

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

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IN THE MATTER OF:           :
                             :
Stemless DC, LLC,          :
t/a Barkada Wine Bar      :
1939 12th Street NW       :
Retailer CR - ANC 1B      : Protest Status
License #115719           : Hearing
Case #21-PRO-00070        :
                             :
(Substantial Change       :
[Entertainment           :
Endorsement])            :
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Wednesday
 October 27, 2021

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:

SIMONE ANDREWS, DC ABRA Staff

**ALLEN CANNON, Designated Representative for
Protestants**

ALAN COHAN, Protestant

NATHAN FISHER, Applicant

RYAN HEILING, Protestant

KATHI HIGHFIELD, Protestant

CERI LAWLEY, Protestant

NICHOLAS MAHON, Protestant

DAN ORLASKEY, ANC 1B

LINDSEY THAKER, Protestant

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

10:36 a.m.

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3 CHAIRPERSON ANDERSON: We're on the
4 record. As Chairperson of the Alcoholic Beverage
5 Control Board for the District of Columbia, and
6 in accordance with DC Code Section 2576 of the
7 Open Meeting's Act, I am welcoming you to the
8 regularly scheduled meeting of the Alcoholic
9 Beverage Control Board.

10 This meeting is being conducted
11 pursuant to guidance made available by the
12 District of Columbia's Office of Open Government
13 regarding electronic meetings held by public
14 bodies during the public health emergency.
15 Pursuant to this guidance, notice of today's
16 meeting was provided 48 hours in advance of the
17 meeting on ABRA's website and on the District's
18 central meeting calendar.

19 The notice includes the time, date,
20 agenda, and call-in or log-in information for
21 public participation. This electronic meeting is
22 being hosted by a Webex account provided by the
23 District of Columbia government. Please address
24 any questions or complaints to the OOG at
25 Opengovoffice@dc.gov.

1 My name is Donovan Anderson and I'm
2 Chairman of the Board. I would like to introduce
3 the other members of the ABC Board who are also
4 participating electronically pursuant to Mayor's
5 order 2020-119. Please respond when I announce
6 your name.

7 Mr. James Short.

8 MEMBER SHORT: Mr. James Short,
9 present.

10 CHAIRPERSON ANDERSON: Mr. Bobby Cato.

11 MEMBER CATO: Bobby Cato, present.

12 CHAIRPERSON ANDERSON: Ms. Rafi
13 Crockett.

14 MEMBER CROCKETT: Rafi Crockett,
15 present.

16 CHAIRPERSON ANDERSON: Ms. Jeni
17 Hansen.

18 MEMBER HANSEN: Jeni Hansen, present.

19 CHAIRPERSON ANDERSON: Mr. Edward
20 Grandis.

21 MEMBER GRANDIS: Edward Grandis,
22 present.

23 CHAIRPERSON ANDERSON: The Board has
24 six members in attendance for the conduct of
25 business today and that constitutes a quorum.

1 Before we get underway with today's
2 hearing calendar, I need to make a few
3 instructions very clear so that the conduct of
4 these hearings is understood by everyone.

5 There are five cases scheduled for
6 today. Once your case is called, I will take a
7 moment for our IT specialist to elevate the
8 rights for each party to enable their camera and
9 microphone. Then, and only then, will you have
10 the ability to enable your equipment.

11 If your case has not been heard, you
12 will remain mute and your camera will be
13 disabled. At the conclusion of each case, the
14 parties will have the option to leave. If the
15 parties wish to stay, all cameras and microphones
16 for the concluded case will be disabled.

17 Should you have any questions or
18 require technical assistance during the hearing,
19 please submit them using the question and answer
20 feature or email simone.andrews2@dc.gov.

21 Our first order of business today is
22 a Protest Hearing Status Case No. 21-PRO-00070,
23 Barkada Wine Bar, License No. 115719.

24 Ms. Andrews, can you please elevate
25 the rights of the parties in this case, please.

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MS. ANDREWS: Sure. Stand by.

Mr. Fisher, your rights have been elevated.

Mr. Orlaskey, your rights have been elevated.

Mr. Cohan, your rights have been elevated.

MR. COHAN: Okay, good.

MS. ANDREWS: Ms. Lawley, your rights have been elevated.

Would all parties please mute their microphone until called upon.

Ms. Thaker, your rights have been elevated.

Mr. or Ms. Heiling, your right have been elevated.

Ms. Highfield, your rights have been elevated.

That's all I have for now. If anyone else belongs to this case, please acknowledge yourself in the chat.

Thank you, Mr. Chair.

