

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

2 9:52 a.m.

3 CHAIRPERSON ANDERSON: The next case on
4 our calendar is Case No. 19-PRO-00133, Red Lounge
5 Hookah, License No. 76011. Would the parties
6 please approach and identify themselves for the
7 record, please?

8 MR. ORLASKEY: I am Dan Orlaskey from
9 ANC 1B.

10 CHAIRPERSON ANDERSON: All right, Mr.
11 Orlaskey, thank you. I see that the Licensee is
12 not here for Red Lounge Hookah, so I will recall
13 this case, okay?

14 MR. ORLASKEY: Thank you.

15 (Whereupon, the above-entitled matter
16 went off the record at 9:52:46 a.m. and resumed
17 at 10:09:32 a.m.)

18 CHAIRPERSON ANDERSON: The next case is
19 Case No. 19-PRO-00133, Red Lounge Hookah, License
20 No. 76011. Will the parties please approach and
21 identify themselves for the record, please? I'm
22 recalling Case No. 19-PRO-00133, Red Lounge
23 Hookah, License No. 76011. Will the parties
24 approach and identify themselves for the record?

25 MR. ORLASKEY: Dan Orlaskey, ANC 1B.

1 CHAIRPERSON ANDERSON: Good morning,
2 Mr. Orlaskey. This matter was scheduled for a
3 9:30 protest hearing status. The ANC was here.
4 The Licensee was not here. I have recalled the
5 case and the Licensee is still not here. I then
6 make a motion that we dismiss their renewal
7 application. Is there a second?

8 MR. SHORT: Second.

9 CHAIRPERSON ANDERSON: Mr. Short has
10 second the motion. All those in favor say aye.

11 (CHORUS OF AYE.)

12 CHAIRPERSON ANDERSON: Those opposed?
13 The matter passes 6-0-0. What this means is that
14 we will issue an order dismissing their protest,
15 I'm sorry, their renewal application. They will
16 be given 10 days to give the Board reasonable
17 notice why they were not here today, and if not,
18 the Board will dismiss their renewal.

19 Mr. Orlaskey, now that we have
20 scheduled and dismissed those ANC 1B matters, I
21 would like to take this opportunity to talk to
22 the ANC commissioners from 1B. Is there any
23 other --

24 MR. ORLASKEY: All of us?

25 CHAIRPERSON ANDERSON: Yes. If there

1 are any other ANC 1B commissioners in the room, I
2 would like them to move forward. Ms. Norman?
3 All right.

4 As you know, this is a issue. This
5 first started going back as far as February 5th,
6 where we had four protest hearings scheduled
7 regarding ANC 1B, and the week before February
8 5th. I think today we had several cases for 1B.
9 I appreciate the fact that 1B was here today for
10 this hearing. However, the ABRA staff and the
11 Board, as well, has been experiencing in some
12 cases less than full and active participation by
13 ANC 1B once the protest is filed.

14 What I mean by that is that not every
15 assigned ANC single-member district is attending
16 their roll-call hearings or their mediation
17 sessions, or even the status hearings. Just last
18 week prior to -- This was as of February 5, 2020,
19 one ANC commissioner -- I called the case. Ms.
20 Norman is always here. I'm going to call her out
21 by name. She's always here. Anytime there is a
22 protest filed by an establishment where she is
23 the ANC commissioner, she is here.

24 I called a case, and because she was
25 not the ANC commissioner covering it, I had to

1 call her Ms. Norman, and so she represented the
2 ANC. It's my understanding she also does that at
3 roll call in the sense that she's not the
4 designated representative from the ANC for that
5 case, but because she's there, the ANC is granted
6 status because it's there.

7 This has to change. I mean, some of
8 the greatest difficulties that this Board is
9 having is that the Board's agent is scheduling
10 mediation. Mediations are always scheduled at
11 the time of the roll-call hearing when all
12 parties are present, and everyone has their
13 phones or calendars with them. Rarely are
14 mediations rescheduled because consensus is
15 reached on a mutually agreeable date at the time
16 of roll-call hearing.

17 Of late, however, ANC 1B has had some
18 commissioners present at roll-call hearings or
19 has not provided the Board's agent with the name
20 of the single-member district commissioner, or
21 has had to engage the Board's agent as a party
22 after roll-call to find a new date and time, or
23 has failed to appear at the mediation when
24 scheduled.

25 I just want to say to ANC is that if

1 you're going to file the protest hearing, you
2 have to come to the roll-call hearing. You have
3 to come to the status hearing, because it doesn't
4 make sense to have this process if you're not
5 following through. I'm not sure, I mean, we have
6 a litany of cases where routinely the status
7 hearing, the ANC 1B is not here so we dismiss it.
8 So it is just if you're going to -- We need you,
9 if you're protesting these matters, to be present
10 at either the status or the roll call, or if an
11 ANC commissioner is at the roll call, that that
12 ANC commissioner informs either the Chair or the
13 designated representative when a mediation is
14 scheduled so therefore we can have mediation.

