

DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE CONTROL BOARD  
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MEETING

IN THE MATTER OF:

Rhino Investments, LLC,  
Retailer CT  
License No. 99467

(Request to Extend  
Safekeeping)

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Fact Finding  
Hearing  
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Thursday  
November 7, 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  
BOBBY CATO, JR., Member  
JAMES SHORT, Member

**ALSO PRESENT:**

STEPHEN J. O'BRIEN  
JUSTIN HICKS

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

10:17 a.m.

MR. ANDERSON: We're on the record.

Good morning, everyone. I'd like to welcome you to a special meeting of the District of Columbia Alcoholic Beverage Control Board. Today is November 7th, 2019. I would like to introduce members of the Board with us today.

To my right is Mr. Bobby Cato. To my left is Mr. James Short. My name is Donovan Anderson; I'm Chairman of the Board. There are three of us here today, so we do have a quorum to conduct business.

I would like to mention three things before we get started. If you have any electronic devices, pagers, cell phones, or such, please make certain that they're turned off to avoid any interruption of the proceeding.

Second, there is a piece of paper on each table. When you come forward as your case is called, please take a seat at the table and please sign in. This is to ensure the correct spelling of your name for the record.

Lastly, please note that today's hearings of the Alcoholic Beverage Control Board

1 is governed by the Open Meetings Act. Please  
2 address any questions or complaints to the  
3 Officer of Open Government at  
4 opengovoffice@dc.gov. I would note that the  
5 approximate is 10:19 a.m.

6 Our first order of business is a fact  
7 finding hearing on Rhino Investments, L.L.C.,  
8 license No. 99467. Would the parties please  
9 approach and identify themselves for the record?

10 MR. O'BRIEN: Good morning, Mr. Chair;  
11 Stephen O'Brien for the Licensee. I'm  
12 accompanied by Justin Hicks, H-I-C-K-S --

13 MR. ANDERSON: Good morning, Mr.  
14 O'Brien.

15 MR. O'BRIEN: And Mr. Hicks is the  
16 Director of Development for the parent company of  
17 the Licensee.

18 MR. ANDERSON: Good morning, Mr.  
19 Hicks. All right, Mr. O'Brien. This is another  
20 request for continuation and safekeeping. It's  
21 my understanding that this license has been in  
22 safekeeping since 2016. And as you are aware, in  
23 Georgetown there is a cap on tavern licenses, so  
24 there's a cap of six licenses in Georgetown.

25 This license that has been in

1 safekeeping since 2016 is No. 6, so your  
2 inability to utilize this license is preventing  
3 someone else from utilizing this license, and I'm  
4 trying to find out why this license is not in  
5 operation. So, where are we?

6 MR. O'BRIEN: We're not where we need  
7 to be or where the Board would like to see us.  
8 When we were here six months ago, Mr. Hicks and I  
9 detailed extensive efforts to find a suitable  
10 property in Georgetown. When I made the instant  
11 request for extension --

12 MR. ANDERSON: When was that made? I  
13 don't have my --

14 MR. O'BRIEN: I think it was either  
15 late May or early June of this year, at which  
16 time the Board approved the extension until  
17 September 30th.

18 When I made the instant request in  
19 late September for yet another extension -- I'm  
20 emphasizing yet another because I appreciate what  
21 the Chair has just said -- we attached a letter  
22 of intent for a property in the 1300 block of  
23 Wisconsin Avenue. It was the old Paolo's  
24 Restaurant property.

25 MR. ANDERSON: Address?

1 MR. O'BRIEN: It's 1305, I believe.

2 MR. HICKS: It's 1305 Wisconsin  
3 Avenue.

4 MR. O'BRIEN: Yes. Mr. Hicks advises  
5 me that the owner of the property advised that  
6 they were not going to accept the offer from the  
7 licensee. They were going to go with a national  
8 concern, meaning a change of some sort. We don't  
9 know what that is.

10 MR. HICKS: It wasn't a matter of  
11 price or anything like that. Our offer was  
12 solid; they just wanted a national operator who  
13 had greater experience than we did at this type  
14 of establishment.

15 MR. O'BRIEN: Now, Mr. Hicks is  
16 prepared to go over with you what other things  
17 have been undertaken in the last six months to  
18 try to find a suitable space. As I think I  
19 mentioned at the last fact finding, the  
20 Georgetown market has been greatly skewed as far  
21 as pricing goes, by the Capital One transaction.

