

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

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IN THE MATTER OF: :
 :
DC Fine Wine & :
Spirits, LLC :
t/a Total Wine & More :
5401 44th Street NW :
Retailer A - ANC 3E :
License No. 130474 :
Case #24-PRO-00127 :
 :
(Substantial Change - :
Request for a Change :
in Ownership, Change of :
Hours, and Transfer to :
New Location) :
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Wednesday
February 26, 2025

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

PRESENT:

DONOVAN W. ANDERSON, Chairperson
DAVID MEADOWS, Member
TERI JANINE QUINN, Member

ALSO PRESENT:

JOSE ORELLANA, DC ABCA Staff
STEPHEN O'BRIEN, Licensee Counsel
MANALLE MAHMOUD, Licensee Counsel
TOM QUINN, ANC 3E
SHELDON REPP, Group of 5
EARLE DOUGLASS, Protestant

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

2 11:04 a.m.

3 CHAIRPERSON ANDERSON: Good morning.

4 As Chairperson of the Alcoholic Beverage and
5 Cannabis Board for the District of Columbia, and
6 in accordance with D.C. Code Section 2-571 et.
7 seq. of the Open Meetings Act, OMA, I'm welcoming
8 you to the regularly scheduled meeting of the
9 Alcoholic Beverage and Cannabis 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. Electronic meetings by the ABC Board are
15 authorized pursuant to Section 2-577(a) of the
16 D.C. Code.

17 Pursuant to the OMA requirements,
18 notice of today's meeting was provided 48 hours
19 in advance of the meeting on ABCA's website and
20 on the District's Central Meeting Calendar. The
21 notice included the time, date and agenda, and
22 call-in or login information for public
23 participation.

24 This electronic meeting is being
25 hosted by a WebEx account provided by the

1 District of Columbia Government. Please address
2 any questions or complaints to the OOG at
3 opengovoffice@dc.gov.

4 My name is Donovan Anderson, I'm
5 Chairperson of the Board. I would like to
6 introduce the other members of the ABC Board who
7 are also participating electronically. Please
8 respond when I announce your names.

9 Ms. Teri Janine Quinn?

10 MEMBER QUINN: Teri Janine Quinn,
11 present.

12 CHAIRPERSON ANDERSON: Mr. David
13 Meadows?

14 MEMBER MEADOWS: Good morning. Mr.
15 David Meadows, present.

16 CHAIRPERSON ANDERSON: The Board has
17 three members in attendance for the conduct of
18 business today, and that constitutes a quorum.

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

23 There are nine cases scheduled for
24 this morning's calendar. Once your case is
25 called, it will take a moment for our IT

1 specialist to elevate the rights for each party
2 to enable their camera and microphone. Then and
3 only then will you have the ability to enable
4 your equipment.

5 If your case is not being heard, you
6 will remain mute and your camera will be
7 disabled.

8 At the conclusion of each case, the
9 parties will have the option to leave. If the
10 party chooses to stay, all cameras and
11 microphones for the concluded case will be
12 disabled.

13 Should you have any questions or
14 require technical assistance during the hearing,
15 please submit them using the question and answer
16 feature.

17 I would like to apologize to the
18 public this morning for our tardiness. We had an
19 extensive administrative calendar that we had to
20 review this morning, and so that's one of the
21 reasons why we're now taking the
22 ***0226_Cell_BU_AM 00:03:47 at 11:06, rather than
23 10:30. So, I do apologize for our late start
24 time this morning.

25 Okay, so the first case on our

1 calendar is case number 24-PRO-00127, Total Wines
2 and More, license number 130474.

3 Good morning, Mr. Orellana. Can you
4 please elevate the rights of the parties in this
5 case?

6 MR. ORELLANA: Good morning. Tom
7 Quinn, your access has been elevated. Manalle
8 Mohmoud, your access has been elevated. Stephen
9 O'Brien, your access has been elevated. And
10 Shelly Repp, your access has been elevated. That
11 is all, Chairman.

