

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

IN THE MATTER OF:
Sun Rising, Inc.,
t/a 7 Food Store
1830 Benning Road NE,
Retailer B - ANC 5D
License No. 93817
Case #17-PRO-00080
(Application to Renew the:
License)

Wednesday
January 31, 2018

The Alcoholic Beverage Control Board
met in the Alcoholic Beverage Control Hearing
Room, Reeves Building, 2000 14th Street, N.W.,
Suite 400S, Washington, D.C. 20009, Chairperson
Donovan W. Anderson, presiding.

PRESENT:

- DONOVAN W. ANDERSON, Chairperson
NICK ALBERTI, Member
BOBBY CATO, JR., Member
DONALD ISAAC, SR., Member
MIKE SILVERSTEIN, Member
REMA WAHABZADAH, Member

ALSO PRESENT:

SYDELLE MOORE, Protestant

KATHY HENDERSON, ANC 5D

BERNARD DIETZ, Applicant's Counsel

SUN KYUNG CHOI, Applicant

CHRISSIE CHANG, Interpreter*

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

2 9:44 a.m.

3 CHAIRPERSON ANDERSON: The next matter
4 on our calendar is Case No. 17-PRO-00080, 7 Food
5 Restaurant, License No. 93817.

6 Would the parties, please, approach
7 for 7 Food Store? Can you introduce yourself for
8 the record, please?

9 MS. MOORE: Yes, my name is Sydelle
10 Moore, S, as in Sam, Y, as in yellow, D, as in
11 dog, E, as in elephant, L, as in llama, L, as in
12 llama, e as in elephant. Last name Moore, M-O-O-
13 R-E.

14 CHAIRPERSON ANDERSON: And who are
15 you, Ms. Moore?

16 MS. MOORE: I am representing the
17 Langston Civic Association.

18 MS. HENDERSON: Good morning.
19 Commissioner Kathy Henderson, ANC-5D05, on behalf
20 of 5D.

21 CHAIRPERSON ANDERSON: Good morning,
22 Ms. Henderson.

1 MR. DIETZ: Good morning. I'm Bernard
2 C. Dietz representing the applicant, Sun Rising,
3 Inc.

4 CHAIRPERSON ANDERSON: Good morning,
5 Mr. Dietz.

6 MS. CHOI: My name is Sun Kyung Choi.
7 S-U-N K-Y-U-N-G C-H-O-I, 7 Food Store owner.

8 CHAIRPERSON ANDERSON: And, Mr. Dietz,
9 I -- not that I have any concerns with your
10 representation, but is your client well-versed in
11 English, so she can understand the proceedings
12 today, sir?

13 MR. DIETZ: I have with me Ms.
14 Chrissie Chang --

15 CHAIRPERSON ANDERSON: And who is Ms.
16 Chang?

17 MR. DIETZ: -- who is -- served as an
18 interpreter at the earlier matters.

19 CHAIRPERSON ANDERSON: So when --

20 MR. DIETZ: And I ask permission for
21 her to sit at the table?

22 CHAIRPERSON ANDERSON: Then she needs

1 -- now, was she hired by the Agency or who was
2 she hired by? Is the Agency paying for her or is
3 she --

4 MR. DIETZ: No. She was hired by --
5 she is hired by the applicant.

6 CHAIRPERSON ANDERSON: Then why
7 doesn't she come and introduce herself for the
8 record? And one of the reasons why I do that is
9 that we have, prior to my tenure here, had an
10 applicant who was represented by counsel and when
11 he went to the Court of Appeals, then the
12 applicant said that she did not understand the
13 proceeding, although she had counsel sitting at
14 the table.

15 So that's one of the reasons why and
16 I am not making any aspersion that English is no
17 one's first language, but I'm just trying to make
18 sure that everyone is here, they understand and
19 if they do not understand, then we will get a
20 translator.

21 MR. DIETZ: Just as a matter of
22 information, both Mr. Alberti and Mr. Silverstein

1 can attest that I have been coming here since
2 1968 and anything bad that happened has happened.

3 CHAIRPERSON ANDERSON: All right. So
4 that -- so as I said, so as I stated, Mr. Dietz,
5 this is not a reflection on you and your
6 representation.

7 MR. DIETZ: Right.

8 CHAIRPERSON ANDERSON: It's just to
9 make sure that we do not have any hiccups as time
10 goes by. All right. So can you step up, miss,
11 and what's your name and can you tell -- can you
12 stand up and tell me your name, miss?