15 I know a couple of weeks ago, the
16 Board dismissed a protest because of the failure
17 of the ANC to participate in the mediation. So
18 that's something that I need to bring to your
19 attention. So there have been numerous cases
20 where ANC 1B has failed to appear at roll-call
21 hearings over the summer of 2019, the spring
22 renewals, including for Provision 14, Cortez,
23 Sugar Shack Doughnuts, Habesha Market and Kiss
24 Tavern. Please understand the Board cannot
25 compel your attendance at the hearings and

1 mediation. What we can do, however, is dismiss
2 your protest for failure to prosecute if it is
3 filed.

4 We do not have to have that because --
5 Listen, we do not want to have to do that,
6 because as I said earlier, we appreciate the
7 ANC's participation in the process. However,
8 until ANC 1B starts attending mediations and
9 hearings, the Board will dismiss your protests as
10 we did in Pure and Wet Dog Tavern a couple of
11 weeks ago. Thank you for allowing me to address
12 this issue. It is a major concern to the Board,
13 and I'm glad you're here as Chair, Mr. Orlaskey,
14 to ensure that -- I'm sorry, who is the Chair of
15 the ANC?

16 MR. TURNER: I think you just elected
17 him, so I guess this is my way of saying --

18 CHAIRPERSON ANDERSON: Mr. Turner, I
19 apologize.

20 MR. TURNER: He will be solving the
21 problem going forward.

22 CHAIRPERSON ANDERSON: It's an issue
23 that needs to be addressed. I'm glad that --
24 This is the most ANC commissioners that are from
25 1B I've seen that have appeared in front of the

1 Board since I've been here. So I'm glad that I
2 see all these 1B cases and there's representation
3 here today.

4 MR. TURNER: Mr. Chairman, as you know,
5 from I believe you were an ANC commissioner?

6 CHAIRPERSON ANDERSON: Yes, I was an
7 ANC commissioner.

8 MR. TURNER: As Chair, I cannot compel
9 people to represent their case and their
10 district. We have one of the largest number of
11 cases that come with the renewals. We have an
12 over-concentration of cases in certain single-
13 member districts, one being Mr. Orlaskey's.

14 MR. ORLASKEY: That's why you see me
15 here.

16 MR. TURNER: You see Commissioner
17 Norman. She has a large number, and Commissioner
18 Winston, which is primarily the U Street
19 Corridor. With ANC commissioners, they have
20 daytime jobs. We have delegated or issued
21 delegation to our ABR committee members, who was
22 an attempt to help solve part of the problem.
23 That has not solved the problem. I believe that
24 this was unique during the renewal period, but it
25 is, in addition to being an attendance issue, it

1 is a process issue that needs to be addressed.

2 CHAIRPERSON ANDERSON: Well, thank you,
3 sir. As I said, as a former ANC commissioner, I
4 know that it is a voluntary job. It's a
5 thankless job.

6 MR. TURNER: Not voluntary, non-
7 compensated.

8 CHAIRPERSON ANDERSON: I'm sorry?

9 MR. TURNER: It is not a compensated
10 position.

11 CHAIRPERSON ANDERSON: Right. But
12 sometimes even if people are compensated, people
13 don't necessarily show up. But it's a lot of
14 work and you're not compensated for it, and folks
15 have high expectations. But however, in order
16 for this Board to function is that if you start a
17 process, then it has to be followed through
18 because it takes a lot to get our staff to be
19 ready for these protest hearings. Then we call
20 all these cases and the ANC is not here, and then
21 what ends up occurring is that we dismiss the
22 protest.

23 So therefore whatever issue or
24 concern, and I'm not saying that the Board favors
25 protests. I'm not saying that. But I'm just

1 saying whatever issue or concern there was for
2 the neighbors cannot be addressed because it has
3 not been -- the ANC has failed to prosecute
4 whatever issue they have had with that
5 establishment.

6 MR. TURNER: Mr. Chairman, if you will
7 indulge me a couple more minutes.

8 CHAIRPERSON ANDERSON: Yes, sir.

9 MR. TURNER: The community, our
10 community, our constituents in certain areas feel
11 that the only way they can address a business is
12 through a protest to have a conversation. We
13 know that that isn't true, that you can have a
14 conversation as a community member or as the
15 commissioner with that establishment at any time.
16 If there is a series of issues and findings, we
17 can ask the board to review the case for their
18 license.

19 That requires additional effort and
20 work by the commissioner and by the community
21 members. Again, during this renewal period, we
22 have a number of new community members who feel
23 that the way to -- that is their only venue, is
24 to demand that the ANC be proactive in
25 protesting. Mr. Orlaskey, you may want to talk

1 about you have a very vocal constituency.

