

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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ROLL CALL HEARING

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IN THE MATTER OF: :

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Case #11-PRO-00092 :

Pare Deux Restaurant Partners, LLC:

t/a TBD :

1601 14th Street, N.W. :

License #ABRA-088243 :

Retailer Class CR :

New Application :

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TUESDAY, JANUARY 3, 2012

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The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, 4th Floor, Washington, D.C. 20009, Ms. La Verne Fletcher, Agent, presiding.

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

10:09 a.m.

AGENT FLETCHER: Would the parties in the matter of Pare Deux Restaurant please come forward? Pare Deux.

MR. O'BRIEN: Pare Deux.

AGENT FLETCHER: Pare Deux.

MR. O'BRIEN: Yes, Pare Deux.

AGENT FLETCHER: Thank you. I'm going to come in the back in case there's anyone in the back who can't hear me.

This is Case Number 11-PRO-00092, Pare Deux Restaurant Partners, LLC trading as to be announced, 1601 14th Street, N.W., License Number ABRA-088243, Retailer Class CR, New Application.

My name is La Verne Fletcher and I'll be conducting the Roll Call Hearing as the Board's Agent pursuant to D.C. Official Code 1601.2.

The protest issue in this matter is proximity to church.

1 Introductions beginning with the
2 Applicant please.

3 MR. O'BRIEN: Stephen O'Brien for
4 the Applicant.

5 AGENT FLETCHER: Thank you, Mr.
6 O'Brien and, Mr. O'Brien, just for the record,
7 is there any particular reason that the
8 Applicant is not present?

9 MR. O'BRIEN: They weren't coming
10 down from Philadelphia today for just this
11 strictly procedural matter. They're here
12 represented through counsel.

13 AGENT FLETCHER: Thank you and
14 present for the Protestant?

15 REV. SHANNON: I am Reverend
16 Vernon Shannon S-H-A-N-N-O-N.

17 AGENT FLETCHER: And could you
18 spell the first name?

19 REV. SHANNON: V-E-R-N-O-N.

20 AGENT FLETCHER: Thank you,
21 Reverend.

22 REV. SHANNON: I'm the Pastor of

1 John Wesley African Methodist Episcopal Zion
2 Church.

3 AGENT FLETCHER: Thank you.

4 REV. SHANNON: And also with me
5 is?

6 MR. SPINNER: Keith K-E-I-T-H
7 Spinner S-P-I-N-N-E-R.

8 REV. SHANNON: And he is the
9 Chairman of the Board of Trustees of the
10 Church and, Madam Chairperson, it might be
11 that I'll not be able to attend the next
12 meeting. In that case, Brother Spinner is
13 authorized to speak for the Church.

14 AGENT FLETCHER: Okay. Thank you
15 very much.

16 This protest is filed on behalf of
17 the John Wesley African Methodist Episcopal
18 Zion Church at 1615 14th Street, N.W.

19 REV. SHANNON: Yes, it's next door
20 to the proposed restaurant and abuts the
21 property.

22 AGENT FLETCHER: Thank you very

1 much.

2 Your protest letter states --
3 well, there are a couple of different reasons
4 that -- first of all, I should say that the
5 church does not have standing as a protestant,
6 but I'll tell you why.

7 There are a couple of things. The
8 first thing is that the protest letter itself
9 does not state a claim under our
10 appropriateness requirements. For example, it
11 states that you're filing a protest, but it
12 doesn't state a reason that we cover. It
13 doesn't state that you're protesting based on
14 peace, order and quiet, residential parking.
15 There are a variety of --

16 REV. SHANNON: Those are the
17 reasons that we are here to protest.

18 AGENT FLETCHER: I understand, but
19 those would have to be stated in your protest
20 letter, but even if they were, a church does
21 not have standing as a protestant. You might
22 be a protestant if the church was an abutting

1 property owner and if you owned the property
2 that shares a common wall.

3 REV. SHANNON: We are -- we are
4 that.

5 AGENT FLETCHER: Well, actually,
6 there are about three properties between you
7 and the establishment. Your address --

8 REV. SHANNON: Three properties
9 between us?

10 AGENT FLETCHER: You don't share a
11 common wall. Your address is 1615 14th
12 Street, N.W. The address of the establishment
13 is 1601 14th Street, N.W. and you don't share
14 a common wall.

