

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF: :
 :
Midtown Center :
Restaurant, LLC, : Protest
t/a To Be Determined : Hearing
1100 15th Street NW : (Status)
Retailer CR - ANC 2B :
License No. 112211 :
Case #19-PRO-00013 :
 :
(Application for a New :
License) :

Wednesday,
April 10, 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:

DONOVAN W. ANDERSON, Chairperson
NICK ALBERTI, Member
BOBBY CATO, JR., Member
JAMES SHORT, Member

ALSO PRESENT:

LAURA DUNN, Protest Group
MATTHEW MINORA, Applicant's Attorney
PAUL HOLDER, Applicant

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

9:38 a.m.

CHAIRPERSON ANDERSON: All right.

Moving on with our calendar, the next case a
Protest Hearing (Status) is Case No. 19-PRO-
00013, To Be Determined, License No. 112211.

Would the parties, please, approach
and identify themselves for the record, please?

MS. DUNN: Laura Dunn for the protest
group.

CHAIRPERSON ANDERSON: Good morning,
Ms. Dunn.

MS. DUNN: Good morning.

MR. MINORA: Matthew Minora.

COURT REPORTER: Sir, could you turn
on the microphone, please?

CHAIRPERSON ANDERSON: Good morning,
Mr. Minora.

MR. MINORA: Good morning.

CHAIRPERSON ANDERSON: And who is with
you?

MR. MINORA: Paul Holder, applicant.

1 CHAIRPERSON ANDERSON: And who are
2 you, sir?

3 MR. HOLDER: I'm one of the owners for
4 the license.

5 CHAIRPERSON ANDERSON: I don't know
6 who you are, sir, so therefore when I ask people
7 to introduce themselves --

8 MR. HOLDER: Yes, no.

9 CHAIRPERSON ANDERSON: -- I know Mr.
10 Minora is an attorney, but other folks --

11 MR. HOLDER: I said applicant assuming
12 that I was the owner. Sorry.

13 CHAIRPERSON ANDERSON: Well, there are
14 a lot of people who show up and I'm not as strict
15 because when an attorney is here, I take the
16 attorney's representation that he represents the
17 ownership, but so that's -- but I always ask when
18 folks are here who is here.

19 All right. Hold on one minute,
20 please. Okay. All right. So are there
21 preliminary matters in this case?

22 MS. DUNN: Yes. I believe there has

1 been a petition filed as of last Friday seeking
2 full standing for the University Club, which is
3 joining with the Group of Five or More
4 protestants from the Presidential, which are a
5 group of residents and property owners at that
6 condominium unit.

7 And I'm happy to go over those
8 arguments, but I just want to confirm that that
9 has been received by the Board in advance.

10 CHAIRPERSON ANDERSON: Yes. All
11 right.

12 MEMBER SHORT: My name is James M.
13 Short, Board Member, and a member of the
14 University Club. And I would like to say that I
15 can be fair and impartial regarding this matter
16 and I want to stay on the case, if there is no
17 protest about it.

18 MS. DUNN: Okay. Thank you.

19 CHAIRPERSON ANDERSON: Any -- all
20 right. Why don't you tell us then your arguments
21 why we should grant standing to the University
22 Club.

1 MS. DUNN: Yes. So looking at the
2 statute regarding standing, 25-601(2) "A group of
3 no fewer than five residents or property owners
4 as long as they share common grounds for protest,
5 can have standing to file one."

6 So we have gone ahead and in this
7 petition attached several exhibits that are
8 relevant for consideration. I would like to flag
9 Exhibit E as the most important one, because it
10 refers to the definition of a property owner
11 under DC Law.

12 So Exhibit E is registration for the
13 Office of Tax and Revenue showing that the
14 University Club, in fact, owns the premises 1135
15 16th Street, N.W., Washington, D.C. And that is
16 the address listed and is on the same street as
17 the other protestants --

18 CHAIRPERSON ANDERSON: All right. Let
19 me ask you --

20 MS. DUNN: -- in this matter.

21 CHAIRPERSON ANDERSON: -- all right.
22 Mr. Minora, do you have any concerns with

1 granting standing to --

2 MR. MINORA: Oh, no, we can see there
3 is precedent that allows for a licensee to also
4 protest.

5 CHAIRPERSON ANDERSON: All right. All
6 right. Okay. Then because the licensee does not
7 protest, so we will also grant standing to the
8 University Club as -- that they can participate
9 in the Group of Five or More.

