

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

2 9:54 a.m.

3 MR. ANDERSON: The next case in our
4 calendar is show cause -- is case number 19-CMP-
5 00073, Eye Bar/Garden of Eden, license number
6 83133. Will the parties please approach and
7 identify themselves for the record, please?

8 MR. HURWITZ: Good morning members of
9 the board. My name is Ely Hurwitz. I am an
10 attorney representing the Applicant.

11 (Simultaneous speaking.)

12 MR. ANDERSON: I am sorry -- I am
13 sorry, that was -- we did something. Repeat --
14 repeat.

15 MR. MALLEA: Christian Mallea, general
16 manager of Eden.

17 (Simultaneous speaking.)

18 MR. ANDERSON: Good -- good morning,
19 sir. And you, sir?

20 MR. HURWITZ: Ely Hurwitz, I am the
21 attorney for the Licensee.

22 MR. ANDERSON: Usually it's the other
23 way around. Good morning -- good morning.

24 MR. FACCI: Good morning, board
25 members. Jason Facci on behalf of the District

1 of Columbia.

2 MR. ANDERSON: Good morning again.
3 Are there any preliminary matters in this case?

4 MR. FACCI: Yes, there are Mr.
5 Chairman.

6 MR. ANDERSON: And what is that?

7 MR. FACCI: You have an offer in
8 compromise to present. For charge 1, the offer
9 in compromise is a \$2100 fine to be paid within
10 30 days or its license shall be suspended
11 indefinitely until the fine is paid, as well as
12 the establishment has agreed to apply for an
13 increase in summer garden capacity within 10
14 days.

15 MR. ANDERSON: Is that a part of the
16 -- or is it just -- is that a part of the OIC?

17 MR. FACCI: That was part of the OIC.

18 MR. ANDERSON: I am sorry, they're
19 going to apply for what?

20 MR. FACCI: An increase in the summer
21 garden capacity.

22 (Pause.)

23 MR. ANDERSON: Mr. Hurwitz?

24 MR. HURWITZ: Yes, sir.

25 MR. ANDERSON: Good morning, sir.

1 It's my understanding that there's an offer in
2 compromise and the offer in compromise letter is
3 the fine of \$2100 payable within 30 days. If the
4 fine is not paid within 30 days, the license will
5 be suspended. It's also my understanding that
6 the -- the Licensee within the next 10 days will
7 apply for a substantial change as per its summer
8 garden. Is that your understanding of the offer
9 in compromise?

10 MR. HURWITZ: It is.

11 MR. ANDERSON: Are you -- are you
12 aware -- or, is your client aware that by
13 accepting an offer in compromise that they're
14 giving up their right to a hearing?

15 MR. HURWITZ: Yes.

16 MR. ANDERSON: Is your client also
17 aware that by accepting an offer in compromise
18 that they're also giving up their right to appeal
19 this matter?

20 MR. HURWITZ: Yes.

21 MR. ANDERSON: With that said, I then
22 make a motion that the offer in compromise of a
23 fine of \$2100 payable in 30 days, that the
24 Licensee will also apply for a substantial change
25 as per -- as for a summer garden within the next

1 10 days. Is there a second?

2 MR. SHORT: Second.

3 MR. ANDERSON: Mr. Short has seconded
4 the motion. All those in favor, say aye?

5 (Chorus of aye.)

6 MR. ANDERSON: Those opposed?

7 (No audible response.)

8 MR. ANDERSON: The matter passes four
9 -- 4-0-0. Thank you.

10 (Pause.)

11 MR. HURWITZ: Sir, if I may just --

12 (Simultaneous speaking.)

13 MR. ANDERSON: Yes, Mr. Hurwitz?

14 MR. HURWITZ: -- just one item. In
15 your motion you added the language of substantial
16 change. I just wanted to make it clear that I
17 don't think we're going to be applying for an
18 increase in the total occupancy of the premises.
19 It's only an increase in the summer garden.

20 MR. ANDERSON: It's a substantial
21 change. That's what -- what you're -- you're
22 applying --

23 (Simultaneous speaking.)

24 MR. HURWITZ: Okay. I just wanted to
25 explain that we weren't looking to increase the

1 total capacity.

2 MR. ANDERSON: No, you're applying
3 change if it -- so -- and then the board will
4 deem whether or not the application that you're
5 making is a substantial change or not. If the
6 board -- I don't know what -- how many -- I don't
7 know what the numbers is going to be, but the
8 board will make a determination if it's a
9 substantial change. If the board determined that
10 it is a substantial change, then it will be
11 placard. If the board determines it's not, then
12 it will be approved. So --

13 MR. HURWITZ: Yes.

14 MR. ANDERSON: You will apply and then
15 when you -- I don't know what the numbers -- I
16 don't know what the numbers are currently and
17 what you're -- what you're proving to and what
18 you're asking for --

19 MR. HURWITZ: I just wanted to explain
20 that --

21 MR. ANDERSON: Right, well when you're
22 --

23 (Simultaneous speaking.)

24 MR. HURWITZ: -- seeking additional --

25 MR. ANDERSON: Yes, so then it's a --

1 it's a substantial change. And so therefore you
2 can make a motion -- I mean, when you apply for
3 it you can say that -- you can say whether or not
4 the board should or should not deem it a
5 substantial change.

6 MR. HURWITZ: You can -- you can ask.
7 We will look at it and we will determine whether
8 or not -- the increase in numbers you're asking
9 for, whether or not it is a substantial change.
10 And if it's a substantial change, it has to be
11 placard. If it's not a substantial change, then
12 it will be approved automatically.

13 MR. HURWITZ: Okay, thank you very
14 much.

15 MR. ANDERSON: You're welcome. I've
16 been here now for -- for four years, and I am
17 getting the hang of this now.

18 (Laughter.)

19 MR. ANDERSON: I mean, if you asked me
20 a year ago to explain this, I wouldn't. But now
21 since this is the fourth year that I've been
22 chair, I think I am getting the hang of this now.
23 So I am very fluid in responding to questions
24 like that.

25 MR. HURWITZ: Happy to learn it.

1 MR. ANDERSON: Thank you. Have a
2 great day.

3 MR. HURWITZ: You too. Thank you
4 both.

5 (Whereupon, the above-entitled matter
6 went off the record at 9:59 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: Eye Bar

Before: DCABRA

Date: 12-11-19

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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