CHAIRPERSON ANDERSON: I'm sorry. Hold on. I just did something and I have to

1 figure out what I just did. I apologize. Okay,
2 I'm back. All right.

3 I'm sorry. I would like if you're not
4 speaking please mute your line. Everyone should
5 mute their microphone. When you are speaking,
6 then you can unmute your microphone because we'll
7 have feedback if we're not.

8 MR. CANNON: One moment, please.

9 CHAIRPERSON ANDERSON: Someone said
10 one moment but unless I -- I'm sorry. Mr.
11 Cannon, are you speaking, sir?

12 MR. CANNON: I am, sir. I didn't hear
13 that my rights were elevated.

14 CHAIRPERSON ANDERSON: You are online,
15 sir. All I need you to do is mute your phone,
16 sir.

17 MR. CANNON: Excellent. Thank you.

18 CHAIRPERSON ANDERSON: Good morning,
19 everyone. This is a protest hearing status. Who
20 is the licensee? Can the licensee please
21 identify him or herself by spelling and stating
22 your name for the record, please.

23 MR. FISHER: Yep, this is Nathan
24 Fisher, first name N-A-T-H-A-N, last name F-I-S-
25 H-E-R.

1 CHAIRPERSON ANDERSON: And what's your
2 relationship to the establishment, sir?

3 MR. FISHER: I am one of the owners of
4 Barkada Wine Bar.

5 CHAIRPERSON ANDERSON: Thank you.

6 Do we have the ANC -- is the ANC-1 the
7 protestant?

8 MR. ORLASKEY: Yes, this is Dan
9 Orlaskey, Commissioner for 1B02.

10 CHAIRPERSON ANDERSON: Thank you, Mr.
11 Orlaskey. Can you please spell your name,
12 please?

13 MR. ORLASKEY: O-R-L-A-S-K-E-Y.

14 CHAIRPERSON ANDERSON: Thank you. And
15 you are from ANC what, sir?

16 MR. ORLASKEY: 1B02.

17 CHAIRPERSON ANDERSON: All right. Who
18 is the protestant? Do we have one or more
19 protestants in this case? Is there a designated
20 representative for the protestant?

21 MR. CANNON: Yes, there is.

22 CHAIRPERSON ANDERSON: Who is that?
23 Can you please spell and state your name for the
24 record who the designated representative is?

25 MR. CANNON: Yes. Allen, A-L-L-E-N,

1 Cannon, C-A-N-N-O-N.

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3 CHAIRPERSON ANDERSON: And what -- and
4 you are representating what group, sir?

5 MR. CANNON: I'm representing the
6 neighborhood group of five.

7 CHAIRPERSON ANDERSON: Is this the
8 only protestant or is there another protestant?
9 Not the group of five but is there another group
10 of protestants in this license?

11 MR. CANNON: Not that I know of. It's
12 just our group of five.

13 CHAIRPERSON ANDERSON: All right. So
14 you have -- who are the -- who's with us today?
15 You can just state their name. You can call them
16 and once you've called the names, then I would
17 like those individuals to state and spell their
18 name for the record, please.

19 MR. CANNON: Okay. You would like me
20 to list the people who are here today?

21 CHAIRPERSON ANDERSON: Yes, Mr.
22 Cannon. Just call their names one by one. Once
23 you call the person's name, then I will ask that
24 person to identify themselves for the record, and
25 also spell their names, please. Yes.

1 MR. CANNON: Thank you, sir.

2 Ceri W. Lawley.

3

4 MS. LAWLEY: I shall spell my name.

5 CHAIRPERSON ANDERSON: Yes, ma'am.

6 MS. LAWLEY: The name is spelled C-E-

7 R-I, that's Ceri. Lawley is L-A-W-L-E-Y.

8 CHAIRPERSON ANDERSON: Thank you,

9 ma'am.

10 Who else is here, Mr. Cannon?

11 MR. CANNON: Yes. We have Mr. Alan

12 Cohan.

13 MR. COHAN: A-L-A-N C-O-H-A-N.

14 CHAIRPERSON ANDERSON: Good morning,

15 Mr. Cohan.

16 MR. COHAN: Good morning. By the way,

17 you obviously can hear me fine. I can barely

18 hear anybody.

19 CHAIRPERSON ANDERSON: Maybe you can

20 turn up your microphone, sir.

21 MR. COHAN: It's all the way up but I

22 can get by. I just wanted to let you know.

