

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

2 3:31 p.m.

3 CHAIRPERSON ANDERSON: All right.

4 What business do you have?

5 MR. KLINE: Yes, I wanted to inquire
6 about the application that had been submitted for
7 3500 Wisconsin Avenue, which has been considered
8 by the Board twice now. And has, according to
9 the agenda, been denied and I wanted to be heard
10 on that.

11 CHAIRPERSON ANDERSON: Go ahead, sir.
12 Why don't you, for the record, identify yourself
13 and identify the establishment and I'll allow you
14 a chance to be heard.

15 MR. KLINE: Great. Thank you so much.

16 Andrew Kline on behalf of an
17 applicant, premises at 3500 Wisconsin Avenue.

18 This is an A store application at the
19 location where Burka's Liquors previously
20 operated and that licensee applied to transfer to
21 another location down the street.

22 And the -- our client has applied for

1 a new license at that location, which has been
2 denied and our inquiries to ABRA, the office,
3 have been less than satisfactory in terms of what
4 the response has been.

5 At one point, we were told it was
6 going to be placarded and then we understand it
7 was on the agenda last Wednesday and the Board
8 made a decision to deny it.

9 The most that I know is there seems to
10 be some understanding or perception that the
11 approval of the transfer to 3414 from 3500 by the
12 previous Burka store somehow disqualifies this
13 application from moving forward.

14 We don't read the law that way. And
15 we are not even sure that that is what the Board
16 has decided. But given that we filed over a
17 month ago and time is really of the essence in
18 terms of moving forward, I thought I would just
19 come before you and see if we could figure out
20 what is going on and why it is going on, at this
21 point.

22 CHAIRPERSON ANDERSON: All right. We

1 are going to -- the Board will issue a Board
2 Order on -- I'm not quite sure, but my hope is
3 that at some point we will issue a Board Order.

4 MR. KLINE: Well, Mr. Anderson, we
5 have been pending for over a month.

6 CHAIRPERSON ANDERSON: Well, I'm
7 saying that you -- the Board will issue a Board
8 Order on this matter. So it's not going to be
9 pending any more from -- I mean, if you -- if I
10 remember correctly, I know that the first time it
11 was on the agenda, it was denied.

12 And I think that the Board was asked
13 to reconsider its position. I think that is what
14 brought it back on the agenda, if I remember
15 correctly. I know that the first time it was on
16 the agenda, it was denied.

17 MR. KLINE: Okay. So let me review
18 the history, if I might?

19 CHAIRPERSON ANDERSON: Sure. Go
20 ahead.

21 MR. KLINE: So maybe we can get some
22 clarity on this. There was a prior application

1 that was filed, which was filed some time in
2 August. And on August 15th that application was
3 denied. My understanding is, and there has been
4 no Board Order, but my understanding is, that
5 application was denied under the provisions of DC
6 Code 25-333, which says that "No new off-premise
7 Retailer's License Class A shall be issued for an
8 establishment which is located within 400 feet of
9 another establishment operating under an off-
10 premise Retailer's License Class A."

11 In August, the very store that, in my
12 understanding, prohibited that application from
13 moving forward was the store that is now moving.
14 So I don't know why that application didn't
15 proceed on that basis, but that's not my concern.
16 It's not the one that we filed.

17 Subsequent to that, that store closed.
18 That store is now closed. There is no store
19 operating within 400 feet of 3500 Wisconsin
20 Avenue. I have been up there myself. I have
21 pictures on my cell phone. I can show them to
22 you. There is no store operating there.

1 So we filed an application a month ago
2 to -- for a new license at that location. It was
3 denied without explanation. I had a conversation
4 with the Director. I explained to him what was
5 going on. I told him there was no store
6 operating. He told me it was a mistake. He told
7 me that he would do what he could to have the
8 placards issued last Friday, because when I spoke
9 to him it had been the Friday before and we had
10 already missed the Thursday deadline for the
11 Register, he said he was going to do what he
12 could to see that that notice ran.

13 And then last Wednesday, before the
14 Friday, the Board issued another order saying it
15 was denied.

16 Now, we don't understand on what basis
17 it has been denied. There is no store operating
18 there at this time. There has been a license
19 approved for transfer. It is my understanding
20 they have picked up the stipulated license. By
21 all rights, that license should be in
22 safekeeping, because they are not operating.

1 And based on my personal examination
2 and the photos that I have, they are not in any
3 position to be operating any time within the next
4 10 days, at least, and possibly longer than that.

