

DISTRICT OF COLUMBIA
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 ALCOHOLIC BEVERAGE CONTROL BOARD
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 MEETING

IN THE MATTER OF: :

Pratt Group, LLC, :
 t/a TBD :
 2121 14th Street NW : Protest Hearing
 License #112258 : (Status)
 Retailer CT :
 ANC 1B :
 (Application for a :
 New License) :

Wednesday
 March 20, 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
 MIKE SILVERSTEIN, Member
 REMA WAHABZADAH, Member

ALSO PRESENT:

SIDON YOHANNES, Counsel for Applicant

JAMES TURNER, Chairman, ANC 1B

JANET HAROUCH, Representative, Meridian Hill

**Neighborhood Association and Union Row abutting
neighbors**

ROBERTO MONTESINOS, Representative, Group of 231

KENJI KIMURA

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

2 (9:48 a.m.)

3 CHAIRPERSON ANDERSON: The next case
4 in our calendar is Case Number 19-PRO-00010.
5 It's a Pratt Group to be determined. License
6 Number 112258.

7 Will the parties please approach and
8 identify themselves for the record, please?

9 (No audible response.)

10 CHAIRPERSON ANDERSON: Case Number 19-
11 PRO-00010. The Pratt Group to be determined,
12 okay.

13 Will the parties please identify
14 themselves for the record, please?

15 MS. YOHANNES: Sidon Yohannes on
16 behalf of the Applicant.

17 CHAIRPERSON ANDERSON: Good morning,
18 Ms. Yohannes.

19 MS. YOHANNES: Good morning.

20 MR. TURNER: James Turner, Chairman of
21 ANC 1B.

22 CHAIRPERSON ANDERSON: Did you say Mr.

1 Drummer?

2 MR. TURNER: Turner.

3 CHAIRPERSON ANDERSON: Turner. Good
4 morning, Mr. Tuner.

5 MS. HAROUCH: Good morning. Janet
6 Harouch on behalf of Meridian Hill Neighborhood
7 Association and the abutting owners for Union
8 Row.

9 CHAIRPERSON ANDERSON: Good morning,
10 Ms. Harouch.

11 MR. MONTESINOS: Good morning, Board
12 Members. Roberto Montesinos on behalf of the
13 group of 231.

14 CHAIRPERSON ANDERSON: Good morning,
15 Mr. Montesinos.

16 Are there any -- are there any
17 preliminary matters in this case?

18 MS. YOHANNES: No preliminary matters
19 for the Applicant.

20 MR. MONTESINOS: Nothing on our end.

21 CHAIRPERSON ANDERSON: All right. And
22 this matter is since scheduled for a protest

1 hearing on April 10th at 1:30 p.m., so if these
2 three cases -- if these protest hearings are not
3 settled on April 10th, we're going to be here
4 till -- we're going to have -- should we tell
5 everybody to pack lunch if we have three protest
6 hearings, two at 1:30 and one at 4:30 on April
7 the 10th, but anyway.

8 MR. TURNER: Mr. Chairman?

9 CHAIRPERSON ANDERSON: Yes, sir.

10 PARTICIPANT: We're working on it.

11 MR. TURNER: Mr. Chairman, I --

12 CHAIRPERSON ANDERSON: Yes, sir.

13 MR. TURNER: I believe that we'll --
14 the ANC will be approving a settlement agreement
15 on April 4th, you know, we don't want a protest
16 hearing either.

17 CHAIRPERSON ANDERSON: And because
18 there are abutting property owners, so -- the
19 reason I'm saying that because even if the agency
20 signs an agreement, if the abutting property
21 owner, if the abutting property owners, if they
22 don't sign on their agreement, then we still move

1 forward, so -- because they have their own -- so
2 as long as everyone agrees, then we move forward,
3 but that's fine.

4 MS. HAROUCH: And what about the
5 matter of the conditional standing for the
6 abutting owners?

7 CHAIRPERSON ANDERSON: Which owners?
8 Well, it said that 3 out of the 14 abutting
9 property owners were not granted -- hold on. All
10 right, hold on. All right. All right.

11 Who was here -- who was at the roll
12 call hearing?

13 MS. HAROUCH: Mr. Peabody, Mr. Kimura,
14 and Mr. Babcock.

15 CHAIRPERSON ANDERSON: And you are?

16 MS. HAROUCH: I'm Janet Harouch. I'm
17 their designated representative. Mr. Kimura is
18 actually present here today.

19 CHAIRPERSON ANDERSON: Who else is
20 here as an abutting property owner?

21 MS. HAROUCH: Mr. Kimura is here
22 today.

1 CHAIRPERSON ANDERSON: Okay.

2 MS. HAROUCH: Those three were present
3 at roll call.

4 CHAIRPERSON ANDERSON: I'm sorry?

5 MS. HAROUCH: The three you mentioned
6 were present at roll call.

7 CHAIRPERSON ANDERSON: All right. So,
8 what other abutting property owner is here today?

9 MS. HAROUCH: There are no other
10 abutting property owners.

11 CHAIRPERSON ANDERSON: All right. So,
12 then the only -- yes, ma'am.

13 MS. YOHANNES: May I? I believe the
14 conditional standing was based on proof being
15 made that they were actually abutting.

