

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

IN THE MATTER OF: :

:
Omar, LLC, :
t/a Costello Restaurant :
and Lounge :
5201 Georgia Ave NW : Protest
Retailer CT - ANC 4D : Hearing (Status)
License No. 100259 :
Case #18-PRO-00066 :
:
(Substantial Change) :

Wednesday,
October 24, 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, Member
DONALD ISAAC, Member
MIKE SILVERSTEIN, Member

JAMES SHORT, Member

REMA WAHABZADAH, Member

ALSO PRESENT:

AMADOU BAH, APPLICANT

DEAN HUNTER, APPLICANT

KAREN ABBOT, PROTESTANT

JAMIE BARDEN, ANC 4D04

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

2 9:43 a.m.

3 CHAIRPERSON ANDERSON: Good morning,
4 everyone. I would like to welcome you to the
5 regularly scheduled meeting of the District of
6 Columbia Alcoholic Beverage Control Board.
7 Please know that today's hearings will be
8 conducted in accordance with DC Official Code
9 Section 2-574 of the Open Meetings Act.

10 Today is October 24, 2018. I would
11 like to introduce Members of the Board with us
12 today. To my far right is Mr. Donald Isaac, Sr.,
13 to his left is Mr. Bobby Cato. To my immediate
14 right is Mr. Nick Alberti. To my far left is Ms.
15 Rema Wahabzadah. To her right is Mr. Mike
16 Silverstein and to my immediate left is Mr. James
17 Short. My name is Donovan Anderson. I'm
18 Chairman of the Board. We do have a quorum
19 today. We do have all seven Members with us
20 today.

21 I would like to mention two things
22 before we get started. First of all, if you have

1 any electronic devices, pagers, cell phones or
2 such, please, make certain that they are turned
3 off to avoid any interruption of the proceedings.

4 Secondly, there is a piece of paper on
5 each table. When you come forward as your case
6 is called, please, take a seat at the table and,
7 please, sign-in. This is to ensure the correct
8 spelling of your name for the record.

9 Additionally, when you introduce
10 yourself for the record, please, spell your name
11 aloud for the court reporter.

12 I will note that the approximate time
13 is 9:46 a.m.

14 I apologize that we were not here at
15 9:30. I know that you were here, so I do
16 apologize that we were not here at 9:30.

17 The first case on our calendar is a
18 Protest Hearing (Status) case, Case No. 18-PRO-
19 00066, Costello Restaurant and Lounge, License
20 No. 100259.

21 Would the parties, please, approach
22 and identify themselves for the record, please?

1 MR. HUNTER: Good morning. I'm Dean
2 Hunter.

3 CHAIRPERSON ANDERSON: Good morning,
4 Mr. Hunter.

5 MS. ABBOTT: Good morning. Karen
6 Abbott, resident of 929 Hamilton Street, N.W.

7 CHAIRPERSON ANDERSON: Good morning,
8 Ms. Abbott.

9 MR. BARDEN: Jamie Barden, ANC-4D04.

10 CHAIRPERSON ANDERSON: Your last name
11 again, sir, again?

12 MR. BARDEN: Barden, B-A-R-D-E-N.

13 CHAIRPERSON ANDERSON: Thank you. You
14 can have a seat.

15 So are you the -- this establishment
16 is being protested by the ANC? Who is
17 protesting?

18 MR. BARDEN: No, it is protested
19 because we did not have our monthly meeting that
20 month, so it is being protested by -- it's a --
21 we had a letter of residence and I was one of the
22 representatives.

1 CHAIRPERSON ANDERSON: All right. So
2 it is being represented by -- it is being
3 protested by a group?

4 MS. ABBOTT: Yes.

5 CHAIRPERSON ANDERSON: A group of
6 five?

7 MS. ABBOTT: More than five.

8 MR. BARDEN: Yes.

9 CHAIRPERSON ANDERSON: How many people
10 were at the Roll Call Hearing?

11 MR. BARDEN: So we were one shy at the
12 Roll Call Hearing. We were told that if we had
13 one additional person that would come here, we
14 would have standing.

