

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

 IN THE MATTER OF: :
 :
 Foggy Bottom Grocery, LLC, :
 t/a FoBoGro :
 2140 F Street, N.W. : Protest
 Retailer B - ANC 2A : Hearing (Status)
 License No. 82431 :
 Case #17-PRO-00086 :
 :
 (Application to Renew the :
 License) :

 Wednesday
 February 14, 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:

ED GRANDIS, Attorney for Licensee
 BARBARA KAHLOW, West End Citizens Association
 PATRICK KENNEDY, ANC 2A
 SARA MADDUX, President, West End Citizens
 Association

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

2 9:45 a.m.

3 CHAIRPERSON ANDERSON: The next case
4 on our calendar, our Protest Hearing (Status)
5 Calendar, is Case No. 17-PRO-00086, FoBoGro,
6 License No. 82431.

7 Would all the parties, please,
8 approach and identify themselves for the record,
9 please?

10 MR. GRANDIS: Good morning.

11 CHAIRPERSON ANDERSON: Yes, sir?

12 MR. GRANDIS: Good morning. My name
13 is Ed Grandis. I'm here -- I'm the attorney on
14 behalf of the Licensee.

15 CHAIRPERSON ANDERSON: Mr. Grandis,
16 good morning.

17 MR. GRANDIS: Good morning.

18 MS. KAHLOW: I'm Barbara Kahlow for
19 the West End Citizens Association. The last name
20 is spelled K-A-H-L-O-W.

21 CHAIRPERSON ANDERSON: L-O what?

22 MS. KAHLOW: L-O-W. I'm sorry.

1 CHAIRPERSON ANDERSON: Good morning.

2 MS. KAHLOW: Good morning.

3 MR. KENNEDY: Good morning. For
4 Advisory Neighborhood Commission 2A, I'm Patrick
5 Kennedy.

6 CHAIRPERSON ANDERSON: Good morning,
7 Mr. Kennedy. Yes, ma'am?

8 MS. MADDUX: Good morning. I'm Sara
9 Maddux, president of the West End Citizens
10 Association. And the last name is M-A-D-D-U-X.

11 CHAIRPERSON ANDERSON: All right. Are
12 there any preliminary matters in this case?

13 MR. GRANDIS: Yes.

14 CHAIRPERSON ANDERSON: Yes, Mr.
15 Grandis?

16 MR. GRANDIS: Thank you. We have two.
17 One is that the owner, Seth Rosenzweig, he was on
18 a -- is on a flight from Boston. The flight was
19 supposed to arrive at 7:58 this morning. During
20 the flight from Boston, around 7:07, they were
21 notified by the captain that there was an
22 emergency on board and they had to divert the

1 flight to Philadelphia.

2 We got confirmation with him when he
3 landed in Philadelphia. They were able to put
4 him on a flight to Washington and he will be in
5 Washington at 10:00, around 10:40 this morning.

6 We would offer to either go forward
7 with the continuance -- I mean, with the status
8 or we would be -- we would like to offer that we
9 would come back this afternoon, perhaps after
10 your lunch or whenever you all thought it was
11 helpful to you all if you wanted to have his
12 presence and we would waive the need for the
13 other parties to attend, because I know that they
14 all, you know, were -- had other commitments.

15 But we just wanted to make one as the
16 first preliminary, the opportunity for us to come
17 back if you would like to be introduced to the
18 owner, as he would have been here.

19 CHAIRPERSON ANDERSON: What's the
20 position of the Citizens Association, then the
21 ANC?

22 MS. KAHLOW: If I can speak for the

1 West End Citizens Association, we cannot come
2 back later, so we would like to make our
3 presentations today for the status. And we have
4 never met him, so we would like to meet him at
5 some point.

6 CHAIRPERSON ANDERSON: So what --
7 okay. ANC?

8 MR. KENNEDY: Speaking for myself, I'm
9 not able to return, so I'm fine with either of
10 the suggestions made by the Applicant with the
11 pre-condition, I know that we have a pending
12 Motion to Dismiss, that that matter be taken up
13 to the extent that it is in this setting rather
14 than any later setting.

15 MS. KAHLOW: And I meant to say we
16 would like to talk about that also, the motion.

17 CHAIRPERSON ANDERSON: There is no
18 requirement, sir, for the owner to be here. You
19 are their legal representative. If you are able
20 to speak on their behalf, then the Board will
21 move forward.

22 So there is really -- so we can move

1 forward today with the hearing. I don't have a
2 problem. Prior to making a decision, I wanted to
3 hear what the other parties had to say. If the
4 other parties had stated that they wanted him
5 here, then I would grant that. But since they
6 want to move forward and there is no requirement,
7 if he -- if you weren't their attorney, then --
8 and we got the notice that he was delayed, then,
9 of course, I would have delayed this hearing.

10 But since you are here and you are
11 their -- the Board is aware that you are their --
12 his legal representative, we can move forward
13 with it.

14 MR. GRANDIS: Thank you, Chairman.

15 And we just want to make that representation.

16 We have a second preliminary matter
17 that --

18 CHAIRPERSON ANDERSON: Yes?

19 MR. GRANDIS: -- they just raised. We
20 did file a Motion for Dismissal of Protestants.
21 We understand that the --

22 CHAIRPERSON ANDERSON: So why don't

1 you tell me, starting with the ANC, what is your
2 motion. What's the motion, at least as far as
3 the ANC is concerned?

4 MR. GRANDIS: It is our position that
5 the delegated individuals that were in the motion
6 from the ANC to represent the ANC, were not
7 present for the Roll Call.

8 CHAIRPERSON ANDERSON: So why is that
9 an issue?

10 MR. GRANDIS: Because under the rules
11 it says at the Roll Call that we will be
12 introduced to the protestants.

13 CHAIRPERSON ANDERSON: So who was at
14 the Roll Call Hearing from the ANC?

15 MR. GRANDIS: I wasn't at Roll Call.

16 CHAIRPERSON ANDERSON: Was the ANC at
17 the Roll Call?

18 MR. GRANDIS: Well, an individual said
19 that they were representing the ANC, but they did
20 not have a motion from the ANC giving them
21 authority to represent the ANC.

22 CHAIRPERSON ANDERSON: Did anyone

1 raise that as an issue at the Roll Call as an--

2 MR. GRANDIS: Yes, yes, sir.

3 CHAIRPERSON ANDERSON: And so what
4 decisions, if any, was made by the ABRA
5 representative at the Roll Call Hearing regarding
6 --

7 MR. GRANDIS: I'm sorry?

8 CHAIRPERSON ANDERSON: What was stated
9 from ABRA at the Roll Call? I mean, they called
10 this case.

11 MR. GRANDIS: I would have to look.
12 I was not present at the Roll Call, sir. I would
13 have -- I do have the transcript. I could look
14 at that.

15 CHAIRPERSON ANDERSON: I guess what
16 I'm trying to find out was the ANC granted
17 standing? Was the ANC granted full standing,
18 conditional standing at the Roll Call? What was
19 -- as far as standing was concerned?

