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

(9:37 a.m.)

CHAIRPERSON MILLER: Good morning, ladies and gentlemen. I'd like to welcome you to the regularly scheduled meeting of the District of Columbia Alcoholic Beverage Control Board. Today is January 15, 2014.

My name is Ruthanne Miller and I'm the chairperson. And joining me today, to my far right, is Mr. Donald Brooks, and then next to Mr. Brooks is Mr. Nick Alberti. And to my immediate right is Mr. Hector Rodriguez who I'd like to welcome. He's one of our new members now.

And to my immediate left is Mr. Mike Silverstein, and we're also --

(Off the record comments)

CHAIRPERSON MILLER: Okay, and finally Mr. James Short who's joining us today as a new member as well. I'd like to welcome our new members.

And all right, we'll get into

1 today's morning calendar. We have now six
2 members in attendance for this morning's
3 meetings, and three is a quorum. Copies of
4 today's hearing calendar and agenda are
5 available over at the receptionist's desk.
6 Please be aware that these proceedings are
7 being recorded by a court reporter.
8 Accordingly, we must ask you to refrain from
9 any disruptive noises or actions in the
10 hearing room.

11 If you have any electronic
12 devices, pagers, cell phones or such, please
13 make certain they're turned off to avoid any
14 interruption of the proceedings. When I call
15 your case, please come forward and take a seat
16 at the table.

17 You'll note that there's a piece
18 of paper on each table for you to sign in.
19 This is to ensure the correct spelling of your
20 name for the record. The Open Meetings Act
21 requires that the public hearing on each case
22 be open to the public. The Board may,

1 consistent with Section 405(b) of the Open
2 Meetings Act, enter a closed meeting during or
3 after the public hearing on a case to consult
4 with an attorney to obtain legal advice,
5 discuss settlement agreements or deliberate
6 upon a decision in an adjudication proceeding.

7 All right, I'm going to call the
8 first case on the morning calendar and that is
9 Case Number 13-PRO-00146, Ghana Cafe, located
10 at 1336 14th Street NW. License Number 82751
11 and ANC 2F.

12 MR. OPARE: Good morning.

13 CHAIRPERSON MILLER: Good morning.
14 Have a seat. When you're ready, you can
15 introduce yourself for the record, starting on
16 my right.

17 MS. OPARE: Abigail Opare, Ghana
18 Cafe.

19 CHAIRPERSON MILLER: I'm sorry, I
20 couldn't hear you.

21 MS. OPARE: Abigail Opare.

22 CHAIRPERSON MILLER: Okay.

1 MS. OPARE: Ghana Cafe. That's
2 my, Anthony Opare.

3 MR. OPARE: I'm Anthony Opare.

4 CHAIRPERSON MILLER: Okay, and
5 you're the owner?

6 MR. OPARE: Yes.

7 CHAIRPERSON MILLER: All right.

8 MR. HIBBE: Good morning. I'm
9 Mike Hibbe and I represent a group of
10 neighbors.

11 CHAIRPERSON MILLER: Okay.

12 MR. LYNN: Good morning. Chris
13 Lynn for ANC 2F.

14 CHAIRPERSON MILLER: Okay. Let me
15 just start by saying it's come to my
16 understanding that this case probably should
17 not have been placarded at all, that there is
18 a settlement agreement which precludes this
19 type of substantial change for an
20 entertainment endorsement. And I want to hear
21 from the parties if they have any views on
22 that point.

1 MALE PARTICIPANT: Excuse me, if
2 they have any what?

3 CHAIRPERSON MILLER: If you have
4 any views on that point. Because it's come to
5 my attention that this should not have been
6 placarded. That there exists a provision in
7 the settlement agreement that would preclude
8 this entertainment endorsement, and therefore
9 the Board would not entertain it unless there
10 was an amendment to the settlement agreement
11 that changed that.

