

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

2 10:00 a.m.

3 CHAIRPERSON ANDERSON: All right. Our
4 next case is Case No. 18-CMP-00121, Betty's Gojo,
5 License No. 102500.

6 Will the parties, please, approach and
7 identify themselves for the record, please?

8 MS. GEPHARDT: Chrissy Gephardt here
9 on behalf of the Office of the Attorney General.

10 CHAIRPERSON ANDERSON: Good morning,
11 Ms. Gephardt. Can you identify yourself for the
12 record, please, sir?

13 MR. EMBAYE: Kibieab Embaye.

14 CHAIRPERSON ANDERSON: Mr. Embaye,
15 good morning, sir.

16 Are there any preliminary matters to
17 this case?

18 MS. GEPHARDT: Well, the only
19 preliminary matter is another amendment to the
20 notice.

21 And this case is very similar in that
22 the charge is basically the same, it's just the

1 way it is incited, so right now it says you
2 failed to comply with the food sales requirement
3 to be classified as a restaurant in violation of
4 DC Code 25-113(b).

5 It should have been amending the
6 Charge 1 to be -- deleting subsection (b), so it
7 would be 25-113 and it would be, the actual
8 description is, failing to comply with the terms
9 of a restaurant's license.

10 CHAIRPERSON ANDERSON: Okay. Hold on.
11 So you are saying the charging document said
12 what?

13 MS. GEPHARDT: The charging document
14 says failure to qualify as a restaurant because
15 of failing to meet the food sales requirement. I
16 didn't say that exact, but failing to comply with
17 the food sales requirement to be classified as a
18 restaurant in violation of DC Code 25-113(b).

19 The amendment should be failing to
20 comply with the terms of a restaurant's license,
21 based on the -- based on what I just mentioned,
22 but it should be -- the code should be 25-113 and

1 eliminate the (b).

2 CHAIRPERSON ANDERSON: I'm not reading
3 the right section. I'm sorry, so you are saying
4 the section said we were charged with -- no, he
5 was charged with 113(b), but he should have been
6 charged with 113.

7 MS. GEPHARDT: That's correct. 25-113
8 should be the amendment. Just remove the (b).
9 In essence, it basically covers the whole statute
10 as opposed to just one narrow part of it, which
11 is the (b), which is subsection (b). So the 25-
12 113 is just saying that under that, the umbrella
13 of that entire provision of the statute.

14 CHAIRPERSON ANDERSON: 11(b) says,
15 (b)(1) and they were charged with just (b)? And
16 (b) says -- you know, (b)(1) --

17 MEMBER ALBERTI: What's on the
18 charging document, (b)(1)?

19 CHAIRPERSON ANDERSON: (b)(1). You
20 know, hold on a minute, Ms. Gephardt, hold on.
21 All right.

22 As Chairperson of the Alcoholic

1 Beverage Control Board for the District of
2 Columbia and in accordance with DC Official Code
3 Section 2-574(b) of the Open Meetings Act, I move
4 that the ABC Board hold a closed meeting for the
5 purpose of seeking legal advice from our counsel
6 on Case No. 18-CMP-00121, Betty's Gojo, pursuant
7 to DC Official Code Section 2-574(b)(4) of the
8 Open Meetings Act and deliberating upon Case No.
9 18-CMP-00121, Betty's Gojo, for the reasons cited
10 in DC Official Code Section 2-574(b)(13) of the
11 Open Meetings Act. Is there a second?

12 MEMBER SHORT: Second.

13 CHAIRPERSON ANDERSON: Mr. Short has
14 seconded the motion. I will take a roll call
15 vote on the motion before us now that it has been
16 seconded.

