

ALSO PRESENT:

ANDREW KLINE, Licensee's Attorney

NICHOLAS BARKLEY, Licensee

MATTHEW KNOPP, Licensee

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

2 10:43 a.m.

3 CHAIRPERSON ANDERSON: All right. The
4 next case on our calendar is there is a Fact-
5 Finding Hearing, 456, LLC t/a To Be Determined,
6 License No. 98732.

7 Would the parties, please, approach
8 and identify themselves for the record, please?

9 MR. KLINE: Good morning. Andrew
10 Kline on behalf of the applicant.

11 CHAIRPERSON ANDERSON: Good morning,
12 Mr. Kline.

13 MR. KLINE: State your name for the
14 record.

15 MR. BARKLEY: Nicholas Barkley, co-
16 owner of 456, LLC.

17 CHAIRPERSON ANDERSON: Mr. Barkley.

18 MR. KNOPP: Matthew Knopp, co-owner of
19 456, LLC.

20 CHAIRPERSON ANDERSON: Your last name?
21 I didn't hear the last name.

22 MR. KNOPP: Knopp.

1 CHAIRPERSON ANDERSON: Knopp. Good
2 morning, Mr. Knopp. There is a sign-in sheet,
3 could everyone, please, use the sign-in sheet?

4 MR. KLINE: Mr. Chairman, if I may
5 before we get started?

6 CHAIRPERSON ANDERSON: Yes, Mr. Kline?

7 MR. KLINE: I would like to say a few
8 words. I wanted to thank Mr. Alberti for his
9 service on the Board. I know it is his last day
10 and he, throughout his tenure, has always been
11 engaged in these proceedings, which I very much
12 appreciate. We didn't always have that on the
13 Board and now we have a Board that is engaged
14 with what goes on here.

15 I have never seen Mr. Alberti lose
16 patience or fade out. He is always present, he
17 is always here. He always asked the tough
18 questions, which sometimes I very much
19 appreciated, other times not much.

20 MEMBER ALBERTI: Not.

21 MR. KLINE: But I appreciate that. We
22 used to say, at some point, and I think over time

1 it has changed a bit, that if Mr. Alberti voted
2 for our Offer in Compromise, we probably offered
3 too much. But be that as it may, I mean, I
4 appreciate that you have been here, Mr. Alberti,
5 and the time that you have served and given to
6 the citizens of the District of Columbia. Your
7 service has been very important. So I wanted to
8 make sure that I got that on the record today.

9 CHAIRPERSON ANDERSON: Thank you, Mr.
10 Kline.

11 MEMBER ALBERTI: Thank you, Mr. Kline.
12 Appreciate it. I just want to say, Mr. Kline,
13 you have always eagerly risen to all of my
14 questioning and challenges. So maybe that's why
15 I feel free to do it, because I know that you are
16 well-qualified to respond. Thank you.

17 MR. KLINE: I appreciate that.

18 CHAIRPERSON ANDERSON: All right.
19 This is another request for an extension of
20 safekeeping. This is a licensee who was
21 previously here and what we told the licensee was
22 that if you are going to request another

1 extension, you need to provide us with concrete
2 evidence of your efforts to locate a permanent
3 location.

4 Meaning that proof of a lease
5 agreement.

6 MR. KLINE: Mr. Chairman?

7 CHAIRPERSON ANDERSON: I know that --
8 I'm coming, Mr. Kline. I know that the
9 circumstances have somewhat changed subsequent to
10 the Board actually imposing a Moratorium Zone
11 within this area. And there is actually a
12 moratorium on CT Licenses in this area.

13 So you are now sitting on something
14 that was not -- so where are we?

15 MR. KLINE: Right. And I think -- I
16 did review the transcript from the last
17 proceeding and I think there was a great deal of
18 confusion. This is a CT License.

19 CHAIRPERSON ANDERSON: Yes.

20 MR. KLINE: This is the one that was
21 Chief Ike's and these gentlemen initially sought
22 to go into that location where Chief Ike's was

1 located, procured the license and then discovered
2 that the building was not really -- the premises
3 was not really fit in terms of them moving into
4 that location.

