

ALSO PRESENT:

JOHN GUGGENMOS, ANC 2F

ROBERT GUIDOS, Group of 5 or More Protestants

TRICIA CAVELL, Group of 5 or More Protestants

JULIE EARNE, Group of 5 or More Protestants

LAWRENCE WATSON, Group of 5 or More Protestants

SIDON YOHANNES, Applicant Counsel

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

2 9:49 a.m.

3 CHAIRPERSON ANDERSON: The next matter
4 is Case No. 19-PRO-00052. This is again a
5 Protest Hearing (Status) Whole Foods Market,
6 License No. 86071.

7 Would all parties having matters
8 regarding Whole Foods Market, please, appear and
9 identify yourself for the record, please.

10 MR. GUGGENMOS: Good morning. My name
11 is John Guggenmos and I'm representing ANC-2F.

12 CHAIRPERSON ANDERSON: Okay. Good
13 morning. Who else do we have?

14 MR. GUIDOS: Robert Guidos, a
15 representative from the group of 94 residents
16 with me.

17 CHAIRPERSON ANDERSON: Okay. Who else
18 do we have?

19 MS. CAVELL: I'm Tricia Cavell. I am
20 the board president of 1441 Rhode Island Avenue
21 Condominiums. And I am also representing the
22 Group of 94 signatories from adjacent buildings.

1 CHAIRPERSON ANDERSON: I'm sorry, your
2 name again, ma'am?

3 MS. CAVELL: Tricia Cavell. T-R-I-C-
4 I-A C-A-V-E-L-L.

5 CHAIRPERSON ANDERSON: And who else do
6 we have?

7 MS. EARNE: I'm Julie Earne. I'm the
8 treasurer of The Willison, which is at 1425 Rhode
9 Island Avenue. And I am here along with Larry
10 who will also introduce himself representing a
11 Group of 5 or More.

12 CHAIRPERSON ANDERSON: All right.

13 MR. WATSON: I'm Lawrence Watson. I
14 live at 1425 Rhode Island Avenue, The Willison,
15 and I am a designated representative under our
16 protest.

17 CHAIRPERSON ANDERSON: So which is the
18 Group of 5 or More?

19 MR. WATSON: 5 or More representing
20 The Willison.

21 CHAIRPERSON ANDERSON: And I'll get
22 some clarification from our legal office, because

1 I have, at least the group that I have in front
2 of me, the ANC and I have the Earne Group and I
3 have the --

4 MR. GUIDOS: Guidos.

5 CHAIRPERSON ANDERSON: -- Guidos
6 Group. So is there another group?

7 MR. WATSON: No.

8 CHAIRPERSON ANDERSON: Okay. Fine.
9 And I see that there is no representative here
10 today for Whole Foods.

11 What I usually do is that these
12 matters are scheduled for a Protest Hearing at
13 9:30. I will recall these cases by 10:00. And
14 if either side is not there, I will make a Motion
15 to Dismiss the renewal and then the party has to
16 -- if they don't provide us good cause why they
17 weren't here today, then we dismiss their renewal
18 and they have to start the process over again.

19 So why don't you just take a seat,
20 sir, and we will -- I will recall the case at
21 10:00.

22 MR. GUIDOS: Thank you, Mr. Chairman.

1 CHAIRPERSON ANDERSON: All right.

2 MS. EARNE: Thank you.

3 MR. WATSON: Would you like us to
4 finish signing the sheet?

5 MR. GUIDOS: Yes.

6 CHAIRPERSON ANDERSON: Yeah, you can.
7 Yeah, please do.

8 MR. WATSON: All right.

9 (Whereupon, the above-entitled matter
10 went off the record at 9:52 a.m. and resumed at
11 10:12 a.m.)

12 CHAIRPERSON ANDERSON: All right. The
13 next case is Case No. 19-PRO-00052, Whole Foods,
14 License No. 86071.

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

17 MS. YOHANNES: Good morning. Sidon
18 Yohannes here for the applicant.

19 CHAIRPERSON ANDERSON: Ms. Yohannes.

20 MR. WATSON: Lawrence Watson, a
21 designated representative for the Group of 5 or
22 More at The Willison, 1425 Rhode Island Avenue.

1 CHAIRPERSON ANDERSON: Good morning.

2 MR. GUGGENMOS: John Guggenmos for the
3 ANC-2F.

4 CHAIRPERSON ANDERSON: Good morning.

5 MR. GUGGENMOS: Good morning.

6 MS. CAVELL: Tricia Cavell, board
7 president and designated representative for 1421
8 Condos and the 94 signatories of the adjacent
9 building.