15 MR. O'BRIEN: May I interrupt?

16 AGENT FLETCHER: Yes, Mr. O'Brien.

17 MR. O'BRIEN: I do that
18 reluctantly because I don't want to waste
19 anybody's time.

20 AGENT FLETCHER: Yes.

21 MR. O'BRIEN: The church property
22 does abut.

1 AGENT FLETCHER: According to the
2 Geographic Information System, they do not
3 share a common wall, but you have something to
4 the contrary, Mr. O'Brien?

5 MR. O'BRIEN: Well, I want to be
6 fair about this. I don't know if it share a
7 common wall or not, but there is no other
8 property between the church and the
9 Applicant's site.

10 AGENT FLETCHER: According to the
11 Geographic Information System, you don't share
12 a common wall, but even if you did, even if
13 you did, the protest would be dismissed
14 because the protest letter does not state a
15 claim that we cover.

16 You may petition the ABC Board to
17 reinstate your protest for any reason
18 whatsoever.

19 You will receive a notice
20 dismissing -- an order dismissing the protest
21 and in that order, you'll see that you have an
22 opportunity within ten days to seek

1 reinstatement of the protest.

2 But, Reverend Shannon, you're
3 saying that you do share a common wall? Just
4 for the record, you do share a common wall?

5 REV. SHANNON: We abut the
6 property and there is no building between us.
7 We are right --

8 AGENT FLETCHER: You share a
9 common wall?

10 REV. SHANNON: Yes. As a matter
11 of fact, there was an effort by a previous
12 potential buyer to buy the property. They
13 were going to build on top of that space, but
14 because the window from the church that would
15 have been hidden had they gone up, they were
16 disallowed to build up that property.

17 MR. O'BRIEN: I don't know about
18 the history, but as far as the factual issue
19 as to whether the church property abuts the
20 Applicant's property, we do not say otherwise.

21 AGENT FLETCHER: Okay.

22 MR. O'BRIEN: I've been out there.

1 I've looked at the site.

2 AGENT FLETCHER: Okay. Well,
3 thank you for that, Mr. O'Brien and thank you
4 and that determination was made based upon a
5 review of the Geographic Information System.

6 But, even if it did abut, the
7 requirement to state a cause covered under our
8 regulations which is 23 D.C. Municipal
9 Regulation Section 14, the fact that the
10 protest does not state a claim under that
11 section would cause the protest to have to be
12 dismissed.

13 Once you receive your order, you
14 may seek reinstatement of the protest. If you
15 want to provide additional information to the
16 ABC Board or --

17 REV. SHANNON: We will seek
18 reinstatement.

19 AGENT FLETCHER: Okay. Well,
20 thank you very much.

21 There are no other protestants in
22 this matter. John Wesley African Methodist

1 Episcopal Zion Church is dismissed for the
2 reasons that I just stated.

3 Reverend Shannon, would you write
4 your telephone number and email address on
5 that sheet on the table please?

6 And, Reverend Shannon, just FYI,
7 the basis that it appears that you filed the
8 protest on is the proximity of the
9 establishment to the church and that is not a
10 bases upon which to file a protest.

11 REV. SHANNON: Would you also
12 state the fact that it abuts the church?

13 AGENT FLETCHER: Even if it did,
14 it wouldn't make a difference because the
15 protest letter itself does not state a bases
16 that we cover.

17 REV. SHANNON: We have the basis
18 that we're -- but, they said in the letter
19 when it was sent --

20 AGENT FLETCHER: It would have to
21 be in the initial letter, but make your case
22 to the ABC Board if you're going to seek

1 reinstatement and then they can make a final
2 decision or a different decision from the one
3 that I made today.