20 MR. GRANDIS: It's my understanding
21 that Ms. Fletcher granted them standing.

22 CHAIRPERSON ANDERSON: And did -- I

1 know that you were not the representative for
2 this company at the Roll Call Hearing, but was a
3 challenge --

4 MR. GRANDIS: Yes. And that's in the
5 testimony.

6 CHAIRPERSON ANDERSON: And it was
7 challenged basically stating what? That --

8 MR. GRANDIS: Basically stating that
9 there was -- that the person came with a motion
10 from the ANC.

11 CHAIRPERSON ANDERSON: I'm sorry, you
12 mean, the -- what do you mean? Go ahead.

13 MR. GRANDIS: The individual who was--
14 who they sent to represent the ANC --

15 CHAIRPERSON ANDERSON: Yes.

16 MR. GRANDIS: -- was not -- did
17 present a motion from the ANC regarding the
18 protest, but the motion identified two ANC
19 Commissioners as the representatives of the ANC,
20 not a non-ANC Commissioner.

21 CHAIRPERSON ANDERSON: Okay. All
22 right. Mr. Kennedy?

1 MR. KENNEDY: Thank you, Mr. Chairman.
2 For the record, the gentleman that attended the
3 Roll Call Hearing on the ANC's behalf was the
4 commission's employee, Executive Director Peter
5 Sacco, who is present in the room this morning.

6 In addition to the two principal
7 representatives that were identified for the ANC
8 in the formal Protest Resolution, as Chairman of
9 the ANC at the time and one of the principal
10 representatives, I entered a supplemental letter
11 into the record that was not requested by Ms.
12 Fletcher prior to the ANC being granted standing,
13 which identified Mr. Sacco or any other
14 commissioner as an authorized representative of
15 the ANC for the purposes of establishing
16 standing.

17 And I would note in our written
18 response to the applicant's motion, we have
19 provided exhibits, not only of both the original
20 Protest Resolution, but also the supplemental
21 letter, as well as email correspondence with Ms.
22 Fletcher dating to a previous case which

1 sanctions this as a process by which the ANC can
2 maintain standing in Roll Call proceedings.

3 So for the purposes of the ANC, as
4 Chair, I directed our employee to attend this
5 meeting. I gave him a letter authorizing the
6 same. And it is our view that this is sufficient
7 to confirm the ANC's standing in the case. It
8 clearly reflects the will of the commission to
9 continue forward with this protest.

10 CHAIRPERSON ANDERSON: So, Mr.
11 Grandis, were you aware of this supplementary
12 letter? Have you seen it?

13 MR. GRANDIS: I have not seen it, but
14 I would like to respond to that.

15 CHAIRPERSON ANDERSON: Sure, sir.

16 MR. GRANDIS: The ANC, under the
17 rules, as a body either authorizes a protest or
18 not a protest on a particular renewal or new
19 licensee.

20 In this situation, the ANC did have a
21 duly-called meeting and did make a motion to
22 protest this particular renewal. In their

1 motion, they stated the names of two
2 commissioners that they had designated to
3 represent the ANC at all the proceedings on this
4 matter.

5 It is our position that if the ANC had
6 noted in its motion that either of these two
7 commissions then could delegate that
8 representation to a third-party, we would be
9 satisfied. But the motion did not say that.

10 And the Chairman of the ANC is correct
11 and we respect what he did. He did -- if he said
12 he submitted a letter, we will acknowledge he
13 did, but he did not get the ANC body to approve
14 of a delegation of a delegation.

15 And we believe that at a Roll Call, we
16 have to all, all parties, including the licensee,
17 as well as those who want to protest, have to
18 follow the rules exactly.

19 And unfortunately, the ANC, as a body,
20 did not authorize anyone other than these two
21 commissioners to represent them, the ANC, at this
22 proceeding.

1 CHAIRPERSON ANDERSON: But that's not
2 what I just heard. I mean, maybe I'm not the
3 right hearing. Maybe I heard something
4 different. So maybe -- so, Mr. Kennedy, for the
5 record, can you just repeat what you said that
6 you did? Because maybe I missed something.
7 Maybe -- and so maybe I'm where Mr. Grandis is,
8 because I thought I heard something, but I'm not
9 sure if it's the same thing you heard, so I just
10 want to make sure that the record is correct what
11 is it that you stated was done.

12 MR. KENNEDY: So I'm happy to clarify.
13 The ANC designates in its original Protest
14 Resolution two commissions who are authorized to
15 make substantive pleadings on the ANC's behalf,
16 to negotiate on the ANC's behalf, to deal with
17 the substance of a case.

18 In addition, for the purposes of this
19 particular proforma hearing, the ANC designated
20 Mr. Sacco to stand in for the purposes solely of
21 confirming the commission's standing.

22 There is no statute whether in DCMR or

1 elsewhere that prohibits the ANC from utilizing
2 the services of its employees to complete
3 directed tasks as this was. It involved the
4 granting of no discretion to Mr. Sacco
5 whatsoever. And the ANC, again, has followed
6 this process in previous cases where the Board
7 has granted standing. That's, I presume, why Ms.
8 Fletcher did not raise the issue and granted the
9 ANC standing, because this has been employed on a
10 number of occasions.

11 And we had submitted an example of
12 that into the record as well as correspondence
13 that lays out the sanctioning of this process
14 explicitly.

15 So again, for the purposes of the Roll
16 Call Hearing, Mr. Sacco was duly-authorized to
17 represent the ANC at this proceeding. For
18 substantive proceedings, Commissioner Campbell
19 and myself, and I was chair at the time that this
20 was voted on by the ANC, are authorized to make
21 substantive proceeding -- or pleadings and to
22 negotiate on the ANC's behalf. That's the

1 distinction that I believe perhaps the applicant
2 is confused on.

3 CHAIRPERSON ANDERSON: All right.

4 MR. GRANDIS: May I respond?

5 CHAIRPERSON ANDERSON: Yes, sure. And
6 then I'm going to have the Board -- and then I'm
7 going to have you guys respond.

8 MR. GRANDIS: And I want you to know,
9 we respect that -- the ANC. And we respect this
10 particular commissioner. The fact is that the
11 ANC was very clear in its motion who was to
12 represent the ANC in this process. And it's as
13 if Mr. Kennedy, could have on the way here,
14 decided to hand it to a third-party saying I
15 can't make it in time, would you, please, stand
16 in for us?

17 It is our contention that the ANC
18 could have easily in its motion, and perhaps in
19 its future motions, could say here are the two
20 commissioners who are going to represent us, but
21 for purposes other than -- for purposes when they
22 cannot represent us, our Executive Director can.

1 Our only point today is that that
2 delegation of authority comes from the body, not
3 from the delegee.

4 CHAIRPERSON ANDERSON: Okay.
5 Questions by Board Members? Go ahead, Mr.
6 Alberti.

7 MEMBER ALBERTI: So, Mr. Kennedy, I
8 sort of want to just make this very simple, cut
9 to the chase. So the ANC in its initial motion
10 designated two commissioners to represent the
11 ANC.

12 MR. KENNEDY: Correct.

13 MEMBER ALBERTI: Yourself and I don't
14 -- someone else, right. As you approached the
15 Roll Call, you, as a designated representative,
16 designated your Executive Director to represent
17 you at the Roll Call.

18 MR. KENNEDY: Correct. As the
19 Commission's Chairman, I have -- we have an
20 employee of the ANC that reports to the chairman.
21 So it was a dual role, but I designated the
22 employee.

