

ALSO PRESENT:

**KAREN TAMMANY CRUSE, Citizens Association of
Georgetown**

JAKE YOON, Applicant

KEVIN EDGAR, Dower Group

ROBERT ELLIOTT, Applicant

ELIZABETH EMES, Group of Five

RICK MURPHY, ANC 2E

DAINA POTTER, Applicant

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

2 9:35 a.m.

3 CHAIRPERSON ANDERSON: Good morning,
4 everyone. I would like to welcome you to the
5 regularly scheduled meeting of the District of
6 Columbia Alcoholic Beverage Control Board.
7 Please know that today's hearings will be
8 conducted in accordance with D.C. Official Code
9 Section 2-574 of the Open Meetings Act.

10 Today is January 16, 2019. I would
11 first like to introduce Members of the Board with
12 us today. To my far right is Mr. Bobby Cato. To
13 my immediate right is Mr. Nick Alberti. To my
14 far left is Ms. Rema Wahabzadah. To her right is
15 Mr. Mike Silverstein and to my immediate left is
16 Mr. James Short. My name is Donovan Anderson.
17 I'm the Chairman of the Board. We do have six
18 Members in attendance today and we do have a
19 quorum for the conduct of business.

20 I would like to mention two things
21 before we get started. First of all, if you have
22 any electronic devices, pagers, cell phones or

1 such, please, turn them off to avoid any
2 interruption of the proceeding.

3 Secondly, there is a piece of paper on
4 each table. When your case is called, please,
5 sign the document. This is to ensure the correct
6 spelling of your name for the recorder.

7 Additionally, when you introduce
8 yourself for the record, please, spell your name
9 aloud for the court reporter.

10 It is 9:38 a.m. and our first order of
11 business today is a Protest Hearing (Status) Case
12 No. 18-PRO-00081, Sandbox Restaurant, License No.
13 110062.

14 Would the parties, please, approach
15 and identify themselves for the record? All
16 right. So let me start with the licensee. Who
17 is the licensee?

18 MR. YOON: We are.

19 CHAIRPERSON ANDERSON: Can you
20 introduce yourself for the record, please?

21 MR. YOON: Jake Yoon.

22 CHAIRPERSON ANDERSON: And you are?

1 MR. YOON: I am working with Mr.
2 Elliott.

3 CHAIRPERSON ANDERSON: Okay. I don't
4 know who the parties are, so that's one of the
5 reasons I wanted to ask you to introduce
6 yourself, let me know who you are. Okay? All
7 right.

8 MR. ELLIOTT: There are three of us
9 here for the applicant. I'm Robert Elliott and I
10 own the corporate entity that is the applicant.

11 CHAIRPERSON ANDERSON: Good morning.

12 MS. POTTER: My name is Daina Potter.
13 I work with Mr. Elliott on Sandbox.

14 MEMBER SILVERSTEIN: Speak up, please.

15 MS. POTTER: Oh, my name is Daina
16 Potter. I work with Mr. Elliott on the Sandbox
17 license.

18 CHAIRPERSON ANDERSON: Good morning.
19 There is a sign-in sheet, I would like everyone
20 to make sure that you sign-in, please. The
21 protestant and, please, when you introduce
22 yourself, let me know what group you belong to,

1 please.

2 MR. MURPHY: I am Rick Murphy, ANC-2E.
3 I'm an ANC Commissioner.

4 CHAIRPERSON ANDERSON: Good morning,
5 Mr. Murphy.

6 MR. EDGAR: My name is Kevin Edgar,
7 last name is spelled E-D-G-A-R. I am
8 representing the Dower Group.

9 CHAIRPERSON ANDERSON: Mr. Edgar.
10 Okay, who else.

11 MS. TAMMANY CRUSE: Karen Tammany
12 Cruse, T-A-M-M-A-N-Y C-R-U-S-E, and I represent
13 the Citizens Association of Georgetown.

