

DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE CONTROL BOARD  
+ + + + +  
MEETING

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IN THE MATTER OF: :  
:  
Neighborhood Restaurant :  
Group VII, LLC t/a Birch & : Show Cause  
Barley/Churchkey : Hearing  
1337 14th Street, NW : (Status)  
Retailer CR - ANC-2F :  
License No. 80839 :  
Case #12-CMP-00328 :  
:  
(Failed to Post ABC Window :  
Lettering in a Conspicuous :  
Place. Failed to Post :  
Pregnancy Sign. Failed to :  
Post Current Legal Drinking :  
Age Notice) :  
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January 9, 2013

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, 2000 14th Street, N.W., Suite 400S Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson  
NICK ALBERTI, Member  
DONALD BROOKS, Member  
HERMAN JONES, Member  
MIKE SILVERSTEIN, Member

ALSO PRESENT:

CHRISSY GEPHARDT, OAG

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

(10:16 a.m.)

CHAIRPERSON MILLER: Okay. The next case on our calendar is Case No. 12-CMP-00328, Birch & Barley/Churchkey located at 1337 14th Street, N.W., License No. 80839.

MS. GEPHARDT: Chrissy Gephardt on behalf of the Government.

MR. KLINE: Andrew Kline on behalf of the licensee. Seated to my left is Michael Babin, principal of the licensee and to his left Erik Bergman, general manager of the restaurant.

CHAIRPERSON MILLER: Okay. And did the licensee receive notice of this hearing?

MR. KLINE: He has read it, understand -- understood it and waives any required formal reading.

CHAIRPERSON MILLER: Great. All right. Are there any preliminary matters in this case?

1 MS. GEPHARDT: Yes, there is,  
2 Madam Chairwoman. In this case, the parties  
3 have agreed to an offer in compromise, as this  
4 is the first violation for this licensee in  
5 any category, the Government has agreed to  
6 issue a warning in this case, based upon the  
7 stipulation that the licensee make a  
8 representation that this situation has been  
9 corrected and that the signs are currently  
10 posted.

11 CHAIRPERSON MILLER: Okay. All  
12 right. So similar to the previous case we  
13 had.

14 MR. KLINE: With a couple of  
15 other --

16 CHAIRPERSON MILLER: But it's a  
17 little different. I can see that.

18 MR. KLINE: A couple differences.

19 CHAIRPERSON MILLER: Right.

20 MR. KLINE: One is if this case  
21 went to hearing, our evidence would show that  
22 two of the signs actually were posted. We are

1 not contesting that for purposes of this offer  
2 in compromise, but since there seems to be  
3 some issue in another case as to what the  
4 report said, we want the Board to know that  
5 the facts are contested. And if we go to  
6 hearing, they will be contested and this  
7 represents a compromise of the contested  
8 matter.

9 And the warning is consistent with  
10 the policy announced by the Council in terms  
11 of warnings for minor violations, first  
12 offenses that do not impact public safety.  
13 These signs were up. Mr. Babin and Mr.  
14 Bergman both attest that the violation has been  
15 corrected.

16 MR. BABIN: Yes.

17 MS. BERGMAN: Yes.

18 MR. BABIN: The only -- as counsel  
19 said, we had a first time manager on that  
20 night. He had -- literally his very first  
21 night and he did not know where the signs were  
22 posted. So he -- and they were -- as it

1 turned out, they were standing in very close  
2 proximity to where they were posted during the  
3 entire conversation.

4 With regard to the window  
5 lettering, we honestly were unaware of that  
6 requirement and now we know and we have fixed  
7 it. That was fixed within hours of his visit.

8 CHAIRPERSON MILLER: Okay. Yes,  
9 we don't want to get too much into the  
10 evidence in the case. But it also seems very  
11 different to me just on paper that this is the  
12 first offense of any kind for this  
13 establishment. There is no investigative  
14 history.

15 And to me that does seem a very  
16 appropriate case for warning, but -- and the  
17 distinction between this case and the previous  
18 case.

19 Do Board Members have some  
20 questions on the offer in compromise? Okay.  
21 Then I'm going to see if I can reiterate it  
22 for a motion before the Board.

1                   And that would be that the OIC in  
2                   this case would be a warning. I'm sorry,  
3                   stipulated on proof that the signs are  
4                   actually posted? Okay. We do have your  
5                   representation though that the signs are  
6                   posted.

7                   MR. BABIN: Absolutely.

8                   CHAIRPERSON MILLER: Okay. And  
9                   the proof would be in a notarized statement?

10                  MR. KLINE: No, we don't need that  
11                  in this case.

12                  CHAIRPERSON MILLER: Oh, we have--

13                  MR. KLINE: We have the licensee  
14                  here.

15                  CHAIRPERSON MILLER: So what proof  
16                  do --

17                  MR. KLINE: The only thing -- I  
18                  think the OIC is that the licensee will  
19                  receive a formal written warning.

20                  CHAIRPERSON MILLER: Okay.

21                  MR. KLINE: As set forth in the  
22                  regulations.

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CHAIRPERSON MILLER: Okay.

Because we have heard from -- the licensee is right there. Okay. So then the OIC then is just that there be -- that a warning be issued in this case.

MS. GEPHARDT: That's correct.

CHAIRPERSON MILLER: Okay. Simply put. Do -- my motion would be to accept that OIC. Do I have a second?

MEMBER BROOKS: Second.

CHAIRPERSON MILLER: Mr. Brooks has seconded the motion.

All those -- any other comments before we vote?

All those in favor say aye.

MEMBER BROOKS: Aye.

CHAIRPERSON MILLER: Aye.

MEMBER JONES: Aye.

MEMBER SILVERSTEIN: Aye.

CHAIRPERSON MILLER: All those opposed?

MEMBER ALBERTI: Oppose.

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CHAIRPERSON MILLER: Then the vote  
is 4-1-0 to approve the offer in compromise.

MR. BABIN: Thank you.

MR. KLINE: Thank you.

CHAIRPERSON MILLER: You're  
welcome.

(Whereupon, the Show Cause  
(Status) Hearing in the above-entitled matter  
was concluded at 10:21 a.m.)

<b>A</b>	3:11,16,19 5:8 6:8 6:12,15,20 7:1,7 7:11,17,20 8:1,5	<b>formal</b> 2:19 6:19 <b>forth</b> 6:21	<b>G</b>	<b>little</b> 3:17 <b>LLC</b> 1:6 <b>located</b> 2:5	<b>P</b>
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