1 MEMBER ALBERTI: Okay. You
2 designated. As a representative, as a designated
3 representative for this protest, you designated a
4 third-party to represent you at the Roll Call,
5 correct?

6 MR. KENNEDY: Yes.

7 MEMBER ALBERTI: All right. So it's
8 your position that because you are designated to
9 represent the ANC, you have the authority to then
10 represent a third-party?

11 MEMBER SILVERSTEIN: Designate a
12 third-party?

13 MR. KENNEDY: I mean, I would not
14 consider --

15 MEMBER ALBERTI: You --

16 MR. KENNEDY: -- myself a third-party,
17 since I'm standing --

18 MEMBER ALBERTI: No, no, no.

19 MR. KENNEDY: -- in for my corporate.

20 MEMBER ALBERTI: You were the -- you,
21 as a representative, could designated someone
22 else to represent you or ostensibly the ANC at

1 that Roll Call? Is that your position?

2 MR. KENNEDY: Mr. Alberti, my position
3 is that the ANC may utilize the services of
4 whomever in completing tasks pursuant to the
5 authorized resolution. I was utilizing the
6 services of our employee to complete a task
7 pursuant to that resolution.

8 MEMBER ALBERTI: Okay. So that's
9 different. That's different than the conclusion
10 I had, which was you -- that you -- okay.

11 I thought you were saying that you had
12 the authority, because you were a representative,
13 you are representing the ANC, that gives you the
14 authority to do many things.

15 MR. KENNEDY: Um-hum.

16 MEMBER ALBERTI: You can make
17 pleadings on behalf of the ANC. You can enter
18 into settlement agreements, all of that, right?

19 MR. KENNEDY: Yes.

20 MEMBER ALBERTI: And by extension, you
21 are -- I thought you were saying that you have
22 the authority to designate an additional

1 representative to represent you at a hearing?

2 MR. KENNEDY: So I think there is--

3 MEMBER ALBERTI: In this case it was
4 the executive director.

5 MR. KENNEDY: Yes, for the purposes of
6 the Roll Call Hearing. Again, I think for
7 substantive proceedings, there is a distinction
8 and I think that's what the original --

9 MEMBER ALBERTI: Well, that's your
10 choice. That's your choice.

11 MR. KENNEDY: -- protest resolution--

12 MEMBER ALBERTI: All right. Thank
13 you.

14 CHAIRPERSON ANDERSON: Mr. Silverstein?

15 MEMBER SILVERSTEIN: Mr. Grandis, are
16 you saying that an ANC does not have the
17 authority to name a substitute for a hearing,
18 such as this, in any case once it is -- once they
19 have named --

20 MR. GRANDIS: Not at all. In fact,
21 I'm saying the opposite. I'm saying that the ANC
22 duly had a meeting and came to their conclusion

1 to protest, which we respect. The ANC in its
2 motion declared who would be the representatives
3 of the ANC.

4 MEMBER SILVERSTEIN: Well --

5 MR. GRANDIS: The ANC in that, the
6 body, the ANC, could have said and by the way the
7 executive director can stand in. Maybe they
8 declared with top matters or whatnot, but in this
9 situation, the motion was clear.

10 MEMBER SILVERSTEIN: Well --

11 MR. GRANDIS: And so we don't believe
12 that a designee has a right to designate unless
13 the body from the motion gave them that
14 authority. That's our position.

15 MEMBER SILVERSTEIN: What is the
16 situation in the cases where we have had where
17 people have moved and are no longer
18 representatives of the ANC who are listed, where
19 commissioners have, in one or two occasions I
20 know, died, where commissioners have resigned or
21 where there has been an election and a hearing
22 goes over to the next commission?

1 MR. GRANDIS: The appropriate solution
2 would be the body makes another motion.

3 MEMBER SILVERSTEIN: But do you make
4 another motion if a person is unable to make it,
5 because of health issues or things like that?

6 MR. GRANDIS: I --

7 MEMBER SILVERSTEIN: That they should
8 be denied, that a protest is denied? Have we --
9 can you point to a case where we have ever done
10 that?

11 MR. GRANDIS: No, I don't think they
12 would be denied. I think as we did earlier with
13 the fact that the owner is, unfortunately, stuck
14 on a plane or unfortunately on the ground --

15 MEMBER SILVERSTEIN: Precisely.

16 MR. GRANDIS: -- that we asked for a
17 continuance and they could have asked for a
18 continuance. If neither of the commissioners
19 could have been for the Roll Call, they could
20 have asked for a continuance.

21 All we are saying is that --

22 MEMBER SILVERSTEIN: They were granted

1 standing. Why should they ask for a continuance
2 if they were granted standing?

3 MR. GRANDIS: I'm sorry? I'm sorry?

4 MEMBER SILVERSTEIN: Why should they
5 ask for a continuance if they --

6 MR. GRANDIS: Because neither of the
7 commissioners --

8 MEMBER SILVERSTEIN: -- were granted
9 standing?

10 CHAIRPERSON ANDERSON: One person at
11 a time. Let Mr. --

12 MR. GRANDIS: Silverstein.

13 CHAIRPERSON ANDERSON: -- Silverstein
14 finish before you respond, please. Go ahead, Mr.
15 Silverstein.

16 MR. GRANDIS: The body had, at their
17 duly-called meeting, a discussion. And when they
18 decided that they were going to protest, they
19 then decided clearly who was going to represent
20 them at meetings such as this, at hearings before
21 the ANC on this matter.

22 And if there needed to be another

1 person added, the body should have made a motion
2 to add that person. That's all we are saying.
3 We are saying that the designee cannot designate
4 without the permission of the body.

5 MEMBER SILVERSTEIN: But they were
6 granted standing, so they should have -- even
7 though they were granted standing at the hearing,
8 they should have asked for a continuance?

9 MR. GRANDIS: We believe that was --
10 it was an error and we stated so in the testimony
11 that they should not have been granted standing.

12 MEMBER SILVERSTEIN: No further
13 questions.

14 CHAIRPERSON ANDERSON: Any other
15 questions by any other Board Members? Do you
16 have a comment you want to make or a question,
17 Mr. Alberti?

18 MEMBER ALBERTI: I'm just going to
19 state my position, so everybody understands.

20 My position is that the ANC designated
21 a representative. And they gave him broad
22 authority. I mean, they always do, because they

1 can do many things in negotiations. And I think
2 included in that authority is to designate a
3 third-party to represent them at these hearings
4 and that is precisely what Mr. Kennedy did.

5 And he did it in a very formal
6 process. He wrote a letter to the Board so that
7 nobody was surprised and so I think the ANC
8 should be granted standing.

9 MR. KENNEDY: Mr. Chair?

10 CHAIRPERSON ANDERSON: Yes?

11 MR. KENNEDY: I would just like to,
12 you know, sort of very briefly state that the
13 nature of ANCs makes the process of going to the
14 body corporate to get specific changes and
15 standing and specific authorizations impractical.

16 We did not have a meeting in between
17 the time that this protest was filed and we did
18 not have a December meeting. We went two months
19 without a meeting. For that reason, I think, as
20 Mr. Alberti just alluded to, the ANC grants its
21 representatives and specifically its officers
22 discretion to make choices on behalf of the

1 commission that are necessary in a transactional
2 sense, because it would be completely impractical
3 for the ANC to have to call a special meeting to
4 designate new representatives or make really
5 small transactions every time a matter like this
6 comes up.