12 CHAIRPERSON ANDERSON: Thank you, sir.
13 Again I apologize for our late start this
14 morning. But we had just some extensive work the
15 Board had to do in executive Committee meeting
16 this morning, and so that's why we are late. And
17 so, I appreciate your understanding.

18 All right. So, let's start with the
19 applicant.

20 MR. O'BRIEN: Good morning, Mr. Chair.
21 Stephen O'Brien, S-T-E-P-H-E-N, O-B-R-I-E-N. I'm
22 accompanied by my colleague, Manalle Mahmoud, M-
23 A-N-A-L-L-E, last name M-A-H-M-O-U-D. Ms.
24 Mahmoud and I are at separate locations this
25 morning.

1 CHAIRPERSON ANDERSON: Thank you, good
2 morning. Let's start with -- let's go with the
3 ANC.

4 MR. QUINN: Good morning, Mr.
5 Anderson. Tom Quinn on behalf of ANC 3E, it's T-
6 O-M, Q-U-I-N-N. I also represent SMD 3E04.

7 CHAIRPERSON ANDERSON: Good morning,
8 sir. Mr. Repp?

9 MR. REPP: Yes, good morning, Chair
10 Anderson. Shelly Repp, S-H-E-L-L-Y, or Sheldon,
11 S-H-E-L-D-O-N, Repp, R-E-P-P, representing the
12 group of five.

13 CHAIRPERSON ANDERSON: Good morning,
14 sir. I know that we had fact-finding hearing, I
15 believe it was last week, on this case. The
16 Board will be issuing a decision later on today.
17 Later, a Board decision will be issued but we're
18 going to move on to -- interimly to -- move on
19 with this case until -- since we have not issued
20 the decision as yet. So, we're just moving
21 forward with this case, until that decision has
22 been issued.

23 Any preliminary matters in this case?
24 I think Mr. Repp, my understanding is that you
25 had filed a subsequent motion. Is that correct,

1 sir?

2 MR. REPP: We filed a filing two days
3 ago, just bringing to your attention again the
4 issue here is whether or not Total Wine, you
5 know, complied with the notice provisions of the
6 law. And pointing out that, in our view, the
7 appropriate remedy -- because they did not do
8 that, the appropriate remedy is to replacard.

9 We also pointed out in that filing
10 that the -- there is a petition circulating among
11 neighbors in the area, opposing this application,
12 and that we had as of a few days ago 306
13 individuals who had signed that application.

14 It just points out that it's not just
15 us that are -- that there's -- the opposition is
16 not just us. I mean, we filed a protest, barely
17 got it into the record in time, but there are
18 other people who did not have the opportunity to
19 do so, that are opposed to this, including the
20 community organization that sponsors the
21 petition.

22 CHAIRPERSON ANDERSON: All right,
23 thank you. Mr. O'Brien, any preliminary matters
24 you want to bring to the attention of the Board?

25 MR. O'BRIEN: Yes, a housekeeping

1 matter. At the roll call in this case, nine --
2 let me go back a step, if I may. Mr. Repp's
3 group's petition was signed, I think, by 29
4 individuals -- it could be one or two more, or
5 less, it's not relevant -- approximately 29.

6 At the roll call, nine of those
7 signatories appeared -- and Ms. Mahmoud can go
8 ahead and read those nine names. But the
9 question is whether any additional signatories to
10 the opposition to the protest, who did not appear
11 at the roll call, are, in fact, appearing here
12 today.

13 Ms. Mahmoud, can you read the nine
14 names that were present at the roll call?

15 MS. MAHMOUD: Of course. Good
16 morning, Mr. Chair, members of the Board. The
17 names of the nine were, one, Sheldon Repp; two,
18 Janice McLain; three, Marilyn Simon; four,
19 Claudia Taubman; five, Walter Borek; six, Ann
20 Philips; seven, Earle Douglass; eight, Myrna
21 Sislen; nine, Barbara Repp.

22 MR. O'BRIEN: So my question, Mr.
23 Chair, is there any signatory to the protest
24 filing that was -- that did not appear at the
25 roll call but is appearing here at the status

1 hearing today?