13 INTERPRETER CHANG: My name is
14 Chrissie Chang and I got hired by the licensee as
15 a translator for --

16 CHAIRPERSON ANDERSON: And what
17 language is this, ma'am?

18 INTERPRETER CHANG: My -- the Korean
19 language and English.

20 CHAIRPERSON ANDERSON: It's -- all
21 right. So can you raise your right hand, please?

22 Do you swear or affirm to faithfully

1 translate these proceedings from English to
2 Korean and from Korean to English?

3 INTERPRETER CHANG: Yes.

4 CHAIRPERSON ANDERSON: Okay. Thank
5 you. You may have a seat. All right. Are there
6 any preliminary matters in this case?

7 MR. DIETZ: If I might address the
8 Board?

9 CHAIRPERSON ANDERSON: Sure, yes, go
10 ahead, sir.

11 MR. DIETZ: We have reached a
12 voluntary agreement with the ANC and the Board
13 has a copy of that agreement before it. There
14 have been some comments on it, which are
15 acceptable.

16 We are still negotiating with Langston
17 and there was an inquiry made regarding the
18 standing of Langston to maintain a protest and we
19 haven't heard whether or not that --

20 CHAIRPERSON ANDERSON: Well, this is--
21 I'll get to you, Ms. Henderson. This is where we
22 are and I had to get my mind clarified this

1 morning. There is a settlement agreement that
2 the Board adopted with modification.

3 It is my understanding that the ANC,
4 and maybe they can more so clarify the
5 proceeding, are having some concerns with the
6 modification that the Board has recommended that
7 the settlement agreement can only be accepted.

8 And so maybe Ms. Henderson can let me
9 know, because if both sides have not accepted the
10 modifications that are mandated by the Board, I'm
11 coming to you, Ms. Henderson, then we still have
12 an active protest. So the ANC is still here.

13 So maybe, Ms. Henderson, you can go
14 ahead and tell me.

15 MS. HENDERSON: Yes. Thank you.

16 CHAIRPERSON ANDERSON: Explain where
17 we are, ma'am.

18 MS. HENDERSON: Thank you. Both
19 parties, the ANC and the applicant accept the
20 agreement that has been drafted on behalf of the
21 ANC. The issue, the only issue that remains is
22 the removal of 6(b) and 6(c).

1 We feel that keeping those provisions
2 in the settlement agreement maintains a very,
3 very strong agreement. And we have asked for the
4 Office of the Attorney General to render an
5 opinion. And certainly I have already forwarded
6 to the Deputy Mayor for Public Safety and he
7 finds the agreement, you know, he thinks it is an
8 excellent agreement.

9 So we are just waiting for that one
10 issue to be resolved and we look forward to
11 entering into a binding agreement with the
12 applicant and we can move forward.

13 CHAIRPERSON ANDERSON: Well, one thing
14 I'll say, Ms. Henderson, whether or not you have
15 spoken to any outside entity, whatever decision
16 that is made by an outside entity is not relevant
17 in these proceedings.

18 We have our jurisdiction in the sense
19 that when a settlement agreement is signed and
20 issued, that the Board reviews it to see whether
21 or not it is enforceable.

22 And so if the Board determines that

1 we cannot enforce those proceedings, we will take
2 those from the agreement. So even if the Office
3 of the Attorney General comes and say -- and make
4 recommendations to us, that's not binding on us.

5 So if that's what is going to be, then
6 we are going to have a full Protest Hearing with
7 the ANC, because we -- one of the reasons why we
8 took out those two provisions out of the
9 settlement agreement is because we cannot enforce
10 them. And if we cannot enforce any -- if we
11 cannot enforce terms in an agreement, we are not
12 going to approve it.

13 So I'm hoping that the -- both parties
14 will reconsider those terms and, at least, for us
15 not to have a full hearing on -- when everyone is
16 agreeing, is in agreement.

17 And one thing, I'm going to get back
18 to you, and I'll say another thing to you, there
19 are terms in a settlement agreement that when you
20 sign a settlement agreement that you can get. If
21 it goes to a full Protest Hearing, those terms
22 will not -- the Board cannot order the licensee

1 to do that.

2 So you can get better terms in a
3 settlement agreement than you will get from the
4 Board. So if those two -- if the two terms that
5 you are saying that we rejected, if you go to a
6 hearing, you are not going to get those terms in
7 a Board Order, because the Board cannot legally
8 mandate that those terms be placed in any Board
9 Order. So I just want to point that out to you.

10 MS. HENDERSON: Oh, and thank you. I
11 understand your concerns.

12 CHAIRPERSON ANDERSON: Yes.

13 MS. HENDERSON: We simply ask for the
14 Board's temporary indulgence, so that we can
15 reconsider this matter in light of the opinion
16 rendered by the Office of the Attorney General.

