So, in this case, we have one protestant, that is
2 the group of nine. We need to set a date for
3 mediation, a status hearing and a protest
4 hearing. I will give the dates for the status
5 and protest hearing first. The status hearing is
6 scheduled for October 4, 2023, at 10:30 a.m. The
7 protest hearing is set for November 1, 2023, at
8 1:30. I will give you the next available date
9 for mediation. The next available day for
10 mediation is Tuesday, September 19, any time
11 between 10:00 and 1:30.

12 MR. BIANCO: I'm sorry, Ms. Fletcher,
13 I have depositions that day. I won't be able to
14 make that.

15 MS. FLETCHER: Okay, is the 20th any
16 better, Mr. Bianco?

17 MR. BIANCO: Yes, I'm totally clear on
18 the 20th.

19 MS. FLETCHER: Ms. Lu, what about you?

20 MS. LU: Sorry, can you repeat the
21 dates again?

22 MS. FLETCHER: The date that we're
23 looking at right now is Wednesday, September 20,
24 anytime between 10:00 and 1:30.

25 MS. LU: Yes, that is currently clear

1 for me. I would maybe err more towards 11:00, if
2 that's possible?

3 MS. FLETCHER: That good for Mr.
4 Bianco?

5 MR. BIANCO: That's fine. Let me just
6 enquire of my client, who's on the call if he can
7 make it work that day. That's 9/20 at 11:00, is
8 that what we're looking at?

9 MS. FLETCHER: Uh-huh.

10 MR. BIANCO: Jackson, can you make
11 that?

12 MR. MOSLEY: Yes, that's clear for me.
13 Thank you.

14 MR. BIANCO: Great.

15 MS. FLETCHER: Then mediation is set
16 for Wednesday, September 20 at 11:00 and I'll
17 send out the WebEx invitations. If there are no
18 questions.

19 MR. CHAUVIN: Quick question, can you
20 repeat please October 24th, that's a status
21 hearing? Is that 10:00 a.m.?

22 MS. FLETCHER: Who's speaking?

23 MR. CHAUVIN: This is Frank Chauvin.

24 MS. FLETCHER: And what was the
25 question, Mr. Chauvin?

1 MR. CHAUVIN: October 24th is the
2 status hearing, am I correct? At 10:00 a.m.?

3 MS. FLETCHER: October 4.

4 MR. CHAUVIN: October 4.

5 MS. FLETCHER: October 4 at 10:30 a.m.
6 for the status hearing.

7 MR. CHAUVIN: And the November 1st, is
8 the protest hearing at 1:30?

9 MS. FLETCHER: Yes, that's right.

10 MR. CHAUVIN: All right.

11 MS. FLETCHER: November 1st at 1:30
12 for the protest hearing.

13 MR. CHAUVIN: Thank you.

14 MS. FLETCHER: You're welcome. Okay,
15 well thank you for coming. The roll call hearing
16 in the matter of Rush is concluded.

17 MR. CHAUVIN: I'm sorry, one more
18 question.

19 MS. FLETCHER: Mr. Chauvin, is that
20 you?

21 MR. CHAUVIN: It is, thank you. There
22 is a petition for a moratorium taking place and,
23 I guess, we'll go by developments in that case
24 because this may become a moot issue if the
25 moratorium is approved.

1 MS. FLETCHER: If that becomes the
2 case, the Board will let us know.

3 MR. CHAUVIN: Yeah, all right, thank
4 you.

5 MS. FLETCHER: You're welcome. Okay,
6 the matter of Rush is concluded. I am going to
7 recall the matter of Rush. I'm recalling the
8 matter of Rush because I see Mr. Holihan, you're
9 present. So, I see Mr. Holihan. I'm going to
10 spell his name since I've mentioned it. The name
11 is Sean Holihan, spelled S-E-A-N the last name is
12 spelled H-O-L-I-H-A-N. So, Mr. Holihan, I can
13 see your name, but you may be on mute. I can't -
14 - so, you're on mute, Mr. Holihan.

15 MR. HOLIHAN: Yeah, I'm sorry. I had
16 a work call that came in that I had to take and I
17 was told the Rush protest was dismissed because I
18 wasn't responding to your message.