7 The same way that the applicant has
8 changed counsel and has different people show up
9 to hearings, we should not be precluded from the
10 same flexibilities. And I think that's
11 especially true -- you know, I try to be at every
12 hearing I can, but I have a job and I have
13 essentially a week's worth of paid time in a
14 year, so every hearing that I go to is time
15 literally out of my paycheck.

16 And I try and fulfill my obligations
17 faithfully, but it is impractical for me to make
18 every possible proceeding during the day and
19 that's why I procure the services of our
20 employees in order to further the ANC's interest.

21 CHAIRPERSON ANDERSON: Thank you. And
22 before I move, I'm going to make a motion for us

1 to have a vote of what to do.

2 Do you have any comments you want to
3 make, final comments you want to say, Mr.
4 Grandis?

5 MR. GRANDIS: No. We want to thank
6 the Board for the opportunity to make a
7 presentation. Thank you very much.

8 CHAIRPERSON ANDERSON: All right.
9 Thank you. Hearing that, I make a motion that we
10 deny the motion. Is there a second?

11 MEMBER SHORT: Second.

12 CHAIRPERSON ANDERSON: Mr. Short has
13 seconded the motion.

14 All those in favor say aye.

15 ALL: Aye.

16 CHAIRPERSON ANDERSON: All those
17 opposed? The matter passes 6-0-0.

18 Sir, we are denying your motion. I
19 believe that the ANC -- there is nothing in our
20 regulation that is asking for what you are
21 stating for. The ANC can decide who they are
22 going to inform us as their representative. If

1 no one showed up at the Roll Call, then that's
2 fine. No one -- they wouldn't be granted
3 standing.

4 So I think at this particular moment,
5 so I'm going to deny your motion.

6 Now, regarding the civic association--
7 citizens association, what's your motion, sir?
8 Do you have another motion regarding --

9 MR. GRANDIS: Yes, yes. Part of that
10 motion was to deny standing to the civic
11 association because they clearly did not follow
12 the rules set out in ABRA for establishing party
13 status, including providing a copy of their
14 bylaws, so that we know who has the right to vote
15 on these motions.

16 As well as it appears that they claim
17 that there is a five-person board, but only two
18 people from that board voted to file the protest.
19 And we don't understand how that is a quorum. So
20 we believe that there are some irregularities
21 that have not been complied with by the ABRA
22 Rules on determining whether the civic

1 association has standing.

2 And once again, how do they determine
3 who has a right to vote for that? So that's our
4 concern.

5 CHAIRPERSON ANDERSON: Who wants to
6 speak?

7 MS. KAHLOW: I do.

8 CHAIRPERSON ANDERSON: Go ahead, Ms.--

9 MS. KAHLOW: Barbara Kahlow.

10 CHAIRPERSON ANDERSON: -- Kahlow.

11 MS. KAHLOW: Yes. What Mr. Grandis
12 just told me, told you is news to us. There is
13 nothing in requirement to apply for party status
14 to provide our bylaws. We have amended them
15 since our last case in front of you and there was
16 a vote by the five-person board that also we
17 didn't have to give you, but I have the emails if
18 I needed to show their vote on this thing. So
19 they all voted to protest.

20 The problem was, and it's pretty
21 simple, we don't have any contact information for
22 any of the three owners. We asked the property

1 owner, the owners of FoBoGro, how do we be in
2 touch with them? She said well, you can talk to
3 somebody who is acting as an operator.

4 We called ABRA. ABRA said send a
5 certified letter. We did that and we have the
6 confirmation from that. We followed ABRA's
7 Rules, that was Sarah Fashbaugh. In addition, we
8 contacted by email the -- because we didn't have
9 the phone number, still don't have a phone
10 number, this operator. He responded. We gave
11 him five dates for a meeting. He picked one of
12 the five dates and it was during the morning,
13 10:00 a.m. Our people work. So only two of us
14 that didn't work could come to that meeting.

15 We wrote up immediately to the other
16 five board members that this is what happened
17 during the meeting and that's when we voted to
18 protest. So we did everything we were supposed
19 to do according to your rules and we tried hard.
20 And we believe we should be a party to this
21 proceeding, as we had been the last time there
22 was a protest for this proceeding.

1 CHAIRPERSON ANDERSON: Mr. Grandis?

2 MR. GRANDIS: I believe that the
3 rules, when they were amended a few years ago
4 regarding party status, was trying to pull back
5 the veil, so to speak, on some of the civic
6 associations, because there was really no
7 understanding of was the civic association
8 actually operating properly in the District; what
9 were the rules and procedures for a civic
10 association to determine how they vote on things
11 such as protesting an ABC license.

12 And we only are asking that ABRA have
13 that information, so that we can determine
14 whether or not the civic association complied
15 with requirements under achieving party status.

16 MS. KAHLOW: Mr. Chairman?

17 CHAIRPERSON ANDERSON: Yes.

18 MS. KAHLOW: Unfortunately, I don't
19 have our bylaws, our amended bylaws with us, but
20 the old bylaws for which ABRA does have, clearly
21 state that the board makes decisions for the
22 body, because we only meet four times a year at

1 most. So as a consequence, the board can meet at
2 any time. And the technicality you wanted to
3 instruct the last time was could we do this by
4 email? And the answer is yes. We have corrected
5 the bylaws for that. So I can provide a copy,
6 but it's not in your rules for party status, but
7 we're more than happy to do it, just not today
8 since I don't have it with me.

9 CHAIRPERSON ANDERSON: Now, let me --
10 were you guys, were you given notice when this
11 meeting to have the vote was going to occur?

12 MR. GRANDIS: As -- I will concur with
13 Ms. Kahlow that a letter was sent, yes, but the
14 letter wasn't clear that there was going to be a
15 vote on whether or not to protest, but a letter
16 was sent inviting a representative from FoBoGro
17 to their meeting, yes.

18 MEMBER ALBERTI: May I ask a question?

19 CHAIRPERSON ANDERSON: Go ahead, Mr.
20 Alberti.

21 MEMBER ALBERTI: Mr. Grandis?

22 MR. GRANDIS: Yes.

1 MEMBER ALBERTI: I'm going to ask a
2 tough question. So you got notice that there was
3 going to be a meeting. What was the -- were you
4 told what the subject of the meeting was?

5 MR. GRANDIS: I don't have the notice
6 in front of me. I apologize.

7 MEMBER ALBERTI: Okay. Ms. Kahlow --

8 MR. GRANDIS: Do you have the notice?

9 MEMBER ALBERTI: -- well, wait.

10 MR. GRANDIS: We actually have the
11 notice.

12 MEMBER ALBERTI: I will -- Ms. Kahlow,
13 did the notice tell the applicant what the
14 subject of the --

15 MS. KAHLOW: Yes, but I have to find
16 it to read it to you. If you can give me --

17 CHAIRPERSON ANDERSON: Why don't you
18 find it, ma'am.

19 MEMBER ALBERTI: Does it say that --

20 MS. KAHLOW: That we have issues, so
21 we want to protest, yes.

22 MEMBER ALBERTI: But it says the

1 subject is the protest?