10 MS. DUNN: Thank you, Chairman.

11 CHAIRPERSON ANDERSON: Just as an FYI,
12 but in this particular case, there is no ANC
13 here, but I just wanted to let you know that if
14 there was -- when it comes to like settlement
15 agreements moving forward, if there was an ANC
16 and if there is -- if there was a settlement
17 agreement signed between the ANC and the
18 licensee, then a Group of Five or More falls
19 automatically and that's by statute.

20 So and there is really nothing that
21 the Board can do to force a Group of Five or More
22 to be a part of a settlement agreement. So I

1 just want you to know that as an FYI to say the
2 matter is flawed, that's what -- that's the
3 statute.

4 MS. DUNN: I appreciate that.

5 CHAIRPERSON ANDERSON: Okay. All
6 right. Are there any other preliminary matters?

7 MR. MINORA: Yes. We would like to
8 see if the protestants will concede that the only
9 issue for protesting now are peace, order and
10 quiet and not residential or vehicular traffic or
11 residential parking and vehicular traffic
12 patterns? It wasn't brought up during mediation
13 and we just want to know so we can prepare
14 properly if we need to get, you know, engineers
15 and things like that to also come to those parts
16 of the argument of the protest.

17 CHAIRPERSON ANDERSON: I'll ask the
18 protestant, what are the -- what is it that --
19 specifically what is being protested?

20 MS. DUNN: Sure. I mean, my
21 understanding of mediation is that those are
22 confidential communications.

1 CHAIRPERSON ANDERSON: No, no, that's
2 not what -- I'm not talking about --

3 MS. DUNN: Sure.

4 CHAIRPERSON ANDERSON: -- I think he
5 is talking about the issues. Are you --

6 MS. DUNN: We have not changed our
7 position as far as the upcoming Protest Hearing.
8 What we may discuss in settlement should be part
9 of the confidential --

10 CHAIRPERSON ANDERSON: But we are not
11 talking about settlement. I said what he is
12 saying is are you protesting -- basically, he
13 needs to know all the issues that are being
14 protested.

15 MS. DUNN: Sure.

16 CHAIRPERSON ANDERSON: So therefore in
17 preparing for the case, he knows. And that's
18 what he --

19 MS. DUNN: Absolutely.

20 CHAIRPERSON ANDERSON: -- so he was
21 trying to figure out whether or not you had
22 withdrawn some of your issues. Not what was

1 discussed or not what agreements were made in
2 mediation. He just wants to know what are the
3 live issues today. And it's also important for
4 the Board, so the Board will know what the live
5 issues are.

6 So if we were to move to a Protest
7 Hearing, then we are only listening to -- we are
8 taking facts and evidence on issues that are to
9 be protested. And that was just a clarification
10 that he is asking for.

11 MS. DUNN: I appreciate that
12 clarification for myself. It is still the same
13 as listed in the February 28th protest of peace,
14 order, quiet; residential parking, vehicular and
15 pedestrian safety.

16 And if that changes, we will provide
17 the appropriate notice.

18 MR. MINORA: On the record then, the
19 protestants in good faith will represent that at
20 the Protest Hearing if it gets that far, they
21 will bring in -- no, they will continue to
22 actually make an argument for residential

1 parking, vehicular and pedestrian safety as
2 grounds of the protest?

3 CHAIRPERSON ANDERSON: Well, I -- the
4 parties can, for example, if the parties agree to
5 say that we agree on these issues --

6 MR. MINORA: Okay.

7 CHAIRPERSON ANDERSON: -- and so you
8 can come to the -- if you go to a Protest
9 Hearing, then you can say that these issue are
10 not in dispute and so, therefore, we have agreed
11 -- this is what we have agreed on.

12 Say for example, residential parking
13 and you can let the Board know that, so therefore
14 we are only going to present evidence on these
15 type of issues.

16 One of the things that as part of the
17 instruction is that I tell folks that you need to
18 disclose the documents and witnesses seven days
19 in advance. So I would hope that when you
20 disclose the documents and witnesses seven days
21 in advance that based on the evidence and
22 documents that are disclosed, it should be clear

1 to both parties what are the issues that will be
2 litigated at the Protest Hearing.