14 CHAIRPERSON ANDERSON: Good morning,
15 Ms. Cruse. And who else? Who else is here?

16 MS. EMES: My name is Elizabeth Emes,
17 E-M-E-S, and I represent a Group of Five abutting
18 neighbors as well as two abutting property
19 owners.

20 CHAIRPERSON ANDERSON: Hold on. All
21 right. The way I see you, Ms. Emes, you are
22 representing a Group of Five or More, so you are

1 not -- were you given standing as -- well, no,
2 I'm asking a different question.

3 Were you given standing as a Group of
4 Five or More or were you given standing as an
5 abutting property owner?

6 MS. EMES: Both.

7 CHAIRPERSON ANDERSON: Hold on. I
8 need to get clarification of that, because there
9 is a different standard, so I need to make sure
10 that I -- I need to make sure, but that will be
11 later on if we go to a Protest Hearing. I need
12 to make sure that I know whether or not -- there
13 is no issue with standing for you, but there is
14 just a little different issue if you are granted
15 standing as an abutting property owner or as a
16 Group of Five or More. Okay. So that's one of
17 the reasons why I had asked that.

18 All right. There is a Mr. Edgar?

19 MR. EDGAR: Edgar.

20 CHAIRPERSON ANDERSON: Edgar. All
21 right. Mr. Edgar, you are for the group, the
22 Dower Group, you are from the Group of Five or

1 More. Is that correct?

2 MR. EDGAR: Correct.

3 CHAIRPERSON ANDERSON: Now, it's my
4 understanding that you were given conditional
5 standing at the Roll Call Hearing. And what was
6 supposed to occur today is that you were supposed
7 to bring four -- there should have been four
8 additional members at this hearing today, who was
9 not at the Roll Call.

10 Now, do you have -- is there four
11 additional members here today who were not at the
12 Roll Call Hearing?

13 MR. EDGAR: No, I'm the --

14 CHAIRPERSON ANDERSON: No. All right.

15 MR. EDGAR: -- only one from our group
16 here.

17 CHAIRPERSON ANDERSON: All right, sir.
18 Well, because you were given conditional standing
19 and you had two hearings to bring five folks, and
20 five folks are not here, I then, by operation of
21 law, make a motion to my group, I'm sorry to the
22 Board, to dismiss. Yes, I'm sorry?

1 MR. EDGAR: I was not present at the
2 Roll Call, but I was told after the Roll Call
3 Hearing that the Group of Five was grandfathered
4 in --

5 CHAIRPERSON ANDERSON: No, no.

6 MR. EDGAR: -- for this hearing.

7 CHAIRPERSON ANDERSON: No. They were
8 given conditional standing, meaning that you had
9 -- you have two hearings to bring -- for five
10 people to actually come here. So if at the Roll
11 Call Hearing there were three members, at the
12 Status Hearing, then they had to bring another
13 three who were not there.

14 And since between the -- because they
15 have not brought five folks before the Board in
16 two hearings, we have to dismiss them as a
17 protestant.

18 They can join onto the other group.
19 They can be part of the other group. They can be
20 a part of the ANC. They can be a part of the
21 citizens association, but they will not have
22 their own standing to appear in this hearing.

1 MR. EDGAR: Well, I believe we were
2 advised otherwise by representatives of the
3 Board, but in any event, that's something we can
4 sort out between now and the Protest Hearing. Of
5 course, they will have the opportunity to appear
6 as witnesses in like manner?

7 CHAIRPERSON ANDERSON: Right. They
8 can join on to any other group, but I am only
9 going by the information that was given to me.

10 MR. EDGAR: We are a little confused.

11 CHAIRPERSON ANDERSON: Yeah.

12 MR. EDGAR: But we need not deal with
13 it today.

14 CHAIRPERSON ANDERSON: No, but we have
15 to deal with it today, because if -- because --
16 so we don't have any -- if we go to -- if we were
17 to go to a hearing, that there is no
18 misunderstanding. So that's one of the reasons
19 it's being dealt with today.

