

ALSO PRESENT:

PRICILLA MBIMADONG, Licensee

BRADLEY ENGEL, Protestant

LESLIE CURRENT, Protestant

KEVIN EDGAR, Protestant

KAREN TAMMANY CRUSE, Citizen's Association

of Georgetown, ANC 2B

ELIZABETH EMES, Protestant

EDWARD EMES, Protestant

VIRGINIA EMES, Protestant

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 D.C. Official Code
9 Section 2-574 of the Open Meetings Act.

10 Today is September 19, 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 Mr.
15 Mike Silverstein. My name is Donovan Anderson.
16 I'm Chairman of the Board. We do have five
17 Members in attendance today and we do have a
18 quorum.

19 I would like to mention two things
20 before we get started. First of all, if you have
21 any electronic devices, pagers, cell phones or
22 such, please, make certain that they are turned

1 off to avoid any interruption of the proceedings.

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

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

10 I will note that the approximate time
11 is 9:46. I do apologize that we were not here
12 promptly at 9:30. I know that you were here
13 promptly at 9:30, so I do apologize for the
14 delay.

15 All right. Our first order of
16 business today, we have a Protest Hearing
17 (Status) on Cube & Bale, License No. 110062.

18 Would all the parties who are here
19 today for Cube & Bale, please, approach. You
20 can, please, sit. You can pull up some more
21 chairs and, please, sit. And I need everyone to
22 identify themselves once you have been seated.

1 Okay. We will start with the
2 licensee, please. Do I -- for them to introduce
3 themselves, the applicant.

4 MS. MBIMADONG: Hi, good morning. My
5 name is Pricilla Mbimadong. I am president of
6 Wyoming Cube & Bale and here to represent the
7 applicant.

8 CHAIRPERSON ANDERSON: All right.
9 Good morning. I'm sorry, your last name again?

10 MS. MBIMADONG: Mbimadong. Would
11 you --

12 CHAIRPERSON ANDERSON: How do you
13 spell that, please?

14 MS. MBIMADONG: M as in Mary, B as in
15 boy, I as in Indigo, M as in Mary, A as in apple,
16 D as in dog, O as in orange, N as in Nancy, G as
17 in George.

18 CHAIRPERSON ANDERSON: And good
19 morning. And there is a sign-in sheet, please,
20 sign- in, too, please. And you, sir?

21 MR. ENGEL: Bradley Engel.

22 CHAIRPERSON ANDERSON: And who are

1 you?

2 MR. ENGEL: A protestant, the Dower
3 Group.

4 MS. : We're with the Dower Group.

5 CHAIRPERSON ANDERSON: So I need you
6 to introduce yourself and let me know what group
7 you belong to, because it appears that there are
8 several groups. So I need to make

9 MR. ENGEL: With the Dower Group.

10 CHAIRPERSON ANDERSON: The who?

11 MR. ENGEL: Dower Group.

12 CHAIRPERSON ANDERSON: So you are the
13 group of which? So you are one of the -- hold
14 on. All right. I'm sorry, your name is?

15 MR. ENGEL: Bradley Engel.

16 CHAIRPERSON ANDERSON: Mr. Engel. All
17 right. Who else is here from the Dower Group?
18 Introduce yourself, ma'am.

19 MS. CURRENT: Leslie Current, C-U-R-R-
20 E-N-T.

21 CHAIRPERSON ANDERSON: Who else is
22 here from the Dower Group? Your name.

1 MR. EDGAR: Kevin Edgar, E-D-G-A-R.

2 CHAIRPERSON ANDERSON: All right. All
3 right. Let me -- who else is here? Introduce
4 yourself and tell me what group you belong to,
5 please.

6 MS. TAMMANY CRUSE: Karen Tammany. I
7 represent the Citizens Association of Georgetown
8 and ANC-2E.

9 CHAIRPERSON ANDERSON: But are you
10 here for the ANC or for the Citizens Association
11 of Georgetown?

12 MS. TAMMANY CRUSE: I'm representing
13 both today.

14 CHAIRPERSON ANDERSON: Okay. Yes,
15 ma'am?

16 MS. ELIZABETH EMES: I'm Betsy Emes.
17 I'm representing a Group of Seven, abutting seven
18 neighbors, also abutting property owner.

