

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

IN THE MATTER OF: :

:

Asmara Incorporated, :

t/a Kenilworth Market :

1612 Kenilworth Ave, NE, : Protest

Retailer A - ANC 7D : Hearing (Status)

License No. 87818 :

Case #18-PRO-00033 :

:

(Application to Renew the:

License) :

Wednesday
 July 18, 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
 MIKE SILVERSTEIN, Member
 JAMES SHORT, Member
 REMA WAHABZADAH, Member

ALSO PRESENT:

KEVIN LEE, Licensee's Representative

ROCHELLE GRAY, Licensee's Representative

EDEN GHIRMAY, Licensee

KERSLYN FEATHERSTONE

ALTHIA HARRIS

MONICA JOHNSON

WAYNONIA POTTS HARRIS

MARTHA JENKINS

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

2 (9:41 a.m.)

3 CHAIRPERSON ANDERSON: The next case
4 on our calendar is Case Number 18-PRO-00033,
5 Kenilworth Market, License Number 87818. Is
6 there anyone here for Kenilworth Market? Could
7 you please appear and identify yourself for the
8 record please?

9 Who is the licensee and who is the --
10 Is the licensee -- Is the licensee here? So you
11 guys are all the protestants?

12 MS. GRAY: Yes.

13 CHAIRPERSON ANDERSON: All right, I'm
14 going to call the case. I'll recall the case at
15 10 o'clock. It's my standard operating
16 procedure. I call the cases first at 9:30. If
17 the parties are not here, I give them until 10
18 o'clock to show up.

19 MS. GRAY: The attorney is here. Mr.
20 Kevin Lee.

21 MS. JENKINS: All right, I'll go get
22 him.

1 CHAIRPERSON ANDERSON: I can only call
2 the case. I don't know who the parties are.

3 MS. GRAY: Okay.

4 CHAIRPERSON ANDERSON: I can only call
5 the cases. I don't know who the parties are.
6 And if they are not here, then -- It's 9:43. I
7 don't know who -- Are you all right?

8 (Off the record comments)

9 CHAIRPERSON ANDERSON: All right, so
10 would the parties please identify themselves for
11 the record? I'll start with the licensee.

12 MR. LEE: Good morning, board members.
13 My name is Kevin Lee. I'm representing trade
14 name Kenilworth Market, Asmara Incorporated. And
15 then next to me is the owner of the
16 establishment.

17 MS. GHIRMAY: Eden Ghirmay?

18 CHAIRPERSON ANDERSON: I'm sorry. I
19 can't hear your name, ma'am.

20 MS. GHIRMAY: Eden Ghirmay.

21 CHAIRPERSON ANDERSON: Ms. -- Spell
22 your name for the record please, ma'am.

1 MR. LEE: Spell your name.

2 MS. GHIRMAY: E-D-E-N G-H-I-R-M-A-Y.

3 CHAIRPERSON ANDERSON: Good morning,
4 Ms. Ghirmay. Good morning, Mr. Lee.

5 MS. GHIRMAY: How do you do?

6 CHAIRPERSON ANDERSON: We'll start
7 with the protestants.

8 MS. GRAY: Pardon me?

9 CHAIRPERSON ANDERSON: Can you please
10 identify yourself for the record please?

11 MS. GRAY: My name is Rochelle Gray.

12 CHAIRPERSON ANDERSON: Good morning.

13 MS. JOHNSON: My name is Monica
14 Johnson.

15 CHAIRPERSON ANDERSON: Good morning.

16 MS. POTTS: Waynonia Potts Harris.

17 CHAIRPERSON ANDERSON: Good morning.

18 MS. FEATHERSTONE: Good morning,
19 Kerslyn, K-E-R-S-L-Y-N, Featherstone.

20 MS. HARRIS: Althia Harris, A-L-T-H-I-
21 A H-A-R-R-I-S.

22 CHAIRPERSON ANDERSON: All right. So

1 this is a group of ten. And so it's my
2 understanding that you're giving partial stand-in
3 at the roll call. And there is five people here
4 today. So there should be no issues with stand-
5 ins since we -- it's a group of five or more. We
6 need to have five folks. And I do have five
7 folks in front of me today. So there is no
8 stand-in issues. So -- Well not -- Let me not
9 say it that way. Then --

10 (Off the record comments)

11 CHAIRPERSON ANDERSON: I want to make
12 sure that I -- I know that there was an issue
13 prior to because we didn't have the appropriate
14 parties at the roll call. But since -- another
15 party was advised that to join the roll call, at
16 this hearing, we need to have five individuals.
17 And there are five individuals before me this
18 morning. So therefore, a stand-in is granted to
19 the group. All right?