20 MR. EDGAR: Well, the reason I am
21 confused, as I say, I was not at the Roll Call,
22 but if I remember correctly when we held the

1 mediation, we were informed by the mediator that
2 they did not need to bring all five.

3 CHAIRPERSON ANDERSON: But let me ask
4 you a question, sir. And you were not at the
5 Roll Call Hearing?

6 MR. EDGAR: That's correct.

7 CHAIRPERSON ANDERSON: Can anyone tell
8 me, my notes tell me that there were not five for
9 the Dower Group. Does anyone -- how many people
10 from the Dower Group was at the Roll Call
11 Hearing?

12 MR. MURPHY: That was the one two
13 weeks ago?

14 MS. EMES: Yes.

15 MR. EDGAR: No, there were two.

16 MS. EMES: Oh, two.

17 MR. EDGAR: Two.

18 CHAIRPERSON ANDERSON: When Ms.
19 Fletcher was here, that was on a Monday and Ms.
20 Fletcher was here.

21 MS. TAMMANY CRUSE: Well, we were
22 informed that because it had been grandfathered

1 in from the previous --

2 CHAIRPERSON ANDERSON: But from --

3 MS. TAMMANY CRUSE: -- and all five
4 had shown up at the previous case, that they did
5 not have to show up again.

6 MR. EDGAR: Yes, this case started--

7 CHAIRPERSON ANDERSON: I'm aware. I'm
8 aware, sir.

9 MR. EDGAR: But we were informed that
10 everybody didn't have to show up for this.

11 MS. EMES: We specifically asked the
12 question.

13 MS. TAMMANY CRUSE: Mm-hmm.

14 CHAIRPERSON ANDERSON: All right.
15 Well, this is what I'm going to do. I'm going to
16 -- let me recall this case. I'll recall this
17 case in a couple of minutes. Let me have you
18 step back. I'll try to get the transcript from
19 the Roll Call.

20 Mediation is different. Okay? So I
21 know that this case was rolled over from a
22 previous case. But the information that was told

1 to me, but this was particular for the Dower
2 Group that five folks were not there and they had
3 to show up today.

4 But because it's very important, so
5 just step back, we will recall the case, until we
6 get clarification and then I'll recall the case.
7 Okay. All right.

8 (Whereupon, the above-entitled matter
9 went off the record at 9:46 a.m. and resumed at
10 9:50 a.m.)

11 CHAIRPERSON ANDERSON: All right. Let
12 me recall Protest Case No. 18-PRO-00081, Sandbox
13 Restaurant, License No. 110062.

14 All right. I had recalled this case
15 based on the information regarding the standing
16 of the Dower Group.

17 It's my understanding that Ms.
18 Fletcher did not inform that of the Dower Group,
19 but the most important thing, at least to the
20 Board, the Dower Group's designated
21 representative was Mr. Dower. Mr. Dower sent an
22 email to the Board this morning to inform the

1 Board that some last minute obligations are
2 preventing two members of our group from
3 attending today's status meeting.

4 Is there any way for them to visit
5 ABRA at some point during other point to be able
6 to sign-in on behalf of our group? These two
7 individuals did not, and I'm reading this
8 specifically, these two individuals did not
9 attend in the previous meetings. Sincerely, Ben.

10 So Mr. Dower who the Group of Five or
11 More, it's his group, he was aware that he had to
12 provide additional members at this hearing today
13 for him -- for that group to have standing. And
14 he has admitted that he was -- he is not -- he
15 has not been able to fulfill that obligation.

16 So based on that issue, based on that
17 fact, I am then making a motion to the Board that
18 we dismiss the Dower Group from this matter. Is
19 there a second?

