

IN THE MATTER OF: :

VD3, LLC, :

t/a Brown Street Market : Fact Finding

Retailer A : Hearing

License No. 108288 :

(Request to Extend : Safekeeping) :

Thursday
November 7, 2019

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.

DONOVAN W. ANDERSON, Chairperson
BOBBY CATO, JR., Member
JAMES SHORT, Member

AMIT BHARAT, APPLICANT
RISA HIRAO, COUNSEL FOR APPLICANT

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

10:49 a.m.

MR. ANDERSON: I now call our next case. This is a fact finding hearing on Brown Street Market, License No. 108288. Would the parties please approach and identify themselves for the record, please?

MS. HIRAO: Risa Hirao; I'm Counsel for VD3.

MR. ANDERSON: Good morning, Ms. Hirao.

MS. HIRAO: Good morning.

MR. BHARAT: Good morning, Board members. I'm Amit Bharat on behalf of the VD3, L.L.C.

MR. ANDERSON: Mr. Bharat, good morning. All right. You can have a seat.

MS. HIRAO: Would you like us to fill this out before you proceed, or --

MR. ANDERSON: Sure, you can go ahead, please. Thank you.

MS. HIRAO: Sorry about that.

MR. ANDERSON: All right.

MS. HIRAO: I didn't want to forget.

MR. ANDERSON: All right. This is a

1 license is left in safekeeping since, when, 2017?
2 Is that the case? I know that -- you bought this
3 license, sir. Is that correct?

4 MR. BHARAT: Yes.

5 MR. ANDERSON: And the license never
6 -- when were you to utilize this license, and I
7 know the last time we came, and we're saying
8 that, I mean, we cannot just continue to keep
9 this license in safekeeping.

10 This is not a lease, so this is from
11 August. So have you started a lease for
12 location?

13 MS. HIRAO: We would like to report to
14 the Board progress that has been made to secure a
15 location. When we submitted the request to
16 extend the safekeeping, as a basis for the
17 extension we referred to an LOI which was dated
18 in August 2019 for a location located in Navy
19 Yard.

20 I would like Mr. Bharat to kind of
21 explain what the status of the Navy Yard location
22 is at in addition to supplement additional
23 updates I just recently found out today. So we
24 have momentum. So I'm going to turn it over to
25 Mr. Bharat to share with you.

1 MR. ANDERSON: Sure.

2 MR. BHARAT: Good morning, Board
3 members. So I have an LOI for a location I found
4 in Navy Yard. Nice location; nice neighborhood
5 surrounded with residential and commercial.
6 There's only one liquor store nearby within three
7 miles, so perfect, ideal location for me.

8 Get to the negotiations; everything
9 was settled. I was told by the landlord that
10 they're going to give me lease draft to review
11 and then we sign on and move on with your plans.

12 Unfortunately, the lease has been
13 delayed. There are two reasons: the first one
14 was, they said that the owners of the building
15 were out of the country. That almost took three
16 weeks. Then recently they told me they had some
17 construction issues going on in the building, and
18 because of that the lease had been delayed.

19 I've been waiting. They haven't said
20 no. Every time I talk to them, they say, You
21 know what? You'll get a lease. Don't worry.
22 Give us some time.

23 While I'm waiting for this lease and
24 getting frustrated, another opportunity came now
25 for this location on Connecticut Avenue. The

1 landlord wants to have me as soon as possible.
2 We get the negotiations pretty fast. I accepted
3 their terms.

4 MR. ANDERSON: You said it's on
5 Connecticut.

6 MR. BHARAT: It's on Connecticut
7 Avenue.

8 MR. ANDERSON: What address?

9 MR. BHARAT: 1130 Connecticut Avenue.
10 So they sent me a lease; I just have to get it
11 reviewed by my attorney. I'm ready to sign it
12 and move on with the plans. I know the license
13 hasn't been used. I'm getting frustrated, and I
14 just want to move on with the plans and get
15 going.