20 Mr. Lee, are there any -- are there
21 any preliminary issues on your point, sir?

22 MR. LEE: Actually we are scheduling

1 with Ms. Fletcher about the mediation. She gave
2 us three date and we talked with protestant.

3 CHAIRPERSON ANDERSON: Okay.

4 MR. LEE: We are available July 31st
5 --

6 CHAIRPERSON ANDERSON: Well I don't --
7 that's something that you guys can negotiate with
8 Ms. Fletcher if you need to have mediation. So
9 that's fine.

10 MR. LEE: Okay.

11 CHAIRPERSON ANDERSON: From the -- I'm
12 sorry. Who's the designee?

13 MS. GRAY: I can be.

14 CHAIRPERSON ANDERSON: And your name
15 again, ma'am please.

16 MS. GRAY: Rochelle Gray.

17 CHAIRPERSON ANDERSON: Ms. Gray,
18 you're the designated representative. Are there
19 any preliminary matters that you have -- you need
20 to discuss with us -- bring to our attention?

21 MS. GRAY: Well I guess we're a little
22 unclear. We have not established any mediation

1 times and dates because this is the first -- I
2 mean last week was the first time we heard that
3 we had been granted a reconsideration. So we're
4 kind of new at this. So if you can just lend --
5 Well I guess help us to better understand how we
6 need to proceed next.

7 CHAIRPERSON ANDERSON: Well at the
8 roll call since you didn't have enough -- you did
9 not have sufficient members, then you were
10 granted conditional stand-in. No, I think your
11 case was dismissed because I -- You're case was
12 dismissed --

13 MS. GRAY: Yes.

14 CHAIRPERSON ANDERSON: And it's my
15 understanding that you did appeal to the board.
16 The board reviewed the regulations. And as long
17 as we had the requisite numbers between the roll
18 call and here, so now you're granted stand-in to
19 protest this matter.

20 The agency will have the process where
21 you can have mediation. And I'm going to give
22 you some instructions and I'll give you a name of

1 one of our staff who you can always contact to
2 provide you more information about the protesting
3 matter. So I'm going to give you -- I'm going to
4 read some instructions and give you that
5 information shortly.

6 MS. GRAY: Okay.

7 CHAIRPERSON ANDERSON: Yes, sir?

8 MR. LEE: Yes, I'm just making sure
9 that I didn't hear their name correctly. So
10 they're all five individuals --

11 CHAIRPERSON ANDERSON: All right --
12 All right, give me the names again please of who
13 are here today.

14 MS. GRAY: Rochelle Gray.

15 CHAIRPERSON ANDERSON: Okay, all
16 right.

17 MS. GRAY: Ms. Monica Harris.

18 CHAIRPERSON ANDERSON: Hold on. Hold
19 on. I'm taking -- Hold on. I'm taking the
20 names. Ms. Gray. Who else?

21 MS. GRAY: Monica Johnson.

22 CHAIRPERSON ANDERSON: Okay.

1 MS. GRAY: Ms. Kerslyn Featherstone.

2 CHAIRPERSON ANDERSON: Featherstone.

3 MS. GRAY: Yes, that's correct.

4 CHAIRPERSON ANDERSON: Who else?

5 MS. GRAY: Althia Harris.

6 CHAIRPERSON ANDERSON: Althia Harris,

7 okay.