19 CHAIRPERSON ANDERSON: All right.

20 MS. ELIZABETH EMES: Elizabeth Emes,
21 I think you have it down as.

22 CHAIRPERSON ANDERSON: You are? I'm

1 sorry, I didn't hear. Yes, ma'am.

2 MS. ELIZABETH EMES: Elizabeth Emes.

3 CHAIRPERSON ANDERSON: Good morning.

4 Yes, sir?

5 MS. ELIZABETH EMES: Good morning.

6 CHAIRPERSON ANDERSON: Yes, sir?

7 MS. ELIZABETH EMES: Ed.

8 MR. EMES: Edward Emes.

9 MS. ELIZABETH EMES: Abutting property
10 owner.

11 MR. EMES: Abutting property owner for
12 the past 53 years.

13 CHAIRPERSON ANDERSON: Yes, sir?

14 MS. VIRGINIA EMES: My name is
15 Virginia Emes.

16 CHAIRPERSON ANDERSON: I'm sorry. I
17 was talking to --

18 MR. ENGEL: I have already introduced
19 myself.

20 CHAIRPERSON ANDERSON: Oh, so you are
21 from The Dower Group?

22 MR. ENGEL: Yes.

1 CHAIRPERSON ANDERSON: Yes, ma'am?

2 MS. VIRGINIA EMES: Virginia Emes, I'm
3 an abutting neighbor at 3230 N Street.

4 MS. ELIZABETH EMES: You're owner.

5 MS. VIRGINIA EMES: No, owner, excuse
6 me.

7 CHAIRPERSON ANDERSON: Ms. Ames?

8 MS. VIRGINIA EMES: Emes.

9 CHAIRPERSON ANDERSON: Emes.

10 MS. VIRGINIA EMES: E-M-E-S.

11 CHAIRPERSON ANDERSON: All right. So
12 we have the ANC is here. We have the Citizens
13 Association of Georgetown, the abutting property
14 owners, we have Mr. Emes, Ms. Emes and V. Radley
15 -- well, okay, V. Radley Emes.

16 All right. So Elizabeth Emes, you are
17 also -- who is Elizabeth Emes again? I'm sorry.
18 So you are an abutting property owner and you are
19 also representing the Group of Five or More. Is
20 that correct?

21 MS. ELIZABETH EMES: That's correct.

22 CHAIRPERSON ANDERSON: All right.

1 Now, Mr. -- who represents -- who is the
2 designated representative for The Dower Group?

3 MS. CURRENT: He is not here, the
4 representative isn't, because he was at the Roll
5 Call Hearing.

6 CHAIRPERSON ANDERSON: Now, who is
7 that? Who was that?

8 MS. CURRENT: Benjamin Dower.

9 CHAIRPERSON ANDERSON: Benjamin. So
10 he was at the Roll Call Hearing?

11 MS. CURRENT: Yeah, he has been at all
12 of the other hearings.

13 CHAIRPERSON ANDERSON: And so we have
14 -- and then we have three Members. All right.
15 So one more time again. Who is here again from
16 The Dower Group? There is three people here from
17 The Dower Group.

18 Now, The Dower Group, you need five
19 members.

20 MS. CURRENT: Right. And the other
21 member, Phillippe Reines, he also was at some of
22 the other hearings.

1 CHAIRPERSON ANDERSON: Was he at --
2 this is my understanding. What I'm told, I
3 needed four people here today who was not at the
4 Roll Call Hearing and I only have three.

5 MS. CURRENT: We were told that as
6 long as we were -- some of the people showed up
7 at other hearings, only the people who hadn't
8 showed up at any hearings had to be here today.

9 CHAIRPERSON ANDERSON: Okay. All
10 right. We have two hearings for five people to
11 show up, meaning that between the Roll Call
12 hearing and this hearing, I need to see five
13 people.

14 So what I'm being told is one person
15 was at the Roll Call Hearing and there is only
16 three people here today.

17 MS. CURRENT: The Roll Call Hearing
18 was the very first one?

19 CHAIRPERSON ANDERSON: Yes.

20 MS. CURRENT: There were two.

21 MR. ENGEL: There were two.

22 CHAIRPERSON ANDERSON: Who was there?

1 MS. CURRENT: Ben and Phillippe. And
2 then there --

3 CHAIRPERSON ANDERSON: Ben who?

4 MS. CURRENT: Ben Dower.

5 CHAIRPERSON ANDERSON: And who is
6 Phillippe?

7 MS. CURRENT: Pardon me?

8 CHAIRPERSON ANDERSON: Who is
9 Phillippe? Phillippe who?

10 MS. CURRENT: Well, he is the fifth
11 person on our --

12 CHAIRPERSON ANDERSON: No.

13 MS. CURRENT: Reines, R-E-I-N-E-S.

14 CHAIRPERSON ANDERSON: The information
15 I'm told is that at this hearing, I needed to see
16 four people, that's what my notes tell me, so
17 unless -- because when you are granted
18 conditional standing at that hearing, from what I
19 was told, that there was only one. There was
20 only one person at that hearing from your group
21 and that was Benjamin Dower.