2 CHAIRPERSON ANDERSON: And I guess I
3 just need some clarification from you, Mr.
4 O'Brien. They were granted standing as what?
5 Because I know you grant standing to a group of
6 five or more, so is it that they -- were they
7 granted standing to a group of five or more that
8 then you need to -- at least five members must
9 show up or, because you're saying that there are
10 29 members, that at all 29 members need to show
11 up?

12 I'm asking because I am not -- yeah.

13 MR. O'BRIEN: Okay. No, standing was
14 granted to a group of five or more. The question
15 though, is -- well, let me go back. They have a
16 requirement that anybody who signed the petition,
17 to continue to be a protestant, must appear at
18 either the roll call or the status hearing.
19 Assuming no additional persons who signed the
20 petition appear today, the group is of nine
21 people. And I wanted to identify and lock in
22 that we're talking about a group of nine people.

23 Now, a group of nine is more than
24 five, I understand that, but I want to confirm
25 that we are dealing now with a group of nine.

1 CHAIRPERSON ANDERSON: Okay, so we're
2 -- well -- but if this matter goes to a hearing,
3 it's -- okay, I see your point. Well -- but if
4 this matter goes to a hearing, because this
5 standing was granted to more than one individual,
6 then pursuant to -- hold on one minute --
7 pursuant to our Board rules -- let me see --
8 pursuant to Section 1612.8, the parties would
9 have to designate one party representative.

10 And if the parties would wish for us
11 to have more than five witnesses and more than 90
12 minutes to present your case, then they would
13 have to make a formal motion to the Board, to say
14 that we need more than five witnesses and we need
15 more time. And so, we can address those issues
16 later on at the hearing. If -- we can -- we
17 could address those issues.

18 It appears, I saw -- and I try not to
19 read the chat, but I think today I read the chat
20 where, and I think it is relevant to the point --
21 - there's someone in the chat, who's that person
22 in the chat? Is that Mr. Repp ***0226_Cell_BU_AM
23 00:13:10 --

24 (simultaneous speaking.)

25 MR. O'BRIEN: I believe it's Earle

1 Douglass -- Earle Douglass, I believe.

2 CHAIRPERSON ANDERSON: And did that
3 person sign -- Ms. Mahmoud, did that person sign
4 the petition?

5 MS. MAHMOUD: They did.

6 CHAIRPERSON ANDERSON: All right, so
7 Mr. Orellana, can you please elevate -- who's
8 that person?

9 MR. REPP: There he is, he's --

10 CHAIRPERSON ANDERSON: Earle Douglass?

11 MR. ORELLANA: Earle Douglass, your
12 access has been elevated.

13 CHAIRPERSON ANDERSON: Earle Douglass,
14 can you please spell and state your name for the
15 record, please?

16 MR. DOUGLASS: Earle Douglass, E-A-R-
17 L-E, D-O-U-G-L-A-S-S, present.

18 CHAIRPERSON ANDERSON: All right, so
19 we have now had ten individuals -- you're shaking
20 your head, Mr. O'Brien, what's the issue with Mr.
21 Douglass?

22 MR. O'BRIEN: No issue, but Mr.
23 Douglass was one of the nine who appeared at roll
24 call.

25 CHAIRPERSON ANDERSON: Okay, I -- all

1 right. Okay, I apologize. I thought Mr.
2 Douglass was not one of the nine, I thought he
3 was an extra person. All right, so that's fine.
4 So, it says a group of nine, because as --
5 between the show cause hearing -- I'm sorry,
6 between the status, I'm sorry, the roll call and
7 a status, nine individuals showed up, so
8 therefore it's a group of nine currently.

9 And if this matter goes to a hearing
10 and if the parties require more witnesses to
11 testify, then as I've stated before, pursuant to
12 Section 1612.8 the protestants would have to
13 designate who was going to represent both parties
14 jointly at the hearing. And then if we -- if
15 they need -- because it's a group of nine, then
16 nine witnesses could show up, because they were
17 parties. And then, if they need more than those
18 nine witnesses, then they would have to file a
19 motion with the Board to ask permission to have
20 more time to do the hearing, and to have more
21 witnesses.