15 CHAIRPERSON ANDERSON: So who --

16 MS. ABBOTT: I was --

17 CHAIRPERSON ANDERSON: I'm sorry,
18 ma'am.

19 MS. ABBOTT: Pardon me. I was here,
20 but by the time I got inside, everybody was gone.
21 I was not counted.

22 MR. BARDEN: She was not counted on

1 the last --

2 CHAIRPERSON ANDERSON: All right. So
3 she was not counted?

4 MS. ABBOTT: Two of us were not
5 counted --

6 CHAIRPERSON ANDERSON: So --

7 MS. ABBOTT: -- because I brought
8 another of the protestants.

9 CHAIRPERSON ANDERSON: I'm sorry,
10 ma'am?

11 MR. BARDEN: We only need one more.

12 MS. ABBOTT: Okay.

13 CHAIRPERSON ANDERSON: So what I'm --
14 okay. So there were four people at the Roll Call
15 Hearing. Is that correct?

16 MR. BARDEN: There were --

17 MS. ABBOTT: There were five, except
18 one was a husband and wife and they weren't
19 allowed --

20 CHAIRPERSON ANDERSON: That's true.

21 MS. ABBOTT: -- one of the --

22 MR. BARDEN: For the purposes here,

1 there were four that were signers of the letter
2 and Ms. Abbott is the fifth.

3 CHAIRPERSON ANDERSON: So and she was
4 not at --

5 MR. BARDEN: She was not, that's
6 right.

7 MS. ABBOTT: I was here, but I wasn't
8 counted.

9 MR. BARDEN: Right.

10 CHAIRPERSON ANDERSON: All right. The
11 reason I'm asking this question is it doesn't --
12 I thought it was the ANC. It doesn't say a
13 group. It just says ANC-4D.

14 MR. BARDEN: Oh.

15 MS. ABBOTT: It's a group of five or
16 more.

17 MR. BARDEN: I'm sorry.

18 CHAIRPERSON ANDERSON: No, I'm just --
19 I guess from my own edification, I was trying to
20 make sure that I know who the protesters are. So
21 I'm looking at -- the reason I was asking, I was
22 looking at the calendar, at least the public

1 calendar, and it said it was being protested by
2 ANC-4C. So I didn't see, at least when I looked
3 at the calendar, it didn't say that it was being
4 protested by the group of five or more.

5 And all right. So there are no issues
6 in the sense that this -- so the group of five or
7 more does have standing, since it was not an
8 issue.

9 Are there any other preliminary
10 matters in this case?

11 MR. BARDEN: So just to clarify, at
12 this point, we do have standing?

13 CHAIRPERSON ANDERSON: Yes.

14 MS. ABBOTT: Yes.

15 CHAIRPERSON ANDERSON: Yes, you do
16 have standing, because Ms. Abbott, right?

17 MR. BARDEN: Right.

18 MS. ABBOTT: Yes.

19 CHAIRPERSON ANDERSON: That Ms. Abbott
20 is here today and she was not one of the group.
21 She was not part of the four who was at the Roll
22 Call Hearing.

1 MR. BARDEN: All right. Thank you.

2 MS. ABBOTT: Yes.

3 CHAIRPERSON ANDERSON: So standing is
4 provided to the group of five or more.

5 And who is the designated -- are you
6 the designated representative?

7 MR. BARDEN: I am one of the
8 representatives, um-hum.

9 CHAIRPERSON ANDERSON: Okay. All
10 right. All right. Yes, Mr. Hunter?

11 MR. HUNTER: Yes, Mr. Chairman. The
12 other preliminary issue, I believe, is the Pro Se
13 Motion filed by the licensee. Apparently, he was
14 late for the hearing. Tried to call and when the
15 hurricane hit the city and on his way here he
16 discovered flooding in his basement.

17 CHAIRPERSON ANDERSON: Yeah, the Board
18 is -- based on the Board Order 2018-574 that was
19 issued on October 3, 2018, the Board did excuse
20 his dismissal and so therefore there is no issue.

21 MR. HUNTER: Thank you.

22 CHAIRPERSON ANDERSON: There is no

1 issue with the fact that the owner was not at the
2 Show Cause Hearing. So we have -- so there --
3 the -- this license is properly before us to move
4 forward for a Protest Hearing.