16 MS. HAROUCH: Yes.

17 CHAIRPERSON ANDERSON: All right. So
18 -- all right. So, why don't we have Mr. Kimura
19 come forward? And, so, where does Mr. Kimura
20 reside?

21 MR. TURNER: Where do you reside?

22 MR. KIMURA: What do you mean?

1 MR. TURNER: He's in Unit 206 at Union
2 Row.

3 CHAIRPERSON ANDERSON: You see, I
4 don't understand, because I don't know building,
5 so how can -- maybe you can tell me, Ms.
6 Yohannes. How can he prove that he is an
7 abutting -- is he an abutting property owner?

8 MS. YOHANNES: I can't tell you that
9 because I objected. I'd like for them to tell
10 you why they believe that they're an abutting
11 property owner.

12 CHAIRPERSON ANDERSON: All right. So,
13 why don't you then -- I don't know the building,
14 so where is this -- so, where is it -- where's
15 the location? And, so, how is it that Mr. Kimora
16 -- I'm sorry, Mr. Kimora, how is it that he's an
17 abutting property owner?

18 MS. YOHANNES: Can I be provided with
19 a copy of --

20 CHAIRPERSON ANDERSON: Okay, all
21 right.

22 MS. YOHANNES: I think she has a copy.

1 Thank you.

2 MS. HAROUCH: I have additional copies
3 here.

4 CHAIRPERSON ANDERSON: Okay, you can
5 provide us -- if you have additional copies, yes.

6 All right. So, where is the property
7 on this map that was provided?

8 MS. HAROUCH: Mr. Kimura is in --

9 CHAIRPERSON ANDERSON: No, where is
10 the property? Where's the property?

11 MS. HAROUCH: The property is the same
12 building as --

13 CHAIRPERSON ANDERSON: No, I'm sorry.
14 Where is the physical location -- on this map,
15 where's the physical location of the
16 establishment?

17 MS. HAROUCH: Oh. I have --

18 CHAIRPERSON ANDERSON: In order for me
19 to determine, I have to know where the --

20 MEMBER SHORT: Mr. Chair, for the
21 record, can they give the address first, the
22 address of the building?

1 CHAIRPERSON ANDERSON: No, I think
2 it's more -- I think -- well, they can, but I
3 think it's more so the apartments, whether or not
4 -- so, what's the address of the property?

5 MS. HAROUCH: The property address is
6 2125 14th Street.

7 MEMBER SHORT: Say again.

8 MS. HAROUCH: 2125 14th Street.

9 CHAIRPERSON ANDERSON: So -- and the
10 property of -- and the subject application is
11 2121 14th Street?

12 MS. HAROUCH: Right.

13 CHAIRPERSON ANDERSON: All right.

14 MS. HAROUCH: The retail businesses
15 have different numbering than the residential --

16 CHAIRPERSON ANDERSON: Okay.

17 MS. HAROUCH: -- properties, but it's
18 all the same building.

19 CHAIRPERSON ANDERSON: All right. So,
20 where is the building -- where's the building on
21 the map?

22 MS. HAROUCH: This is the east wing of

1 the building --

2 CHAIRPERSON ANDERSON: Okay.

3 MS. HAROUCH: -- where the restaurant
4 will be located directly below the second floor.
5 You see where the highlighted areas. I have a
6 digital copy that highlights it better, but
7 unfortunately, I didn't have a colored printer,
8 so I just outlined the overlay of the restaurant.
9 And all of these units are directly abutting the
10 restaurant.

11 CHAIRPERSON ANDERSON: I have not seen
12 it, but I have no idea where the -- maybe Ms.
13 Yohannes, maybe once they're done with the
14 presentation, because I don't know what I'm
15 looking at, so it's hard for me to -- it's hard
16 for me to -- because I don't know where the
17 restaurant -- where the physical location of the
18 establishment is for me to look at this map to
19 see whether or not --

20 MS. HAROUCH: May I point it out to
21 you?

22 CHAIRPERSON ANDERSON: Sure.

1 MEMBER SHORT: Can you place where
2 14th Street is on that map? Where's 14th Street?

3 (No audible response.)

4 CHAIRPERSON ANDERSON: All right.

5 MS. HAROUCH: So, the area that's kind
6 of got a little, the little alcoves, that's the
7 glass facade of the building. And the area that
8 I highlighted is the overlay of the restaurant,
9 which will be directly below that area.

10 CHAIRPERSON ANDERSON: Okay.

11 MS. HAROUCH: And then all the
12 abutting owners that filed protests are indicated
13 on the drawing with their names and unit numbers.
14 The area that was highlighted, both walls and
15 floors abut the restaurant. And to the right of
16 the highlighted area, the floors abut the
17 restaurant in that it's a poured concrete floor,
18 so it is shared.

19 CHAIRPERSON ANDERSON: So, what unit
20 number is -- there were -- what unit numbers were
21 granted standing at the roll call? What numbers
22 were granted standing at the roll call?

1 MS. HAROUCH: They were all given
2 conditional standing. I would just mention also
3 that Mr. Kimura was given standing --

4 CHAIRPERSON ANDERSON: No, what I --
5 at least this is what I was told. I was told
6 there were 14 property owners, abutting property
7 owners who had protested, and it -- at least the
8 notes told me only 3 were given standing and that
9 the 11 others, which is Unit 205, 206, 207, 210,
10 209, 208, 211, 214, and 213 that these folks had
11 to appear to prove that they were abutting, so
12 that's why I'm asking. At the status hearing if
13 standing was granted, what units was standing
14 granted to?