8 MS. GRAY: Waynonia Potts Harris.

9 CHAIRPERSON ANDERSON: Who?

10 MS. GRAY: Waynonia Potts Harris.

11 CHAIRPERSON ANDERSON: Harris?

12 MR. LEE: What is it?

13 MS. GRAY: Right here. Waynonia is
14 her first name.

15 MR. LEE: Okay. Harris?

16 MS. GRAY: Yes.

17 MR. LEE: Okay.

18 MS. GRAY: Last name.

19 MR. LEE: Okay.

20 CHAIRPERSON ANDERSON: You have no
21 issues because there are -- at least five folks
22 are --

1 (Simultaneous speaking)

2 MR. LEE: They are from the list,
3 okay. That's four names.

4 CHAIRPERSON ANDERSON: That's five.
5 There's five folks here.

6 MR. LEE: Gray, Johnson, Featherstone,
7 Harris.

8 CHAIRPERSON ANDERSON: You missed
9 someone. There are two Harris'.

10 MR. LEE: Okay, all right. There are
11 two Harris'.

12 CHAIRPERSON ANDERSON: All right.

13 MS. GRAY: But so I'm clear, it was my
14 understanding that only three needed to be
15 present today.

16 CHAIRPERSON ANDERSON: All right, all
17 right. Because you only had two previously --

18 MS. GRAY: Correct.

19 CHAIRPERSON ANDERSON: -- so you had
20 to have three people today who were not there the
21 last time.

22 MS. GRAY: That's correct.

1 CHAIRPERSON ANDERSON: But there are
2 five people in front of me.

3 MS. GRAY: Okay.

4 CHAIRPERSON ANDERSON: And so I'm
5 fine.

6 MS. GRAY: Okay.

7 CHAIRPERSON ANDERSON: So you're given
8 two bites of the apple. We give you two hearings
9 to physically have five people in front of us.
10 So if you had two at the roll call, you had to
11 have three additional people who were not at the
12 roll call.

13 MS. GRAY: Okay.

14 CHAIRPERSON ANDERSON: But it's great
15 that you have all five folks here today, so we
16 can see -- we can see that you are a legitimate
17 group of five. And so therefore that is one of
18 the reasons why I granted stand-in because you
19 have provided the requisite numbers of
20 individuals to be granted stand-in to protest
21 this matter.

22 MS. GRAY: Okay.

1 CHAIRPERSON ANDERSON: Okay. All
2 right, this matter is then scheduled for a
3 protest hearing on August 15th at 4:30 p.m. All
4 right? And let me give you some other
5 instructions.

6 MEMBER SHORT: 4:00 p.m.?

7 CHAIRPERSON ANDERSON: Yes. August
8 15th at 4:00 p.m. -- at 4:30, I'm sorry. August
9 15th at 4:30. Now that we've scheduled this
10 matter for protest hearing --

11 MS. GRAY: Can we -- That date is not
12 available for us. Is there a different date we
13 can choose?

14 CHAIRPERSON ANDERSON: This is a --

15 MS. GRAY: What happens --

16 CHAIRPERSON ANDERSON: This is a new
17 -- this is to renew the license. All right, so
18 you can -- This is one of the things that you can
19 do. Ask the licensee if they would continue --
20 if they would agree to continue the matter to
21 another date. If they agree, you file a motion
22 asking to continue it and tell us that you're

1 unavailable and the reasons why you're
2 unavailable. They can agree or -- Say they
3 agree, you can say it's a joint motion.

4 If they do not agree, you can tell us
5 that you are requesting it. They can disagree
6 and then the board will determine whether or not
7 we're going to grant it. All right? So just
8 file a motion with the board to continue the
9 matter. As I said before, you can consult with
10 the other side to see if they will agree to the
11 continuance.

12 MS. GRAY: Okay. Another question.

13 CHAIRPERSON ANDERSON: Yes, ma'am?

14 MS. GRAY: I'm sorry for all the
15 questions.

16 CHAIRPERSON ANDERSON: That's fine.

17 MS. GRAY: Okay. So in the event that
18 one of our ten persons or these five cannot be
19 here, can another one from the list of ten people
20 --

21 CHAIRPERSON ANDERSON: This is what's
22 going to happen. We are going to have the

1 hearing that day. And so it's up to you to --
2 You have already established that we're giving a
3 stand-in. Okay? Because these folks will have
4 to show up, but again if we have the hearing,
5 this is when you're going to prove -- this is
6 going to be the hearing --

7 MS. GRAY: Okay.

8 CHAIRPERSON ANDERSON: -- where you're
9 going to prove your case. We are going to call
10 witnesses. So the bottom line is that who are
11 the witnesses you are planning to call when you
12 have the protest hearing? And so if you believe
13 that one of ten is a critical person and that you
14 can't do the hearing without having this person,
15 then you can request a continuance.

