

IN THE MATTER OF: :
 :
N Street Dining, Inc., :
t/a Lazy Kate's Bistro :
2300 N Street, NW : Roll Call
Retailer CR : Hearing
License No. ABRA-112314 :
Case #19PRO-00016 :
 :
 :

Monday
March 25, 2019

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:

Laverne Fletcher (Board Representative)

ALSO PRESENT:

MATT DEVENDORF, Applicant's Counsel

SHIRLEY REID, Protestant

CAROLINE DIXON, Protestant

JULIE DYMOWSKI, Protestant

BARBARA HARRELSON, Protestant

LIZ ANNE PROSSER, Protestant

PATRICIA WAGNER, Protestant

ROBERT REID, Protestant

THOMAS WALLSTEN, Protestant

LAUREL CAPPA, Protestant

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

2 10:07 a.m.

3 MS. FLETCHER: Would the parties in
4 the matter of Lazy Kate's Bistro please come
5 forward? The parties in the matter of Lazy
6 Kate's Bistro.

7 This is Case #19-PRO-00016, N Street
8 Dining, Inc., 2300 N Street, NW, License #ABRA-
9 112314. This is a Retailer Class CR, a new
10 application.

11 The protest issues are adverse impact
12 on peaceful and quiet. My name is Laverne
13 Fletcher. Conducting the roll call hearing is
14 the board's agent. Introductions beginning with
15 the applicant, please.

16 MR. DEVENDORF: Good morning, Ms.
17 Fletcher. Matt Devendorf on behalf of the
18 applicant.

19 MS. FLETCHER: Thank you, Mr.
20 Devendorf. Would you spell your name for the
21 record, please?

22 MR. DEVENDORF: D-E-V-E-N-D-O-R-F.

1 MS. FLETCHER: Thank you very much.
2 Is anyone present on behalf of ANC 2A? ANC 2A
3 has submitted a settlement agreement for the
4 board's approval so they're not going to be
5 dismissed. We received the settlement agreement.
6 I just wanted to note for the record that they
7 had filed a protest, but that a settlement
8 agreement has been signed between the ANC and the
9 applicant. Is that correct?

10 MR. DEVENDORF: That is correct.

11 MS. FLETCHER: Thank you very much.
12 Present on behalf of the Emerson House on the
13 Park Condominium Union Owners Association?

14 MS. DYMOWSKY: Good morning. Julie
15 Dymowsky. I'm the attorney for Emerson House.

16 MS. FLETCHER: Ms. Dymowsky, would you
17 spell your name for the record, please?

18 MS. DYMOWSKI: D as in David Y-M as in
19 Mary O-W-S-K-I.

20 MS. FLETCHER: Thank you very much.
21 And present on behalf of the Group of Eight?

22 MS. WAGNER: Patricia Wagner.

1 MS. FLETCHER: Patricia Wagner. Thank
2 you very much. And would you stand right between
3 Ms. Dymowski and Ms. Wagner, just state your name
4 and spell it for the record, please.

5 MS. PROSSER: Liz Anne Prosser. Last
6 name Prosser P as in Paul R-O-S-S-E-R.

7 MS. FLETCHER: Thank you very much.

8 MS. DIXON: Caroline Dixon, C-A-R-O-L-
9 I-N-E D-I-X-O-N.

10 MS. FLETCHER: Thank you, Ms. Dixon.

11 MS. REID: Shirley Reid, R-E-I-D.

12 MS. FLETCHER: What's the last name
13 Shirley? The last name again.

14 MS. REID: Reid.

15 MS. FLETCHER: R-E-I-D?

16 MS. REID: Yes.

17 MS. FLETCHER: Thank you.

18 MR. REID: Robert Reid.

19 MS. FLETCHER: Thank you, Mr. Reid.

20 MS. CAPP: Laurel Cappa. First name
21 Laurel L-A-U-R-E-L last name Cappa C as in
22 Charles A-P-P-A.

1 MR. WALLSTEN: Thomas Wallsten, W-A-L-
2 L-S-T-E-N. You have Thomas I assume.

3 MS. FLETCHER: And what's the first
4 name, Mr. Wallsten?

5 MR. WALLSTEN: Thomas. T-H-O-M-A-S.

6 MS. FLETCHER: Thank you.

7 MS. HARRELSON: Barbara Harrelson, H-
8 A-R-R-E-L-S-O-N.

9 MS. FLETCHER: Thank you very much.
10 There are seven people present from the Group of
11 Eight which means that the Group of Eight is
12 granted standing as a protestant.