2 MS. KAHLOW: Yes.

3 MEMBER ALBERTI: Okay. All right.

4 All right. So the applicant knew the subject of
5 the meeting was --

6 MR. GRANDIS: I --

7 MEMBER ALBERTI: -- I just want to
8 make sure.

9 CHAIRPERSON ANDERSON: I need you to
10 find that notice. Okay? So we can -- maybe you
11 can have Ms. Maddux look for it while you are
12 answering the questions.

13 MEMBER ALBERTI: So --

14 MS. KAHLOW: It's my notes. I have
15 it.

16 MEMBER ALBERTI: All right.

17 MS. KAHLOW: There were two things.
18 There was both the certified letter and the
19 notice -- the email to the --

20 MEMBER ALBERTI: Well, actually, the
21 certified letter would be the one I would like to
22 see.

1 MS. KAHLOW: Yes, that's the one.

2 Thank you. Just a second.

3 MEMBER ALBERTI: Mr. Grandis, you
4 don't have any of these materials?

5 MR. GRANDIS: I can look. I mean, I'm
6 happy to look.

7 MS. KAHLOW: Shall I read it to you?

8 CHAIRPERSON ANDERSON: Why don't you
9 give --

10 MEMBER ALBERTI: Can you just give us
11 a copy?

12 MS. KAHLOW: Oh.

13 CHAIRPERSON ANDERSON: Give us a copy.

14 MS. KAHLOW: I only have the original
15 here.

16 MEMBER ALBERTI: Well, someone will
17 make a copy. If you just give it to our
18 representative.

19 MEMBER SILVERSTEIN: Is it long or
20 short?

21 CHAIRPERSON ANDERSON: No, just give
22 us -- give it to her. I will look at it.

1 MS. MADDUX: It shows the receipts and
2 everything.

3 CHAIRPERSON ANDERSON: You can give
4 the rest of it, too.

5 MEMBER ALBERTI: We will give it back
6 to you. Don't worry.

7 CHAIRPERSON ANDERSON: Just give me
8 the -- this is the notice that was sent. Let me
9 look at it. All right.

10 MS. KAHLOW: Thank you.

11 MEMBER ALBERTI: So, Ms. Kahlow, does
12 the bylaws speak to what a quorum of the board
13 is?

14 MS. KAHLOW: Yes. It is three of
15 five, but it's not necessary for a meeting. It's
16 only necessary for a vote and we had a vote of
17 all five.

18 MEMBER ALBERTI: Okay. Do your
19 current bylaws speak to voting by email?

20 MS. KAHLOW: Yes.

21 MEMBER ALBERTI: All right. Do you
22 have a copy of those for us?

1 MS. KAHLOW: Not today. I didn't know
2 I needed them. I'm sorry, but I can provide that
3 right after this meeting, if necessary.

4 MEMBER ALBERTI: All right. Thank
5 you.

6 MR. GRANDIS: May I?

7 CHAIRPERSON ANDERSON: Go ahead, sir.
8 Yes, go ahead.

9 MR. GRANDIS: We would be concerned in
10 their bylaws on who has the authority to file a
11 protest. Is it the body of the membership or is
12 that given/designated to the board of directors?
13 And if it is designated to the board of
14 directors, what is a quorum needed to have a
15 meeting to have that motion made? Not that they
16 send in any emails later.

17 So like I said, we believe based on
18 the changes in ABRA Rules over the years, that
19 there was trying to bring more clarity on who a
20 civic association was and what steps they took
21 that were authorized by their bylaws to be able
22 to file a protest.

1 MS. KAHLOW: I found that the actual
2 protest letter attached the certified letter, so
3 you did have in your file, I just didn't see that
4 originally. I forgot.

5 CHAIRPERSON ANDERSON: I know what we
6 have in our file. I want to make sure that maybe
7 you had something different from what we had in
8 our file.

9 MS. KAHLOW: Yes.

10 CHAIRPERSON ANDERSON: Because --

11 MS. KAHLOW: I do have the later
12 emails with the WECA that GW came, do you want
13 those also? That said here are the five dates
14 and he picked the one that he wanted.

15 CHAIRPERSON ANDERSON: I'm sorry, you
16 said what?

17 MS. KAHLOW: We gave them five dates
18 and he picked one. And of course, our board
19 meets in the evenings. And he picked it at 10:00
20 a.m. and the other people couldn't come, that's
21 the only date he gave us. We asked for one of --
22 we asked for several dates and he only gave us

1 one date. Do you want that email contact also?

2 CHAIRPERSON ANDERSON: We have that,
3 yes.

4 MS. KAHLOW: All right. I believe so.

5 MEMBER ALBERTI: There is no dispute
6 on that.

7 CHAIRPERSON ANDERSON: Any other
8 questions by any of the Board Members on this
9 issue?

10 MS. KAHLOW: We have something
11 additional to say, but after you talk this -- ask
12 this --

13 CHAIRPERSON ANDERSON: Yes, what is
14 it? Yes, ma'am.

15 MS. KAHLOW: In our response to the
16 motion dated February 9th, we stated there was an
17 interim response that the WECA will now have to
18 retain counsel to more fully respond to the
19 motion, as the Board provides vision time for a
20 WECA lawyer response.

21 Your counsel wrote back and said there
22 is no such thing as interim response. Once you

1 file, the other side gets to file a response and
2 that's it.

3 So we didn't hire a lawyer yet, but if
4 we have to defend ourselves, we have not last
5 night gotten the name of a lawyer, we will retain
6 one to respond.

7 CHAIRPERSON ANDERSON: All right.
8 Well, I mean, this is not back and forth. I
9 mean, we -- I mean, the way it goes in
10 litigation, I mean, there is some point that, you
11 know, someone filed a motion, someone responds
12 and it ends. Seriously, it doesn't go back and
13 forth that you do a response and you do the
14 response to the response and then there is a
15 response to the response. So someone files a
16 motion, there is an answer. It stops right
17 there.

18 There is no need -- because it would
19 never end, because if they would file a response,
20 a response to your response, and then you would
21 file a response to your response, so at what
22 point would the Board make a decision if the

1 representatives were going back and forth,
2 because everyone needs to have a final say?

3 So there is no need. A motion was
4 filed. You responded to the motion and then it's
5 up to the Board to make a determination whether
6 or not they are going to grant or deny the
7 motion.

8 So prior to us making a decision,
9 anything else any party wants to speak on this
10 issue?

11 MS. KAHLOW: Our response date is the
12 16th, so we could still respond. We didn't know
13 we could ask for a continuance, at that point,
14 because of this situation that we didn't hire a
15 lawyer yet. But we don't know that it is
16 necessary to have that expense, but our due date,
17 because our -- the letter that was dated January
18 30th was not received until February 5th, our due
19 date, according to the general counsel, was the
20 16th.

21 CHAIRPERSON ANDERSON: So what is it
22 you are asking then?

1 MS. KAHLOW: What we are saying is we
2 did the best we could, but we didn't respond to
3 all the case law, because we are not lawyers. So
4 we hope that the Board will deny the motion for
5 not giving us party status or delay it until we
6 hire a lawyer.

7 CHAIRPERSON ANDERSON: Yes, Mr.
8 Grandis?

9 MR. GRANDIS: I want to thank the
10 Board for taking our motion under consideration.
11 We want to make it clear that we support the
12 rights of residents, civic associations, ANCs to
13 be parties to matters like this. It's very
14 important that there be good will on all sides.