17 CHAIRPERSON ANDERSON: Okay.

18 MS. HENDERSON: It may be a simple
19 matter of rewording it, but we feel very
20 confident that the applicant has done what we
21 have asked them to do and is working very
22 diligently with the community and with the police

1 to address our public safety concerns, but we
2 feel that an agreement is forthcoming.

3 CHAIRPERSON ANDERSON: Well, and I
4 hope so. I hope so and because I have always
5 stated that I prefer when the licensee and the
6 applicant agree to settlement agreements, because
7 this is your neighborhood.

8 MS. HENDERSON: We have found them to
9 be very amenable to --

10 CHAIRPERSON ANDERSON: Right.

11 MS. HENDERSON: -- the terms of the
12 agreement.

13 CHAIRPERSON ANDERSON: Okay.

14 MS. HENDERSON: So --

15 CHAIRPERSON ANDERSON: And so you can
16 agree to how you want your neighborhood to work.
17 When the Board makes a decision, then we are
18 going to impose terms that you might not be happy
19 with. So I just want to --

20 MS. HENDERSON: We got it.

21 CHAIRPERSON ANDERSON: All right. Any
22 other preliminary matters?

1 MR. DIETZ: Only as far as the
2 Langston protest is concerned. We are still
3 talking. Okay. And we are very close, but what
4 we are asking the Board to do is to keep this
5 matter on the calendar and schedule and hopefully
6 we can wrap it up before that.

7 CHAIRPERSON ANDERSON: Okay. All
8 right.

9 MR. DIETZ: But right now, we are
10 close, but we are not there yet.

11 CHAIRPERSON ANDERSON: All right.
12 Well, then this matter is scheduled for a Protest
13 Hearing on February 28th at 4:30.

14 All right. Now, I just want to inform
15 the parties that the purpose of a Protest Hearing
16 is to determine the appropriateness of the
17 establishment in the section of the District
18 where the establishment is located.

19 I also want to inform both sides that
20 the protest, when we have a Protest Hearing, it
21 should only address and focuses on only the
22 issues that are addressed in the Protest Hearing,

1 that the Board to hear testimony on matters that
2 are not relevant to this case. You should have
3 received by electronic or regular mail a letter
4 explaining the protest process, a copy of the
5 Protest Information Form and a copy of the
6 Exhibit Form. If you do not have these
7 documents, please, contact Assistant General
8 Counsel Ms. April Randall following this hearing.

9 It is imperative that you review the
10 rules closely and follow them before and during
11 the Protest Hearing. You are also required to
12 complete and submit the Protest Information Form
13 (PIF) and the Exhibit Form seven days before the
14 date of the hearing. These two forms and
15 accompanying documents need to be submitted to
16 ABRA's Legal Division and to all opposing parties
17 in this matter.

18 If we do not receive a copy of your
19 PIF, your application or your protest, whichever
20 side you are representing, may be subject to
21 dismissal. Likewise, if we do not receive a copy
22 of the Exhibit Form and the exhibits themselves,

1 your exhibits may be excluded from the record
2 upon a finding that the opposing party has been
3 prejudiced or no good cause for failure to submit
4 has been shown.

5 Likewise witnesses other than a party
6 may also be subject to exclusion if not
7 identified in the PIF.

8 Accordingly, these forms are very
9 important as they greatly assist the Board in
10 narrowing the protest issues, facilitating the
11 process and keeping the parties on point during
12 the hearing. They likewise provide notice to the
13 opposing parties enabling them to better prepare
14 for the hearing.

15 We thank you for your cooperation. If
16 you have any questions today or at any time,
17 please, do not hesitate to contact Ms. April
18 Randall at (202) 442-4353.

19 And I'll let the folks again know that
20 Ms. Randall is here to walk you through the
21 process. Any questions that you have, we will
22 work with you.

1 Thank you very much for being here and
2 good luck in your discussions.

3 MS. HENDERSON: Thank you.

4 CHAIRPERSON ANDERSON: And as I say
5 this to all parties, if I don't see you on
6 February 28th, I will not be upset, because that
7 says that the parties have agreed to terms that
8 they can live with.

9 Thank you very much for being here
10 today.

11 MR. DIETZ: Thank you.

12 MS. MOORE: Thank you.

13 CHAIRPERSON ANDERSON: All right.

14 (Whereupon, the Protest (Status)

15 Hearing was concluded at 9:58 a.m.)

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wrap 13:6		
X		
Y		
Y 3:10		
yellow 3:10		
Z		
0		
1		
14th 1:14		
17-PRO-00080 1:8 3:4		
1830 1:7		
1968 6:2		
2		
2000 1:14		
20009 1:15		
2018 1:12		

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Sun Rising, Inc.
t/a 7 Food Store

Before: Alcoholic Beverage Control Board

Date: 01-31-18

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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