10 CHAIRPERSON ANDERSON: Good morning.

11 MR. GUIDOS: Robert Guidos, same
12 group.

13 CHAIRPERSON ANDERSON: Good morning.

14 MS. EARNE: Julie Earne 1425 Rhode
15 Island Avenue, treasurer of the board
16 representing the Group of 5.

17 CHAIRPERSON ANDERSON: Good morning.

18 COURT REPORTER: If you could speak
19 into the microphone for the record, please.

20 CHAIRPERSON ANDERSON: All right.

21 MS. EARNE: Would you like me to
22 repeat?

1 MEMBER SHORT: Yes, push the
2 microphone closer so she can be picked up for the
3 record. Thank you. You need to speak into the
4 microphone, ma'am.

5 MS. EARNE: Okay.

6 CHAIRPERSON ANDERSON: All right. Ms.
7 Yohannes, this matter was scheduled for a Protest
8 Hearing at 9:30 this morning. And as a courtesy
9 to all parties, I recall cases. I give parties
10 half an hour to show up. But if that was not my
11 regular proceeding, I would have dismissed this
12 matter at 9:30, because we have a bunch of
13 protestants and they were all here this morning
14 at 9:30.

15 So I'm trying to find out why were you
16 not here at 9:30 when this case was called?
17 Because if I followed my normal, I would have
18 dismissed the application.

19 MS. YOHANNES: Understood and
20 apologies. I was in really bad traffic this
21 morning.

22 CHAIRPERSON ANDERSON: I'm just saying

1 as a matter of -- as an attorney, it's respectful
2 to be here at 9:30 and as I said before if it was
3 not my normal proceeding, as I did in the
4 previous case, I dismissed the ANC who was not
5 here when I recalled the case.

6 And if I -- if it was not my normal
7 proceeding, I would have dismissed the renewal of
8 the application at 9:30 when I called the case.

9 And I believe that if we have a bunch of
10 protestants and if they were here on time, that
11 it's incumbent on the licensee to be here on time
12 also.

13 All right. This matter is scheduled
14 for a Protest Hearing on December the 4th at
15 1:30. December the 4th at 1:30.

16 Are there any preliminary matters that
17 anyone needs to address to the Board?

18 MR. GUIDOS: So we have next do
19 mediation with the applicant. We have -- they
20 have come and visited our properties and the
21 attorney and the manager from Whole Foods to
22 hear the noise that we hear on a daily nightly

1 basis.

2 And it has been communicated to us
3 that they would provide a response in writing.
4 We have not received any response in writing. So
5 we would like -- given that there has been a
6 delay, movement from what our original protest
7 date is -- to in October to December, we have
8 accommodated that request.

9 And we are -- since it has been
10 delayed, we would like to continue to work with
11 the applicant. We would like to address these
12 issues, that's why we are here. We are trying to
13 figure out a path forward. Is it possible to
14 have another mediation scheduled? Is it
15 possible? I mean, we certainly would like to
16 have something in writing before that, but we
17 would be willing to go forward with the mediation
18 because we thought that the initial mediation was
19 productive, we just haven't received any
20 response.

21 CHAIRPERSON ANDERSON: Well, the
22 parties are free to meet and discuss. And since

1 this matter is scheduled for -- since we are in
2 September and this matter is scheduled for
3 December, I would hope that with all of this
4 period of time, that the parties will
5 consistently meet and try to come up with some
6 type of solution.

7 If you can't come, then we will have
8 a hearing. But if you need assistance from the
9 Agency to schedule another mediation, I know the
10 Agency would be open to doing that if the parties
11 believe that will be productive.

12 MR. GUIDOS: We are willing to do
13 that. I guess the question is to will the
14 applicant be willing?

15 CHAIRPERSON ANDERSON: Well, the --
16 you have had a mediation. The Board cannot force
17 a party to mediate. The only thing we can -- we
18 will suggest that the parties continue talking,
19 but if the parties refuse to talk, we will have
20 the Protest Hearing.

21 And I'm not quite sure why this was
22 pushed out to December. I don't know what the

1 date is since we are now in September. But
2 again, because it's a renewal, there is -- it's
3 on a different time line, because the business
4 will continue to operate.

5 But again, I'm not -- I was not -- the
6 Board was not part of the scheduling, so I guess
7 the parties had agreed to a December date.