15 There are some of us in this room who
16 were handling cases back in the late '80s and
17 throughout the '90s. And one of the things that
18 was a big challenge, not just for the community,
19 not just for the licensee or applicant, but also
20 for the Board is who are these people
21 representing?

22 People remember the famous Gang of

1 Five, the Gangs of Four, who had made claims
2 before this body that they had gotten
3 authorization at a duly meeting -- duly-called
4 meeting and they followed their rules of so-and-
5 so entity to learn later that the entity never
6 even had bylaws.

7 So we really respect the hard work
8 ABRA has done over the years to make the playing
9 field level for everyone. We want to -- my
10 client wants to be involved with the concerns of
11 the constituents, Sara and Barbara. My client
12 wants to satisfy concerns of the ANC.

13 We would do that whether there is
14 party status or not. I think those who know my
15 representations in the past know that we work to
16 have good will on all sides. And we are here
17 today raising this motion because we really,
18 truly don't know if the claimant really did
19 follow their rules and procedures to the level
20 that satisfies ABRA, that they truly had a
21 quorum, they truly were the right people to vote.

22 And that's all we are asking is for a

1 level playing field and we want to thank the
2 Board for the good work it has done in improving
3 these regulations, so there is more clarity.
4 Thank you.

5 CHAIRPERSON ANDERSON: All right.

6 MS. KAHLOW: And I do have a copy of
7 the -- each board member's vote by email. I have
8 that with me if you want to where they all say
9 protest it. I have only the original again, make
10 a copy if you wanted to see that.

11 CHAIRPERSON ANDERSON: Sure. Can you
12 show it to --

13 MS. KAHLOW: What happened at this --

14 CHAIRPERSON ANDERSON: -- have you
15 seen that document, sir?

16 MS. KAHLOW: No.

17 CHAIRPERSON ANDERSON: Can you show it
18 to him, too, please?

19 MS. KAHLOW: I'll take it back up.

20 MS. MADDUX: Mr. Chairman?

21 CHAIRPERSON ANDERSON: Yes, ma'am?

22 MS. MADDUX: I would like to bring to

1 everybody's attention that the West End Citizens
2 Association participates in other boards and
3 permissions activities throughout the structure
4 of the District Government and we file all the
5 required votes. We pay our bill for filing our
6 biannual report. We are a fully functioning
7 board and a body that is taking in the full
8 interest of the neighborhood in addition to our--
9 the ABRA issues as well.

10 So this isn't just a couple people
11 only focusing on ABRA. We participate in the
12 full range of opportunities to represent our
13 membership across all the entities of the
14 District of Columbia. And we pay our dues. We
15 go to the hearings. We talk to our
16 Councilmembers. We work with our members, so
17 this isn't just a small group for one particular
18 issue in order just to appear before this
19 particular body.

20 And, you know, we pay rent on our Post
21 Office box. We pay for our biannual report,
22 which I think is \$180. So we are a fully

1 participating entity. Thank you for your time.

2 CHAIRPERSON ANDERSON: Well, thank you
3 for the representation, ma'am. My concern is
4 that you have bylaws and your bylaws establish
5 the procedures if you are going to have a vote,
6 what you can do and what needs to be done.

7 I know that, at least since I have
8 been here, we had an issue in the sense of your
9 bylaws specifically spoke about how votes can be
10 taken. You did not comply with your bylaws, so
11 therefore we voted against granting, I think, in
12 that issue, because you did not comply with your
13 bylaws.

14 So if you have bylaws and the bylaws
15 establish procedures of how a vote -- what
16 constitutes a quorum, what is supposed to happen
17 and if you comply with that, then the Board is
18 fine with that representation if you comply with
19 what your own bylaws say, which is the same issue
20 that we had earlier when we were talking about
21 standing for the ANC, because the issue was
22 whether or not who was the designated

1 representative and whether or not whoever showed
2 up at the Roll Call was designated by the ANC to
3 speak on their behalf.

4 So it's the same, although it's a
5 different organization, the same type of issue.
6 Before I'll --

7 MS. KAHLOW: And we amended the
8 bylaws.

9 CHAIRPERSON ANDERSON: I'm aware of
10 that, ma'am, yeah. All right. Yes, Mr. Alberti,
11 and then I'm going to take a vote. Yes?

12 MEMBER ALBERTI: Ms. Kahlow, Ms.
13 Maddux, either one of you can answer this. So my
14 question is, well, two questions. One, does the
15 West End Citizens Association meet regularly?

16 MS. MADDUX: Yes, we do.

17 MEMBER ALBERTI: And when is that?

18 MS. MADDUX: The next meeting is March
19 the 20th.

20 MEMBER ALBERTI: And is it always --
21 how -- is there a regular time for it? I mean,
22 is it set every month?

1 MS. MADDUX: It's set quarterly.

2 MEMBER ALBERTI: Okay.

3 MS. MADDUX: We move around to
4 different places to meet. The next one is going
5 to be at the Hotel Lombardy.

6 MEMBER ALBERTI: And then how is the
7 next meeting after that notified, noticed?

8 MS. MADDUX: Well, we send out notice,
9 mailing notices to the members as well as anyone
10 on the list to the members.

11 MEMBER ALBERTI: Okay.

12 MS. MADDUX: Especially after we
13 ascertain a place to meet and an assured speaker.

14 MEMBER ALBERTI: Okay. So you meet
15 quarterly?

16 MS. MADDUX: Yes.

17 MEMBER ALBERTI: All right. The
18 board, does the board meet regularly?

19 MS. MADDUX: The board meets ad hoc as
20 we need to and to develop guidance and also to
21 address issues as they come. And people get
22 notices and they have to respond as to whether or

1 not they are coming for a meeting and what the
2 issues will be discussed, what will be carried
3 forward, what -- if we have to take a formal
4 action, then we deploy this --

5 MEMBER ALBERTI: Are the board --

6 MS. MADDUX: -- the amended bylaws.

7 MEMBER ALBERTI: Okay.

8 MS. MADDUX: Using email because, one,
9 that gives us a written record of everybody's
10 vote.

11 MEMBER ALBERTI: Okay. Are the board
12 meetings open to the members?

13 MS. KAHLOW: No.

14 MS. MADDUX: No, no.

15 MEMBER ALBERTI: Is that in your
16 bylaws?

17 MS. MADDUX: I don't think it
18 excludes. We generally also use Robert's Rules
19 of Order for guidance for meetings and --

20 MEMBER ALBERTI: Okay. I understand.
21 I'm just trying to understand how this --

22 MS. MADDUX: Entity works.

1 MEMBER ALBERTI: -- entity functions.
2 All right. Because that's important in my
3 decision in evaluating whether it is fair to the
4 applicant or not. I mean --

5 MS. KAHLOW: Can I add one thing? We
6 meet on Saturdays at 2:00, because we have an
7 elderly membership. Our board meetings are at
8 night in a home and that would not be convenient
9 for people. We would have to have a pre-
10 authorization of who is coming and stuff to get
11 cleared into the building.

12 MEMBER ALBERTI: Okay. I'm not
13 judging. I'm just asking.

14 MS. KAHLOW: Right.

15 MEMBER ALBERTI: I'm just asking. So
16 I'm a little curious, why didn't you -- never
17 mind. No further questions. Thank you.