15 MS. HAROUCH: It was my understanding
16 that the conditional standing was based on proof
17 of abutment for those present at the roll call.
18 And for those not present, it would be at the
19 discretion of the Board if they would accept the
20 designation letters that were provided as they
21 had done last time in the Mulebone case.

22 For instance, Mr. Carey was granted

1 standing. He's the --

2 CHAIRPERSON ANDERSON: Hold on one
3 minute, please.

4 All right. Okay. All right. If
5 standing was granted to Yuka Kimura -- who's Yuka
6 Kimura?

7 MS. HAROUCH: It's Mr. Kimura's
8 spouse.

9 CHAIRPERSON ANDERSON: And she was at
10 the roll call?

11 MS. HAROUCH: No, she was not. Just
12 Mr. Kimura. They were both granted standing in
13 the Mulebone case though.

14 CHAIRPERSON ANDERSON: I'm sorry?

15 MS. HAROUCH: There may be some
16 confusion in that. They were both granted
17 standing in the Mulebone case for the same
18 premise.

19 MS. YOHANNES: But not in this matter?

20 MS. HAROUCH: Yes, not in this matter.

21 CHAIRPERSON ANDERSON: All right. So,
22 who is that we're supposed to -- all right. Let

1 me start again, because I did not realize it was
2 as complicated as it appears to be.

3 Who is here again today? Let's start
4 at the beginning. Who's here today?

5 MS. HAROUCH: Mr. Kimura.

6 CHAIRPERSON ANDERSON: Right. You are
7 again? I'm sorry.

8 MS. HAROUCH: I'm Janet Harouch.

9 CHAIRPERSON ANDERSON: And you're --
10 are you an abutting property owner also?

11 MS. HAROUCH: Well, no, but I do live
12 on the second floor.

13 CHAIRPERSON ANDERSON: So, what's your
14 role here today?

15 MS. HAROUCH: I'm the designated
16 representative for the abutting owners.

17 MS. YOHANNES: At the roll call
18 hearing, at least, three of the abutting property
19 owners were present, and that was -- sorry if I'm
20 mispronouncing --

21 CHAIRPERSON ANDERSON: That was Ms. --

22 MS. YOHANNES: Yuko Kimura, Justin

1 Peabody, and Christina Babcock.

2 CHAIRPERSON ANDERSON: All right. So,
3 there was someone from Unit 206, Unit 212, and
4 Unit 214.

5 MS. YOHANNES: Correct.

6 CHAIRPERSON ANDERSON: Those are the
7 three folks who were at the abutting -- I'm
8 sorry. Those were the three folks who were at
9 the roll call.

10 MS. HAROUCH: Actually, the people who
11 were present were Chris Babcock, Justin Peabody,
12 and Kenji Kimura.

13 CHAIRPERSON ANDERSON: Right, yes. I
14 have that information, so that's three. And were
15 those three people granted standing at the roll
16 call, Ms. Yohannes?

17 MS. YOHANNES: They were granted
18 conditional standing on the basis that they
19 needed to provide additional proof that they were
20 abutting, but they were present, but the other --
21 like, I believe, 11 that were remaining still
22 needed -- I mean, somebody still needed to be

1 present.

2 CHAIRPERSON ANDERSON: All right.

3 Okay. All right. So, the Board needs to decide
4 today whether or not 212, 214 -- so 206, 214, and
5 212 --

6 MS. YOHANNES: And just to be clear,
7 so there's only been 3 of the 11 abutting
8 property owners that have been present for status
9 or roll call.

10 CHAIRPERSON ANDERSON: But I think
11 it's now four, because -- were you, sir, Mr.
12 Kimura, were you at the roll call?

13 MR. KIMURA: Yes.

14 CHAIRPERSON ANDERSON: What's your
15 first name?

16 MR. KIMURA: Kenji, K-E-N-J-I.

17 CHAIRPERSON ANDERSON: All right. So,
18 they said Yuka was there. So, was -- so, Yuka
19 was not there?

20 MR. KIMURA: No. I was there.

21 CHAIRPERSON ANDERSON: All right. All
22 right. So -- all right. So, there are two

1 abutting property owners from 206, but the wrong
2 person was designated, so it was 206, Mr. Kenji
3 Kimura was at the roll call from 206, Justin
4 Peabody from 212 was at the roll call, and
5 Christina Babcock from 214 were at the roll call.
6 That's -- at least that's the information that I
7 have.

8 And they were given conditional
9 standing, but then they had to prove to the Board
10 today that they were actually abutting property
11 owner for the Board to grant standing to -- and
12 the only three people who could qualify for
13 standing today are -- well, is Mr. Kimura.

14 Is Ms. Babcock here, Babcock today?
15 Is she here?

16 MS. HAROUCH: Chris Babcock --

17 CHAIRPERSON ANDERSON: I'm sorry,
18 Christina. It says Christina.

19 MS. HAROUCH: I think they confused
20 the names. Christina Jaramillo is Chris
21 Babcock's partner, and she was not present.

22 CHAIRPERSON ANDERSON: And she's not

1 present today?

