

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

 IN THE MATTER OF: :
 :
 Shoreditch Cooperative, :
 LLC, :
 t/a Duke's Grocery :
 1513 17th Street NW : Protest
 Retailer CR - ANC 2B : Hearing (Status)
 License No. 92298 :
 Case #18-PRO-00024 :
 :
 (Substantial Change - :
 Change of Hours on :
 Sidewalk Café) :

Wednesday
 June 6, 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:

DANIEL KRAMER, Licensee

ABIGAIL NICHOLS, Protestant

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

2 9:34 a.m.

3 CHAIRPERSON ANDERSON: The next case
4 on our Protest (Status) Calendar is Case No. 18-
5 PRO-00024, Duke's Grocery, License No. 92298.

6 Will the parties, please, approach and
7 identify themselves for the record, please?
8 Introduce yourself, sir, please.

9 MR. KRAMER: Good morning, Mr.
10 Chairman. Daniel Kramer, D-A-N-I-E-L K-R-A-M-E-
11 R. I'm the managing partner at Duke's Grocery,
12 which is ABRA-092298. Good morning and Ms.
13 Wahabzadah and Mr. Cato, who I haven't had the
14 pleasure to meet or sit in this chair before,
15 nice to meet you.

16 CHAIRPERSON ANDERSON: Good morning,
17 Mr. Kramer.

18 MS. NICHOLS: Good morning, Mr.
19 Chairman and Members of the Board. I am Abigail
20 Nichols, A-B-I-G-A-I-L N-I-C-H-O-L-S. I am
21 representing the Dupont Circle Citizens
22 Association in this matter.

1 CHAIRPERSON ANDERSON: Good morning.

2 MS. NICHOLS: Good morning.

3 CHAIRPERSON ANDERSON: This is not
4 being protested by the ANC. It's just by the
5 Dupont Circle?

6 MS. NICHOLS: Yes.

7 CHAIRPERSON ANDERSON: Yes, okay. All
8 right. And, Mr. Kramer, there was no issues with
9 standing for the civic association?

10 MR. KRAMER: One more time?

11 CHAIRPERSON ANDERSON: There are no
12 issues with standing? The civic association was
13 given standing at the Roll Call Hearing?

14 MR. KRAMER: Yes, sir. They -- yes,
15 sir.

16 CHAIRPERSON ANDERSON: Okay. The
17 purpose of a Protest Hearing is to determine the
18 appropriateness of the establishment in the
19 section of the District where the establishment
20 is located pursuant to 23-1601.

21 This matter is scheduled for a Protest
22 Hearing on July the 11th at 4:30 p.m.

1 Are there any preliminary matters that
2 can be addressed? Yes, Ms. Nichols?

3 MS. NICHOLS: Yes. I have not been
4 able to obtain a proper license. This is a
5 protest of a substantial change for -- the
6 operator is asking for an extension of outdoor
7 hours for a patio.

8 With due diligence, I have not been
9 able to get proper documentation of the existing
10 license. And I would ask for a postponement
11 until I can obtain such a thing. Namely, the
12 license does have an endorsement for an outdoor
13 patio, but I have not been able to find a Public
14 Space Permit or anything about the occupancy as
15 now licensed.

16 CHAIRPERSON ANDERSON: Mr. Kramer?

17 MR. KRAMER: Yes.

18 CHAIRPERSON ANDERSON: I'm just -- you
19 heard a request is that some things that you have
20 you can provide to them?

21 MR. KRAMER: Yeah, it's on file with
22 the Board and it's posted on our wall and has

1 been since day one.

2 MS. NICHOLS: I asked Mr. Kramer for
3 it. I asked ABRA for it. I asked the Department
4 of Transportation for it. And I reviewed the
5 files of the ANC, both agendas and letters trying
6 to see if this matter had been adjudicated. So
7 he has a license, there is no question.

8 He has a license from ABRA, but the
9 request has to do with the patio. And I asked
10 Mr. Kramer, I didn't list that, I wrote him and
11 asked him for a copy of his Public Space Permit
12 and have not received it.

13 CHAIRPERSON ANDERSON: Mr. Kramer, is
14 that something you can take a picture of and give
15 it to her, so she will have it?

