

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

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IN THE MATTER OF: :  
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19th & K, Inc. t/a Ozio :  
Martini & Cigar Lounge : Protest  
1813 M Street, NW : Hearing  
Retailer CN - ANC-2B : (Status)  
License No. 89394 :  
Case #13-PRO-00151 :  
 :  
(Renewal Application) :  
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January 22, 2014

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

PRESENT:

- RUTHANNE MILLER, Chairperson
- DONALD BROOKS, Member
- MIKE SILVERSTEIN, Member
  
- HECTOR RODRIGUEZ, Member
- JAMES SHORT, Member

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

(10:37 a.m.)

CHAIRPERSON MILLER: Next Protest  
(Status) Hearing case is Case No. 13-PRO-00151  
for Ozio Martini & Cigar Lounge located at  
1813 M Street, N.W., License No. 89394, in  
ANC-2B.

MR. FONSECA: Good morning,  
Members of the Board. Michael Fonseca on  
behalf of the licensee. With me is Steven  
Christacos, which the stenographer has the  
spelling.

CHAIRPERSON MILLER: Oh, good.  
Okay. Thank you.

MR. FONSECA: He's very efficient.  
He came and saw it this morning.

CHAIRPERSON MILLER: Okay.  
MS. NICHOLS: Abigail Nichols, a  
designated representative of a Group of  
Residents.

CHAIRPERSON MILLER: Okay. And I  
would just like to disclose for the record

1           that before I came on the Board, I represented  
2           Jefferson Row Condominiums in mediation  
3           involving an ABC Board case with respect to  
4           the rooftop.

5                        I don't think there is a problem  
6           with my handling this Status Hearing unless  
7           anybody does have a problem with that.

8                        MR. FONSECA: I would not object.

9                        CHAIRPERSON MILLER: Okay. Okay.

10                      MR. FONSECA: Under the  
11           circumstances, in past matters you have  
12           recused yourself, but this is just a Status  
13           Hearing.

14                      CHAIRPERSON MILLER: Right. Okay.  
15           All right. So we can proceed with the status.  
16           Is there anything you want to put on the  
17           record or any questions you have with respect  
18           to the process, at this point? Otherwise, I  
19           will be, you know, scheduling you for a  
20           hearing date and reading the instructions for  
21           the Protest Hearing.

22                      MR. FONSECA: Well, I want to just

1           preliminarily address a couple of things.

2                         CHAIRPERSON MILLER:   Okay.

3                         MR. FONSECA:   Just process-wise,  
4           we met last week at the establishment with Ms.  
5           Nichols and another representative, Sarah  
6           Peck.  And then on last Thursday, we had about  
7           two hours of mediation.  Yeah, without going  
8           into specifics here, you know, there is an  
9           existing voluntary agreement.  It's very  
10          specific to sound and noise from music from  
11          the rooftop.

12                        And that is the only issue that I  
13          -- to my knowledge that the protestants have.  
14          And the confluence of issues here, which I  
15          know if this goes to full protest, the Board  
16          would only focus on this establishment, is  
17          there is an effort by the protestants who have  
18          effectively protested a number.  And we are  
19          the first up with our original roll call, but  
20          a number of establishments, as Member  
21          Silverstein will know, that are in the club  
22          zone there in Dupont Circle, of which this is

1           one.

2                         So I think our problem is we are  
3           the best of what may be considered a place  
4           that does have noise.  And it is a bit of a  
5           problem because we are not prepared to settle,  
6           frankly, with a new agreement, but we are  
7           hoping that we can.  And we are working to see  
8           if they can be satisfied such that we are  
9           really not the problem and they may withdraw.

10                        But that's the nature of where we  
11           are.

12                        CHAIRPERSON MILLER:  Okay.

13                        MS. NICHOLS:  And I agree with  
14           what Mr. Fonseca said.  Chairman Miller when  
15           you stated about setting a hearing, we are  
16           pleased -- we were given a preliminary date a  
17           ways out.  And because that gives us a time --  
18           gives us time to work through problems, if --  
19           it is interesting that Ozio came up -- it's  
20           just the scheduling when people got their  
21           applications in.

22                        And these discussions were spread

1 over several months.

2 CHAIRPERSON MILLER: Okay. Well,  
3 we are glad you are having those discussions.

4 MS. NICHOLS: Very productive.

5 CHAIRPERSON MILLER: Yeah. And  
6 then there are these dates, you know.

7 MS. NICHOLS: Yes, yes, of course,  
8 we have a date.

9 CHAIRPERSON MILLER: It would be  
10 the hearing date.

11 MS. NICHOLS: Yes.

12 CHAIRPERSON MILLER: So --

13 MS. NICHOLS: We have a  
14 preliminary?

15 CHAIRPERSON MILLER: -- I'm going  
16 to give you the hearing date.

17 MS. NICHOLS: Okay.

18 CHAIRPERSON MILLER: And that is  
19 March 19, 2014 at 1:30 p.m.

20 MS. NICHOLS: That's what we had  
21 heard as a preliminary.

22 CHAIRPERSON MILLER: Okay.

1 DR. NELSON: So thank you.

2 CHAIRPERSON MILLER: Okay. So you  
3 know that that is the --

4 MR. FONSECA: And that was at  
5 1:30?

6 CHAIRPERSON MILLER: Yeah. Okay.  
7 If there are any other preliminary issues, I  
8 just want to read some of the -- or highlight  
9 some of our instructions regarding protests,  
10 so you know that if you go to protest, the  
11 purpose of the Protest Hearing is to determine  
12 the appropriateness of the establishment in  
13 the section of the District where the  
14 establishment is located, which is 23-1607 in  
15 our Regs.