2 MS. HAROUCH: No.

3 CHAIRPERSON ANDERSON: So --

4 MS. HAROUCH: It was Chris Babcock
5 that was present at the roll call.

6 MS. YOHANNES: So, we don't have two
7 additional members, right?

8 CHAIRPERSON ANDERSON: And Chris --
9 right, so we don't have -- so the only -- is
10 there anyone here from, who lives in Unit 212?
11 Is there anyone who lives in Unit 212 here today?

12 MS. HAROUCH: No. We were told that
13 he didn't need to be here today since he was
14 present at roll call.

15 CHAIRPERSON ANDERSON: Well, he wasn't
16 granted standing.

17 MS. HAROUCH: Ms. Fletcher sent us a
18 letter clarifying that he being present at the
19 roll call was sufficient.

20 CHAIRPERSON ANDERSON: But how is he
21 able to -- the problem I'm going to have today is
22 that if the person was not granted -- the person

1 was only granted conditional standing at the roll
2 call. And the instructions I have today is that
3 you have to prove to me that you have, that
4 you're an abutting property owner. How can you
5 be told that you can't be here, because how can a
6 person who's not here prove to me that they are
7 an abutting property owner?

8 MS. HAROUCH: You can see their unit
9 on the drawing is abutting.

10 CHAIRPERSON ANDERSON: What's your
11 position, Ms. Yohannes?

12 MS. YOHANNES: I think the group
13 should be dismissed. There still is not two --
14 there's only three people who were present.
15 There's no additional people who were present
16 today. This in itself is not --

17 CHAIRPERSON ANDERSON: But it's not a
18 group. It's not a group, so it's an abutting
19 individual, so --

20 MS. YOHANNES: Abutting. We have any
21 abutting property owners, so --

22 MS. HAROUCH: But the requirement five

1 does not apply to the abutting --

2 MS. YOHANNES: So, there isn't --
3 there also is not clarification in terms of
4 proof. I can't tell what this map is. I can't
5 tell where the property is, what walls are being
6 shared or what. This is not clear, and I think
7 that they should be dismissed on that basis,
8 because it was, you know, there was an objection
9 made during roll call. Nothing was provided
10 before today. This is all that's been provided,
11 and on that basis, they should be dismissed.

12 CHAIRPERSON ANDERSON: All right. The
13 only property owner that are in play today are
14 206, 212, 214. There's no other property owner
15 from any other property here today. Is that
16 correct?

17 MS. HAROUCH: Correct.

18 CHAIRPERSON ANDERSON: And for 214,
19 your representation is that you were told that
20 214, because they were at the roll call, they
21 don't have to be here today. That's your -- that
22 was your representation.

1 MS. HAROUCH: For the three present at
2 roll call, correct.

3 CHAIRPERSON ANDERSON: Right. Was
4 that -- Ms. Yohannes, do you know whether or not
5 that information was provided at the roll call?

6 MS. YOHANNES: I don't recall that
7 being conveyed. I recall that they weren't
8 granted conditional standing --

9 CHAIRPERSON ANDERSON: I'm saying a
10 different thing.

11 MS. YOHANNES: Okay.

12 CHAIRPERSON ANDERSON: Do you know
13 whether or not Ms. Fletcher had expressed to
14 anyone to say, "If you were at the roll call," --
15 I'm sorry, "If you were at the roll call, you
16 don't have to be at the status hearing today?"

17 MS. YOHANNES: I don't recall.

18 CHAIRPERSON ANDERSON: All right.

19 MS. HAROUCH: I have an email from Ms.
20 Fletcher if you'd like to see it?

21 CHAIRPERSON ANDERSON: Yes. Provide
22 that to the agency, please.

1 MS. HAROUCH: It's a digital.

2 CHAIRPERSON ANDERSON: You'll show Ms.

3 --

4 MS. HAROUCH: Oh, okay. All right,
5 let me find it.

6 CHAIRPERSON ANDERSON: If you have it
7 on your phone, you can show it to Ms. Randall.

8 MS. HAROUCH: It might take me a
9 little long to --

10 CHAIRPERSON ANDERSON: All right.
11 Well, we'll try to also get the transcript too,
12 so --

13 MS. HAROUCH: Okay.

14 CHAIRPERSON ANDERSON: How is that Ms.
15 -- I know that, Ms. Yohannes, you requested --
16 you had asked that they verify that their
17 properties abut. What is that you're expect --
18 what is that you're requiring for the abutting
19 property owner?

20 MS. YOHANNES: Just whether it's -- I
21 mean, I see here that there's some sort of layout
22 that's been provided. If a layout that's more

1 clear than this could be provided to show that
2 they are abutting by the wall, the ceiling, the
3 floor. I can't -- if you can tell --

4 MS. HAROUCH: I have a digital copy of
5 the architectural drawing that you can enhance,
6 but it's just difficult because we don't have a
7 printer that can print a large enough copy.
8 That's why I did the overlay.

9 MS. YOHANNES: In the drawing that I
10 have, there's a highlighted portion. And I
11 believe we've already stated 206, 212, and 214
12 are the condos that need to -- they're the only
13 ones that are in play right now.

14 CHAIRPERSON ANDERSON: They're the
15 only three.

16 MS. YOHANNES: Right.

17 CHAIRPERSON ANDERSON: If we're going
18 to grant standing, standing will only be granted
19 to 206, 212, and 214. And the only reasons why I
20 would grant standing, the Board would consider a
21 grant standing to 214, although, 214 is not --
22 well, is 212 here?