5 So there are no other preliminary
6 matters?

7 MR. BARDEN: I had a quick question --

8 CHAIRPERSON ANDERSON: Yes, sir.

9 MR. BARDEN: -- for clarification that
10 the residents raised.

11 CHAIRPERSON ANDERSON: Yes, sir.

12 MR. BARDEN: There is a usual two year
13 cycle, as you know, in front of the Board in
14 terms of when these licenses come up. We have --

15 CHAIRPERSON ANDERSON: It's every
16 three years.

17 MR. BARDEN: -- three years.

18 CHAIRPERSON ANDERSON: Yes.

19 MR. BARDEN: We have an existing
20 settlement agreement based on, you know, some of
21 the -- what is in front of the Board. We were
22 curious how it is that this came up before the

1 three year time limit? How is it that a business
2 can apply for extended hours with the same owner
3 in that short -- within the three years? So it's
4 shorter than the three years.

5 CHAIRPERSON ANDERSON: He has applied
6 for a substantial change to change his hours and
7 that's his right. The Board decided that that
8 was a substantial change that he is asking for
9 and it was placarded and that's one of the
10 reasons why based on the fact that it was
11 placarded, that's why you have the right to move
12 forward with this Protest Hearing.

13 So it's not -- so he is just asking
14 for some changes during -- I don't know what the
15 hours are in his settlement agreement if there
16 were hours specified in --

17 MS. ABBOTT: Hours were specified. I
18 just attended his licensee hearing here, training
19 last year and it was my understanding that if
20 there is a settlement agreement, that this should
21 -- this case would never even be going forward
22 right now.

1 MR. HUNTER: Mr. Chairman?

2 CHAIRPERSON ANDERSON: Yes?

3 MR. HUNTER: I think these are issues
4 that are beyond the scope of --

5 CHAIRPERSON ANDERSON: I think he was
6 just asking for clarification. I mean, I'm not
7 addressing the issue. I think he had -- I think
8 what -- the way it was taken is that I thought
9 that licenses were being renewed every three
10 years. This is every two years, so I was just
11 providing clarification that licenses were being
12 provided, that it's a three year cycle.

13 And within the cycle, he filed an
14 application to change his hours and the Board --
15 when he came to the Board, the Board decided that
16 it was a substantial change, that the neighbors
17 need to be aware of it and so that's why you are
18 exercising your right to challenge this.

19 And so that's why we are moving
20 forward with this Protest Hearing.

21 MEMBER ALBERTI: Mr. Chairman, so
22 there is no --

1 CHAIRPERSON ANDERSON: Yes, Mr.
2 Alberti?

3 MEMBER ALBERTI: I think what you are
4 alluding to here is that the settlement agreement
5 limits their hours. Is that true?

6 MR. BARDEN: Yes.

7 MS. ABBOTT: Yes.

8 MEMBER ALBERTI: The hours of
9 operation and hours of sales?

10 MR. BARDEN: Yes.

11 MS. ABBOTT: Yes.

12 MEMBER ALBERTI: It has been the
13 Board's policy that that would govern. I'll have
14 to take a look. I will be taking a look later
15 today to see what the situation is, but I believe
16 the law is that settlement agreement governs and
17 so if the request is for something outside of
18 those hours, the settlement agreement governs.
19 So but you can -- I would ask -- I would suggest
20 that you talk to our general counsel to get more
21 insight into this, because --

22 MR. BARDEN: Yes, yes.

1 MEMBER ALBERTI: -- she can speak to
2 what the law says about this.

3 MR. BARDEN: Okay.

4 MEMBER ALBERTI: I'm not alluding to
5 any decision on this case, but we are governed by
6 the regulations, statutes and regulations.

7 MR. BARDEN: And our assumption was
8 that that had been looked into even prior to
9 deciding that this could be placarded and so
10 forth.