5 Mr. Knopp lives in the community. Has
6 a business in the community. And is very much
7 interested in and has been interested in opening
8 a business at that location or in the
9 neighborhood. And the business that he
10 contemplates would require a Tavern License.

11 And as the Chairman has pointed out,
12 there is a scarcity of those in that there is a
13 moratorium.

14 They have made progress and I was
15 hoping -- and they have identified a site. I
16 know where it is, it's not something I really
17 want to put on the public record until we have a
18 lease inked. I hope the Board can appreciate
19 that, that in terms of putting on the public
20 record a site that they are in negotiations for
21 would not be appropriate.

22 I was hoping we would have a Letter of

1 Intent and I could tell you that there is a
2 signed Letter of Intent. There is not. There
3 are preliminary terms that have been laid out. I
4 have seen those. I'm not going to represent to
5 the Board that there is, at this time, a Letter
6 of Intent, but we fully expect that there will be
7 one within the next few days. I had hoped that
8 we would have one today, so I could tell the
9 Board that I have seen the signed Letter of
10 Intent, but I'm not in a position to do that.

11 But they are moving forward and they
12 are looking at partnering with the current
13 operator who also happens to be here today. They
14 have identified a location. They have a concept.
15 And it is important that they maintain this
16 license because of the moratorium.

17 If the Board were to say that they can
18 no longer keep it in safekeeping, then they are
19 finished because, from their standpoint, their
20 concept will not work with a CR License, which
21 they could freely come in and apply for. And I
22 think the last hearing it looked like there was

1 some confusion, the way I read the transcript, in
2 terms of, you know, what license this is, but it
3 is a CT and it is subject to a moratorium.

4 CHAIRPERSON ANDERSON: But it wasn't
5 at the time, at the time of the hearing, it
6 wasn't subject to, but we, the Board, granted --
7 renewed the moratorium and expanded the zone.
8 And I'm not sure if -- yes, expanded the zone and
9 so, therefore, it is subject to it.

10 This is a license that has been --
11 that was -- it was purchased in 2015, so it is
12 four years that this license has been purchased
13 and it has not been utilized. And so I
14 understand the circumstances have now changed,
15 but, at some point, something has to give. The
16 Board cannot continue to keep it in safekeeping.
17 And if there is no good reason why this license
18 should remain in safekeeping.

19 I have some recommendations I'm going
20 to make, but are there any questions by any --
21 any comments by any other Board Members?

22 One of the -- just reading what the

1 Board had asked, they had asked for proof of a
2 lease agreement, that's one of the things that
3 was asked for at least at the last hearing.

4 Because the circumstances have
5 changed, I would agree that we might change the
6 terms to say that okay, fine, you have not done
7 that since -- that through March 31, 2019. Then
8 maybe we need to impose those terms if we -- and
9 agree to the extension through September 30,
10 2019.

11 And if your request for another
12 extension, if you -- there is no concrete proof
13 that you are moving forward, then I'll recommend
14 to the Board that we move forward to cancel this
15 license, so you would need to move it on to
16 someone else.

17 MR. KLINE: Understood.

18 CHAIRPERSON ANDERSON: Any questions
19 by any of the -- any comments you want to make?

20 MR. KLINE: No. Only sort of
21 globally, I mean, I think that is appropriate
22 given where we are now, but I know that there is

1 a bill before the Council which, I believe,
2 initiated from the Board through the Mayor's
3 office, and it does address one aspect of
4 safekeeping and I'm hoping we can have a larger
5 discussion through the Council, because I mean --

6 CHAIRPERSON ANDERSON: What aspect is
7 that? Please, please.

8 MR. KLINE: Well, I mean, Mr.
9 Chairman, your comments are there seems to be no
10 reason to keep it in safekeeping. And my
11 response from a policy standpoint, and the regs
12 and the law are what they are, if people are
13 paying for licenses and want to pay license fees
14 to the District of Columbia, I'm not sure why we
15 should care, but that's just my opinion.