1 (No audible response.)

2 CHAIRPERSON ANDERSON: No, there's no
3 one. Only 206 is here.

4 MS. HAROUCH: Yes.

5 CHAIRPERSON ANDERSON: But the only
6 way -- the only reasons why the Board would even
7 consider granting standing to 212 -- well, you
8 are their designated representative, so that's
9 fine.

10 MS. HAROUCH: And may I offer prior
11 evidence in the Mulebone case? These same
12 residents for the same premises and the same
13 units were granted standing.

14 CHAIRPERSON ANDERSON: I'm sorry. You
15 said what?

16 MS. HAROUCH: In the prior Mulebone
17 case for the same premises, as well as the same
18 unit owners, these people, same people were
19 granted standing as abutting owners. May I offer
20 this to you as well?

21 PARTICIPANT: I can get it.

22 CHAIRPERSON ANDERSON: Yes, we'll get

1 it.

2 MS. HAROUCH: Standing in the prior
3 case was granted to Mr. and Mrs. Kimura, as well
4 as Justin Peabody, and I believe Douglas Carey,
5 who is a State Department employee, and
6 designated me as their representative. He's
7 currently out of the country.

8 MS. YOHANNES: And just for the
9 record, I understand the Board can look at it
10 further, but what's been provided does not
11 indicate which units that these individuals we're
12 looking at.

13 MS. HAROUCH: It's in the record.

14 MS. YOHANNES: Well, not in the -- not
15 with what you provided.

16 MS. HAROUCH: Yes, correct.

17 CHAIRPERSON ANDERSON: All right. Is
18 there -- when was this decision in the Mulebone -
19 - when was this granted? This is what?

20 MS. HAROUCH: 2016.

21 CHAIRPERSON ANDERSON: In 2016.

22 Where's Mr. -- and is Mr. Kimura here?

1 Can you go on the stand, please, sir?
2 You can have a seat there, sir. Can you raise
3 your right hand, please?

4 MR. KIMURA: What is it?

5 CHAIRPERSON ANDERSON: Can you raise
6 your right hand, please?

7 WHEREUPON,

8 KENJI KIMURA

9 was called for examination by the Chairperson,
10 having been first duly sworn, assumed the witness
11 stand, was examined and testified as follows:

12 CHAIRPERSON ANDERSON: What is your
13 name, sir?

14 THE WITNESS: Kenji Kimura.

15 CHAIRPERSON ANDERSON: All right. And
16 where do you reside?

17 THE WITNESS: Unit 206.

18 CHAIRPERSON ANDERSON: What's your
19 address?

20 THE WITNESS: 2125 14th Street, NW,
21 Apartment 206.

22 CHAIRPERSON ANDERSON: You have to --

1 pull the microphone to you, sir, because I can't
2 hear you. Is there a green light there? Is
3 there a green light?

4 THE WITNESS: Yes.

5 CHAIRPERSON ANDERSON: Yes, so speak
6 into the microphone, please.

7 THE WITNESS: Okay. 2125 14th Street,
8 NW, Apartment 206, Washington, D.C.

9 CHAIRPERSON ANDERSON: And how long
10 have you been living in this unit, sir?

11 THE WITNESS: From December 2015.

12 CHAIRPERSON ANDERSON: So, you have
13 lived -- you have continuously lived in this unit
14 from December of 2015?

15 THE WITNESS: Yes.

16 CHAIRPERSON ANDERSON: All right.

17 Do you have any questions you want to
18 ask him, Ms. Yohannes?

19 DIRECT EXAMINATION

20 BY MS. YOHANNES:

21 Q If you're abutting, you claim -- are
22 you abutting --

1 A Yes.

2 Q -- the property? How are you
3 abutting?

4 A My master bedroom and den is above the
5 restaurant unit.

6 Q Do the walls touch?

7 A Directly above the restaurant unit.
8 Of course, there's a floor between the first unit
9 and -- first floor and the second floor. And our
10 unit is second floor, and the restaurant, it's
11 the first floor, then that's abutting.

12 CHAIRPERSON ANDERSON: Ms. Yohannes,
13 and if this Board granted standing to Mr. Kimura
14 in 2016, and he just stated on the record that he
15 has -- I'm sorry.

16 Are you the -- are you the owner of --
17 do you own this unit, sir?

18 THE WITNESS: Yes, sir.

19 CHAIRPERSON ANDERSON: All right.

20 And he has stated under oath that he
21 was the owner of the unit in the Board Order
22 2016-670. He has continuously lived in that unit

1 from Board Order 2016-670. I'm not going to
2 disturb the decision of this Board that granted
3 him standing, so him, I'll also -- I would ask
4 the Board to grant Mr. Kimura in Unit 206
5 standing.

6 You can step down, sir. So, I'm just
7 trying to be consistent. You can step down, sir.

8 THE WITNESS: Okay. Thank you.

9 (Whereupon, the witness was excused.)

10 CHAIRPERSON ANDERSON: I'm just trying
11 to be consistent, so I'll ask the Board -- so
12 what I'm going to do is as far as Mr. Kimura is
13 concerned, I make a motion that we grant Mr.
14 Kumara in Unit 206 standing. And the reasons why
15 I'm asking the Board to grant him standing is
16 because in Board Order 2016-670, the Board
17 granted him standing as an abutting property
18 owner.