8 MR. GUIDOS: Okay. So if the parties
9 agree to a facilitated mediation, then the Board
10 would --

11 CHAIRPERSON ANDERSON: The Board will
12 support that. The Board will support that. Yes?

13 MR. GUGGENMOS: Well I'm sorry to
14 interrupt.

15 CHAIRPERSON ANDERSON: Yes, go ahead,
16 sir.

17 MR. GUGGENMOS: But would the Board
18 order such mediation?

19 CHAIRPERSON ANDERSON: The Board --

20 MR. GUGGENMOS: It's not required,
21 but --

22 CHAIRPERSON ANDERSON: -- we can't

1 order the parties. I think that there was a
2 required mediation that the -- from what I was
3 told that you did participate in mediation. The
4 Board cannot order the parties to continue
5 mediating the matter.

6 If the parties want to mediate it, we
7 will facilitate it, but we can't force the
8 parties to talk if they don't want to talk.

9 MS. YOHANNES: I will say that the
10 applicant is willing to continue discussions and
11 I am stepping in for Mr. Kline here. And I will
12 have him contact you. I know that there has been
13 some discussions and some work that has been done
14 in meetings at the establishment and will
15 continue to work with you all.

16 In terms of the hearing date, I know
17 there were just some conflict in scheduling. So
18 but we -- I'll have Mr. Kline contact you. Is
19 that sufficient?

20 MR. GUGGENMOS: Appreciate it.

21 MS. EARNE: Yeah, I mean, I would like
22 to add that, you know, in our last mediation

1 meeting, the applicant had mentioned that they
2 were hiring a --

3 CHAIRPERSON ANDERSON: I don't -- I
4 can't facilitate the discussions that were in --
5 that you are discussing, because that's
6 confidential and it should not be brought in
7 front of us. So the only thing I can -- the
8 Board can -- if there are procedure like
9 preliminary issues, but not the substance of the
10 discussion at the mediation.

11 We cannot partake in that.

12 MS. YOHANNES: I'm happy to address
13 your concerns at the conclusion of this hearing.

14 CHAIRPERSON ANDERSON: Okay.

15 MR. GUIDOS: Thank you, Mr. Chair.

16 CHAIRPERSON ANDERSON: All right. So
17 as I said before, this matter then is scheduled
18 for a Protest Hearing on December 4th at 1:30.

19 The Board -- if the parties are
20 willing and able to continue discussion, we have
21 -- you have several months, so the Board would
22 urge both sides, the parties to get together and

1 continue discussing this matter. Hopefully you
2 can have a resolution rather than to have the
3 Board impose conditions that both sides might not
4 be happy with.

5 Okay. If you need any assistance from
6 the Board, you can always contact Ms. April
7 Randall, our Assistant General Counsel. Her
8 phone number is (202) 442-4353 if you need any
9 assistance from the Board to help the parties in
10 any of the matters.

11 Okay. Thank you very much.

12 MS. EARNE: Thank you.

13 MS. YOHANNES: And I apologize for
14 being late again to the Board --

15 CHAIRPERSON ANDERSON: Thank you.

16 MS. YOHANNES: -- and protestants.

17 CHAIRPERSON ANDERSON: All right. The
18 Board is now in recess. Thank you.

19 (Whereupon, the Protest (Status)
20 Hearing was concluded at 10:20 a.m.)
21
22

A

a.m 3:2 6:10,11 15:20
able 14:20
above-entitled 6:9
accommodated 10:8
add 13:22
address 9:17 10:11
 14:12
adjacent 3:22 7:8
Agency 11:9,10
agree 12:9
agreed 12:7
ahead 12:15
Alcoholic 1:2,14,15
ANC 1:8 2:11 5:2 9:4
ANC-2F 3:11 7:3
Anderson 1:16,19 3:3
 3:12,17 4:1,5,12,17
 4:21 5:5,8 6:1,6,12,19
 7:1,4,10,13,17,20 8:6
 8:22 10:21 11:15
 12:11,15,19,22 14:3
 14:14,16 15:15,17
apologies 8:20
apologize 15:13
appear 3:8
applicant 2:16 6:18
 9:19 10:11 11:14
 13:10 14:1
application 1:10 8:18
 9:8
Appreciate 13:20
approach 6:15
April 15:6
assistance 11:8 15:5,9
Assistant 15:7
attorney 9:1,21
Avenue 3:20 4:9,14
 6:22 7:15

B

bad 8:20
basis 10:1
believe 9:9 11:11
Beverage 1:2,14,15
board 1:2,14 3:20 7:6
 7:15 9:17 11:16 12:6
 12:9,11,12,17,19 13:4
 14:8,19,21 15:3,6,9
 15:14,18
BOBBY 1:19
brought 14:6
building 1:15 7:9
buildings 3:22
bunch 8:12 9:9
business 12:3