16 MS. GRAY: Okay.

17 CHAIRPERSON ANDERSON: But if it's
18 just -- okay, this one person's not here and it's
19 not that this person's testimony is not that
20 critical to my case, then we can move forward.
21 So we don't have to have all five people show up
22 again.

1 MS. GRAY: On the 15th?

2 CHAIRPERSON ANDERSON: On the 15th.

3 MS. GRAY: Okay.

4 CHAIRPERSON ANDERSON: This is when
5 we're having the hearing because what's going to
6 happen on the 15th is that you're going to
7 exchange the documents -- which is I'm going to
8 give you instructions in a couple of minutes.

9 MS. GRAY: Okay.

10 CHAIRPERSON ANDERSON: You're going to
11 exchange documents. And then you're going to
12 identify who the people are who are going to come
13 here and testify, why is it that this place's
14 license should not be renewed.

15 MS. GRAY: Okay.

16 CHAIRPERSON ANDERSON: So it's up to
17 you, who is that you want to call as a witness.

18 MS. GRAY: Okay.

19 CHAIRPERSON ANDERSON: You don't have
20 to -- all five people doesn't have to show up.
21 The ten people on the list doesn't have to show
22 up. I don't have to see the five people anymore

1 or the ten people anymore. You have already
2 established.

3 MS. GRAY: Okay.

4 CHAIRPERSON ANDERSON: Now if you want
5 to come and do this by yourself and you are the
6 judge, the attorney and the witness -- if you
7 want to do that by yourself on the hearing,
8 that's up to you to present your case the way you
9 see fit.

10 MS. GRAY: Okay.

11 CHAIRPERSON ANDERSON: Okay? So you
12 understand that you don't have to bring all these
13 -- these five folks don't have to be here or the
14 ten people doesn't have to be here unless when we
15 have the hearing, you're going to call them as
16 witnesses --

17 MS. GRAY: Okay.

18 CHAIRPERSON ANDERSON: -- to testify
19 why this license should not be --

20 MS. GRAY: Okay.

21 CHAIRPERSON ANDERSON: All right. And
22 let me ask a question, Ms. Ghirmay.

1 MS. GHIRMAY: Yes?

2 CHAIRPERSON ANDERSON: And please do
3 not take this the wrong way. And I know that you
4 have an attorney. I want to make sure that you
5 don't need an interpreter because I don't want us
6 to go through the proceedings and you're saying
7 that I did not understand because of a language
8 barrier. So I need to find out from you today
9 that yes, I know you have an attorney. But I
10 also want to make sure that you understand what's
11 going on. And that you -- because if you need an
12 interpreter, the agency will provide it. So do
13 you need an interpreter or are you fine with your
14 attorney? There are no language barriers?

15 MR. LEE: I -- we will --

16 CHAIRPERSON ANDERSON: I'm sorry?

17 MR. LEE: Just we're making sure with
18 the protestants because if they've got a lot of
19 questions about the procedure. So just making
20 sure in front of the board that and they wanted
21 to at least schedule the protest hearing and we
22 say no. Because we already arranged the

1 witnesses and that kind of stuff, then what
2 happens?

3 CHAIRPERSON ANDERSON: The board will
4 make a determination based on the reasons why
5 they gave us. So they need to give us -- they'll
6 file a motion to say why is it that they are
7 asking to reschedule the date. But I think from
8 what I heard, I'm not sure if that's going to
9 happen because I think they believe that -- well
10 okay, all these five people had to be here the
11 next time. And so I'm not sure if that's going
12 to be.

13 But it's the same process. They need
14 to file a motion, consult with you. You can say
15 yea or nay. But then depending on the reason why
16 they have stated to us that they're requesting a
17 continuance, then the board will make a
18 determination whether or not it's good cause to
19 grant the continuance.

20 And if it was a new license, then it
21 would be a little bit more difficult to say --the
22 fact it was a new license, then we have a

1 timeline. So the board would not necessarily
2 grant a continuance if it was a new license.
3 I'll just say that if -- that's why I looked to
4 see whether or not it was a renewal because your
5 business, whether or not it continues or not, the
6 business will still operate.