22 So unless you can -- and I'm not sure,

1 do we have information like who was at the Roll
2 Call from The Dower Group? No one else was
3 there?

4 MS. MBIMADONG: That's what was noted
5 from the majority --

6 MS. CURRENT: Does it matter at the
7 last hearing that there was more than one?

8 CHAIRPERSON ANDERSON: What last
9 hearing was that? This is the first hearing.

10 MS. TAMMANY CRUSE: Only two. The
11 other was mediation.

12 MS. CURRENT: Oh, the mediation.

13 CHAIRPERSON ANDERSON: So all right.
14 So because there -- because five members are not
15 here today, then I'm going to dismiss The Dower
16 Group. You can -- you are welcome to join
17 another group, but the recommendation I'm making
18 to the Board is that we are going to dismiss you
19 because you did not have five or more members to
20 be granted your -- to be granted standing.

21 MS. TAMMANY CRUSE: Mr. Anderson, may
22 I ask you a question?

1 CHAIRPERSON ANDERSON: Yes, ma'am.

2 MS. TAMMANY CRUSE: Say something?

3 CHAIRPERSON ANDERSON: Yes, ma'am.

4 MS. TAMMANY CRUSE: Right off the bat,

5 Mr. Dower made a comment and a request that this

6 hearing is on Yom Kippur and some of the

7 protestants from The Dower Group were Jewish.

8 And he asked to have this hearing put off either

9 for next week or have it last week. All the

10 protestants agreed to that.

11 Mr. Elliott did not, but I don't know

12 Phillippe Reines, but if he is one of the Jewish

13 members, it makes sense that he would not be

14 here.

15 CHAIRPERSON ANDERSON: But I don't

16 know, someone had to tell us that. I'm not -- as

17 I said before, I'm not aware of that. All I'm

18 being told is that, and I have not seen anything

19 in writing, and the motion that I'm making today

20 for the Board to dismiss that group, the

21 designated representative will have 10 days to

22 appeal our decision and so if they can provide --

1 and each side would have, if they can provide
2 reasonable basis why is it that four members are
3 not here today, then the Board will reconsider
4 its decision and grant them standing.

5 But even if standing is not granted,
6 they can be a part of any other group and still
7 participate, it's just that they do not have
8 their own standing.

9 So do you have anything to say, ma'am?
10 No? So with that said, I then make a motion to
11 deny standing to The Dower Group because they did
12 not -- we do not have a proper constituted Group
13 of Five or More to be granted standing.

14 Is there a second?

15 MEMBER ALBERTI: Second.

16 CHAIRPERSON ANDERSON: Mr. Alberti has
17 seconded the motion.

18 All those in favor say aye.

19 ALL: Aye.

20 CHAIRPERSON ANDERSON: Those opposed?

21 The matter passes 5-0-0.

22 MEMBER SILVERSTEIN: Abstain.

1 CHAIRPERSON ANDERSON: Oh, the matter
2 passed 4 -- I apologize, Mr. Silverstein. That
3 Mr. Silverstein abstains.

4 So it's 4-0-1 with Mr. Silverstein in
5 abstention.

6 The Board will issue a decision. The
7 group will have 10 days to appeal the decision to
8 provide reasonable cause why is it that between
9 the Roll Call Hearing and this hearing that five
10 members are -- did not appear. And the Board
11 will -- once if that is done within the 10 days
12 from the decision, then we will reconsider to
13 make a determination where we go.

14 All right. So all the other groups
15 were granted standing at the Roll Call, so we are
16 fine. Are there any other -- any preliminary
17 issues that needs to be addressed today by any
18 side?