16 MR. ANDERSON: That's Connecticut and
17 where?

18 MR. BHARAT: It's on Connecticut
19 Avenue --

20 MR. ANDERSON: It's 1130.

21 MR. SHORT: It's on L Street.

22 MR. ANDERSON: Connecticut and L?

23 MR. BHARAT: It's 11th Street and --

24 MS. HIRAO: We do have a draft, a
25 lease, for the Connecticut Avenue property that

1 we can show you.

2 MR. ANDERSON: Sure.

3 MS. HIRAO: To show that things are
4 moving forward.

5 MR. ANDERSON: Yes, you can provide
6 that to us. Just show that to us. I mean, and I
7 guess one of the questions; are there -- is there
8 another -- A store anywhere close to this
9 location?

10 MR. BHARAT: Not within the
11 restriction zone. There is a store; it's called,
12 I guess, Dell Liquors.

13 MS. HIRAO: And Mr. Bharat has
14 contacted ABRA to verify the geographical -- if
15 there are any impediments or another A store to
16 be located close by, because location.

17 MR. ANDERSON: And that was done?

18 MR. BHARAT: Yes.

19 MR. ANDERSON: So one of things that
20 -- if this Board was to extend this process rule
21 and grant safekeeping through March 31st, 2020;
22 say, for example, you sign either this lease on
23 Connecticut Avenue or the lease in Navy Yard.
24 Would you be able to be operational by April 1st,
25 2020?

1 MR. BHARAT: It depends. I mean, I'm
2 ready to sign the lease, and then we're going to
3 apply for transfer of license to this location.
4 I think you can tell better how long it would
5 take.

6 MS. HIRAO: Sure.

7 MR. BHARAT: I have a business plan I
8 can show you.

9 MS. HIRAO: Sure. If the lease is
10 signed, then we will be filing an application to
11 have this license in safekeeping to be connected
12 to this new location. The issue -- I guess I
13 will ask the Board -- are you concerned that the
14 license application will be approved by the next
15 --

16 (Simultaneous speaking.)

17 MR. ANDERSON: What I'm asking is,
18 what would be the expectation? It doesn't appear
19 to me that -- all right. That's what I'm asking
20 you. If this lease is signed or the lease on
21 Navy Yard is signed, say it's signed between now
22 and -- the lease is signed by the end of this
23 month, okay? You have a lease by November 30th.

24 Would you be operational by April 1st,
25 2020?

1 MS. HIRAO: Let me put it this way:
2 With every unexpected thing that pop up during
3 the construction life cycle, to say that
4 guaranteed we'll be open, I'm hesitant to say.
5 But I'm sure that VD3 and Mr. Bharat will do
6 everything they can to be on time with their
7 construction timeline.

8 And also if I can kind of bring this
9 up to the Board members, upon reviewing the
10 transcript, I believe the concern was whether we
11 would find a home, signed lease, for VD3; not
12 whether the license will be issued --

13 MR. ANDERSON: No, I'm asking --
14 you're misunderstanding my position.

15 MS. HIRAO: Oh, I'm sorry.

16 MR. ANDERSON: What I'm saying is that
17 I agree today to extend the timeline to grant an
18 extension through March 31st, 2020. So the Board
19 agrees to that. Will you be operational by April
20 1st, or are you going to come back to ask for
21 another extension?

22 And if you come back to ask for an
23 extension, what is it that -- what's the
24 expectation? Is it expectation that I will, by
25 March 31st, 2020, I will have signed lease and

1 I'm in construction? Or am I still looking for
2 property? That's what I'm asking you.

3 MS. HIRAO: I see.

4 MR. ANDERSON: So what's the
5 expectation that I should have? I'm always
6 looking ahead by saying, Okay, fine. We're now
7 in November. You're asking me for an extension
8 through March 31st, 2020.

9 You're probably going to ask for
10 another extension again, because, and that's what
11 I'm saying. That's why I asked the question. If
12 the lease is signed, if you have a lease; if you
13 sign a lease between now and the end of the
14 month, what's the process to open the business?

15 And so I'm always trying to look
16 ahead. And so what I'm saying to you is, if I
17 were to agree to approve the extension, he might
18 not be able to -- it's not likely that he will
19 open the store by April 1st, 2020.