20 MEMBER SHORT: Second.

21 CHAIRPERSON ANDERSON: Mr. Short has
22 seconded the motion.

1 All those in favor say aye.

2 ALL: Aye.

3 CHAIRPERSON ANDERSON: Those opposed?

4 The matter passed 6-0-0.

5 What this means is that the Dower
6 Group and their witnesses can join on as
7 witnesses on any other group they want to. They
8 themselves, however, do not have individual
9 standing to challenge this matter.

10 And I just want to let the group --
11 and one of the reasons why I had asked earlier
12 about the -- is your name Ms. Egan? Again, I'm
13 sorry.

14 MR. EDGAR: It's Edgar, E-D-G-A-R.

15 CHAIRPERSON ANDERSON: No, I'm sorry.

16 Who -- I'm sorry.

17 MR. EDGAR: Ms. Emes.

18 CHAIRPERSON ANDERSON: Ms. Emes.

19 MS. EMES: Emes.

20 CHAIRPERSON ANDERSON: Emes. Yeah,
21 one of the reasons why I had asked you about your
22 standing, which I need to get clarification

1 whether or not you are an abutting property owner
2 or if you are just a Group of Five or More,
3 because I just want to let the folks know that if
4 there is a settlement agreement that is signed
5 between the ANC and the Group of Five or More --
6 I'm sorry, and the licensee, then the groups
7 fall, except for the civic association. The
8 groups will fall.

9 Meaning that if they decide to have a
10 settlement agreement and if you are a Group of
11 Five or More and if you are not a part of the
12 settlement agreement, then by operation of law,
13 then you lose your right to participate in the
14 matter, because we cannot force them to make you
15 a party to a settlement agreement.

16 However, if you are an abutting
17 property owner, even if the ANC signs a
18 settlement agreement and if you don't agree with
19 it, you still have standing to move forward. So
20 that's one of the reasons I was asking you what
21 were you granted.

22 For the civic association, it's

1 similar in a sense that if there is a settlement
2 agreement between the ANC -- between the abutting
3 property owner and if the civic association
4 doesn't agree with it, they can still move
5 forward with the hearing, because they have
6 standing. Their standing continues.

7 So that's one of the reasons I was
8 asking. But if we do move to a hearing or if
9 there is a settlement agreement, then I'll get
10 further clarification from the records to see
11 whether or not it was just as a Group of Five or
12 More or also as abutting property owners.

13 Okay. So that's why I was asking.

14 MS. EMES: It was my understanding it
15 was as two abutting property owners.

16 CHAIRPERSON ANDERSON: All right.

17 Well, that's fine. I mean, if it becomes -- it's
18 not an issue, right, you have standing. It's not
19 an issue. It only becomes an issue if there is a
20 settlement agreement and if certain parties are
21 not a party to the settlement agreement or if
22 they still want to move forward.

1 But if we have to -- if that is an
2 issue, I'll make sure that I do further
3 investigation to make sure that we know what is
4 moving forward. But just again for the Dower
5 Group, you can join onto whatever group you want
6 to and continue to participate in this matter.
7 Okay.

8 Are there any other preliminary issues
9 that needs to be discussed today by either side?
10 All right. This matter is scheduled for a
11 Protest Hearing on February 13th at 1:30. It's
12 not -- if you were here earlier, I did state
13 another Protest Hearing was scheduled for
14 February 13th at 1:30, so but that is information
15 they give me, but it's scheduled for February 13t
16 at 1:30.

17 All right. Now that we have scheduled
18 this matter for hearing, there are some
19 additional information I would like to present to
20 both parties, so that if we have a Protest
21 Hearing the matter is focused and it addresses
22 only those issues that are being protested. The

1 Board does not intend to hear testimony on
2 matters that are not relevant to this case.

3 You should have received by electronic
4 or regular mail a letter explaining the protest
5 process, a copy of the Protest Information Form
6 and a copy of the Exhibit Form. If you do not
7 have these documents, please, contact Assistant
8 General Counsel April Randall following this
9 hearing.