C

C-A-V-E-L-L 4:4
called 8:16 9:8
case 1:9 3:4 5:20 6:13
 6:13 8:16 9:4,5,8
cases 5:13 8:9
CATO 1:19
cause 5:16
Cavell 2:13 3:19,19 4:3
 4:3 7:6,6
certainly 10:15
Chair 14:15
Chairman 5:22
Chairperson 1:16,19
 3:3,12,17 4:1,5,12,17
 4:21 5:5,8 6:1,6,12,19
 7:1,4,10,13,17,20 8:6
 8:22 10:21 11:15
 12:11,15,19,22 14:3
 14:14,16 15:15,17
clarification 4:22
closer 8:2
COLUMBIA 1:1
come 9:20 11:5,7
communicated 10:2
concerns 14:13
concluded 15:20
conclusion 14:13
conditions 15:3
Condominiums 3:21
Condos 7:8
confidential 14:6
conflict 13:17
consistently 11:5
contact 13:12,18 15:6
continue 10:10 11:18
 12:4 13:4,10,15 14:20
 15:1
Control 1:2,14,15
Counsel 2:16 15:7
COURT 7:18
courtesy 8:8
CROCKETT 1:20

D

D.C 1:16
daily 9:22
date 10:7 12:1,7 13:16
December 9:14,15 10:7
 11:3,22 12:7 14:18
delay 10:6
delayed 10:10
designated 4:15 6:21
 7:7
different 12:3
discuss 10:22
discussing 14:5 15:1
discussion 14:10,20
discussions 13:10,13

14:4
dismiss 5:15,17
dismissed 8:11,18 9:4
 9:7
DISTRICT 1:1
doing 11:10
Donovan 1:16,19
DR 1:8

E

Earne 2:14 4:7,7 5:2 6:2
 7:14,14,21 8:5 13:21
 15:12
either 5:14
establishment 13:14

F

facilitate 13:7 14:4
facilitated 12:9
figure 10:13
find 8:15
Fine 5:8
finish 6:4
followed 8:17
Foods 1:6,7 3:5,8 5:10
 6:13 9:21
force 11:16 13:7
forward 10:13,17
free 10:22
front 5:1 14:7

G

General 15:7
give 8:9
given 10:5
go 10:17 12:15
good 3:10,12 5:16 6:17
 7:1,4,5,10,13,17
group 1:6 2:12,13,14,15
 3:15,22 4:11,18 5:1,2
 5:6,6 6:21 7:12,16
guess 11:13 12:6
Guggenmos 2:11 3:10
 3:11 7:2,2,5 12:13,17
 12:20 13:20
Guidos 2:12 3:14,14
 5:4,4,5,22 6:5 7:11,11
 9:18 11:12 12:8 14:15

H

half 8:10
happy 14:12 15:4
hear 9:22,22
hearing 1:8,15 3:5 5:12
 8:8 9:14 11:8,20
 13:16 14:13,18 15:20
help 15:9
hiring 14:2

hope 11:3
Hopefully 15:1
hour 8:10

I

I-A 4:4
identify 3:9 6:16
impose 15:3
incumbent 9:11
initial 10:18
interrupt 12:14
introduce 4:10
Island 3:20 4:9,14 6:22
 7:15
issues 10:12 14:9

J

JAMES 1:20
John 2:11 3:11 7:2
JR 1:19
Julie 2:14 4:7 7:14

K

Kline 13:11,18
know 11:9,22 13:12,16
 13:22

L

Larry 4:9
late 15:14
Lawrence 2:15 4:13
 6:20
legal 4:22
License 1:8,10 3:6 6:14
licensee 9:11
line 12:3
live 4:14

M

ma'am 4:2 8:4
manager 9:21
Market 1:6,7 3:5,8
matter 1:5 3:3 6:9 8:7
 8:12 9:1,13 11:1,2
 13:5 14:17 15:1
matters 3:7 5:12 9:16
 15:10
mean 10:15 13:21
mediate 11:17 13:6
mediating 13:5
mediation 9:19 10:14
 10:17,18 11:9,16 12:9
 12:18 13:2,3,22 14:10
meet 10:22 11:5
meeting 1:3 14:1
meetings 13:14
Member 1:19,20,20 8:1
mentioned 14:1

met 1:15
microphone 7:19 8:2,4
months 14:21
morning 3:10,13 6:17
 7:1,4,5,10,13,17 8:8
 8:13,21
Motion 5:14
movement 10:6

N

N.W 1:15
name 3:10 4:2
need 8:3 11:8 15:5,8
needs 9:17
nightly 9:22
noise 9:22
normal 8:17 9:3,6
number 15:8
NW 1:7

O

October 10:7
office 4:22
Okay 3:12,17 5:8 8:5
 12:8 14:14 15:5,11
open 11:10
operate 12:4
order 12:18 13:1,4
original 10:6