20 So if he comes back again for another
21 extension, are you telling me that you'll have a
22 signed lease by March 31st, 2020? Because if you
23 come back to the Board and ask for an extension -
24 -

25 MS. HIRAO: I understand.

1 MR. ANDERSON: -- ask for an extension
2 and you have a signed lease, then the Board is
3 going to cancel the license. Because it's like,
4 Okay, you've got a signed lease.

5 The Board is aware it's going to take
6 some time to do a bill out, unless someone moved
7 out, and you're moving in. So I don't know what
8 type of space it is, so therefore -- there's
9 going to be some construction, but -- so that's
10 what I'm asking. What is the expectation for
11 April 2020, because --

12 MS. HIRAO: By the next -- oh, sorry.

13 MR. ANDERSON: Go ahead, yes.

14 MS. HIRAO: By the next cycle, it's
15 our intention -- it's VD3's intention to have an
16 executed lease, and hopefully, you know,
17 significant construction will be completed by
18 that time. But I cannot guarantee that
19 construction buildout will be completed by the
20 next cycle.

21 MR. ANDERSON: You want to say
22 something? Talk to your lawyer, and if you want
23 to -- all right. So it's clear; if you are going
24 to request another extension, there has to be a
25 signed lease. Simple as that. When you have a

1 signed lease. We have to have a signed lease.
2 It might be unrealistic on my part to say, You
3 need to be operational, but we have to have a
4 signed -- you have now presented us two
5 properties, so we're giving you -- I'll be in
6 favor of giving you a couple more months to sign
7 a lease.

8 But if you come back asking for
9 another extension and there's no signed lease,
10 then we'll start the process of cancelling this
11 license, because it's an A license. So this is a
12 valuable license. I'm not sure where we are as
13 far as the cap is concerned.

14 MS. HIRAO: I think there are 16 to 18
15 licenses left as of yesterday.

16 MR. ANDERSON: But it's an A license,
17 and he has had this license for a significant
18 period of time without an operation, and it has
19 not been utilized.

20 So is it clear what the expectation of
21 the Board is?

22 MS. HIRAO: It is clear. The
23 expectation of the Board, based on what I've
24 heard today is, we must have an executed lease
25 when we come before you, if we come before you,

1 for an extension.

2 MR. BHARAT: Yes.

3 MS. HIRAO: Yes.

4 MR. ANDERSON: Any other comments?

5 MS. HIRAO: Do you have? No.

6 MR. BHARAT: No.

7 MR. ANDERSON: I've seen it too many
8 times, sir. I recognize your face. I should
9 recognize your face. And when I say I recognize
10 faces because I'm not supposed to see you because
11 everything is supposed to be in place.

12 People never come in front of the
13 Board to say hello; people always come in front
14 of the Board because there's an issue. And I
15 don't want to see your face again. I want you to
16 be out there, running your business.

17 MR. BHARAT: Definitely yes, sir.

18 MR. ANDERSON: That's my expectation;
19 that you're out there, operating your business,
20 not that you're coming before the Board saying
21 that there is a problem and I need the Board to
22 do this because I'm having a problem.

23 So you've had this license for a
24 significant period of time. The expectation is
25 that if you're going to request another

1 extension, you must have an executed lease. That
2 is the minimum. It's not going to be that -- I
3 appreciate the fact that you've given us -- at
4 least you found the location. It appears that
5 you have two solid locations that you're look at.

6 Navy Yard is a popular location, so
7 I'm not quite sure how many A licenses we do
8 have, but that's a popular location for you to
9 have a wine and spirit location. You can't have
10 a liquor store -- you can't have a, quote,
11 unquote, liquor store in Navy Yard. It has to be
12 wine and spirit; different connotations. You
13 have different connotations that certain names
14 are more acceptable than other names.

15 All right. With that, I'll make a
16 motion that we grant you the extension through
17 March 31st, 2020, with the expectation that if
18 you come back and ask for an extension, that
19 there must be an executed lease. Is that
20 correct?

21 MS. HIRAO: Thank you.

22 MR. ANDERSON: Is there a second?

23 MR. CATO: Second.

24 MR. ANDERSON: Mr. Cato seconds the
25 motion. All those in favor say aye.

1 (Chorus of aye.)