2 MR. ORLASKEY: Right. The fact that
3 I'm here a lot is not because I want to be here a
4 lot. It's because I have a lot of residents in
5 my area that have specific issues with specific
6 establishments or specific areas, and they take
7 those concerns to me and to our ABR committee.
8 The ABR committee votes on those protests, and
9 then that's how we end up here. I have something
10 like, I don't know the exact number, but in my
11 SMB alone, around 200 licenses.

12 So because three or four or five at a
13 time, maybe as much as 10, come before you guys,
14 it's not a lot. It's a small percentage of what
15 we have in the area. Most of them get, you know,
16 renewed without any kind of protest. Some of
17 them I have conversations with and we come to our
18 agreements on our own. It's just the times when
19 there is no communication or the communication
20 breaks down for one reason or another that we
21 sometimes end up here.

22 I don't want to have to go to protest
23 hearings any more than anyone else. This is a
24 lot of my time that I should be at work, but I'm
25 not. I'm here, I'm doing this. So while I

1 understand the concerns, a lot of what we've been
2 trying to do lately is make sure that coverage is
3 consistent amongst our side, so that we have
4 either ANC commissioners or members of our ABR
5 committee representing the ANC at all of our
6 hearings, because there simply are quite a lot of
7 them. I agree with that.

8 But it's a little bit overwhelming for
9 one commissioner to have to handle all of them.
10 It's a full-time job at that point, for this
11 period of time when we're doing renewals.

12 CHAIRPERSON ANDERSON: I'm not sure
13 what the answer is, but the only thing I can say
14 is that if you're going to protest, we need to
15 make sure that there's someone at roll call. And
16 if a mediation is scheduled, that there's follow-
17 through, because the Board has no choice but to
18 dismiss a protest if the ANC fails to follow
19 through in the sense that it doesn't come to roll
20 call, doesn't do mediation, or the ANC does not
21 show up at the status hearing.

22 I'm not saying that I support
23 protests. I'm just saying that if you're going
24 to protest it, this is what you have to do.
25 Well, thank you for being here this morning, and

1 I hope that --

2 MR. ORLASKEY: I just want to add
3 something you asked before about mentioning to
4 you when we're representing another
5 commissioner's business or representing ourselves
6 on behalf of a protest with a business in another
7 commissioner's district. Right now I'm
8 representing Dan Winston, it's not me.

9 CHAIRPERSON ANDERSON: As a courtesy,
10 it says ANC 1B. I call 1B, and if there's 1B
11 here, and that's part of the problem. So
12 therefore --

13 MR. ORLASKEY: I'm just saying, just so
14 you have it for your records, so going forward
15 we'll do this every time we come here.

16 CHAIRPERSON ANDERSON: I don't know who
17 -- the way that the law says, Mr. Turner is
18 supposed to designate to us who can represent the
19 ANC for that matter. So that's what the law
20 says, because it's not ANC 1B, A1 or 1B1
21 protesting the matter.

22 MR. ORLASKEY: I understand, but you
23 asked us to make sure you know who the
24 commissioner for the district is.

25 CHAIRPERSON ANDERSON: I don't really

1 care. No, listen. I don't really care, because
2 the way the statute says, it says that the Chair
3 designate whoever within the ANC. So it's not
4 necessarily this is your ANC. I know Ms. Norman
5 because she's always here. But the statute says
6 that the Chair designate who represents ANC. So
7 as a courtesy, because I know it's ANC 1B, Ms.
8 Norman is here, and if there's another 1B case, I
9 will just call her to say so because if I don't
10 call her to come up to say ANC 1B is here, then I
11 am going to dismiss the protest because ANC is
12 not here.

13 MR. ORLASKEY: I understand that. Do
14 you want us to tell you if it's a different
15 commissioner when we're appearing, or do you not
16 want to know that?

17 CHAIRPERSON ANDERSON: No, that's not

18 --

19 MR. ORLASKEY: That's what I heard. I
20 guess I misheard that.

21 CHAIRPERSON ANDERSON: No, that's
22 unimportant because the letter that comes in from
23 the Chair to our Agency saying that you are
24 protesting the matter, that letter designate who
25 it is that should represent the ANC at these

1 hearings. It can be that commissioner or another
2 commissioner from another ANC. So if someone is
3 available, it just says Commissioner John Doe is
4 authorized to represent the ANC. So I don't
5 really care who the John Doe is, as long as there
6 is a John Doe here. Okay?

7 MR. ORLASKEY: Okay.

8 CHAIRPERSON ANDERSON: Have a good day.
9 Thank you for being here.

10 (Whereupon, the above-entitled matter
11 went off the record at 10:26:06 a.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Red Lounge Hookah

Before: DCABRA

Date: 02-26-20

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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