P

P 1:7
P-R-O-C-E-E-D-I-N-G-S
 3:1
part 12:6
partake 14:11
participate 13:3
parties 3:7 6:15 8:9,9
 10:22 11:4,10,18,19
 12:7,8 13:1,4,6,8
 14:19,22 15:9
party 5:15 11:17
path 10:13
period 11:4
phone 15:8
picked 8:2
please 3:8,9 6:7,15,16
 7:19
possible 10:13,15
preliminary 9:16 14:9
PRESENT 1:18 2:9
president 3:20 7:7
presiding 1:16
previous 9:4
procedure 14:8
proceeding 8:11 9:3,7
process 5:18
productive 10:19 11:11

properties 9:20
protest 1:7 3:5 4:16
 5:12 8:7 9:14 10:6
 11:20 14:18 15:19
protestants 2:12,13,14
 2:15 8:13 9:10 15:16
provide 5:16 10:3
push 8:1
pushed 11:22

Q

question 11:13
quite 11:21

R

RAFI 1:20
Randall 15:7
really 8:20
recall 5:13,20 8:9
recalled 9:5
received 10:4,19
recess 15:18
record 3:9 6:10,16 7:19
 8:3
Reeves 1:15
refuse 11:19
regarding 3:8
regular 8:11
Renew 1:10
renewal 5:15,17 9:7
 12:2
repeat 7:22
REPORTER 7:18
representative 3:15
 4:15 5:9 6:21 7:7
representing 3:11,21
 4:10,19 7:16
request 10:8
required 12:20 13:2
residents 3:15
resolution 15:2
respectful 9:1
response 10:3,4,20
resumed 6:10
Retailer 1:8
Rhode 3:20 4:8,14 6:22
 7:14
right 4:12 6:1,8,12 7:20
 8:6 9:13 14:16 15:17
Robert 2:12 3:14 7:11
Room 1:15

S

saying 8:22
schedule 11:9
scheduled 5:12 8:7
 9:13 10:14 11:1,2
 14:17

scheduling 12:6 13:17
seat 5:19
see 5:9
September 1:13 11:2
 12:1
sheet 6:4
SHORT 1:20 8:1
show 8:10
side 5:14
sides 14:22 15:3
Sidon 2:16 6:17
signatories 3:22 7:8
signing 6:4
sir 5:20 12:16
solution 11:6
sorry 4:1 12:13
speak 7:18 8:3
start 5:18
Status 1:8 3:5 15:19
stepping 13:11
Street 1:7,15
substance 14:9
sufficient 13:19
suggest 11:18
Suite 1:16
support 12:12,12
sure 11:21

T

T-R-I-C- 4:3
t/a 1:7
take 5:19
talk 11:19 13:8,8
talking 11:18
terms 13:16
Thank 5:22 6:2 8:3
 14:15 15:11,12,15,18
thing 11:17 14:7
think 13:1
thought 10:18
time 9:10,11 11:4 12:3
today 5:10,17
told 13:3
traffic 8:20
treasurer 4:8 7:15
Tricia 2:13 3:19 4:3 7:6
try 11:5
trying 8:15 10:12
type 11:6

U

Understood 8:19
urge 14:22
usually 5:11

V

visited 9:20

W

W 1:16,19
want 13:6,8
Washington 1:16
Watson 2:15 4:13,13,19
 5:7 6:3,8,20,20
Wednesday 1:12
went 6:10
weren't 5:17
willing 10:17 11:12,14
 13:10 14:20
Willison 4:8,14,20 6:22
work 10:10 13:13,15
writing 10:3,4,16

X**Y**

Yeah 6:6,7 13:21
Yohannes 2:16 6:17,18
 6:19 8:7,19 13:9
 14:12 15:13,16

Z**0****1**

1:30 9:15,15 14:18
10:00 5:13,21
10:12 6:11
10:20 15:20
11 1:13
1421 7:7
1425 4:8,14 6:22 7:14
1440-1446 1:7
1441 3:20
14th 1:15
19-PRO-00052 1:9 3:4
 6:13

2

2000 1:15
20009 1:16
2019 1:13
202 15:8
2F 1:8 2:11

3**4**

400S 1:16
442-4353 15:8
4th 9:14,15 14:18

5

5 2:12,13,14,15 4:11,18

4:19 6:21 7:16

6

7

8

86071 1:8 3:6 6:14

9

9:30 5:13 8:8,12,14,16
9:2,8

9:49 3:2

9:52 6:10

94 3:15,22 7:8

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: 09-11-19

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.



Court Reporter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701