3 I'm not going to see the documents
4 until we get here, but at least once they are
5 disclosed seven days in advance, both parties
6 should be on notice, based on the documents and
7 witnesses that are proffered that these are the
8 issues that are still alive.

9 And I would hope that if the parties
10 can -- and it's not mandatory, but you are two
11 attorneys, you can have communication prior to
12 see if there are issues that you can come to
13 agreement. If you can come, I'm not saying you
14 have to do this.

15 If there are issues, you can come to
16 an agreement and then if you want the Board to
17 memorialize those issues to say that we have come
18 to agreement on these issues, this is what we
19 have agreed to, we are unable to come to issues
20 on these other -- we are able to come to
21 agreement on these other issues, so this is what
22 I want the Board to focus on. Then the Board

1 would memorialize the -- an agreement of the
2 issues that you have agreed to and the terms.

3 So I would be open to do that.

4 MR. MINORA: Thank you.

5 MS. DUNN: Thank you.

6 CHAIRPERSON ANDERSON: All right. Do
7 I need to -- all right. So this matter then is
8 scheduled for a Protest Hearing on May 15th at
9 4:30 p.m.

10 Is everyone aware of the process or do
11 I need to read the instructions for a Protest
12 Hearing?

13 MS. DUNN: I'm aware.

14 MR. MINORA: We're aware.

15 CHAIRPERSON ANDERSON: All right.
16 Fine. And just one last thing, if you have any
17 questions or concerns, you are free to contact
18 the Assistant General Counsel, Ms. April Randall
19 at (202) 442-4353, and she will provide you
20 whatever assistance you need to work through the
21 process.

22 If not, I will see you on April -- I'm

1 sorry, May 15th at 4:30. If I don't see the
2 parties on May 15th at 4:30, then I am not going
3 to take it personally. Okay?

4 MS. DUNN: Okay.

5 CHAIRPERSON ANDERSON: Have a great
6 day.

7 MS. DUNN: Thank you, Chairman.

8 MR. MINORA: Thank you.

9 CHAIRPERSON ANDERSON: All right.
10 Thank you.

11 (Whereupon, the Protest (Status)