7 If it was a new license, then we have
8 a timeline. So it's more difficult to give
9 continuances unless the other side consents to
10 the continuance. But they'll file a motion and
11 we will make a decision whether or not we believe
12 that's good cause to continue the matter.

13 MR. LEE: Hopefully this time is kind
14 enough time for us to make a decision about it.

15 CHAIRPERSON ANDERSON: All right. But
16 at the same time, you guys did not -- So I'm
17 putting it out there that if a translator is
18 required, I'm asking that you request this from
19 the agency and we will provide it. I do not want
20 to go through a hearing and at some point we have
21 an appeal. And the person is stating that they
22 did not understand the proceedings because

1 English was not their first language.

2 And we have had that case where we
3 have had a witness who has sat here, had counsel,
4 went all through. And they -- because they were
5 not happy with the decision, they went to the
6 Court of Appeals and stated that they did not --
7 they did not understand -- they did not
8 understand English and we did not provide them a
9 translator. And so that's one of the reasons why
10 I am asking -- I'm not taking -- I'm not making
11 any assumptions.

12 I'm just putting out there that if you
13 need a translator, you need to ask the agency.
14 And don't ask us the day of the hearing. There's
15 a reasonable period of time that you need to
16 request a translation services from the agency.
17 If you're going through mediation and if you need
18 a translator, you ask the agency. The agency
19 will provide you a translator. So therefore, I
20 want to make sure that everyone understands the
21 process and what's going on. Okay?

22 All right. So now that we've

1 scheduled this matter for protest hearing, there
2 are a few things that I would like to instruct
3 the applicant and the protestant about so that
4 the protest hearing is focused and addresses only
5 those issues that are being protested.

6 The board does not intend to hear
7 testimony and matters that are not related to
8 this case. You should have received -- and if
9 you have not, you will receive it shortly -- by
10 electronic or regular mail, a letter explaining
11 the protest process, a copy of the protest
12 information form. And a copy of the exhibit
13 form. If you do not have these documents, please
14 contact assistant general counsel, April Randall
15 following this hearing.

16 It is imperative that you review these
17 rules closely. And that you follow them before
18 and during the protest hearing. You're also
19 required to complete and submit the protest
20 information form, PIP, and the exhibit form seven
21 days before the date of the hearing. These two
22 forms and accompanying documents need to be

1 submitted to ABRA's legal division and to all
2 opposing parties in this matter.

3 If we do not receive a copy of your
4 PIP, your application, or your protest, whichever
5 side you're representing, may be subject to
6 dismissal. Likewise, if we do not receive a copy
7 of the exhibit form and the exhibits themselves,
8 your exhibits may be excluded from the record
9 upon the finding that the opposing party has been
10 prejudiced or no good cause for failure to submit
11 has been shown.

12 Likewise, witnesses other than party
13 may also be subject to exclusion if not
14 identified on the PIP. Accordingly, these forms
15 are very important. They greatly assist the
16 board in narrowing the protest issues,
17 facilitating the process and keeping the parties
18 on point during the hearing. They likewise
19 provide notice to opposing parties enabling them
20 to better prepare for the hearing.

21 We thank you for your cooperation. If
22 you have any questions today or at any time,

1 leading up to this hearing, please contact Ms.
2 Randall at 202-442-4353. I know that you have at
3 least -- the protestants, I know that you have
4 had conversations with Ms. Randall. You have her
5 number and this is available to both sides. If
6 you do not understand the process, contact her
7 and she will provide you whatever -- She's not
8 going to give you legal advice, but she will
9 explain the process to both sides.

10 All right, okay? So good luck with
11 your negotiations or mediation. If there is any
12 problems -- As I said before, if you need to file
13 a continuance, file a motion. But consent, ask
14 the other side. You guys can decide, file a
15 motion and the board will make a determination
16 whether or not we'll grant it. But if there's no
17 continuance and if there is no settlement, we
18 will see you on August the 15th.

19 MS. GRAY: Okay, thank you.

20 CHAIRPERSON ANDERSON: Thank you for
21 being here today.

22 MS. GRAY: Okay, thanks.

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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: Asmara Incorporated

Before: Alcoholic Beverage Control Board

Date: 07-18-18

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

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