22 Board members may remember the old  
23 Nathan's at the southeast corner of Wisconsin and  
24 M. It then became Sugar -- Serendipity for a  
25 while, but that failed. Capital One purchased

1       that property to establish a brand bank and paid,  
2       I'm told, more than three times, on a square-foot  
3       basis, what anybody else had ever received for a  
4       property in Georgetown. Am I right? Three  
5       times?

6                   MR. HICKS: It's probably more -- it's  
7       probably more like five, about \$5,000 a square  
8       foot, the property.

9                   MR. ANDERSON: And that means it would  
10      be right across from Farmers on the other corner?

11                  MR. O'BRIEN: Farmers and Mechanics  
12      Branch, the Riggs National Bank, yes, which of  
13      course now is PNC. That's right.

14                  Anyway, that transaction put stars in  
15      the eyes of every property owner in Georgetown;  
16      look how valuable our property is. I remember  
17      reading in a Washington Business Journal and some  
18      trade publications that was just astounded that  
19      Capital One overpaid for the property's value to  
20      the extent that they wanted it.

21                  That's an explanation why properties  
22      are hard to come by in Georgetown now, because  
23      the prices are up there. Now, to the extent the  
24      Board wishes to hear, Mr. Hicks will discuss  
25      other properties that they put offers in on as

1 late as last week that have not come to fruition.

2 MR. ANDERSON: I guess one of the  
3 questions or concerns I've had; did Mr. Hicks or  
4 his group, did they ever get a license, license,  
5 or did they buy it from someone else?

6 MR. O'BRIEN: No. They bought it from  
7 the old Rhino. I think it was the trade name was  
8 Rhino Pumphouse.

9 MR. ANDERSON: And this is that?

10 MR. O'BRIEN: I think it was 3295 and  
11 --

12 MR. HICKS: Near the bridge.

13 MR. ANDERSON: So this license was  
14 purchased in 2016 and it's never been utilized.

15 MR. O'BRIEN: Unfortunately I have to  
16 correct you; it was actually 2015.

17 MR. ANDERSON: 2015?

18 MR. O'BRIEN: It doesn't help my case,  
19 but --

20 MR. ANDERSON: Right. So, thank you  
21 for that, Mr. O'Brien. Since 2015. But anyway,  
22 yes. So that's like four years that he has had  
23 this license, and as I stated before, it is a  
24 license that -- this is not a license in a sense  
25 that, normally for CT licenses, there is really

1 no issue that can claim safekeeping of law. The  
2 owners have shown us the progress to try and find  
3 a new location. But he's preventing, because of  
4 the cap in Georgetown, the taverns, and that's by  
5 statute. That's nothing that the Board -- we  
6 can't change it unless the city council changes  
7 the regulation.

8 As you are aware, we recently lifted  
9 the moratorium in Georgetown, but the Board is  
10 unable to lift the moratorium on taverns in  
11 Georgetown because of the cap established by the  
12 city council.

13 And so therefore, there are only six  
14 taverns that can be operated in Georgetown, and I  
15 believe only five are operating now. I'm not  
16 sure, but this is the sixth license.

17 MR. O'BRIEN: I think one other of the  
18 six may be in safekeeping.

19 MR. ANDERSON: All right. But I  
20 empathize with the owner, but there has to be a  
21 point. I'm going to allow you to speak, sir, but  
22 there has to be a point that you either have to  
23 bite the bullet and pay the rent that the  
24 landlord is asking for, or the Board will have to  
25 relieve you of the license. You can go ahead,



1 sir.

2 MR. HICKS: Yes, I was going to say,  
3 I believe in the last six months, particularly in  
4 the last three months of which I have data here,  
5 we've made a lot of progress in terms of, I  
6 believe there may be a coming shift in the market  
7 in terms of people becoming a little more  
8 flexible on some of the spaces.

9 While we weren't able to come to terms  
10 on the economics of the offers we made, I do  
11 believe they were solid offers, and I think that  
12 if allowed to continue to work on some of these  
13 offers and some of the other properties we've  
14 been touring; on the lease side we've looked 30  
15 in the last six months. We've made offers on  
16 Paolo's release. We've made three purchase  
17 offers, as Mr. O'Brien said, as late as last  
18 week, and we continue to look.

19 The CEO of my company, who is the  
20 parent company of Rhino Investments, lives in  
21 Georgetown, so he has a personal interest in  
22 having a bar there. He's not an outsider. He  
23 wants to enhance the neighborhood.