12 Hearing was concluded at 9:48 a.m.)

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A	C	E	I
<p>a.m 2:2 13:12 able 11:20 Absolutely 8:19 address 5:16 advance 4:9 10:19,21 11:5 agree 10:4,5 agreed 10:10,11 11:19 12:2 agreement 6:17,22 11:13,16,18,21 12:1 agreements 6:15 9:1 ahead 5:6 ALBERTI 1:18 Alcoholic 1:2,13,14 alive 11:8 allows 6:3 ANC 1:8 6:12,15,17 Anderson 1:15,17 2:3 2:11,17,20 3:1,5,9,13 4:10,19 5:18,21 6:5 6:11 7:5,17 8:1,4,10 8:16,20 10:3,7 12:6 12:15 13:5,9 applicant 1:22 2:22 3:11 Applicant's 1:21 Application 1:10 appreciate 7:4 9:11 approach 2:7 appropriate 9:17 April 1:12 12:18,22 argument 7:16 9:22 arguments 4:8,20 asking 9:10 assistance 12:20 Assistant 12:18 assuming 3:11 attached 5:7 attorney 1:21 3:10,15 attorney's 3:16 attorneys 11:11 automatically 6:19 aware 12:10,13,14</p>	<p>calendar 2:4 case 1:9 2:4,5 3:21 4:16 6:12 8:17 CATO 1:18 Center 1:6 Chairman 6:10 13:7 Chairperson 1:15,17 2:3,11,17,20 3:1,5,9 3:13 4:10,19 5:18,21 6:5,11 7:5,17 8:1,4,10 8:16,20 10:3,7 12:6 12:15 13:5,9 changed 8:6 changes 9:16 clarification 9:9,12 clear 10:22 Club 4:2,14,22 5:14 6:8 COLUMBIA 1:1 come 7:15 10:8 11:12 11:13,15,17,19,20 comes 6:14 common 5:4 communication 11:11 communications 7:22 concede 7:8 concerns 5:22 12:17 concluded 13:12 condominium 4:6 confidential 7:22 8:9 confirm 4:8 consideration 5:8 contact 12:17 continue 9:21 Control 1:2,13,14 Counsel 12:18 COURT 2:15 CR 1:8</p>	<p>9:11 12:5,13 13:4,7</p> <p>E</p> <p>E 5:9,12 engineers 7:14 evidence 9:8 10:14,21 example 10:4,12 Exhibit 5:9,12 exhibits 5:7</p>	<p>identify 2:8 impartial 4:15 important 5:9 9:3 instruction 10:17 instructions 12:11 introduce 3:7 issue 7:9 10:9 issues 8:5,13,22 9:3,5,8 10:5,15 11:1,8,12,15 11:17,18,19,21 12:2</p>
<p>B</p> <p>based 10:21 11:6 basically 8:12 believe 3:22 Beverage 1:2,13,14 Board 1:2,13 4:9,13 6:21 9:4,4 10:13 11:16,22,22 BOBBY 1:18 bring 9:21 brought 7:12 Building 1:14</p>	<p>D</p> <p>D.C 1:15 5:15 day 13:6 days 10:18,20 11:5 DC 5:11 definition 5:10 Determined 1:7 2:6 disclose 10:18,20 disclosed 10:22 11:5 discuss 8:8 discussed 9:1 dispute 10:10 DISTRICT 1:1 documents 10:18,20,22 11:3,6 Donovan 1:15,17 Dunn 1:21 2:9,9,12,13 3:22 4:18 5:1,20 6:10 7:4,20 8:3,6,15,19</p>	<p>F</p> <p>fact 5:14 facts 9:8 fair 4:15 faith 9:19 falls 6:18 far 8:7 9:20 February 9:13 fewer 5:3 figure 8:21 file 5:5 filed 4:1 Fine 12:16 five 4:3 5:3 6:9,18,21 flag 5:8 flawed 7:2 focus 11:22 folks 3:10,18 10:17 force 6:21 forward 6:15 free 12:17 Friday 4:1 full 4:2 FYI 6:11 7:1</p>	<p>J</p> <p>James 1:19 4:12 joining 4:3 JR 1:18</p>
		<p>G</p> <p>General 12:18 go 4:7 10:8 going 10:14 11:3 13:2 good 2:11,13,17,19 9:19 grant 4:21 6:7 granting 6:1 great 13:5 grounds 5:4 10:2 group 1:21 2:10 4:3,5 5:2 6:9,18,21</p>	<p>K</p> <p>know 3:5,9 6:13 7:1,13 7:14 8:13 9:2,4 10:13 knows 8:17</p>
		<p>H</p> <p>happy 4:7 Hearing 1:7,14 2:5 8:7 9:7,20 10:9 11:2 12:8 12:12 13:12 Hold 3:19 Holder 1:22 2:22 3:3,8 3:11 hope 10:19 11:9</p>	<p>L</p> <p>Laura 1:21 2:9 Law 5:11 license 1:8,10 2:6 3:4 licensee 6:3,6,18 listed 5:16 9:13 listening 9:7 litigated 11:2 live 9:3,4 LLC 1:6 long 5:4 looking 5:1 lot 3:14</p>
			<p>M</p> <p>M 4:12 mandatory 11:10 matter 1:5 4:15 5:20 7:2 12:7 matters 3:21 7:6 Matthew 1:21 2:14 mean 7:20 mediation 7:12,21 9:2 MEETING 1:3 member 1:18,18,19 4:12,13,13 memorialize 11:17 12:1 met 1:14 microphone 2:16 Midtown 1:6 Minora 1:21 2:14,14,18 2:19,22 3:10 5:22 6:2 7:7 9:18 10:6 12:4,14 13:8 minute 3:19</p>

morning 2:11,13,17,19
 move 9:6
 moving 2:4 6:15

N

N.W 1:14 5:15
name 4:12
need 7:14 10:17 12:7
 12:11,20
needs 8:13
New 1:10
NICK 1:18
notice 9:17 11:6
NW 1:7

O

Office 5:13
Oh 6:2
Okay 3:20 4:18 6:6 7:5
 10:6 13:3,4
once 11:4
open 12:3
order 7:9 9:14
owner 3:12 5:10
owners 3:3 4:5 5:3
ownership 3:17
owns 5:14