23 CHAIRPERSON ANDERSON: All right.

24 Thank you. I'll speak up, sir.

25 All right. Go ahead, Mr. Cannon.

1 MR. CANNON: Yes. We have Kathi
2 Highfield.

3 MS. HIGHFIELD: Yes, Kathi --

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5 CHAIRPERSON ANDERSON: Ma'am, Ms.
6 Highfield, I can hardly hear you. Can you please
7 spell and state your name for the record, please.
8 Ms. Highfield.

9 MS. HIGHFIELD: Okay. Kathi, K-A-T-H-
10 I, Highfield, H-I-G-H-F-I-E-L-D.

11 CHAIRPERSON ANDERSON: Thank you.
12 Good morning, ma'am. Thank you.

13 MS. HIGHFIELD: Thank you.

14 CHAIRPERSON ANDERSON: Go ahead, Mr.
15 Cannon.

16 MR. CANNON: Yes. Mr. Nicholas Mahon.

17 MR. MAHON: Hello there. Can
18 everybody hear me okay? My name is spelled N-I-
19 C-H-O-L-A-S, Nicholas, last name Mahon, M-A-H-O-
20 N.

21 CHAIRPERSON ANDERSON: Good morning,
22 Mr. Mahon.

23 MR. MAHON: Good morning.

24 CHAIRPERSON ANDERSON: Who else do we
25 have, Mr. Cannon?

1 MR. CANNON: Ms. Lindsey Thaker.

2 MS. THAKER: Hi. Good morning. My
3 name is spelled L-I-N-D-S-E-Y, last name Thaker,
4 T-H-A-K-E-R.

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6 CHAIRPERSON ANDERSON: Good morning,
7 Mr. Thaker.

8 MS. THAKER: Good morning.

9 CHAIRPERSON ANDERSON: Anyone else?

10 MR. CANNON: Mr. Ryan Heiling, I
11 believe.

12 MR. HEILING: Yes, Ryan, R-Y-A-N,
13 Heiling, H-E-I-L-I-N-G.

14 CHAIRPERSON ANDERSON: Good morning,
15 Mr. Heiling.

16 All right. So everyone is represented
17 here from the group of five or more. All right.
18 Thank you.

19 All right. Let's start with the
20 licensee. Are there any preliminary matters you
21 want to bring to the attention of the Board?

22 MR. FISHER: We do have one question,
23 just an update that we did have our initial
24 meeting with the protestors, as well as the ANC,
25 and are continuing to have conversations with the

1 ANC to schedule another meeting very soon.

2 The question we did have relating to
3 the actual timing of any sort of license in
4 relation to the renewal. I know that restaurants
5 in Group C renewals are at the end of March.

6 I wanted to know if negotiations or
7 conversations continue past the December 2nd date
8 if any entertainment license, if approved, would
9 happen in the renewal and not beforehand so we
10 don't need to pay it double for -- I know that
11 there's no -- you don't need to -- we would have
12 to pay for this license and then have to pay
13 again for renewal. I just want you to know the
14 timing and can we delay anything to when our
15 license is renewed?

16 CHAIRPERSON ANDERSON: I'm not sure.
17 I don't have the answer. I can't answer that
18 question right now so you probably have to
19 contact our licensing division for that to get an
20 answer there. When did you make the request for
21 substantial change?

22 MR. FISHER: We made the request back
23 in July.

24 CHAIRPERSON ANDERSON: July of this
25 year, 2021?

1 MR. FISHER: Yes.

2 CHAIRPERSON ANDERSON: All right.
3 You've got to speak to licensing about the timing
4 and the approval. I know that -- and as you
5 state -- the reason why I ask this question is
6 because we are still doing protest hearings from
7 2019 and for establishments those renewal is
8 going to be up in '22 so we have not -- based on
9 the pandemic we have not necessarily had hearings
10 on licenses that are not -- we are now going to
11 be -- I'm starting another renewal period.

12 That's something you'd have to talk to
13 the licensee. But I -- our Licensing Division in
14 the sense of if this is approved and the timing
15 of the approval, what does that mean for payment
16 for this period and also for the period that you
17 are -- when your license will come up for
18 renewal. I would just ask you to reach out to
19 Mr. Sean Gordy who is the head of the Licensing
20 Division and they can provide you that answer.
21 Okay?

22 MR. FISHER: Sounds good. Thank you.

23 CHAIRPERSON ANDERSON: All right.

24 Thank you.

25 Mr. Orlaskey, do you have any

1 preliminary matters that you want to raise with
2 the Board?

3 MR. ORLASKEY: No preliminary matters
4 from the ANC.

5 CHAIRPERSON ANDERSON: Mr. Cannon, do
6 you have any preliminary matters that you want to
7 raise with the Board? You're on mute, Mr.
8 Cannon.