18 CHAIRPERSON ANDERSON: All right. As
19 Chairperson of the Alcoholic Beverage Control
20 Board for the District of Columbia and in
21 accordance with Section 405 of the Open Meetings
22 Amendment Act of 2010, I move that the ABC Board

1 hold a closed meeting for the purpose of seeking
2 legal advice from our counsel on Case No. 17-PRO-
3 00086, FoBoGro, per Section 405(b)(4) of the Open
4 Meetings Amendment Act of 2010, and deliberating
5 upon Case No. 17-PRO-00086, FoBoGro, for the
6 reasons cited in Section 405(b)(13) of the Open
7 Meetings Amendment Act of 2010. Is there a
8 second?

9 MEMBER SHORT: Second.

10 CHAIRPERSON ANDERSON: Mr. Short has
11 seconded the motion. I will now take a roll call
12 vote on the motion before us now that it has been
13 seconded.

14 Ms. Wahabzadah?

15 MEMBER WAHABZADAH: I agree.

16 CHAIRPERSON ANDERSON: Mr.
17 Silverstein?

18 MEMBER SILVERSTEIN: I agree.

19 CHAIRPERSON ANDERSON: Mr. Short?

20 MEMBER SHORT: I agree.

21 CHAIRPERSON ANDERSON: Mr. Alberti?

22 MEMBER ALBERTI: I agree.

1 CHAIRPERSON ANDERSON: Mr. Cato?

2 MEMBER CATO: I agree.

3 CHAIRPERSON ANDERSON: Mr. Anderson?

4 I agree.

5 As it appears that the motion has
6 passed, I hereby notice that the ABC Board will
7 hold a closed meeting in the ABC Board conference
8 room pursuant to the Open Meetings Amendment Act
9 of 2010. We will be back shortly. Okay. Thank
10 you.

11 (Whereupon, the above-entitled matter
12 went off the record at 10:29 a.m. and resumed at
13 10:39 a.m.)

14 CHAIRPERSON ANDERSON: All right. We
15 are back on the record for the FoBoGro on the
16 Licensee's Motion to Deny standing to the Civic
17 Association.

18 Does any Board Members want to, prior
19 to us having a vote, ask any questions or make
20 any comments? Mr. Alberti?

21 MEMBER ALBERTI: May I? Just real
22 quick, so they understand where I'm coming from

1 and the Chair will speak to this in our decision.

2 But the key point for me was that
3 board meeting, you did not have a quorum at that
4 board meeting. And I think it is necessary and
5 fair to the applicant that if a body is going to
6 meet with them to discuss a protest, that it be
7 an official meeting of the organization.

8 Now, I understand that your board
9 makes these decisions, but I would expect that
10 the board would have a quorum for this meeting.

11 MS. KAHLOW: May I respond?

12 CHAIRPERSON ANDERSON: Just hold on.

13 MS. KAHLOW: We expected that morning
14 for one of them to attend and she was sick and we
15 would have had a quorum. We could have
16 rescheduled. We didn't have the phone number.

17 MEMBER SILVERSTEIN: I'm sorry?

18 CHAIRPERSON ANDERSON: She said that
19 they could have rescheduled, but they didn't have
20 a phone number.

21 Do you have any other questions, Mr.
22 Silverstein?

1 MEMBER SILVERSTEIN: This is a
2 difficult case for any number of reasons. The
3 applicant has had a multiple change of lawyers.
4 There has been a potential change of ownership.
5 An individual who was not involved in meeting
6 with them. The current owner out of state, the
7 difficulty trying to contact that person.

8 The purpose of all of these hurdles
9 among others that a party must go through in
10 order to gain standing, first, to know that they
11 truly exist. And there is no doubt that this
12 particular citizens association exists.

13 The other purpose of the law is to
14 determine whether the procedures have been
15 followed and this is where we get into a
16 difficult situation. Did you send a certified
17 letter to notify them? Yes. Did you have the
18 meeting that you were required to have in order
19 to allow them to present their case? And you
20 have represented that you did not have a quorum
21 at that. And that appears to be the dispositive
22 point here.

1 No further comments.

2 CHAIRPERSON ANDERSON: Any other
3 questions by any other Board Members?

4 This is the motion that I'm making.
5 I'm making a motion that we deny -- I'm sorry,
6 I'm sorry, I'm sorry.

7 I'm making a motion that we grant the
8 Motion to Deny standing on the basis it's our --
9 it's my, at least, view that I know that the
10 other Board Members have stated some position
11 regarding standing -- I'm sorry, regarding a
12 quorum, which I think was clearly articulated
13 today that when the meeting was called, that
14 there was no quorum.

15 And I was told that there were three
16 people, but I believe that the issue, for me, is
17 that there was really no notice given to the
18 applicant seven days prior to regarding the
19 purpose of the meeting. And I think that, at
20 least for me, is a fatal -- because it doesn't
21 comply with Section 25-601(b)(3), that
22 specifically requires that notice of a meeting be

1 given to the voting body and applicant at least
2 seven days before the meeting. And that's our
3 position.

4 And that's further supplanted by the
5 fact that when this meeting -- when -- there was
6 a meeting, but there was no quorum present. So
7 that is the motion that I am making. Is there a
8 second?

9 MEMBER SHORT: Second.

10 CHAIRPERSON ANDERSON: Mr. Short has
11 seconded the motion.

12 All those in favor say aye.

13 ALL: Aye.

14 CHAIRPERSON ANDERSON: All those
15 opposed? The matter passes 6-0-0. So,
16 therefore, we will grant the motion and deny
17 standing to the Civic Association.

18 MS. KAHLOW: Can we get the
19 continuance we asked for, so a lawyer can respond
20 about that?

21 CHAIRPERSON ANDERSON: You can --

22 MS. KAHLOW: So you can leave that --

1 may we have a continuance for several -- a few
2 days to respond to this business, since we still
3 don't know who -- any contact information, owner
4 is. We did the best we could in this difficult
5 situation.

6 CHAIRPERSON ANDERSON: You have 10
7 days. We will issue a written order on the
8 motion and you have 10 days to respond. And
9 within that response, you can ask for -- I guess
10 you are asking for a continuance, which was not--
11 I'm not -- I'm confused now, but you can -- the
12 attorney is here. He can provide you whatever
13 information that you need regarding the owner,
14 the contact information.

15 And if you -- and my position is that
16 if you cannot contact -- this is the -- I'm
17 sorry, the attorney is the legal representative,
18 at least today, for the owner. So if you contact
19 the attorney, you have contacted the owner.

20 MS. KAHLOW: But the person who filed
21 the motion did not have a letter of agent
22 authorization, so we don't believe he was the

1 attorney for the owners, who we don't have
2 contact information.

3 CHAIRPERSON ANDERSON: Well, but --

4 MS. KAHLOW: Mr. Grandis does have
5 that.

6 CHAIRPERSON ANDERSON: -- what I'm
7 saying today, we are here today. This is -- Mr.
8 Grandis is a member of the Bar. Am I correct?

9 MR. GRANDIS: Yes. Yes, sir.

10 CHAIRPERSON ANDERSON: Mr. Grandis has
11 provided this Board to say that he is the
12 designated representative.

13 MS. KAHLOW: Yes.

14 CHAIRPERSON ANDERSON: As far as the
15 Board is concerned, you can file whatever you
16 need on him. If it is filed on him --

17 MS. KAHLOW: No, he is fine. He has
18 a letter.

19 CHAIRPERSON ANDERSON: But I'm saying
20 but this is who the representative is today. If
21 it's filed on him, you have served the owner,
22 because you have been informed that this is his

1 legal representative. Okay? So but you will be
2 given -- we will issue an order and you will be
3 given 10 days to respond to the order that we
4 issue today.