2 MR. ANDERSON: Those opposed? The
3 matter passes 3-0-0. You have your marching
4 orders, sir. Have a great day.

5 MR. BHARAT: Thank you.

6 MS. HIRAO: Thank you so much.

7 MR. ANDERSON: This for us, right? Or
8 do you need it back? No, we don't need a copy.
9 Yes, we're in recess now. We're in recess until
10 11:30.

11 (Whereupon, the fact finding hearing
12 in the above-entitled matter was concluded at
13 11:06 a.m.)

14

15

16

17

18

19

20

21

22

23

24

25

<p>A</p> <p>a.m 2:2 14:13 able 6:24 9:18 above-entitled 14:12 ABRA 6:14 acceptable 13:14 accepted 5:2 addition 3:22 additional 3:22 address 5:8 agree 8:17 9:17 agrees 8:19 ahead 2:20 9:6,16 10:13 Alcoholic 1:2,12,13 Amit 1:20 2:14 Anderson 1:14,17 2:3 2:10,16,20,23,25 3:5 4:1 5:4,8,16,20,22 6:2 6:5,17,19 7:17 8:13 8:16 9:4 10:1,13,21 11:16 12:4,7,18 13:22 13:24 14:2,7 appear 7:18 appears 13:4 APPLICANT 1:20,21 application 7:10,14 apply 7:3 appreciate 13:3 approach 2:6 approve 9:17 approved 7:14 April 6:24 7:24 8:19 9:19 10:11 asked 9:11 asking 7:17,19 8:13 9:2 9:7 10:10 11:8 attorney 5:11 August 3:11,18 Avenue 4:25 5:7,9,19 5:25 6:23 aware 10:5 aye 13:25 14:1</p>	<p>Board 1:2,12 2:13 3:14 4:2 6:20 7:13 8:9,18 9:23 10:2,5 11:21,23 12:13,14,20,21 BOBBY 1:17 bought 3:2 bring 8:8 Brown 1:6 2:4 building 1:13 4:14,17 buildout 10:19 business 7:7 9:14 12:16,19</p> <p>C</p> <p>call 2:3 called 6:11 cancel 10:3 cancelling 11:10 cap 11:13 case 2:4 3:2 Cato 1:17 13:23,24 certain 13:13 Chairperson 1:14,17 Chorus 14:1 clear 10:23 11:20,22 close 6:8,16 COLUMBIA 1:1 come 8:20,22 9:23 11:8 11:25,25 12:12,13 13:18 comes 9:20 coming 12:20 comments 12:4 commercial 4:5 completed 10:17,19 concern 8:10 concerned 7:13 11:13 concluded 14:12 connected 7:11 Connecticut 4:25 5:5,6 5:9,16,18,22,25 6:23 connotations 13:12,13 construction 4:17 8:3,7 9:1 10:9,17,19 contacted 6:14 continue 3:8 Control 1:2,12,13 copy 14:8 correct 3:3 13:20 Counsel 1:21 2:8 country 4:15 couple 11:6 cycle 8:3 10:14,20</p>	<p>Definitely 12:17 delayed 4:13,18 Dell 6:12 depends 7:1 different 13:12,13 DISTRICT 1:1 Donovan 1:14,17 draft 4:10 5:24</p> <p>E</p> <p>either 6:22 example 6:22 executed 10:16 11:24 13:1,19 expectation 7:18 8:24 8:24 9:5 10:10 11:20 11:23 12:18,24 13:17 explain 3:21 extend 1:8 3:16 6:20 8:17 extension 3:17 8:18,21 8:23 9:7,10,17,21,23 10:1,24 11:9 12:1 13:1,16,18</p> <p>F</p> <p>face 12:8,9,15 faces 12:10 fact 1:6 2:4 13:3 14:11 far 11:13 fast 5:2 favor 11:6 13:25 filing 7:10 fill 2:18 find 8:11 finding 1:6 2:4 14:11 fine 9:6 first 4:13 forget 2:24 forward 6:4 found 3:23 4:3 13:4 front 12:12,13 frustrated 4:24 5:13</p>	<p>guaranteed 8:4 guess 6:7,12 7:12</p> <p>H</p> <p>heard 11:24 hearing 1:7,13 2:4 14:11 hello 12:13 hesitant 8:4 Hirao 1:21 2:8,8,11,12 2:18,22,24 3:13 5:24 6:3,13 7:6,9 8:1,15 9:3,25 10:12,14 11:14 11:22 12:3,5 13:21 14:6 home 8:11 hopefully 10:16</p> <p>I</p> <p>ideal 4:7 identify 2:6 impediments 6:15 intention 10:15,15 issue 7:12 12:14 issued 8:12 issues 4:17</p> <p>J</p> <p>JAMES 1:18 JR 1:17</p> <p>K</p> <p>keep 3:8 kind 3:20 8:8 know 3:2,7 4:21 5:12 10:7,16</p> <p>L</p> <p>L 5:21,22 L.L.C 2:15 landlord 4:9 5:1 lawyer 10:22 lease 3:10,11 4:10,12 4:18,21,23 5:10,25 6:22,23 7:2,9,20,20 7:22,23 8:11,25 9:12 9:12,13,22 10:2,4,16 10:25 11:1,1,7,9,24 13:1,19 left 3:1 11:15 license 1:7 2:5 3:1,3,5,6 3:9 5:12 7:3,11,14 8:12 10:3 11:11,11,12 11:16,17 12:23 licenses 11:15 13:7 life 8:3 liquor 4:6 13:10,11 Liquors 6:12</p>
<p>B</p> <p>back 8:20,22 9:20,23 11:8 13:18 14:8 based 11:23 basis 3:16 behalf 2:14 believe 8:10 better 7:4 Beverage 1:2,12,13 Bharat 1:20 2:13,14,16 3:4,20,25 4:2 5:6,9,18 5:23 6:10,13,18 7:1,7 8:5 12:2,6,17 14:5 bill 10:6</p>	<p>D</p> <p>D.C 1:14 dated 3:17 day 14:4</p>	<p>G</p> <p>geographical 6:14 getting 4:24 5:13 give 4:10,22 given 13:3 giving 11:5,6 go 2:20 10:13 going 3:24 4:10,17 5:15 7:2 8:20 9:9 10:3,5,9 10:23 12:25 13:2 good 2:10,12,13,16 4:2 grant 6:21 8:17 13:16 great 14:4 guarantee 10:18</p>	