16 CHAIRPERSON ANDERSON: I was there at
17 one point, but I was told before I came on the
18 Board that the safekeeping list just went on and
19 on and on and on. And at some point, it became
20 unmanageable for the Agency. And I think one of
21 the reasons, at least what I was told, why we go
22 through this exercise is to have a reasonable

1 list that is more manageable.

2 I know that as one of the
3 conversations I have always stated, we have a
4 group of licenses that because of -- they cannot
5 be utilized because they cannot use them to
6 another location, so those group of licenses
7 remain in safekeeping and by operation of law.

8 And I guess these folks believe that
9 I'm sitting on this license and maybe one day the
10 Council will change the law, so it can be used.
11 So okay, fine, so that's fine.

12 But the other group of licenses is
13 that okay, folks are using -- holding on to the
14 license and it doesn't appear that there is any
15 intent to utilize it.

16 MR. KLINE: I'm not sure this is the
17 appropriate forum --

18 CHAIRPERSON ANDERSON: Right.

19 MR. KLINE: -- but I mean, from my
20 standpoint in terms of licenses that are in
21 safekeeping, they tax the system very little. It
22 seems to me what taxes the system are these Fact-

1 Finding Hearings and having to keep track of when
2 we bring them back in for Fact-Findings and all
3 of that.

4 If they are just billed and they just
5 pay, it's revenue for the District, one more
6 license on a list of licensees who have to pay.
7 I don't see what burden that is in the District,
8 take the money.

9 I mean, that's, you know, the way I
10 see it. And as I said, I hope that we will have
11 that larger conversation before Council Member
12 McDuffie's committee as he -- if he chooses to
13 hold hearings on the three bills that are before
14 him. But I think it is an appropriate
15 conversation because -- I mean, I know why it was
16 done initially, and it was done initially
17 specifically because of Georgetown where there
18 was a moratorium on all licenses and they were
19 all tied up by landlords.

20 CHAIRPERSON ANDERSON: Right.

21 MR. KLINE: And we supported and
22 applauded the Board in saying hey, enough of

1 this. It doesn't further the industry to have 15
2 or 20 licenses or however many it was that were
3 being sat on by landlords and they weren't even
4 operators and they never intended to operate.
5 The only thing they ever intended to do was have
6 a license in the event that they had a tenant
7 that wanted to operate.

8 And we have supported and agreed with
9 the Board that that needed to change and it has
10 changed. And I think, as I said, we need to have
11 a larger discussion about how this process should
12 work and should move forward, because free money
13 to the District, I think all of us in this room
14 support. It's a good thing.

15 CHAIRPERSON ANDERSON: All right. Any
16 other comments? Yes, Mr. Short?

17 MEMBER SHORT: I would just like to
18 make one observation. Just hypothetically,
19 suppose there came a period of time where we had
20 more than 50 percent of safekeeping licenses
21 versus 50 percent of operating licenses and
22 operating taxes for a fee is quite different than

1 operating taxes for a business that is
2 functioning and paying lots of money into our
3 Treasury. What do you say to that?

4 MR. KLINE: I would submit that I
5 don't believe that the administrative cost of
6 administering those licenses exceeds the license
7 fees that would be paid by those licensees. And
8 if people want to pay for the privilege of not
9 operating a business, I would take their money
10 and spend it on affordable housing and the other
11 needs of the District.

12 MEMBER SHORT: That was a good answer,
13 but it didn't address the issue that I was
14 stating. When we get fees from someone who has a
15 safekeeping license, that is once a year.
16 Someone who has an operating business is giving
17 the District Treasury money daily, weekly,
18 monthly and annually.

19 MR. KLINE: Sure.

20 MEMBER SHORT: So that's a lot more
21 money than someone who has a safekeeping license.
22 That's only a fee once a year.