19 This matter then is scheduled for a
20 Protest Hearing on October 3rd at 1:30 p.m. All
21 right.

22 MEMBER SILVERSTEIN: Mr. Chairman?

1 CHAIRPERSON ANDERSON: Yes, Mr.
2 Silverstein?

3 MEMBER SILVERSTEIN: I would just beg
4 your indulgence to say that the inability of
5 someone to attend a hearing today for religious
6 reasons on Yom Kippur is to me both compelling
7 and acceptable as a reason, but that individual
8 must have that as the reason. Thank you.

9 CHAIRPERSON ANDERSON: And thank you.
10 But my position is that I do not know if
11 something was done in writing. I don't think
12 it's acceptable after the fact to say the reason
13 why I wasn't here was because of a religious
14 holiday. But if, as you stated, something was
15 put in writing to the Agency prior to today's
16 hearing to say that -- I'm not aware of that, but
17 if that's in our records --

18 MS. TAMMANY CRUSE: There was much
19 communication back and forth emails.

20 CHAIRPERSON ANDERSON: So if that's
21 fine, then I don't have a problem with it, but I
22 do not want the person to say today, it's not --

1 we all know that today was our Jewish holiday, so
2 but I don't want someone to say well, the reason
3 why I didn't show up is because of the Jewish
4 holiday, because I'll be presupposing that you
5 were celebrating this holiday, which -- without
6 knowing.

7 So if that representative had informed
8 us that this was an issue for them, then, of
9 course, the Board will look at that and make a
10 decision once a motion comes in to ask for
11 reinstatement of that group.

12 All right. Stating -- now that this
13 hearing is scheduled for October 3, 2018 at 1:30,
14 now that we have scheduled this matter for a
15 Protest Hearing, there are a few things that I
16 would like to instruct the applicant and the
17 protestant about, so that the Protest Hearing is
18 focused and addresses only those issues that are
19 being protested.

20 The Board does not intend to hear
21 testimony on matters that are not relevant to
22 this case. You should have received by

1 electronic or regular mail a letter explaining
2 the protest process, a copy of the Protest
3 Information Form and a copy of the Exhibit Form.
4 If you do not have these documents, please,
5 contact Assistant General Counsel April Randall
6 following this hearing.

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

16 If we do not receive a copy of your
17 PIF, your application or your protest, whichever
18 side you are representing, may be subject to
19 dismissal. Likewise, if we do not receive a copy
20 of the Exhibit Form and the exhibits themselves,
21 your exhibits may be excluded from the record
22 upon a finding that the opposing party has been

1 prejudiced or no good cause for failure to submit
2 has been shown.

3 Likewise witnesses other than a party
4 may be subject to exclusion if not identified on
5 the PIF.

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

13 We thank you for your cooperation. If
14 you have any questions today or at any time
15 leading up to the hearing, please, do not
16 hesitate to contact AGC Randall at (202) 442-
17 4353.

18 Just one thing I just want to make
19 clear to the parties, so the parties I would hope
20 that, there are several parties available, you
21 will continue to have discussions to have a
22 settlement agreement.

1 For the groups, I just want to let the
2 groups know if there is a settlement agreement by
3 the ANC, then the Group of Five or More falls,
4 even if there is a settlement agreement by the
5 ANC, a citizen association still will move
6 forward, can still move forward with its protest
7 and each individual abutting property owner can
8 still move forward with a protest.

9 The only party who will -- would fall
10 if there is a settlement agreement by an ANC,
11 would be the Group of Five or More.

12 I do hope that because it appears
13 there are several interested, I do hope that you
14 are able to settle this matter. I prefer when
15 matters are settled, because this is your
16 neighborhood. You know what goes on in your
17 neighborhood and you know what works for your
18 neighborhood, rather than come to the Board for--
19 I'm not sure if any of us live in the
20 neighborhood, so therefore we would be making
21 decisions about the operation of your community.
22 And I prefer when the parties negotiate and come

1 up to an agreement.

2 But if not, I will see you then on
3 October 3rd at 1:30. And have a good day. Thank
4 you very much.

5 MS. CURRENT: Thank you very much.

6 CHAIRPERSON ANDERSON: All right. And
7 remember, The Dower Group, you have 10 days from
8 once we issue the written decision today to
9 provide reason why the five, the fifth person was
10 not here today. Okay. Thank you.

11 (Whereupon, the Protest (Status)

12 Hearing was concluded at 10:01 a.m.)

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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: Wyoming Cube & Bale, LLC

Before: Alcoholic Beverage Control Board

Date: 09-19-18

Place: Washington, DC

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