19 He has stated on the record that he
20 has continuously lived in this unit. He is the
21 owner of the unit. He lived in there in 2016.
22 He currently lives in it. And I see no reason

1 why this consideration of the Board would not
2 grant this same individual standing since he was
3 previously granted standing.

4 Is there a second?

5 MEMBER SHORT: Second.

6 CHAIRPERSON ANDERSON: Mr. Short has
7 seconded the motion. All those in favor say aye.

8 (Chorus of aye.)

9 CHAIRPERSON ANDERSON: All right.
10 Those opposed?

11 (No audible response.)

12 CHAIRPERSON ANDERSON: Okay, the
13 matter passed, 6-0-0, so therefore, we're
14 granting Mr. Kimura in Unit 206 standing, all
15 right.

16 Now --

17 MS. HAROUCH: Mr. Anderson, I found
18 the email from Ms. Fletcher. May I read it?

19 CHAIRPERSON ANDERSON: You can -- if
20 you can show our -- we can have an email, okay.
21 I just want to make sure that the Board agent did
22 indeed provide that information.

1 MS. HAROUCH: Mr. Peabody would have
2 been here today had it not been for Ms.
3 Fletcher's email.

4 MS. YOHANNES: Can the Board, for the
5 record, at least state the date of that email?

6 CHAIRPERSON ANDERSON: I'm sorry?

7 MS. YOHANNES: Can we state the date
8 of the email?

9 CHAIRPERSON ANDERSON: This email was
10 sent from Ms. Fletcher on February 28, 2019, and
11 the email to -- from Ms. Fletcher stated that,
12 "As the representative of the abutting property
13 owners and/or group of 231, I am contacting you
14 with information regarding standing of the
15 protestants in the upcoming status hearing. On
16 February 19, 2019, there was a roll call hearing
17 in which 14 protestants claiming to be abutting
18 property owners were granted conditional
19 standing. Ms. Sidon Yohannes, Esq., the
20 Applicant's attorney, was opposed to granting
21 full standing to the protestants until they
22 provide evidence that their properties abut the

1 establishment's property. Ms. Park indicated..."
2 -- I'm pronouncing the name incorrectly, I
3 apologize -- "...indicated that this evidence is
4 available and will be presented at the status
5 hearing. After review of this evidence, the
6 Board may determine whether or not the
7 protestants are abutting property owners," blah,
8 blah, blah.

9 Okay. "Abutting property owners must
10 appear in person at either the roll call hearing
11 or the status hearing. In this case, 3 of the 14
12 abutting property owners appeared in person at
13 the roll call hearing, which is Yuka Kimura,
14 Justin Peabody, and Christina Babcock. This
15 means that the 11 abutting owners must appear in
16 person or may be dismissed."

17 All right, the implication by this
18 email is that although I would have preferred
19 since the person was supposed to come to the
20 hearing and prove that they were abutting
21 property owners, but the implication of the email
22 that was sent by the Board agent is that they

1 didn't have to appear.

2 MS. HAROUCH: Correct.

3 CHAIRPERSON ANDERSON: That doesn't
4 make sense, but I'm not going to -- I'm not going
5 to prejudice the person because they're not here,
6 but it's kind of difficult for that person, for
7 the unit, that someone in Unit 212 and 214 to
8 prove that they are abutting property owners if
9 they're not here. Now --

10 MS. HAROUCH: Mr. Peabody was also an
11 abutting owner in --

12 CHAIRPERSON ANDERSON: All right. So
13 -- all right. All right. Then, what I will also
14 do, the recommendations I'm going to make to the
15 Board is that I then will make a recommendation
16 to the Board that Mr. Justin James Peabody be
17 granted standing.

18 And the reason -- the basis for the
19 Board to grant standing to Mr. Justin James
20 Peabody, it's because in Board Order 2016-670,
21 Mr. Peabody was granted standing, was granted
22 standing as an abutting property owner by this

1 Board, and so, therefore, he did appear at the
2 roll call hearing, at the roll call hearing for
3 this matter. It's the same property space, so
4 therefore, I'm going to make a recommendation to
5 the Board that the Board provide standing to Mr.
6 Justin James Peabody in Unit 212.

7 Is there a second?

8 MEMBER SHORT: Second.

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

11 All those in favor say aye.

12 (Chorus of aye.)

13 CHAIRPERSON ANDERSON: All right.

14 Those opposed?

15 (No audible response.)

16 CHAIRPERSON ANDERSON: The matter
17 passed 6-0-0. All right.

18 Was Ms. Babcock, was she at the roll
19 -- was she involved in the 2016-670 case?

20 MS. HAROUCH: No. That unit did not
21 file a protest. However, Mr. and Mrs. Carey did
22 file a protest, and they were accepted as

1 abutting owners in the prior case.

2 CHAIRPERSON ANDERSON: Who?

3 MS. HAROUCH: Douglas and Yuko Carey.

4 Their names are highlighted on the 2016 document.

5 Mr. Carey is a State Department employee. And

6 the Board previously accepted his letter

7 designation. He is, because of work

8 responsibilities, unable to come back. He's

9 outside the United States presently on formal

10 government business. The Board --

11 CHAIRPERSON ANDERSON: No, but we're

12 saying -- no, we're saying something different.