13 MR. DEVENDORF: Ms. Fletcher, before
14 we get into I guess while we're talking about
15 standing the one issue with the Group of Eight's
16 protest is since the applicant and ANC 2A have
17 entered into a settlement agreement which was
18 approved by the board last week under section 25-
19 609 the board dismisses their protest.

20 MS. FLETCHER: Thank you very much for
21 mentioning that, Mr. Devendorf. Once the ABC --
22 I was going to mention that next, but thank you

1 for bringing that up.

2 Once the ABC Board approves a
3 settlement agreement if there is a group of
4 individuals the board will dismiss the group of
5 individuals.

6 So I have not seen that board order
7 yet, but if you have it it's going to say that
8 the Group of Eight is dismissed because the ANC
9 entered into a settlement agreement. So that's
10 just the procedure.

11 MR. DEVENDORF: I don't have a copy of
12 the board order yet. We haven't received that.
13 But I do have the page from last week's
14 disposition.

15 MS. FLETCHER: Oh yes. Thank you.
16 That's sufficient. I won't need, Mr. Devendorf,
17 I won't need it.

18 MS. DYMOWSKI: Can I get a copy of
19 what it is? Is that the ANC for Emerson House
20 and their residents? I'm hearing that it's not.

21 MS. FLETCHER: I'm sorry, what did you
22 say, Ms. Dymowski?

1 MS. DYMOWSKI: It's not the ANC for
2 the Emerson House.

3 MS. FLETCHER: It's the advisory
4 neighborhood commission.

5 MS. WAGNER: But it's not our --

6 MS. FLETCHER: That's okay. What
7 happens is if an advisory neighborhood commission
8 enters into a settlement agreement then the ABC
9 Board will dismiss any group of individuals that
10 filed a protest.

11 It doesn't matter if it's -- if you're
12 with the Emerson House or not. If you're a
13 group.

14 MS. WAGNER: But we're in ANC 2B.

15 MS. FLETCHER: Yes, but still. I
16 understand what you're saying, Ms. Wagner. Even
17 if you're in ANC 2E and this is ANC 2A if the
18 board approves a settlement agreement with the
19 ANC then they dismiss the group of individuals.

20 MS. DYMOWSKI: Can we get a copy of
21 this because we have no knowledge?

22 MS. FLETCHER: If you haven't received

1 it yet then it hasn't been mailed out, the order.

2 MS. DYMOWSKI: I mean I haven't seen
3 the settlement agreement. I haven't seen
4 anything.

5 MS. FLETCHER: You will receive that,
6 Ms. Dymowski. Apparently it hasn't been mailed
7 out yet.

8 When it's mailed out you're going to
9 get a copy, Ms. Dymowski. Of course the
10 applicant will. But the order will say that the
11 board approves the settlement agreement with ANC
12 2A and that therefore the Group of Eight is
13 dismissed. That's just a part of our procedure.

14 But because I haven't seen the board
15 order myself this morning. Yes, I'm just
16 granting standing to the Group of Eight which
17 will be dismissed once the board approves that
18 board order.

19 MR. DEVENDORF: The board has approved
20 it.

21 (Simultaneous speaking)

22 MS. FLETCHER: Thank you. Because the

1 board's agent hasn't seen it yet.

2 MS. DYMOWSKI: Can I ask when that was
3 approved?

4 MR. DEVENDORF: Last Wednesday at the
5 board's meeting.

6 MS. WAGNER: So after we filed our
7 protest?

8 MR. DEVENDORF: Right, yes.

9 MS. FLETCHER: We received the
10 settlement agreement before the roll call
11 hearing. But there were other parties in this
12 case so we held the roll call hearing this
13 morning.