16 MR. KRAMER: Um --

17 CHAIRPERSON ANDERSON: I don't know.
18 She is raising the issue, so I'm just asking you.

19 MR. KRAMER: Right. So respectfully,
20 Mr. Chairman, it was requested by ABRA staff.
21 For whatever reason, it was, I think it was,
22 somehow not in the file. Like I said, it is on

1 the wall. It has been inspected numerous times
2 by ABRA Investigators doing their routine
3 inspections. It remains there. I'm happy to
4 provide it.

5 CHAIRPERSON ANDERSON: When do you
6 think you can provide her? This is -- you said
7 you provided to ABRA. From what I'm told and I'm
8 -- since it has been raised as an issue, and you
9 are here today, so I'm just --

10 MR. KRAMER: It's -- I'm happy to
11 provide it at any time. It has been on -- as a
12 matter of public -- you know, it's a public
13 document that has been on our wall.

14 CHAIRPERSON ANDERSON: Right.

15 MR. KRAMER: The door is always open.
16 So I can happily --

17 CHAIRPERSON ANDERSON: Mr. Alberti, go
18 ahead.

19 MEMBER ALBERTI: Just real quickly.

20 MR. KRAMER: Yes, sir.

21 MEMBER ALBERTI: When you say it's on
22 the wall, you're saying the Public Space Permit

1 is on the wall?

2 MR. KRAMER: Yeah. Yes, sir.

3 MEMBER ALBERTI: I just wanted to be
4 clear that we are --

5 MR. KRAMER: Yes, sir.

6 MEMBER ALBERTI: Okay.

7 MR. KRAMER: It is located directly
8 next to the over 21.

9 MEMBER ALBERTI: Great. I wanted to
10 make sure there is no confusion about what we are
11 talking about.

12 MR. KRAMER: Yes, sir.

13 MEMBER ALBERTI: Okay.

14 CHAIRPERSON ANDERSON: So what's the--
15 I don't know what's the relevance. I'm just
16 asking. Yeah.

17 MS. NICHOLS: Oh, the relevance is
18 that the issue for the protest is a change in the
19 existing license. And I cannot get proper
20 documentation. What I can -- what I believe is
21 there should be a Public Space document, a Public
22 Space Permit, before there is an ABRA endorsement

1 for a patio. That is what often leads to what
2 the occupancy of the patio is supposed to be.

3 And I just would ask that the hearing
4 be postponed for six weeks after I am given a
5 baseline proper license. This license I do have
6 from ABRA, but this is not a complete
7 documentation of the license. It says nothing
8 about the occupancy of the patio, which is the
9 issue. Duke's is a popular business. We have
10 been clear about that all the time. It's the
11 additional hour we are concerned about in the
12 neighborhood where there is sort of an existing--
13 and that would be my request that we just
14 postpone this, because I can't both --

15 CHAIRPERSON ANDERSON: No, go ahead.
16 I'm coming to you, Mr. Kramer. Go ahead.

17 MS. NICHOLS: That's it. I'm asking
18 for a postponement until six weeks after I am
19 provided a complete license.

20 CHAIRPERSON ANDERSON: Mr. Kramer?

21 MR. KRAMER: The occupancy that is
22 stated on the permit that has been there all

1 along is 46 guests. So she mentioned that there
2 was an occupancy issue. Just to be clear, it's
3 not an occupancy issue. It's the request for an
4 additional hour of the patio license, just so we
5 are clear about that.

6 The other thing is there is, certainly
7 not with us, I don't want to speak to every
8 license that ABRA has always issued, but I think
9 the likelihood that this Board would issue a
10 patio license or any sort of endorsement without
11 the full proper documentation from the relevant
12 agencies, DCRA or DDOT, and then let us continue
13 to function in good standing for almost five
14 years, is extremely close to zero.

15 So that document, whether it can or
16 can't be located by an individual at a certain
17 time, has always existed, still exists and for a
18 matter that has been pending before the ANC,
19 which supported it 5-2, and has been placarded
20 for months and months and months, and then to
21 now, at this time, declare an additional six
22 weeks, is not something I --

1 CHAIRPERSON ANDERSON: All right.

2 MR. KRAMER: -- think is done in good
3 faith.

4 CHAIRPERSON ANDERSON: Well, what --
5 this is -- I'm not trying to get into -- the
6 purpose of this is not to litigate the issues. I
7 was just asking preliminary and we got beyond
8 what I had anticipated.