5 MS. KAHLOW: Thank you so much.

6 CHAIRPERSON ANDERSON: This hearing --

7 MS. KAHLOW: The order will be today?

8 CHAIRPERSON ANDERSON: -- and

9 irrespective of whether or not you are granted
10 standing or not, you are open to work with the
11 ANC whatever the issues that your citizens
12 association has, the ANC, because they are going
13 to a hearing, that -- I mean, they are a party to
14 this matter, that they can -- you can work with
15 them and whatever the issues that you have that
16 they can further bring that to the attention of
17 the owner and address all these issues.

18 MS. KAHLOW: Thank you.

19 CHAIRPERSON ANDERSON: This matter is
20 scheduled for a Protest Hearing on March 14, 2018
21 at 1:30.

22 Do I need to go through the process

1 and proceedings to have a Protest Hearing or
2 everyone is aware of that?

3 MR. KENNEDY: I don't believe you do.

4 CHAIRPERSON ANDERSON: You are aware
5 of it? All right. All right. So this matter is
6 -- I'm sorry. If at any point during these
7 proceedings, if you need further information
8 about the process, please, contact Ms. -- our
9 Assistant General Counsel, Ms. April Randall at
10 (202) 442-4353.

11 So as I stated before, we will issue
12 an order and you have 10 days to respond. And I
13 do not want folks to say I did not know how much
14 time we had. We will issue an order and you have
15 10 days from the order to appeal it to us, if you
16 so desire.

17 MS. KAHLOW: Thank you.

18 CHAIRPERSON ANDERSON: Okay.

19 MS. KAHLOW: And the order will be --
20 will we get an email of it or we will somehow
21 know when the order comes out?

22 CHAIRPERSON ANDERSON: We will -- the

1 Board will issue its order. I'm not sure how the
2 Board issues its orders, but which -- the same
3 way you got notice for this hearing today --

4 MS. KAHLOW: We didn't get notice of
5 the hearing today.

6 CHAIRPERSON ANDERSON: You did not
7 get?

8 MS. KAHLOW: No, we did not.

9 CHAIRPERSON ANDERSON: How did you
10 know?

11 MS. KAHLOW: We found out through the
12 ANC. ABRA did not send us notice.

13 CHAIRPERSON ANDERSON: But weren't you
14 told at the --

15 MS. KAHLOW: No.

16 CHAIRPERSON ANDERSON: -- so you are
17 saying you weren't told at the Roll Call Hearing?

18 MS. KAHLOW: No. We were not told of
19 this date and our letter clearly says to send it
20 to me as the rep has my email. They sent it
21 somewhere else and it wasn't received and we did
22 not get notice.

1 CHAIRPERSON ANDERSON: All right. We
2 have your contact information.

3 MS. KAHLOW: Yes.

4 CHAIRPERSON ANDERSON: So you have
5 been in contact with ABRA. Is that correct? You
6 filed a motion to ABRA. Is that correct?

7 MS. KAHLOW: Yes, but it was to my
8 email and they sent it somewhere else.

9 CHAIRPERSON ANDERSON: All right. So
10 ABRA has your -- you are the person who is
11 supposed --

12 MS. KAHLOW: Yes.

13 CHAIRPERSON ANDERSON: -- to be
14 contacted and ABRA has your contact information.

15 MS. KAHLOW: Yes.

16 CHAIRPERSON ANDERSON: So we will make
17 sure through your contact information that you --

18 MS. KAHLOW: Thank you so much.

19 CHAIRPERSON ANDERSON: -- receive it.
20 All right. I thank the parties. All right.

21 MEMBER SILVERSTEIN: Mr. Chairman?

22 CHAIRPERSON ANDERSON: Yes, Mr.

1 Silverstein? And I need to move this along.

2 MEMBER SILVERSTEIN: I just want to
3 make sure, Mr. Kennedy, you said you do not need
4 -- Commissioner Kennedy, you do not need the
5 instructions?

6 CHAIRPERSON ANDERSON: Yes, he stated
7 that --

8 MR. KENNEDY: I do not.

9 MEMBER SILVERSTEIN: I did not hear
10 Mr. Grandis and I want to make sure that's on the
11 record as well.

12 MR. GRANDIS: Thank you. Thank you
13 for asking. No, we are fine.

14 MEMBER SILVERSTEIN: Very well.

15 MR. GRANDIS: Thank you.

16 MEMBER SILVERSTEIN: With all we have
17 had here, I want to make sure we are good to go.

18 MR. GRANDIS: Thank you very much.

19 MEMBER SILVERSTEIN: Thank you, sir.

20 CHAIRPERSON ANDERSON: One last thing.

21 MR. GRANDIS: Oh.

22 CHAIRPERSON ANDERSON: It's my

1 understanding, and I'm not quite sure, that
2 within the transcript from the Roll Call Hearing,
3 it specifically gave the date for this hearing
4 today. So I'm not sure -- it's in the
5 transcript, so I'm not sure -- and it's also on
6 the placard. But I'm not sure why you were not--
7 when you are given notice that their renewal, the
8 dates were on the placard and the dates were also
9 given at the Roll Call Hearing.

10 But so I'm not sure why that was not
11 stated, but that's where it is. But anyway, I
12 want to thank the parties for being here today.

13 MS. KAHLOW: The placard does not have
14 it, just so you know. I have a copy of the
15 placard.

16 CHAIRPERSON ANDERSON: All right. All
17 right. But --

18 MS. KAHLOW: And the --

19 CHAIRPERSON ANDERSON: -- the
20 transcript --

21 MS. KAHLOW: -- and I don't have a
22 transcript, but I --

1 CHAIRPERSON ANDERSON: All right. The
2 transcript --

3 MS. KAHLOW: -- I didn't hear it.

4 CHAIRPERSON ANDERSON: All right. But
5 anyway, but --

6 MS. KAHLOW: Thank you. I didn't
7 know.

8 CHAIRPERSON ANDERSON: -- it's my
9 understanding that at the Roll Call Hearing the
10 dates are established. The dates for this pre-
11 hearing and the date for the Protest Hearing are
12 already established, because we are on a time
13 line and so the only time the dates are changed
14 is if the parties ask us to change that. But all
15 these dates are preset. So it's never a surprise
16 that no one knows, because when you go to the
17 Roll Call, everyone has this information, it's
18 already stated.

19 Anyway, I just wanted to place it on
20 the record, but we will -- but I want to thank
21 everyone for being here today. And thank you.
22 Have a great day.

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MR. GRANDIS: Thank you all.

CHAIRPERSON ANDERSON: All right.

Thank you.

(Whereupon, the Protest (Status)

Hearing was concluded at 10:50 a.m.)

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7:58 3:19

8

80s 41:16

82431 1:7 2:6

9

9:45 2:2

90s 41:17

9th 38:16

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Foggy Bottom Grocery, LLC

Before: DC ABRA

Date: 02-14-18

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.



Court Reporter

NEAL R. GROSS

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