17 Mr. Silverstein?

18 MEMBER SILVERSTEIN: I agree.

19 CHAIRPERSON ANDERSON: Mr. Short?

20 MEMBER SHORT: I agree.

21 CHAIRPERSON ANDERSON: Mr. Alberti?

22 MEMBER ALBERTI: I agree.

1 CHAIRPERSON ANDERSON: Mr. Cato?

2 MEMBER CATO: I agree.

3 CHAIRPERSON ANDERSON: Mr. Anderson?

4 I agree.

5 As it appears that the motion has
6 passed, I hereby give notice that the ABC Board
7 will recess these proceedings to hold a closed
8 meeting in the ABC Board conference room pursuant
9 to Section 2-574(b) of the Open Meetings Act.

10 We are going to discuss this matter
11 with our counsel and I will come back and give a
12 recommendation based on what the Government is
13 asking us to do.

14 Okay. Thank you. We will be back.

15 (Whereupon, the above-entitled matter
16 went off the record at 10:10 a.m. and resumed at
17 10:14 a.m.)

18 CHAIRPERSON ANDERSON: All right. We
19 are back on the record in Case No. 18-CMP-00121,
20 Betty's Gojo.

21 The Board discussed this matter and
22 your motion still stands?

1 MS. GEPHARDT: Well, no, I'm
2 withdrawing the motion to amend the statute, so I
3 -- it should be remains -- it should remain as
4 113(b). The description does need to be altered,
5 because it wasn't a failure to comply with the
6 food sales requirement. It was failure to
7 qualify as a restaurant or to comply with the
8 terms the restaurant license.

9 This was a case not about the food
10 sales requirement, but the fact that the kitchen
11 wasn't open, they didn't have a menu, that kind
12 of thing.

13 CHAIRPERSON ANDERSON: All right. Let
14 me see --

15 MS. GEPHARDT: So it's the description
16 within 113(b).

17 CHAIRPERSON ANDERSON: All right. I
18 am reading the -- at least the brief that was
19 provided to us. It basically talked about the
20 fact that what was -- that there were no -- there
21 didn't appear to be an actual kitchen and there
22 were no food sales.

1 So with that explanation, I make a
2 motion that the explanation that -- I mean, the
3 change in the explanation be approved. I don't
4 believe that that violates that -- I believe that
5 the licensee was charged with the proper charge
6 and there was just some issues with the
7 explanation.

8 However, where it says failure to
9 qualify as a restaurant, however, in the charging
10 document itself, it stated what the violation
11 was.

12 MS. GEPHARDT: Um-hum.

13 CHAIRPERSON ANDERSON: The facts that
14 were listed in the charging document stated what
15 the violation was.

16 So with that, I make a motion that the
17 explanation or the charge be amended.

18 MEMBER ALBERTI: The Government's
19 motion.

20 CHAIRPERSON ANDERSON: Yeah, I'm
21 sorry, I don't know what is going on with me.
22 The Government's motion be accepted. Is there a

1 second?

2 MEMBER SHORT: Second.

3 CHAIRPERSON ANDERSON: Mr. Short has
4 seconded the motion.

5 All those in favor say aye.

6 ALL: Aye.

7 CHAIRPERSON ANDERSON: Those opposed?
8 The matter passes 5-0-0.

9 All right. Are there any other
10 preliminary matters?

11 MS. GEPHARDT: No, there are no other
12 preliminary matters.

13 CHAIRPERSON ANDERSON: All right.
14 This matter then is scheduled for a Show Cause
15 Hearing on October 24th at 2:30.

16 MEMBER SHORT: October?

17 CHAIRPERSON ANDERSON: I'm sorry.
18 Yes, October 24th at 2:30 p.m. This is when this
19 case is scheduled for a Show Cause Hearing.

20 Do you understand, sir?

21 MR. EMBAYE: Yes.

22 CHAIRPERSON ANDERSON: All right.

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Have a good day.

(Whereupon, the Show Cause (Status)

Hearing was concluded at 10:18 a.m.)

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This is to certify that the foregoing transcript

In the matter of: Betty's Gojo

Before: DCABRA

Date: 10-03-18

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.

Neal R Gross

Court Reporter

NEAL R. GROSS

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