9 But what I will ask you to do, Mr.
10 Kramer, is can you provide both the protestant
11 and ABRA with a copy of the document within the
12 next week?

13 MR. KRAMER: I can do that within the
14 next --

15 CHAIRPERSON ANDERSON: All right.

16 MR. KRAMER: -- you know --

17 CHAIRPERSON ANDERSON: All right. So
18 just --

19 MR. KRAMER: -- and just to be clear,
20 sir --

21 CHAIRPERSON ANDERSON: Yes, sir.

22 MR. KRAMER: -- Mr. Chairman --

1 CHAIRPERSON ANDERSON: Yes.

2 MR. KRAMER: -- ABRA requested the
3 document from me and I immediately provided to
4 them. And I think my duty in this and any other
5 regulatory matter is to be responsive to
6 Government agencies.

7 CHAIRPERSON ANDERSON: When did you
8 provide it to --

9 MR. KRAMER: Immediately when they
10 asked. Whenever the date of the last -- we had a
11 meeting with the protestant and the moderator,
12 who was sitting right here, and forgive me for
13 one second, I'm forgetting her name.

14 CHAIRPERSON ANDERSON: All right. All
15 right.

16 MR. KRAMER: So whatever the date of
17 the last hearing was.

18 MS. NICHOLS: The mediation.

19 MR. KRAMER: The mediation, thank you.

20 CHAIRPERSON ANDERSON: All right.

21 MR. KRAMER: That's the date that it
22 was provided.

1 CHAIRPERSON ANDERSON: So we will
2 check the records. If we don't have it, we will
3 request it from you again and we will provide it
4 to -- and we will also provide it. All right.

5 She is asking for a postponement. Is
6 that something that you would agree to?

7 MR. KRAMER: 100 percent not.

8 CHAIRPERSON ANDERSON: Okay. All
9 right. Thank you. The General Counsel was
10 keeping me on my toes to make sure that I
11 addressed the postponement issue and because the
12 applicant is not in agreement, I don't see any --

13 MS. NICHOLS: If we have that Public
14 Space documentation today, we are fine. We are
15 ready to go to hearing.

16 CHAIRPERSON ANDERSON: All right.

17 MS. NICHOLS: But I requested it from
18 the owner. He did not give it to me.

19 CHAIRPERSON ANDERSON: All right.
20 Well, we, as I stated before, will check the
21 records and if we do not have it, we will ask the
22 applicant to provide it to us within the next

1 week and so we can provide it to share it with
2 you.

3 MS. NICHOLS: Thank you.

4 CHAIRPERSON ANDERSON: Okay.

5 MS. NICHOLS: Yes.

6 CHAIRPERSON ANDERSON: Now, okay, that
7 we have scheduled this matter for a Protest
8 Hearing, there are a few things that I would like
9 to instruct the applicant and the protestant
10 about, so that the Protest Hearing is focused and
11 addresses only those issues that are being
12 protested.

13 The Board does not intend to hear
14 testimony on matters that are not relevant to
15 this case. You should have received by
16 electronic or regular mail a letter explaining
17 the protest process, a copy of the Protest
18 Information Form and a copy of the Exhibit Form.
19 If you do not have these documents, please,
20 contact Assistant General Counsel Ms. April
21 Randall following this hearing.

22 It is imperative that you review the

1 rules closely and adhere to them before and
2 during the Protest Hearing. You are also
3 required to complete and submit the Protest
4 Information Form (PIF) and the Exhibit Form seven
5 days before the hearing. These two forms and
6 accompanying documents need to be submitted to
7 ABRA's Legal Division and to all opposing parties
8 in this matter.

9 If we do not receive a copy of your
10 PIF, your application or your protest, whichever
11 side you are representing, may be subject to
12 dismissal. Likewise, if we do not receive a copy
13 of the Exhibit Form and the exhibits themselves,
14 your exhibits may be excluded from the record
15 upon a finding that the opposing party has been
16 prejudiced or no good cause for failure to submit
17 has been shown.