LLC 1:6
located 3:18 6:16
location 3:12,15,18,21
 4:3,4,7,25 6:9,16 7:3
 7:12 13:4,6,8,9
locations 13:5
LOI 3:17 4:3
long 7:4
look 9:15 13:5
looking 9:1,6

M

March 6:21 8:18,25 9:8
 9:22 13:17
marching 14:3
Market 1:6 2:5
matter 1:5 14:3,12
mean 3:8 6:6 7:1
MEETING 1:3
Member 1:17,18
members 2:14 4:3 8:9
met 1:13
miles 4:7
minimum 13:2
misunderstanding 8:14
momentum 3:24
month 7:23 9:14
months 11:6
morning 2:10,12,13,17
 4:2
motion 13:16,25
move 4:11 5:12,14
moved 10:6
moving 6:4 10:7

N

N.W 1:13
names 13:13,14
Navy 3:18,21 4:4 6:23
 7:21 13:6,11
nearby 4:6
need 11:3 12:21 14:8,8
negotiations 4:8 5:2
neighborhood 4:4
never 3:5 12:12
new 7:12
nice 4:4,4
November 1:11 7:23
 9:7

O

oh 8:15 10:12
okay 7:23 9:6 10:4
open 8:4 9:14,19
operating 12:19
operation 11:18
operational 6:24 7:24
 8:19 11:3

opportunity 4:24
opposed 14:2
orders 14:4
owners 4:14

P

P-R-O-C-E-E-D-I-N-G-S
 2:1
part 11:2
parties 2:6
passes 14:3
people 12:12,13
perfect 4:7
period 11:18 12:24
place 12:11
plan 7:7
plans 4:11 5:12,14
please 2:6,7,21
pop 8:2
popular 13:6,8
position 8:14
possible 5:1
PRESENT 1:16,19
presented 11:4
presiding 1:14
pretty 5:2
probably 9:9
problem 12:21,22
proceed 2:19
process 6:20 9:14
 11:10
progress 3:14
properties 11:5
property 5:25 9:2
provide 6:5
put 8:1