9 MR. CANNON: No, I don't have any
10 matters for the Board now.

11 CHAIRPERSON ANDERSON: All right.
12 This matter is scheduled for a protest hearing on
13 December 1, 2021 at 10:30 a.m. I'm not sure if
14 the parties are discussing settlement but the
15 Board supports settlement of all issues if the
16 parties are able to -- if the parties are able to
17 settle the matter.

18 Just as an FYI, I'm letting the group
19 of five know that if a settlement is reached
20 between the ANC and the licensee that the protest
21 will be -- your party status will be dismissed.
22 Just as an FYI to the group of five or more to
23 say that if there is a settlement that is reached
24 between the ANC and whether or not you are part
25 of the settlement agreement, or if you're not

1 part of the settlement agreement that the protest
2 will be over.

3 Also just as an FYI I also want to let
4 the group of five or more know that if the ANC
5 refuses to make you part of the settlement
6 agreement, the Board has no authority to order
7 the ANC or the licensee to make you part of a
8 settlement. Just as an FYI.

9 I am not telling the licensee not to
10 talk to the protestant, to the group of five or
11 more, but since I've been Chair I've had
12 opportunities where groups want the Board to
13 order the licensee to negotiation with them, or
14 if a settlement agreement is reached between the
15 ANC and the licensee, they want the Board to move
16 forward with the protest hearing. I just wanted
17 to inform the licensee that by operation of law,
18 that is how things are.

19 There is nothing the Board can do.
20 We've got the statute that states that if a
21 settlement agreement is reached between the ANC
22 and the licensee, your protest status ends and we
23 cannot force the parties to make you part of the
24 settlement agreement. Okay? Just as an FYI.
25 All right.

1 Now that we've scheduled this matter
2 for a protest hearing, there are a few things
3 that I would like to instruct you about because
4 the Board's practice under the public emergency
5 has changed.

6 As you know, the Board's hearings are
7 conducted virtually so it is more important than
8 ever that protest hearings are focused and
9 address only those issues that are being
10 protested.

11 Following this hearing you will
12 receive an email from the attorney from our
13 office -- I'm sorry, from the Legal Office that
14 will include a copy of a protest information
15 form, and a copy of an exhibit form, as well as
16 specific instructions for the hearing. You are
17 required to complete the protest information and
18 the exhibit form at least seven days before the
19 date of the hearing.

20 If we do not receive a copy of your
21 forms seven days before the hearing, your
22 application or your protest may be subject to
23 dismissal. These documents not only need to be
24 submitted to ABRA Legal, but to the opposing
25 parties as well. Please know that these

1 documents greatly assist the Board in narrowing
2 the protest issues, facilitating the process, and
3 keeping the parties on point during the hearing.

4 Each side is limited to no more than
5 five witnesses and you will only have sixty
6 minutes to present your case. This includes all
7 direct and cross-examination of witnesses. The
8 Board does not intend to hear testimony on
9 matters that are not relevant to those issues
10 that are being protested, nor will the Board
11 tolerate repetitive testimony. Are there any
12 questions by anyone?

13 MR. CANNON: No.

14 CHAIRPERSON ANDERSON: All right. We
15 thank you greatly for your cooperation. If you
16 have any questions at anytime leading up to the
17 hearing, please do not hesitate to contact our
18 legal office and we will provide you either the
19 licensee and the -- the licensee, the ANC, and
20 the protestants.

21 If at any point you have any
22 questions, you can reach out to our legal office
23 and we will provide you with technical support
24 that you require to move forward with this
25 matter. The Board supports settlement. If the

1 parties are able to settle the matter, the Board
2 will -- as long as the terms are legally
3 enforceable, the Board will sign off on the terms
4 of the settlement agreement.

5 I've always stated you live in this
6 area so irrespective of what decision is made, at
7 the end of the day both parties -- this is a
8 substantial change that both parties. This is a
9 substantial change that both parties -- this
10 establishment is going to remain in your
11 neighborhood so we support the matter if it can
12 be settled.

13 Of course, if it cannot be settled,
14 we'll have a hearing on December 1st. Please
15 continue speaking, communicate with each other
16 but, if the matter cannot be settled, we will see
17 you on December 1st at 10:30. Thank you very
18 much and have a great day.

19 (Whereupon, the above-entitled matter went
20 off the record at 10:57 a.m.)
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| A | B | | |
|--|--|--|---|
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In the matter of: Bakarda Wine Bar

Before: DCABRA

Date: 10-27-21

Place: teleconference

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Court Reporter

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