4 REV. SHANNON: We will appeal to
5 the Board.

6 AGENT FLETCHER: Okay. Did I see
7 a hand?

8 DR. LOFTUS: Yes, I have photo
9 here.

10 AGENT FLETCHER: Could you step
11 forward and state your name in the record?
12 Right behind the table there.

13 DR. LOFTUS: Okay. My name is Dr.
14 Andrew Loftus and I am the next-door neighbor
15 at 1343 --

16 AGENT FLETCHER: Excuse me,
17 Doctor. Could you spell your name please?

18 DR. LOFTUS: Andrew A-N-D-R-E-W
19 Loftus L-O-F-T-U-S.

20 AGENT FLETCHER: Okay.

21 DR. LOFTUS: I'm the next-door
22 neighbor at 1343 Q Street.

1 AGENT FLETCHER: Yes.

2 DR. LOFTUS: And I was just going
3 to show a photograph that shows that the
4 property does abut the church.

5 AGENT FLETCHER: Okay. Thank you.

6 DR. LOFTUS: This is the building
7 and this is the church.

8 AGENT FLETCHER: Yes. Thank you.
9 This photograph does show that the church
10 abuts the property and it does appear to share
11 a common wall. Thank you very much.

12 REV. SHANNON: Thank you very
13 much.

14 DR. LOFTUS: You're welcome.

15 AGENT FLETCHER: Thank you.

16 REV. SHANNON: Thank you very
17 much.

18 AGENT FLETCHER: I appreciate
19 that. Thank you. So, that clarifies that
20 issue.

21 Based on this photograph, the
22 properties do abut. The Geographic

1 Information System does not have them
2 abutting, but you've got a photograph right
3 here that clearly shows that they abut and so,
4 thank you for that. I'll include that in the
5 record.

6 Anything else?

7 Mr. Spinner?

8 MR. SPINNER: When we return for
9 the other parts of this, can we bring
10 attorneys or technical help?

11 AGENT FLETCHER: If the Board
12 reinstates your protest, yes. If the Board
13 does not reinstate your protest, there will be
14 no further proceedings. But, if they do
15 reinstate your protest, yes, you may bring
16 your attorney.

17 REV. SHANNON: Can we appear
18 before the Board?

19 AGENT FLETCHER: Only if they
20 reinstate the protest. When you receive your
21 order, you may within ten days seek
22 reinstatement in writing. When you get your

1 response back from the Board, if they have
2 granted you reinstatement, I will become aware
3 of that and I'll contact you and give you some
4 dates for upcoming proceedings. If the ABC
5 Board does not reinstate the protest, then
6 there will be no further proceedings --

7 REV. SHANNON: Would you give me
8 the grounds on which protests may be made
9 please?

10 AGENT FLETCHER: I'm sorry. Can
11 you repeat that?

12 REV. SHANNON: Would you give me
13 the grounds on which protests may be -- excuse
14 me. Would you give me the grounds on which
15 protests may be made?

16 AGENT FLETCHER: Yes, and if you
17 give me your email address, I'll send you the
18 section which is -- and I'll tell you, yes,
19 but I'll send you the section which is 23 DCMR
20 Section 14. I can --

21 REV. SHANNON: Would you also send
22 it to Mr. Spinner please?

1 AGENT FLETCHER: Okay. Mr.
2 Spinner, if you will put your email address,
3 I'll send that to you.

4 But, I can tell you now if you
5 would like, Reverend Shannon, what the bases
6 are.

7 REV. SHANNON: All right.

8 AGENT FLETCHER: You could claim
9 adverse impact on peace, order and quiet,
10 residential parking, vehicular and pedestrian
11 safety, real property values, adverse impact
12 on real property values, over concentration.
13 Those are the bases and I'll send the section
14 of the regulation to you, Mr. Spinner, by
15 email.

16 MR. SPINNER: Thank you.

17 AGENT FLETCHER: Anything else?
18 Okay. The Roll Call Hearing is concluded.
19 Thank you.

20 (Whereupon, at 10:23 a.m., a
21 recess was taken until 10:24 a.m.)

22 AGENT FLETCHER: Thank you, Mr.

1 O'Brien, for making that point. You'll get an
2 order dismissing the protest, but you don't
3 have to wait for that order. You could seek
4 reinstatement right now noting that the
5 protest was dismissed during the Roll Call on
6 January 3rd.

7 MR. O'BRIEN: Yes. Yes. All
8 right. Thank you.

9 AGENT FLETCHER: You're welcome.

10 (Whereupon, at 10:24 a.m., the
11 hearing was adjourned.)
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