18 Likewise witnesses other than a party
19 may also be subject to exclusion if not
20 identified in the PIF.

21 Accordingly, these forms are very
22 important as they greatly assist the Board in

1 narrowing the protest issues, facilitating the
2 process and keeping the parties on point during
3 the hearing. They likewise provide notice to
4 opposing parties enabling them to better prepare
5 for the hearing.

6 We thank you greatly for your
7 cooperation. If you have any questions today or
8 at any time leading up to the hearing, please, do
9 not hesitate to contact AGC Randall at (202) 442-
10 4353.

11 I would, as I have said to all
12 parties, prefer parties to settle these matters.
13 If they cannot be settled, I will see you on July
14 the 11th at 4:30.

15 Yes, yes, Ms. Nichols?

16 MS. NICHOLS: At mediation, we were
17 told this is about the legal -- about the subject
18 of the Protest Hearing.

19 CHAIRPERSON ANDERSON: Yes.

20 MS. NICHOLS: At the mediation, we
21 were told that the subject of the hearing would
22 be the appropriateness of the existing operation.

1 And I would suggest that the matter is the
2 appropriateness of the extension.

3 CHAIRPERSON ANDERSON: That's the --

4 MS. NICHOLS: I don't --

5 CHAIRPERSON ANDERSON: -- issue that
6 is here today. So there is --

7 MS. NICHOLS: Okay. I just wanted to
8 get that on the table.

9 CHAIRPERSON ANDERSON: Yeah.

10 MS. NICHOLS: Because that's not what
11 we were told at mediation.

12 CHAIRPERSON ANDERSON: Well, I'm not
13 sure what was told.

14 MS. NICHOLS: Yeah, I know. I'm
15 sorry.

16 CHAIRPERSON ANDERSON: But the changes
17 that are --

18 MS. NICHOLS: I just wanted to clarify.

19 CHAIRPERSON ANDERSON: -- being made,
20 because you are protesting -- you are requesting
21 an increase in hours. Is that correct?

22 MR. KRAMER: That's the nature of her

1 protest, yes.

2 CHAIRPERSON ANDERSON: But that's --
3 what is it that you are requesting?

4 MR. KRAMER: An extra hour on the
5 patio seven days a week.

6 CHAIRPERSON ANDERSON: And the
7 protestant, they are protesting that extra hour?

8 MR. KRAMER: Correct.

9 CHAIRPERSON ANDERSON: All right.
10 Okay. If I don't see you on July 11th -- hold on
11 one minute, Mr. Silverstein.

12 If I don't see you on July 11th, I will
13 not take it personally, but I'll see you then on
14 July 11th at 4:30. Yes, Mr. Silverstein?

15 MEMBER SILVERSTEIN: Mr. Chairman,
16 this is a matter of personal issue here. I know
17 both parties. I am on a friendly basis with both
18 parties. I believe I could rule on this fairly,
19 but the issue of community-wide standards, in
20 general, was brought up at a recent ANC meeting.

21 And I want both sides to know that I
22 spoke of the need that community-wide standards,

1 if there are such, be uniformly applied and that
2 the Board not choose winners and losers.

3 I did not speak of this particular
4 application, but I want both sides to know that
5 and if either side wishes that I step down in the
6 interest of fairness and transparency, I will do
7 so.

8 And you need not make that decision
9 now, but I want to be open and clear about that.
10 Thank you.

11 CHAIRPERSON ANDERSON: Thank you, Mr.
12 Silverstein. Have a good day. Thank you very
13 much.

14 MS. NICHOLS: Thank you.

15 MR. KRAMER: Thank you. Have a good
16 day.

17 CHAIRPERSON ANDERSON: All right.

18 MR. KRAMER: Have a good day, ma'am.

19 CHAIRPERSON ANDERSON: Where do I
20 sign? Where do I sign?

21 (Whereupon, the Protest (Status)

22 Hearing was concluded at 9:50 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: Shoreditch Cooperative, LLC

Before: Alcoholic Beverage Control Board

Date: 06-06-18

Place: Washington, D.C.

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