24 With that said, if we're allowed to  
25 extend a little more time up until the next

1 meeting -- I believe it's March 31st -- if we  
2 don't have a license in transfer then, we won't  
3 seek anything else.

4 MR. SHORT: Can you repeat that,  
5 please?

6 MR. HICKS: If, by March 31st, the  
7 next meeting of next year, if we don't have any  
8 license in transfer at that point, I will not  
9 seek another extension.

10 MR. ANDERSON: You've answered the  
11 question, although my question to you is that if  
12 the Board had agreed to extend the license  
13 through March 31st, what expectations should we  
14 have of you? You've already stated that, so any  
15 other questions by any of the Board members?

16 MR. O'BRIEN: Just to make clear, Mr.  
17 Hicks and I discussed this, but if there's not a  
18 transfer application filed -- this is transfer of  
19 location -- if there is not a transfer  
20 application filed by March 31st, another  
21 extension will not be requested.

22 MR. ANDERSON: But I also want to make  
23 sure, though, Mr. O'Brien, that -- you're  
24 involved with transfer applications that have  
25 been in front of this Board, and one of the

1 things that the Board, one of the reasons why you  
2 know that we have been having these fact finding  
3 hearings is that we want to make sure that  
4 there's a clean break between one owner and  
5 another.

6 So I want to make sure that because  
7 this is a license that has not been utilized  
8 since it has been bought, I don't want it to be  
9 transferred to another entity and then we start  
10 the same process again in a sense that they can't  
11 -- and we just -- it was just transferred to us.  
12 We will just transfer it to us, and so therefore  
13 we need some more time. So I want to make sure  
14 that if it's a transfer, then it has to be -- and  
15 I can't -- you know where I'm going.

16 MR. O'BRIEN: Yes, I do, and I think  
17 I can zero in on this to say -- let me go back a  
18 step. This is a license presently without a  
19 location.

20 MR. ANDERSON: Right.

21 MR. O'BRIEN: Okay. So whether it is  
22 Rhino or another party, if there's not a transfer  
23 of location to a new location application on file  
24 by March 31st, then a request for another  
25 extension will not be lodged.

1 MR. ANDERSON: That's fine.

2 MR. O'BRIEN: All right. Now, if  
3 there is a transfer application on file, and  
4 construction is underway, we may come back at  
5 that point and say, Here it is. Here's the  
6 progress. It's under construction, so we need  
7 more time.

8 MR. ANDERSON: Right because it would  
9 have a lease. It would have to have had a lease.  
10 It says, Okay, fine, and we're aware that he  
11 wouldn't be able to open up on April 1st. We're  
12 aware of that.

13 But it's like, without a lease here,  
14 the signed lease, we're starting construction  
15 here, the construction status, and we're fine  
16 with that. Because we're not going to say, Well,  
17 we're not going to extend it because now that  
18 you've got a signed lease, we are aware. But we  
19 don't have any of that today, and the Board has  
20 been very generous in the sense that allowing the  
21 ownership to find a location.

22 As I said before, if the city council  
23 changes the law to say that maybe they will,  
24 since in Georgetown there's -- and I'll say as,  
25 personally, I moved to D.C. 33 years ago, and

1 Georgetown was a part of the city that was the  
2 entertainment capital of D.C. Not anymore.

3 So like I said, the city council  
4 changes the law to say they want to be  
5 Georgetown, then it wouldn't be a pressure to say  
6 that we need to release this license.

7 MR. O'BRIEN: I understand.

8 MR. ANDERSON: Any other questions by  
9 the Board members? Hearing none, then I will  
10 make a motion that we grant the extension through  
11 March 31st, 2020 based on our representation of  
12 the licensee and his counsel, we will see what  
13 happens for another -- I'm not going to repeat  
14 it, but it's clear what the Board has requested  
15 and what the licensee has stated his intension  
16 for another extension. Okay. Is there a second?

17 MR. SHORT: Second.

18 MR. ANDERSON: Mr. Short has seconded  
19 the motion. All in favor say aye.

20 (Chorus of aye.)

21 MR. ANDERSON: None opposed. The  
22 matter passes at 3-0-0. Thank you very much for  
23 being here today, and good luck, sir.

24 MR. HICKS: Thank you, thank you, sir.

25 (Whereupon, the fact finding hearing

1 in the above-entitled matter was concluded at  
2 10:31 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: ABRA Hearing

Before: Alcoholic Beverage Control Board

Date: 11-07-19

Place: Washington, D.C.

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
true and accurate record of the proceedings.

  
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Court Reporter

**NEAL R. GROSS**

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