11 MEMBER ALBERTI: You know, I don't
12 know what the situation is.

13 MR. BARDEN: Yeah, I understand.

14 MEMBER ALBERTI: I don't know whether
15 a mistake was made.

16 MR. BARDEN: Oh, obviously, that's why
17 we came into it.

18 MEMBER ALBERTI: Whether it is
19 legitimate.

20 CHAIRPERSON ANDERSON: Sir!

21 MEMBER ALBERTI: Sir, no, he is not --
22 it's okay. I'm just saying --

1 CHAIRPERSON ANDERSON: Hold on, hold
2 on, hold on. All right. Okay.

3 MEMBER ALBERTI: May I finish?

4 CHAIRPERSON ANDERSON: Hold on.

5 MEMBER ALBERTI: I will be looking at
6 it and I'll be talking to our general counsel and
7 you should talk to our general counsel also.

8 CHAIRPERSON ANDERSON: All right.

9 MR. BARDEN: Appreciate it.

10 MS. ABBOTT: Thank you.

11 CHAIRPERSON ANDERSON: This is where
12 we are, okay? An application was filed for a
13 substantial change. We are moving through a
14 Protest Hearing. It went to Roll Call. The
15 Board determined that it was a substantial change
16 that will be -- that there would be a substantial
17 change that is of benefit to the -- that is of
18 interest to the community.

19 It went to Roll Call. We are here at
20 the Protest. The folks can continue speaking and
21 this is basically where we are today. There is
22 going to be no other decision made until the

1 Board makes a decision about whether or not this
2 matter that was -- the parties can talk, attempt
3 to sign another settlement agreement. It will
4 come to the Board and the Board will make a
5 decision whether or not we are going to approve
6 whatever changes that are being requested.

7 So that's a Board decision. All seven
8 of us will vote and make a decision what is going
9 to move forward with it. That's basically where
10 we are today. Okay, sir? So that's the position
11 of the Board. That is how this is going to
12 operate. Okay? All right.

13 MR. BARDEN: Yes, sir.

14 CHAIRPERSON ANDERSON: This matter is
15 scheduled for -- are there any other preliminary
16 -- sir, could you take your hat off and can you
17 also introduce yourself for the record, please,
18 sir?

19 MR. BAH: My name is Amadou Bah. I'm
20 the owner.

21 CHAIRPERSON ANDERSON: I did not hear
22 your last name, sir.

1 MR. BAH: Okay. My name is Amadou
2 Bah. I am the owner.

3 CHAIRPERSON ANDERSON: You said
4 Amarouba?

5 MR. BARDEN: Amadou.

6 CHAIRPERSON ANDERSON: Amadou.

7 MR. BAH: Amadou Bah.

8 CHAIRPERSON ANDERSON: This is why
9 most people when they are here, they start off hi
10 and by the time they get to the end of a name,
11 they trail off so I can't hear. But there is a
12 sign-in sheet, too, sir, can you, please, sign-in
13 on the sign-in sheet?

14 All right. Are there any other
15 preliminary matters that need to be discussed
16 today?

17 Hearing none, this matter then is
18 scheduled for a Protest Hearing on November 28th
19 at 4:30 p.m.

20 All right. Now that we have scheduled
21 this matter for a Protest Hearing, there are a
22 few things that I would like to instruct the

1 applicant and the protestant about, so that the
2 Protest Hearing is focused and addresses only
3 those issues that are being protested.

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

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

22 If we do not receive a copy of your

1 PIF, your application or your protest, whichever
2 side you are representing, may be subject to
3 dismissal. Likewise, if we do not receive a copy
4 of the Exhibit Form and the exhibits themselves,
5 your exhibits may be excluded from the record
6 upon a finding that the opposing party has been
7 prejudiced or no good cause for failure to submit
8 has been shown.

9 Likewise witnesses other than a party
10 may also be subject to exclusion if not
11 identified in the PIF.

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

19 We thank you greatly for your
20 cooperation. If you have any questions today or
21 at any time leading up to the hearing, please, do
22 not hesitate to contact AGC Randall at (202) 442-

1 4353.

2 Thank you very much. So this matter
3 is scheduled for a Protest Hearing on November
4 28th at 4:30. Have a good day. Thank you.

5 MR. BARDEN: Thank you.

6 MS. ABBOTT: Thank you.

7 (Whereupon, the Protest (Status)
8 Hearing was concluded at 9:58 a.m.)

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C E R T I F I C A T E

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Before: DC ABRA

Date: 10-24-18

Place: Washington, DC

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Neal R Gross

Court Reporter

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