13 We're talking about Unit -- we're talking about

14 Unit 214.

15 MS. HAROUCH: Oh, 214. No, he did not

16 file a protest previously.

17 CHAIRPERSON ANDERSON: Where's Unit

18 212 and Unit 214? Where's Unit 212 in relation

19 to Unit 214?

20 MS. HAROUCH: They're right next to

21 each other.

22 MS. YOHANNES: Both Unit 212 and 214

1 are on the outside of the highlighted area.

2 CHAIRPERSON ANDERSON: I'm sorry, you
3 said what?

4 MS. YOHANNES: I'm saying 212 and 214
5 are both outside of the highlighted, the area
6 that was highlighted for you.

7 MS. HAROUCH: They do have a shared
8 floor.

9 CHAIRPERSON ANDERSON: Hold on. Now,
10 the highlighted area is the restaurant. Is that
11 correct?

12 MS. HAROUCH: Excuse me?

13 CHAIRPERSON ANDERSON: The highlighted
14 area that you gave to us, that's the restaurant,
15 right? Is that correct?

16 MS. HAROUCH: That's the overlay of
17 the restaurant, correct.

18 CHAIRPERSON ANDERSON: But --

19 MS. HAROUCH: It's a shared floor
20 throughout --

21 CHAIRPERSON ANDERSON: But how can you
22 prove that 214 -- based on the highlighted area

1 that you gave me, I don't see how 214 -- I'm
2 sorry. I don't see how -- I don't see how 214 is
3 an abutted property area, is an abutting
4 property. Yes, that's not anywhere within the
5 highlighted area.

6 And I'm going to distinguish -- I'm
7 going to distinguish 212. And the only reason
8 I'm distinguishing 212, it's because it's the
9 same building, and this Board gave status to
10 abutting property owner status to 212, and so I
11 can't -- I wouldn't have any reason -- this Board
12 has to be consistent. It's the same property, so
13 there's really no reason for me to state that the
14 Board was incorrect or correct in 2016 when
15 status was given to 212, so I just want to put
16 that on the record, so -- but --

17 MS. YOHANNES: And may I, on the
18 record, I don't have the Board Order in front of
19 me. I just have what was provided by Ms. -- was
20 that individual in Unit 212 during, like for this
21 Order when standing was provided or standing was
22 granted in --

1 MS. HAROUCH: Yes.

2 MS. YOHANNES: -- 216 or 2016?

3 MS. HAROUCH: Yes.

4 CHAIRPERSON ANDERSON: Yes, 212 was
5 Peabody, yes. Yes, 212 was Peabody, so that's
6 one of the reasons why I'm going with the
7 previous Board Order.

8 MS. YOHANNES: And Peabody was in Unit
9 212 at that time?

10 MS. HAROUCH: 212, correct.

11 MS. YOHANNES: And he's not here to
12 testify as to that, but I don't have the rest of
13 the Order, so if the Board can state for the
14 record that he was in 212 at the time?

15 CHAIRPERSON ANDERSON: All right. I
16 will grant -- the decision was to grant standing
17 to Mr. Peabody of Unit 212. If we do go to a
18 protest hearing and if Mr. Peabody was not in --
19 if Mr. Peabody has moved apartments between 2016
20 and current, then you can make a motion and --
21 you can make a motion, and the Board will
22 consider dismissing him if you prove that he was

1 in a different unit if that's not the same unit
2 the Board had granted standing to him. I know
3 that Mr. Kimura stated that he remained in the
4 same unit between -- since 2016, so I'm fine with
5 that.

6 You have to prove to me, ma'am, how
7 standing can be granted to 214, because you gave
8 me -- you provided the Board an overview of the
9 outlay of the restaurant, and I can't -- based on
10 what's provided to me, I don't see how 214 could
11 be an abutting property owner, so you need to
12 explain to -- you need to explain to the Board,
13 ma'am.

14 MS. HAROUCH: Only in that the, it's
15 a poured concrete floor, and so in effect, that
16 entire wing is abutting.

17 CHAIRPERSON ANDERSON: But that's not
18 what you -- you provided us -- you have provided
19 the Board with some overlay of the restaurant and
20 nowhere was in that overlay that you provided us
21 is Unit 214.

22 MS. HAROUCH: Yes, that's fine. You

1 can dismiss 214.

2 CHAIRPERSON ANDERSON: All right. So,
3 we're going to dismiss 214, all right. So, with
4 all of that, we're only granting -- the Board is
5 only granting standing to Unit 206 and 212, and
6 so 206 is -- well, 206 is -- right. So, we'll
7 grant standing to the owners of 206 and Unit 212,
8 all right.

9 All right. All right. Are there any
10 preliminary matters?

11 MS. YOHANNES: No other preliminary
12 matters for us.

13 CHAIRPERSON ANDERSON: All right. So,
14 this matter then is scheduled for -- so what this
15 means is that if the parties are working on a
16 settlement agreement -- hold on one second.