22 Do you have another question, Mr.
23 O'Brien?

24 MR. O'BRIEN: Yes. To be clear, Mr.
25 Repp can call as a witness anybody, assuming the

1 witness has relevant testimony. He's not limited
2 to calling the nine that we've identified as the
3 group, he can call as many people as he wants,
4 simply pursuant -- restricted by the Board's
5 allotment of time for the hearing.

6 But this is -- the group of nine are
7 the protestants, the protestant group, Mr. Repp
8 can call anybody, with or without that group,
9 that he deems appropriate.

10 CHAIRPERSON ANDERSON: No, I mean,
11 that's fine. And that's one of the reasons I
12 stated that our rule states you can only have
13 five witnesses, so if you want to have -- if
14 you're going to call more than five witnesses,
15 and I guess outside of the group, then they would
16 have to -- then you'd have to make a motion to
17 the Board to state that these are -- we need to
18 call more witnesses, the relevancy of those
19 witnesses' testimony, and why the Board should
20 relax its rules to allow more people to testify.
21 So, I just ***0226_Cell_BU_AM 00:16:46 --

22 (simultaneous speaking.)

23 MR. O'BRIEN: Mr. Repp is certainly
24 entitled to file such a motion, if he chooses.

25 CHAIRPERSON ANDERSON: Okay.

1 MR. O'BRIEN: And there is no question
2 -- I think the comment by the Board a moment ago,
3 by the Chair, talked about designated
4 representative. There's no question that Mr.
5 Repp is the designated representative of the
6 group of nine.

7 CHAIRPERSON ANDERSON: No, what I said
8 about designated, I mean in a sense that we're
9 not going to have -- if this matter goes to a
10 protest hearing, we're not going to have a
11 protest by the ANC, and we're not going to have a
12 protest by the group of nine or more. What I'm
13 saying, the ANC and the protestant would have to
14 agree, who is going to represent the ANC and the
15 protestant at the hearing, so we only have one
16 representative. That's what Section 1612.8
17 requires.

18 So, that's what I was talking about,
19 who was going to -- who would be the official
20 representative at the protest hearing, not that
21 Mr. Repp is not the representative of the group
22 of nine.

23 Any questions, Mr. Repp? Any -- you
24 want to bring anything up?

25 MR. REPP: Well, if -- I don't know,

1 I mean, it sounds confusing, to tell you the
2 truth. But I don't believe it should get in the
3 way of us proceeding today, so I think we can
4 work that out at the right time, so.

5 CHAIRPERSON ANDERSON: Okay, that's
6 fine. Thank you, sir. Mr. Quinn, any
7 representation you want to make, sir? On any
8 issue, not -- any procedural issues that you
9 have. You don't -- if you have nothing to say,
10 you can say I have nothing to say.

11 MR. QUINN: I have nothing to say
12 right now, thank you for checking.

13 CHAIRPERSON ANDERSON: All right,
14 thank you, Mr. Quinn.

15 All right, as I stated before, the
16 Board will issue a Board Order on the fact-
17 finding hearing that we had last week. But
18 pending that decision, this protest hearing is
19 scheduled for March 26 at 1:30 p.m. The parties
20 are entitled to move forward to settle this
21 matter, if they believe it can be settled. But
22 we believe -- but currently the matter, this
23 matter is scheduled for March 26, 2025, pending
24 the decision that will be issued later on by the
25 Board.

1 And as -- I just want -- I also want
2 to remind the parties, if this matter goes to a
3 protest hearing, that you need to -- you must
4 exchange the PIF. The PIF must be done, and it
5 must be done seven days prior to the hearing, and
6 it must be served on each party. And if failure
7 by either side to provide the PIF seven days in
8 advance of the hearing, the Board is empowered to
9 prevent that side from relying on documents and
10 witnesses that have not been identified.