10 It is imperative that you review these
11 rules closely and adhere to them before and
12 during the Protest Hearing. You are also
13 required to complete and submit the Protest
14 Information Form (PIF) and the Exhibit Form seven
15 days before the date of the hearing. These two
16 forms and accompanying documents need to be
17 submitted to ABRA's Legal Division and to all
18 opposing parties in this matter.

19 If we do not receive a copy of your
20 PIF, your application or your protest, whichever
21 side you are representing, may be subject to
22 dismissal. Likewise, if we do not receive a copy

1 of the Exhibit Form and the exhibits themselves,
2 your exhibits may be excluded from the record
3 upon a finding that the opposing party has been
4 prejudiced or no good cause for failure to submit
5 has been shown.

6 Likewise witnesses other than a party
7 may also be subject to exclusion if not
8 identified in the PIF.

9 Accordingly, these forms are very
10 important as they greatly assist the Board in
11 narrowing the protest issues, facilitating the
12 process and keeping the parties on point during
13 the hearing. They likewise provide notice to
14 opposing parties enabling them to better prepare
15 for the hearing.

16 We thank you for your cooperation. If
17 you have any questions today or at any time
18 leading up to the hearing, please, do not
19 hesitate to contact AGC Randall at (202) 442-
20 4353.

21 All right. So I'll see you on -- yes,
22 sir?

1 MR. ELLIOTT: I just wanted to ask you
2 something. February 13 afternoon has two
3 hearings scheduled.

4 CHAIRPERSON ANDERSON: Yes, sir.

5 MR. ELLIOTT: I have never been to a
6 hearing, but I think --

7 CHAIRPERSON ANDERSON: The -- if both
8 -- our General Counsel's Office will work their
9 magic and they will inform you what will happen
10 that day. So if both hearings occur, then we
11 will have both hearings occur and they will make
12 adjustments to our calendar or they might
13 postpone one. I don't know, but --

14 MR. ELLIOTT: Is there any possibility
15 of picking a clear date for our hearing?

16 CHAIRPERSON ANDERSON: It's -- by
17 operation of law, it is scheduled for that date.

18 MR. ELLIOTT: I see.

19 CHAIRPERSON ANDERSON: We have to have
20 it scheduled for April.

21 MR. ELLIOTT: Words on the placard,
22 yeah.

1 CHAIRPERSON ANDERSON: It has to be
2 scheduled.

3 MR. ELLIOTT: I see.

4 CHAIRPERSON ANDERSON: Now, if both
5 parties decide that jointly want to continue it,
6 they can make a motion to us. So if you want to
7 continue it, you can make a motion. If they
8 agree, we can. But right now, we are going to
9 have it on the 13th. Okay? And but if you have
10 any questions, please, call Ms. Randall. She
11 will walk you through the process and give you
12 whatever guidance you need.

13 If you believe that you need a
14 different date, you can contact her, she will let
15 you know what you need to do.

16 Our job or her job is to facilitate
17 this process to make sure that you guys
18 understand how this process operates. So
19 therefore, if you are here, we will have a
20 hearing. But as I have said before, I prefer if
21 you can work out a settlement agreement, because
22 if you work out a settlement agreement, you can

1 determine what works best for you in your
2 neighborhood.

3 I'm not sure if any Board Members
4 currently live in this area and so it's better if
5 you make your own decisions. But if you want us
6 to make the decision, of course, we will do that.

7 But we will see you on February 13th
8 at 1:30. If I don't see you on February 13th at
9 1:30, I will not take it personal. Okay. You
10 have a great day. Thank you very much.

11 MS. TAMMANY CRUSE: Thank you.

12 MR. EDGAR: Thank you.

13 MS. EMES: Thank you.

14 MR. ELLIOTT: Thank you.

15 CHAIRPERSON ANDERSON: All right.

16 (Whereupon, the Protest (Status)

17 Hearing was concluded at 10:00 a.m.)
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In the matter of: Sandbox Restaurant

Before: DCABRA

Date: 01-16-19

Place: Washington, DC

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