5 So we are baffled as to why this has
6 happened and our efforts to get any explanation
7 from ABRA have been futile. And time is money
8 and that's why I'm here in the unusual situation
9 of appearing before you without being on the
10 agenda.

11 I don't know that I have ever done
12 this, but given my frustration, I felt like I had
13 no other choice.

14 CHAIRPERSON ANDERSON: All right.
15 Well, thank you, Mr. Kline. The Board has heard
16 you and the Board will issue a Board Order based
17 on the representation that you have made and
18 based on whatever information that we can, we
19 will gather from and that decision will be made
20 in due course.

21 And so it's not going to be -- no,
22 that's not going to give you a legal answer.

1 It's just in due course. It will -- the Board
2 will issue an order forthwith.

3 MR. KLINE: And I would just remind
4 the Board that my understanding is the deadline
5 for the DC Register is tomorrow at noon.

6 CHAIRPERSON ANDERSON: All right.

7 MR. KLINE: Which is why when Mr.
8 Chairman said in due course, I had the expression
9 on my face that I did, because if it's going to
10 move forward, then we need it to move forward by
11 then. If it's not going to move forward, we need
12 to know that, so we can explore our other
13 remedies, because we think we are in compliance
14 with the law.

15 CHAIRPERSON ANDERSON: All right.

16 MR. KLINE: And we haven't been given
17 any reason why we are not in compliance with the
18 law.

19 CHAIRPERSON ANDERSON: Well, you
20 presented today and although I'm leaving out of
21 town, but I'm going to make sure that we address
22 that issue. That it will be addressed. And if,

1 as you said, the deadline is tomorrow to do that,
2 I assure you that the Board will make -- will
3 consider it and issue such a Board Order to be
4 consistent with your expectation.

5 And so if you need -- I'm -- whatever
6 the decision is, then at least you will have
7 something in writing and know what the position
8 is of the Board.

9 MR. KLINE: Right.

10 CHAIRPERSON ANDERSON: All right?

11 MR. KLINE: All right. Great.

12 CHAIRPERSON ANDERSON: All right.

13 MR. KLINE: Thank you so much.

14 CHAIRPERSON ANDERSON: Thank you. All
15 right then. All right.

16 As Chairperson of the Alcoholic
17 Beverage Control Board for the District of
18 Columbia and in accordance with DC Official Code
19 Section 2-574 of the Open Meetings Act, I move
20 that the ABC Board hold a closed meeting on
21 October 31, 2018 for the purpose of seeking legal
22 advice from our counsel on the matters identified

1 on the Board's Legal, Investigative and Licensing
2 Agenda for October 31, 2018, as published in the
3 DC Register on October 26, 2018.

4 Is there a second?

5 MEMBER SHORT: Second.

6 CHAIRPERSON ANDERSON: Mr. Short has
7 seconded the motion.

8 I will now take a roll call vote on
9 the motion before us now that it has been
10 seconded.

11 Ms. Wahabzadah?

12 MEMBER WAHABZADAH: I agree.

13 CHAIRPERSON ANDERSON: Mr.
14 Silverstein?

15 MEMBER SILVERSTEIN: I agree.

16 CHAIRPERSON ANDERSON: Mr. Short?

17 MEMBER SHORT: I agree.

18 CHAIRPERSON ANDERSON: Mr. Alberti?

19 MEMBER ALBERTI: I agree.

20 CHAIRPERSON ANDERSON: Mr. Cato?

21 MEMBER CATO: I agree.

22 CHAIRPERSON ANDERSON: Mr. Isaac?

1 MEMBER ISAAC: I agree.

2 CHAIRPERSON ANDERSON: Mr. Anderson?

3 I agree.

4 As it appears that the motion has
5 passed, I hereby give notice that the ABC Board
6 will hold this aforementioned closed meeting
7 pursuant to the Open Meetings Act. Notice will
8 also be posted on the ABC Board hearing room
9 bulletin board, placed on the electronic calendar
10 on ABRA's website and published in the DC
11 Register in as timely a manner as practicable.

12 It is 3:40 p.m. and we are adjourned
13 for the day. Thank you.

14 (Whereupon, the Hearing was concluded
15 at 3:40 p.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: 3500 Wisconsin Ave

Before: DC ABRA

Date: 10-24-18

Place: Washington, DC

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
true and accurate record of the proceedings.



Court Reporter

NEAL R. GROSS

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