11 And as I also stated, pursuant to
12 Section 1612.8 the parties are required to
13 designate one representative to represent both
14 parties at the protest hearing, if this protest
15 hearing moves forward on March 26, 2025. Any
16 questions?

17 MR. O'BRIEN: Mr. Chair, in another
18 recent case there was confusion regarding when
19 seven days before the hearing runs.

20 ***0226_Cell_BU_AM 00:20:30 --

21 (simultaneous speaking.)

22 CHAIRPERSON ANDERSON: Right, so this
23 matter is scheduled for -- hold on a minute.

24 Okay, so the hearing is scheduled for March 26.

25 Let me look at my calendar, what is seven days

1 from March 26. So, now look at my calendar --
2 March 26, so therefore the seven days -- well,
3 no. I'm not sure if I want to go there, but I'm
4 saying seven days is March 19.

5 But maybe, Mr. O'Brien, if there is a
6 different interpretation, maybe you can share
7 with me. But I believe seven days is March 19,
8 but is there a different interpretation?

9 MR. O'BRIEN: Well, in another recent
10 case -- the question is whether the day of the
11 hearing is included in the seven or not. In
12 another recent case, another party filed it on
13 the Thursday before the following Wednesday
14 hearing, and the Board said that that was an
15 interpretation from staff and that that was
16 acceptable. So that, the Thursday would be the
17 20.

18 CHAIRPERSON ANDERSON: All right --

19 MR. O'BRIEN: I don't care which day
20 it is, I just want to fix***0226_Cell_BU_AM
21 00:21:46.

22 (simultaneous speaking.)

23 CHAIRPERSON ANDERSON: I guess the
24 bottom line is that it was an interpretation by
25 staff. And if staff has advised the parties on

1 when they believe that the matter can be, should
2 be filed, I'm not going to go against the
3 interpretation of the staff. But I am -- but the
4 Board is informing the parties that the PIF is
5 due on the 19. And so --

6 MR. O'BRIEN: Very well.

7 CHAIRPERSON ANDERSON: It's the 19.

8 MR. O'BRIEN: All right.

9 CHAIRPERSON ANDERSON: So therefore,
10 I'm stating that it's the 19, and I believe
11 that's what I've seen before. And until the
12 Board issues clarification, it's the 19. In this
13 particular case, I'm informing the parties, if
14 this matter goes to a hearing on the 19 -- I'm
15 sorry, on the 26, the PIF is due by close of
16 business on the 19.

17 And what I will do, because I have
18 also been practicing administrative law for
19 almost 30 years in a different forum, and I think
20 it's generally accepted that, as long as the
21 document is filed by 11:59 p.m. on the 19, it is
22 acceptable. All right, so I am telling the
23 parties, in this particular case, until the Board
24 issues clarification, that the PIF is due by
25 close of business by 11:59 p.m. on March 19,

1 okay?

2 MR. O'BRIEN: Understood, thank you.

3 CHAIRPERSON ANDERSON: Okay. And if
4 anything else changes, the Board will issue a
5 decision for other cases exactly what the seven
6 days mean. But in this particular case, it's
7 11:59 p.m. on March 19, okay?

8 MR. O'BRIEN: Thank you.

9 CHAIRPERSON ANDERSON: All right,
10 thank you. Any other questions?

11 (No audible response.)

12 CHAIRPERSON ANDERSON: All right, so
13 as I stated before, we'll issue the decision and
14 we will see -- you will receive the decision and
15 then, if we need to make adjustments to the date
16 and time, we will do that, okay? All right,
17 thank you.

18 MR. REPP: We appreciate it, thank
19 you.

20 MR. O'BRIEN: Thank you.

21 CHAIRPERSON ANDERSON: Have a great
22 day. All right, thank you.

23 (Whereupon, the above-entitled matter
24 went off the record at 11:27 a.m.)

25

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In the matter of: Total Wine and More

Before: DC ABCA

Date: 02-26-25

Place: teleconference

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