1 MR. KLINE: Right, but as long as that
2 safekeeping license is not preventing someone
3 else from operating, which is -- that was the
4 case when we started this, that was the case in
5 Georgetown, those safekeeping licenses, because
6 of the way the moratorium was structured,
7 prevented other operators who wanted to open in
8 Georgetown. So that was, you know, a valid
9 point.

10 But if you are at a state where the
11 licenses are not preventing someone else from
12 operating, then you are just collecting money,
13 which is -- you know, that's a good thing.

14 MEMBER SHORT: My last statement would
15 be I believe when I came on the Board, there was
16 somewhere in the neighborhood of 1,000 or more
17 safekeeping licenses in the District of Columbia.
18 And that has been taken down now to a more
19 manageable portion, because a lot of people were
20 buying them and thinking that they were -- they
21 wanted to cash in on them later.

22 And we have a certain number of A's or

1 a certain number licenses that we can -- the city
2 only issues, then it does become burdensome for
3 this Agency and for people who really want to
4 operate a business to wait for someone to take it
5 out of safekeeping.

6 So there has got to be a balance.

7 MR. KLINE: I mean, I think those are
8 the issues that need to be explored and we need
9 data and we need to understand the interplay of
10 that, because if there were 1,000 licenses in
11 safekeeping, even at the lowest fee of \$500 a
12 year, that's a half a million dollars of money
13 that would come into the Agency, if that were the
14 number and that is at the lowest level of
15 licensing, \$500.

16 MEMBER SHORT: That versus --

17 MR. KLINE: We're talking several
18 million dollars for just sending a bill.

19 MEMBER SHORT: That versus operating
20 businesses at the same -- operating annually,
21 weekly, monthly, giving money to the Treasury
22 versus one time a year.

1 MR. KLINE: I agree with you. I mean,
2 what I'm saying, and that's why we supported the
3 Board in its actions, to the extent that they
4 prevent operators from opening, you are exactly
5 right. We would much rather have an operating
6 business collecting taxes, paying taxes and
7 paying license fees, than someone just paying
8 license fees.

9 But between someone just paying
10 license fees and not paying license fees, I think
11 we would rather have the license fee, but that's
12 just my opinion. I don't know.

13 MEMBER SHORT: I guess the Council
14 will work it out.

15 MR. KLINE: Yep.

16 MEMBER SHORT: Thank you, Mr. Chair.

17 MR. KLINE: Thank you.

18 CHAIRPERSON ANDERSON: Any other
19 questions by any other Board Members?

20 All right. With that said then, I --
21 you want to make any further representation, Mr.
22 Kline?

1 MR. KLINE: No. Thank you.

2 CHAIRPERSON ANDERSON: All right.

3 With that said, I do -- I'll make a motion to the
4 Board that we grant the request through September
5 30, 2019. However, I strongly urge if there is
6 going to be another request, that we have -- we
7 shouldn't have any more philosophical
8 conversations. We need to have some concrete
9 proof that we are moving forward with utilizing
10 this license.

11 MEMBER SILVERSTEIN: Second.

12 MR. KLINE: Sure.

13 CHAIRPERSON ANDERSON: Because it's
14 going to go onto five years.

15 MR. KLINE: I hear you loud and clear,
16 Mr. Chairman.

17 CHAIRPERSON ANDERSON: Mr. Silverstein
18 has seconded the motion.

19 All those in favor say aye.

20 ALL: Aye.

21 CHAIRPERSON ANDERSON: Those opposed?
22 The matter passes 6-0-0.

1 Thank you for being here today.

2 MR. KLINE: Thank you.

3 CHAIRPERSON ANDERSON: All right.

4 Have a good day.

5 The Board then will be in recess until
6 our 1:30 hearing.

7 (Whereupon, the Fact-Finding Hearing
8 was concluded at 10:59 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: 456 LLC

Before: DC ABRA

Date: 05-01-19

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.

Neal R Gross

Court Reporter

NEAL R. GROSS

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