14 If there were no other parties to this
15 case the roll call hearing would not have been
16 held at all. If the ANC was the only protestant
17 we wouldn't have held this hearing this morning.

18 But because there are other
19 protestants we held the roll call hearing.

20 Any other questions about that, Ms.
21 Wagner? But Ms. Dymowski will receive a copy of
22 the board order.

1 And Ms. Wagner, you are also a member
2 of the Group of Eight. But you're also the
3 president of the Emerson House on the Park
4 Condominium Union Association.

5 Just for the record the condominium
6 association is dismissed as a protestant because
7 condominium associations do not have standing as
8 protestants.

9 But you are also a member of the Group
10 of Eight.

11 MS. WAGNER: Yes.

12 MR. DEVENDORF: We are dismissing the
13 condominium association as a protestant as well?

14 MS. FLETCHER: Yes.

15 MR. DEVENDORF: Okay. Don't need to
16 go into that then. Thank you.

17 MS. FLETCHER: Any questions at all?
18 Ms. Wagner, any questions? Ms. Dymowski,
19 anything?

20 MS. DYMOWSKI: Do we get a mediation
21 date? Do we do anything or are we supposed to
22 stand still and wait for something?

1 MS. FLETCHER: Well, if we set a date
2 for mediation it's not going to occur. I can
3 give you the dates that we would schedule if
4 there was not an ANC settlement with the
5 applicant.

6 I can give you the dates just for the
7 record because that's what we do at the roll call
8 hearing, give out the dates.

9 Let's assume the board has approved
10 that settlement agreement.

11 MR. DEVENDORF: I'll give --

12 MS. FLETCHER: That's okay, Mr.
13 Devendorf. The dates that we schedule whenever
14 they are will be dismissed.

15 We can set a date for mediation, the
16 status hearing and the protest hearing, but once
17 those -- once the board -- if the board has
18 issued that order all those dates will go away.

19 So Ms. Dymowski, you want me to just
20 give you what the dates would be?

21 MS. DYMOWSKI: Yes.

22 MS. FLETCHER: Okay.

1 MS. DYMOWSKI: Thank you.

2 MS. FLETCHER: The date for the status
3 hearing is scheduled for April 24. That's April
4 24, 2019 at 9:30 a.m. That's the status hearing.

5 The protest hearing is set for May 22,
6 May 22 at 4:30. And Ms. Wagner, just so you
7 know, I think you may be new to this process.

8 Once you receive a board order
9 dismissing a protest you have 10 days to seek
10 reinstatement of a protest that was reinstated.
11 So I'll give you the dates. You can seek
12 reinstatement.

13 The board will make a decision about
14 that.

15 MS. WAGNER: Okay, thank you.

16 MS. FLETCHER: You're welcome. We
17 need to set a date for a mediation. I'll give
18 you the next date that is available. The next
19 available date for mediation is Thursday, April
20 4. Thursday, April 4 at 9, 10, 11, 11:30 or 1.

21 MS. DYMOWSKI: 10 a.m. would work.

22 MS. FLETCHER: 10 a.m. Is that okay

1 with the applicant?

2 MR. DEVENDORF: Sure.

3 MS. FLETCHER: Thank you. Mediation
4 is set for 10 a.m. on Thursday, April 4. I'll
5 see you then unless you receive your board order.
6 Any questions at all?

7 MR. DEVENDORF: Just confirming where
8 we're at. So we don't need to go into the
9 homeowner association status. They've been
10 dismissed for lack of standing?

11 MS. FLETCHER: That's right.

12 MR. DEVENDORF: And we're waiting on
13 the board order --

14 MS. FLETCHER: That's right.

15 MR. DEVENDORF: Okay. Thank you very
16 much.

17 MS. FLETCHER: You're very welcome.
18 Thank you for coming. The roll call hearing is
19 concluded. Thank you.

20 (Whereupon, the above-entitled matter
21 went off the record at 10:18 a.m.)
22

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This is to certify that the foregoing transcript

In the matter of: Lazy Kate's Bistro

Before: DCABRA

Date: 03-25-19

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.



Court Reporter

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