17 So, the only -- I'm sorry. Who do you
18 represent, sir? Yes, sir. Yes.

19 MR. TURNER: ANC 1B.

20 CHAIRPERSON ANDERSON: ANC, all right.
21 So -- and you, sir, in the yellow shirt, who
22 again?

1 MR. MONTESINOS: The group of 231.

2 CHAIRPERSON ANDERSON: And, so, were
3 you granted standing?

4 MR. MONTESINOS: Yes, sir.

5 CHAIRPERSON ANDERSON: All right. All
6 right. So, for settlement purposes -- yes, sir?

7 MR. TURNER: Could you clarify who has
8 standing --

9 CHAIRPERSON ANDERSON: That's what I'm
10 --

11 MR. TURNER: All right. Thank you.

12 CHAIRPERSON ANDERSON: That's what I'm
13 -- that's where I'm -- that's why I made sure I
14 get some clarification, all right.

15 So, as far as I'm concerned, standing,
16 the ANC has standing. Of the group -- I'm sorry
17 -- of the abutting property owners, it's 206 and
18 212, and there was no issue with the group since
19 standing was given -- was granted. Let me --
20 hold on one minute.

21 All right, so the group of 231 was
22 granted standing, all right, was granted

1 standing, so --

2 MR. MONTESINOS: Yes, sir.

3 CHAIRPERSON ANDERSON: -- one, two,
4 three, four folks were granted -- are now granted
5 standing.

6 All right, for the group of 231, if
7 there is a settlement agreement and if the ANC
8 signs off in a settlement agreement and if you
9 are now party to the ANC settlement agreement,
10 you fall automatically, and there is nothing that
11 the Board can do about it.

12 The Board cannot force the ANC to
13 bring you on, to make you a party to a settlement
14 agreement if they don't, if they don't have to.
15 That's between you and the agency. I just want
16 to make that clear.

17 For the two abutting owners even if
18 there's a settlement agreement with ANC, if they
19 do not agree with that, if both owners do not
20 individually agree with the settlement agreement
21 with the ANC, they can still move forward to --
22 if one person agrees and the other person

1 doesn't, the one person who doesn't can --
2 because they have their own standing, they can
3 still move forward to a hearing here, but I just
4 want to let the group know that if there -- and
5 that's not the Board's decision. That's by
6 operational law that if the ANC signs on the
7 settlement agreement, and if you do not agree, if
8 you're not a party to it, then you automatically
9 fall and there's nothing that this Board can do
10 to force you to be a party to the agreement.

11 Is that clear?

12 MR. MONTESINOS: Yes. I mean, to just
13 clarify, so we could not move forward with a role
14 in the protest hearing?

15 CHAIRPERSON ANDERSON: Right, if the
16 ANC signs a settlement agreement. If there's no
17 settlement agreement, you can move forward, but
18 I'm just saying, if the ANC signs a settlement
19 agreement, then your group falls automatically.

20 MR. MONTESINOS: Understood.

21 CHAIRPERSON ANDERSON: The abutting
22 property owner still remain, because they have

1 their own standing.

2 Yes, ma'am?

3 MS. HAROUCH: The Meridian Hill
4 Neighborhood Association was also granted
5 standing.

6 CHAIRPERSON ANDERSON: So, you're the
7 designated representative for -- you're the
8 designated representative for the Meridian Hill
9 Civic Association, Neighborhood Association, and
10 also for the abutting property owner, all right.

11 MS. HAROUCH: Correct.

12 CHAIRPERSON ANDERSON: Yes. I'm
13 looking at -- yes, Ms. Yohannes?

14 MS. YOHANNES: Nothing, no. Yes.

15 CHAIRPERSON ANDERSON: Yes. So, yes.
16 All right, yes. The Meridian Hill Civic -- the
17 Meridian Hill Neighborhood Association also has
18 standing. Now, what that also means then is that
19 because they have their own standing, but if
20 they're not a part of the settlement agreement,
21 they can move forward with the hearing.

22 Even if the ANC has a settlement

1 agreement, if the abutting property owners or the
2 Meridian Hill Neighborhood Association, if they
3 do not agree to the settlement agreement, then
4 they will still move forward with a hearing, so I
5 just want to let the parties know that if you're
6 serious about a settlement agreement, these are
7 all the parties who -- for us not to have a
8 protest hearing, these are the parties that would
9 have to sign off on a settlement agreement or the
10 ANC, the two abutting property owners and the
11 Meridian Hill Neighborhood Association.

12 Is that clear to everyone?

13 MS. HAROUCH: Yes.

14 MS. YOHANNES: Yes.

15 CHAIRPERSON ANDERSON: All right.

16 This matter then is scheduled for a protest
17 hearing on April 10th at 1:30, so as you know
18 that we already have April 10th at 1:30, 4:30,
19 these are going to be some interesting days if
20 these matters are not settled.

21 Do I need to -- all parties are now
22 aware of the protest process and the proceeding.

1 If you have any questions, please reach out to
2 the agency. You can reach out to Ms. April
3 Randall here at the agency at -- and her phone
4 number is 202-442-4353, April Randall. If you
5 have any problems, any questions about the
6 process, please reach out to her, and she'll
7 provide you whatever guidance you need.

8 So, with that said, the matter -- the
9 parties here are dismissed. All right. Thank
10 you.

11 MR. MONTESINOS: Thank you, sir.

12 MS. YOHANNES: Thank you.

13 CHAIRPERSON ANDERSON: All right.

14 (Whereupon, the above-entitled matter
15 went off the record at 10:38 a.m.)

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In the matter of: Pratt Group

Before: DCABRA

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