12 MALE PARTICIPANT: Yes, that's
13 exactly our position. And I think we're all
14 still working towards an amendment.

15 CHAIRPERSON MILLER: Okay. Any
16 other comments on this?

17 MR. OPARE: Yes, the party, you
18 know, opponents did not fulfill part of the
19 provision towards the agreement. And just
20 everything was, that makes the agreement null
21 and void.

22 CHAIRPERSON MILLER: Right, so we

1 wouldn't do that. We don't accept
2 applications that would make the agreement
3 null and void. So the agreement is very much
4 in existence and controlling on this issue.

5 Any --

6 MR. OPARE: My point is that a
7 provision in that agreement was not fulfilled
8 by the opponent, the whole business. That
9 makes, you know, that renders the agreement
10 voidable.

11 CHAIRPERSON MILLER: It was not
12 what by the protestants?

13 MR. OPARE: The provision on the
14 sidewalk cafe.

15 CHAIRPERSON MILLER: This involves
16 an entertainment endorsement. Is that
17 correct?

18 MR. OPARE: Yes. But no, the
19 reason why I signed the agreement in 2010 was
20 because I was promised a sidewalk cafe, and
21 the ANC to sign the agreement, and that was
22 never fulfilled.

1 CHAIRPERSON MILLER: Okay. So the
2 Board really doesn't get into that issue right
3 now.

4 MR. OPARE: I agree with you.

5 CHAIRPERSON MILLER: Okay.

6 MR. OPARE: But no, that was what
7 was used as a bait for me to sign. Otherwise
8 I wouldn't have signed that agreement which
9 prevented me from getting a sidewalk cafe, to
10 obtain an endorsement.

11 MALE PARTICIPANT: We don't agree
12 with that, but --

13 CHAIRPERSON MILLER: Okay, all
14 that's at issue at this point is then that the
15 Board is prepared to --

16 MR. OPARE: As a result, you know,
17 because --

18 CHAIRPERSON MILLER: Okay, sir.
19 This is a status conference, and we're not
20 getting into the merits or your settlement
21 agreement or any other negotiations that went
22 into it.

1 I just wanted to let you know
2 before the Board proceeded that we intend to
3 dismiss this substantial change application
4 because it's precluded by the settlement
5 agreement that is in effect.

6 And if there's not any comments on
7 that I'm prepared to make that motion at this
8 time.

9 MEMBER SILVERSTEIN: I second,
10 Madam Chair.

11 CHAIRPERSON MILLER: Okay. So
12 there's been a motion to dismiss the
13 substantial change application for the
14 entertainment endorsement. It's been seconded
15 by Mr. Mike Silverstein.

16 Any other comments or questions?
17 Then I'll --

18 MALE PARTICIPANT: If I could make
19 a comment for the --

20 CHAIRPERSON MILLER: No, I meant
21 by the Board members. All those in favor of
22 this motion say aye.

1 (Chorus of ayes)

2 CHAIRPERSON MILLER: All those
3 opposed? All those abstaining? The motion
4 passes 6-0.

5 Okay, now did you have a question?

6 MALE PARTICIPANT: We're on the
7 ANC working with Mr. Hibbe and the protestants
8 to negotiate amendments to the agreement, to
9 update you on the status. So it might be
10 helpful for the owner and for our information
11 to know what action would be taken in order
12 for Ghana Cafe to apply the process, I guess.

13 CHAIRPERSON MILLER: Okay. So
14 right, I was going to get to that next. This
15 application has now been dismissed and there
16 will be a written order to follow.

17 But what needs to be done is, if
18 you all agree that there should be some type
19 of entertainment endorsement, you as all the
20 parties to the agreement can modify the
21 agreement voluntarily. You can do an
22 amendment that you all sign on to and then

1 submit that to the Board.

2 And then if the Board approves
3 that then there will no longer be this legal
4 impediment to applying for the endorsement.
5 Okay? All right. If you have any questions
6 feel free to follow up with our legal counsel
7 Martha Jenkins. Okay, thank you.

8 (Whereupon, the foregoing matter
9 went off the record at 9:46 a.m.)

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