16 And then I want to let you know  
17 that you should be receiving a PIF, a Protest  
18 Information Form, in the mail, if you haven't  
19 received it already. That will be coming from  
20 Tesha Anderson. It explains the protest  
21 process. It will also contain in that mailing  
22 an exhibit form. And if you don't have these

1 documents, please, see Ms. Anderson at the  
2 conclusion of the hearing.

3 It's very important that you  
4 review the rules closely and adhere to them  
5 before and during the Protest Hearing. You  
6 are required to complete and submit the  
7 Protest Information Form and the exhibit form  
8 seven days before the date of the hearing.

9 These two forms and accompanying  
10 documents need to be submitted to Ms. Anderson  
11 and to all opposing parties in this matter.

12 If we don't receive a copy of your  
13 PIF, your application or your protest,  
14 depending on which side you are representing,  
15 might be subject to dismissal. Likewise, if  
16 we do not receive a copy of the exhibit form  
17 and exhibits themselves, your exhibits may be  
18 excluded from the record upon a finding that  
19 the opposing party has been prejudiced or no  
20 good cause for the failure to submit has been  
21 shown.

22 Likewise, witnesses other than a

1 party may also be subject to exclusion if not  
2 identified on the PIF.

3 Accordingly, these forms are very  
4 important. They assist the Board in narrowing  
5 the protest issues, facilitating the process  
6 and keeping the parties on point during the  
7 hearing. They likewise provide notice to  
8 opposing parties enabling them to better  
9 prepare for the hearing.

10 So thank you very much. If you  
11 have any questions, feel free to contact Ms.  
12 Anderson at (202) 442-6492 or our General  
13 Counsel, Martha Jenkins.

14 MS. NICHOLS: Thank you.

15 CHAIRPERSON MILLER: Okay.

16 MR. FONSECA: Thank you, Members  
17 of the Board.

18 CHAIRPERSON MILLER: Thank you.

19 (Whereupon, the Protest (Status)  
20 Hearing in the above-entitled matter was  
21 concluded at 10:44 a.m.)  
22

<p style="text-align: center;"><b>A</b></p> <p>a.m 2:2 9:21  <b>ABC</b> 3:3  <b>Abigail</b> 2:18  <b>above-entitled</b> 9:20  <b>accompanying</b> 8:9  <b>address</b> 4:1  <b>adhere</b> 8:4  <b>agree</b> 5:13  <b>agreement</b> 4:9 5:6  <b>Alcoholic</b> 1:2,13,13  <b>ANC-2B</b> 1:8 2:7  <b>Anderson</b> 7:20 8:1  8:10 9:12  <b>anybody</b> 3:7  <b>application</b> 1:10  8:13  <b>applications</b> 5:21  <b>appropriateness</b>  7:12  <b>assist</b> 9:4</p>	<p><b>closely</b> 8:4  <b>club</b> 4:21  <b>CN</b> 1:8  <b>COLUMBIA</b> 1:1  <b>coming</b> 7:19  <b>complete</b> 8:6  <b>concluded</b> 9:21  <b>conclusion</b> 8:2  <b>Condominiums</b> 3:2  <b>confluence</b> 4:14  <b>considered</b> 5:3  <b>contact</b> 9:11  <b>contain</b> 7:21  <b>Control</b> 1:2,13,13  <b>copy</b> 8:12,16  <b>Counsel</b> 9:13  <b>couple</b> 4:1  <b>course</b> 6:7</p>	<p><b>exclusion</b> 9:1  <b>exhibit</b> 7:22 8:7,16  <b>exhibits</b> 8:17,17  <b>existing</b> 4:9  <b>explains</b> 7:20</p> <p style="text-align: center;"><b>F</b></p> <p><b>facilitating</b> 9:5  <b>failure</b> 8:20  <b>feel</b> 9:11  <b>finding</b> 8:18  <b>first</b> 4:19  <b>focus</b> 4:16  <b>Fonseca</b> 2:8,9,15  3:8,10,22 4:3 5:14  7:4 9:16  <b>form</b> 7:18,22 8:7,7  8:16  <b>forms</b> 8:9 9:3  <b>frankly</b> 5:6  <b>free</b> 9:11  <b>full</b> 4:15</p>	<p><b>identified</b> 9:2  <b>important</b> 8:3 9:4  <b>Information</b> 7:18  8:7  <b>instructions</b> 3:20  7:9  <b>interesting</b> 5:19  <b>involving</b> 3:3  <b>issue</b> 4:12  <b>issues</b> 4:14 7:7 9:5</p> <p style="text-align: center;"><b>J</b></p> <p><b>JAMES</b> 1:22  <b>January</b> 1:12  <b>Jefferson</b> 3:2  <b>Jenkins</b> 9:13</p> <p style="text-align: center;"><b>K</b></p> <p><b>K</b> 1:6  <b>keeping</b> 9:6  <b>know</b> 3:19 4:8,15  4:21 6:6 7:3,10,16  <b>knowledge</b> 4:13</p>	<p><b>MIKE</b> 1:19  <b>Miller</b> 1:15,18 2:3  2:13,17,21 3:9,14  4:2 5:12,14 6:2,5  6:9,12,15,18,22  7:2,6 9:15,18  <b>months</b> 6:1  <b>morning</b> 2:8,16  <b>music</b> 4:10</p> <p style="text-align: center;"><b>N</b></p> <p><b>N.W</b> 1:14 2:6  <b>narrowing</b> 9:4  <b>nature</b> 5:10  <b>need</b> 8:10  <b>NELSON</b> 7:1  <b>new</b> 5:6  <b>Nichols</b> 2:18,18 4:5  5:13 6:4,7,11,13  6:17,20 9:14  <b>noise</b> 4:10 5:4  <b>notice</b> 9:7  <b>number</b> 4:18,20  <b>NW</b> 1:7</p>
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