19 MS. FLETCHER: Mr. Holihan, who are
20 you representing?

21 MR. HOLIHAN: ANC 1B.

22 MS. FLETCHER: Okay, I just wanted for
23 the record. I just wanted to state that. Okay,
24 thank you. One second, please. Give me one
25 minute. So, Mr. Holihan, that is correct that

1 the protest was dismissed, but not only because
2 you weren't present and just so that you know,
3 Mr. Schlom, S-C-H-L-O-M, did tell me that you
4 were present, but that you had to leave, so he
5 did tell me that. But the protest was also
6 dismissed for another reason. The protest letter
7 does not state that there was a dually held
8 public meeting with the vote taken with the
9 quorum present. That was actually missing from
10 the protest letter, so maybe you have a
11 resolution to say that's what happened, but the
12 protest was dismissed because there was no one
13 present and for the reason that I just stated.
14 That's what the Board Order will say.

15 If you decide to seek reinstatement,
16 you can explain to the Board the reason that you
17 weren't present. I'll make a note that you did
18 appear so I have documented that you appeared at
19 10:23, so that will be in the record.

20 MR. HOLIHAN: Just to be clear, I just
21 don't understand. I mean I was on, I appeared at
22 10:00, the meeting took about five minutes to
23 start. I had a work phone call. I turned my
24 camera off. I put in the chat that I was here
25 and then without anyone trying to contact me,

1 even though I was in front of my computer, on a
2 work call, you canceled the protest because I
3 wasn't here, but I was signed into the meeting
4 and no one tried to contact me to say you were
5 about to dismiss the protest. So, I think it's
6 erroneous to say that I appeared at 10:24. I was
7 signed in, my name was on there and I commented
8 in the chat. Had someone said in the chat you're
9 about to dismiss the protest because you are
10 "here", I would've signed on. I just don't think
11 that is correct.

12 MS. FLETCHER: Well then, you can
13 state that in your -- I'm assuming that you're
14 going to seek reinstatement on that basis --

15 MR. HOLIHAN: Yes.

16 MS. FLETCHER: Mr. Holihan. The
17 second reason is that the protest letter did not
18 include the information that I mentioned all
19 ready.

20 MR. HOLIHAN: So, the protest letter
21 didn't say there was a quorum?

22 MS. FLETCHER: The protest letter did
23 not state that there was a dually held publicly
24 noted meeting or that a vote was taken with a
25 quorum present.

1 MR. HOLIHAN: So, if there was, in
2 fact, a dually held meeting, because the meeting
3 was held in a ANC 1B full commission hearing,
4 where this meeting held place, and a vote was
5 held, that is not enough data to overturn your
6 decision on this? Because --

7 MS. FLETCHER: It has to be stated in
8 the protest letter.

9 MR. HOLIHAN: So is there a time for
10 us to re-send the protest letter?

11 MS. FLETCHER: Well, what you would be
12 doing at this point is explaining to the Board
13 whatever your explanation would be regarding that
14 information not being in the protest letter and
15 the Board would decide whether or not to
16 reinstate the protest.

17 MR. HOLIHAN: Okay, all right. Thank
18 you.

19 MS. FLETCHER: Okay, you're welcome,
20 Mr. Holihan, and like I said, I did not dismiss
21 the protest until 10:23. I did not see your
22 message in the chat, but I know that you were
23 here at some point because a party of another
24 case informed me that you were here, but that you
25 had to leave.

1 MR. HOLIHAN: Yeah, if you look in the
2 chat, it says at 10:06 I had a work call come in.

3 MS. FLETCHER: Okay, so I actually did
4 not see that in the chat and I mean this is just
5 for the record, I actually did not see it. So,
6 you can explain that to the Board as well as
7 whatever your explanation would be related to the
8 protest letter.

9 MR. HOLIHAN: Okay. I would just ask
10 for a little bit of leeway and forgiveness,
11 because as we all know, ANC members have full-
12 time work jobs and --

13 MS. FLETCHER: Yes, exactly and that's
14 understandable. That's understandable, but I'm
15 going to have in my record that you did appear,
16 that you put it in the chat, that I did not see
17 it. I'm going to put in my record exactly what
18 you just said so the Board will have that
19 information available, even though you state it
20 in your request for reinstatement, they will
21 already have that information because I'm going
22 to provide it. Then you can say whatever you say
23 about the protest letter.

24 MR. HOLIHAN: Okay, all right. Thank
25 you very much, I appreciate it.

1 MS. FLETCHER: Okay, thank you very
2 much, Mr. Holihan, and thank you for coming. The
3 roll call hearing in this matter is concluded and
4 those are all the hearings on the calendar for
5 today.

6 (Whereupon, the above-entitled matter
7 went off the record at 10:30 a.m.)
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This is to certify that the foregoing transcript

In the matter of: Rush

Before: DC ABCA

Date: 09-11-23

Place: teleconference

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Court Reporter

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