P

P-R-O-C-E-E-D-I-N-G-S
 2:1
p.m 12:9
parking 7:11 9:14 10:1
 10:12
part 6:22 8:8 10:16
participate 6:8
particular 6:12
parties 2:7 10:4,4 11:1
 11:5,9 13:2
parts 7:15
patterns 7:12
Paul 1:22 2:22
peace 7:9 9:13
pedestrian 9:15 10:1
people 3:6,14
personally 13:3
petition 4:1 5:7
please 2:7,8,16 3:20
position 8:7
precedent 6:3
preliminary 3:21 7:6
premises 5:14
prepare 7:13
preparing 8:17
present 1:16,20 10:14
Presidential 4:4
presiding 1:15
prior 11:11

process 12:10,21
proffered 11:7
properly 7:14
property 4:5 5:3,10
protest 1:6,21 2:5,9
 4:17 5:4 6:4,7 7:16
 8:7 9:6,13,20 10:2,8
 11:2 12:8,11 13:11
protestant 7:18
protestants 4:4 5:17
 7:8 9:19
protested 7:19 8:14 9:9
protesting 7:9 8:12
provide 9:16 12:19

Q

questions 12:17
quiet 7:10 9:14

R

Randall 12:18
read 12:11
really 6:20
received 4:9
record 2:8 9:18
Reeves 1:14
refers 5:10
regarding 4:15 5:2
registration 5:12
relevant 5:8
REPORTER 2:15
represent 9:19
representation 3:16
represents 3:16
residential 7:10,11 9:14
 9:22 10:12
residents 4:5 5:3
Restaurant 1:6
Retailer 1:8
Revenue 5:13
right 2:3 3:19,20 4:11
 4:20 5:18,21 6:5,6 7:6
 12:6,7,15 13:9

Room 1:14

S

safety 9:15 10:1
saying 8:12 11:13
scheduled 12:8
see 6:2 7:8 11:3,12
 12:22 13:1
seeking 4:1
settlement 6:14,16,22
 8:8,11
seven 10:18,20 11:5
share 5:4
Short 1:19 4:12,13
show 3:14

showing 5:13
signed 6:17
sir 2:15 3:2,6
sorry 3:12 13:1
specifically 7:19
standing 4:2,21 5:2,5
 6:1,7
Status 1:7 2:5 13:11
statute 5:2 6:19 7:3
stay 4:16
street 1:7,14 5:15,16
strict 3:14
Suite 1:15
Sure 7:20 8:3,15

T

t/a 1:7
take 3:15 13:3
talking 8:2,5,11
Tax 5:13
tell 4:20 10:17
terms 12:2
Thank 4:18 6:10 12:4,5
 13:7,8,10
thing 12:16
things 7:15 10:16
think 8:4
today 9:3
traffic 7:10,11
trying 8:21
turn 2:15
two 11:10
type 10:15

U

unable 11:19
understanding 7:21
unit 4:6
University 4:2,14,21
 5:14 6:8
upcoming 8:7

V

vehicular 7:10,11 9:14
 10:1

W

W 1:15,17
want 4:8,16 7:1,13
 11:16,22
wanted 6:13
wants 9:2
Washington 1:15 5:15
wasn't 7:12
We're 12:14
Wednesday 1:12
withdrawn 8:22
witnesses 10:18,20

11:7
work 12:20

X

Y

Z

0

00013 2:6

1

1 2:1
10 1:12 2:10
11 2:11
1100 1:7
112211 1:8 2:6
1135 5:14
12 2:12
13 2:13
14 2:14
14th 1:14
15 2:15
15th 1:7 12:8 13:1,2
16 2:16
16th 5:15
17 2:17
18 2:18
19 2:19
19-PRO- 2:5
19-PRO-00013 1:9

2

2 2:2
20 2:20
2000 1:14
20009 1:15
2019 1:12
202 12:19
21 2:21
22 2:22
25-601(2) 5:2
28th 9:13
2B 1:8

3

3 2:3

4

4 2:4
4:30 12:9 13:1,2
400S 1:15
442-4353 12:19

5

5 2:5

6
6 2:6
7
7 2:7
8
8 2:8
9
9 2:9
9:38 2:2
9:48 13:12

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Midtown Center Restaurant

Before: Alcoholic Beverage Control Board

Date: 04-10-19

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

NEAL R. GROSS

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