Q

question 9:11
questions 6:7
quite 13:7
quote 13:10

R

ready 5:11 7:2
reasons 4:13
recess 14:9,9
recognize 12:8,9,9
record 2:7
Reeves 1:13
referred 3:17
report 3:13
request 1:8 3:15 10:24
 12:25
residential 4:5
restriction 6:11
Retailer 1:7
review 4:10

reviewed 5:11
reviewing 8:9
right 2:17,23,25 7:19
 10:23 13:15 14:7
Risa 1:21 2:8
Room 1:13
rule 6:20
running 12:16

S

safekeeping 1:9 3:1,9
 3:16 6:21 7:11
saying 3:7 8:16 9:6,11
 9:16 12:20
seat 2:17
second 13:22,23
seconds 13:24
secure 3:14
see 9:3 12:10,15
seen 12:7
sent 5:10
settled 4:9
share 3:25
SHORT 1:18 5:21
show 6:1,3,6 7:8
sign 4:11 5:11 6:22 7:2
 9:13 11:6
signed 7:10,20,21,21
 7:22 8:11,25 9:12,22
 10:2,4,25 11:1,1,4,9
significant 10:17 11:17
 12:24
Simple 10:25
Simultaneous 7:16
sir 3:3 12:8,17 14:4
solid 13:5
soon 5:1
sorry 2:22 8:15 10:12
space 10:8
speaking 7:16
spirit 13:9,12
start 11:10
started 3:11
status 3:21
store 4:6 6:8,11,15 9:19
 13:10,11
Street 1:6,13 2:5 5:21
 5:23
submitted 3:15
Suite 1:14
supplement 3:22
supposed 12:10,11
sure 2:20 4:1 6:2 7:6,9
 8:5 11:12 13:7
surrounded 4:5

T

t/a 1:6

take 7:5 10:5
talk 4:20 10:22
tell 7:4
telling 9:21
terms 5:3
Thank 2:21 13:21 14:5
 14:6
thing 8:2
things 6:3,19
think 7:4 11:14
three 4:6,15
Thursday 1:10
time 3:7 4:20,22 8:6
 10:6,18 11:18 12:24
timeline 8:7,17
times 12:8
today 3:23 8:17 11:24
told 4:9,16
transcript 8:10
transfer 7:3
trying 9:15
turn 3:24
two 4:13 11:4 13:5
type 10:8

U

understand 9:25
unexpected 8:2
Unfortunately 4:12
unquote 13:11
unrealistic 11:2
updates 3:23
utilize 3:6
utilized 11:19

V

valuable 11:12
VD3 1:6 2:9,14 8:5,11
VD3's 10:15
verify 6:14

W

W 1:14,17
waiting 4:19,23
want 2:24 5:14 10:21,22
 12:15,15
wants 5:1
Washington 1:14
way 8:1
we'll 8:4 11:10
we're 3:7 7:2 9:6 11:5
 14:9,9
weeks 4:16
wine 13:9,12
worry 4:21

X

Y
Yard 3:19,21 4:4 6:23 7:21 13:6,11 yesterday 11:15
Z
zone 6:11
0
1
10:49 2:2 108288 1:7 2:5 11:06 14:13 11:30 14:10 1130 5:9,20 11th 5:23 14th 1:13 16 11:14 18 11:14 1st 6:24 7:24 8:20 9:19
2
2000 1:13 20009 1:14 2017 3:1 2019 1:11 3:18 2020 6:21,25 7:25 8:18 8:25 9:8,19,22 10:11 13:17
3
3-0-0 14:3 30th 7:23 31st 6:21 8:18,25 9:8,22 13:17
4
400S 1:14
5
6
7
7 1:11

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: ABRA Hearing

Before: Alcoholic Beverage Control Board

Date: 11-07-19

Place: Washington, D.C.

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

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com