

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

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IN THE MATTER OF: :
 :
A Taste International, LLC :
t/a Xclusive Restaurant and : Protest
Lounge : Hearing
707 H Street, NE : (Status)
Retailer CT - ANC-6C :
License No. 88205 :
Case #11-PRO-00091 :
 :
(New Application) :
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February 1, 2012

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
- CALVIN NOPHLIN, Member
- MIKE SILVERSTEIN, Member
- JEANNETTE MOBLEY, Member

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

2 (9:35 a.m.)

3 CHAIRPERSON MILLER: Good morning,
4 ladies and gentlemen. I would like to welcome
5 you to the regularly scheduled meeting of the
6 District of Columbia Alcoholic Beverage
7 Control Board. Today is February 1, 2012.

8 My name is Ruthanne Miller and I'm
9 the Chairperson. Joining me today to my far
10 right is Mr. Calvin Nophlin, to his immediate
11 left is Mr. Donald Brooks, to my immediate
12 right is Mr. Nick Alberti, to my far left is
13 Mr. Herman Jones, to his immediate right is
14 Ms. Jeannette Mobley and to my immediate left
15 is Mr. Mike Silverstein.

16 The Board has seven Members in
17 attendance for the conduct of business today
18 with three constituting a quorum.

19 Copies of today's hearing calendar
20 and agenda are available at the reception
21 desk. Please be aware that these proceedings
22 are being recorded by a court reporter.

1 Accordingly, we must ask you to refrain from
2 any disruptive noises or actions in the
3 hearing room.

4 If you have any electronic
5 devices, pagers, cell phones or such, please,
6 make certain that they are turned off to avoid
7 any interruption of the proceedings.

8 Please note, when you come to the
9 table, there is a white piece of paper on each
10 table. When you come forward as your case is
11 called, please, take a seat at the table and
12 sign-in. This is to ensure the correct
13 spelling of your name.

14 The record will be closed at the
15 conclusion of each case, except for any
16 material specifically requested by the Board
17 or if the parties elect to submit proposed
18 findings of fact and conclusions of law within
19 30 calendar days after the conclusion of the
20 hearing, as permitted by 23 DCMR ^U 1717.2.

21 After the record is closed, no
22 other information will be accepted by the

1 Board.

2 Copies of transcripts are
3 available by contacting ABRA's records
4 manager, Bill Hagar, and it is the sole
5 responsibility of the parties to make that
6 request.

7 The Open Meetings Act requires
8 that the public hearing on each case be open
9 to the public. The Board may, consistent with
10 ^U 405(b) of the Open Meetings Act, enter a
11 closed meeting during or after the public
12 hearing on a case to consult with an attorney
13 to obtain legal advice, discuss settlement
14 agreements or deliberate upon a decision in an
15 adjudication proceeding.

16 The Board's calendar this morning
17 includes Show Cause (Status) Hearings, Show
18 Cause Hearings, Protest (Status) Hearings and
19 Fact-Finding Hearings.

20 A Show Cause (Status) Hearing is a
21 non-adversarial proceeding where the Board
22 will ask whether the licensed establishment is

1 contesting the charges. If you are not
2 contesting the charges, you will have the
3 opportunity to present to the Board any offer
4 in compromise you have reached with the Office
5 of Attorney General pursuant to 23 DCMR ^U
6 1604.5.

7 The offer in compromise will be
8 based upon statutory fine range for the
9 specific violation pursuant to 23 DCMR ^U 800
10 through ^U 802.

11 The Board may, in its discretion,
12 accept or deny an offer in compromise tendered
13 by the licensee and offer of Attorney General.

14 An offer submitted by the parties
15 and accepted by the Board shall constitute a
16 waiver of appeal and judicial review.

17 As defined in 23 DCMR ^U 1603.1, a
18 Protest (Status) Hearing is a proceeding held
19 by the Board at which the parties inform the
20 Board of their progress in reaching a
21 voluntary agreement or alternative settlement.

22 If the parties have not reached a

1 settlement, the Board will schedule the matter
2 for Protest Hearing.

3 Okay. At this point then, I think
4 we are ready to proceed with the first matter
5 on the agenda, which is a Protest (Status)
6 Hearing. And that is Case No. 11-PRO-00091,
7 A Taste International LLC t/a Xclusive
8 Restaurant and Lounge and ANC-6C.

9 So would the parties, please, come
10 forward to the table? Good morning, would you
11 introduce yourselves for the record whenever
12 you are ready?

13 MR. WELLS: Good morning. I'm
14 Christopher Wells, president of A Taste
15 International LLC.

16 CHAIRPERSON MILLER: Okay.

17 MR. RICHARDSON: Tony Richardson,
18 ANC Commissioner 6C.

19 MR. JOHNSON: Seth Johnson, one of
20 the protestants.

21 CHAIRPERSON MILLER: Okay.

22 MR. JOHNSON: I'm a

1 representative.

2 MS. SNYDER: Kate Snyder.

3 CHAIRPERSON MILLER: I'm sorry,
4 what's your name?

5 MS. SNYDER: Kate Snyder.

6 CHAIRPERSON MILLER: Okay. If I
7 understand, you all got party status of
8 conditional standing, because five individuals
9 weren't there at the time.

10 MR. JOHNSON: Kate should be the
11 fifth.

12 CHAIRPERSON MILLER: Okay.

13 MR. JOHNSON: She is one of the
14 signatories to the protest.

15 CHAIRPERSON MILLER: You are the
16 fifth person?

17 MR. JOHNSON: Yes, we had four.

18 CHAIRPERSON MILLER: And the other
19 four were at the --

20 MR. JOHNSON: At the Roll Call.

21 CHAIRPERSON MILLER: -- Roll Call.
22 Okay. And where do you all stand with respect

1 to voluntary agreements?

2 MR. RICHARDSON: At mediation, we
3 are too far apart in order to close right now.

4 CHAIRPERSON MILLER: You are far
5 apart?

6 MR. RICHARDSON: Yes.

7 CHAIRPERSON MILLER: Okay. All
8 right. Then you are scheduled for a hearing,
9 Protest Hearing March 28th at 1:30.

10 I'm going to read the instructions
11 that relate to the Protest Hearing. And then
12 if you have any other questions, you can ask
13 before you go.

14 Pursuant to 23 DCMR 1606, a
15 Protest Hearing is an adjudicatory proceeding
16 held for the purpose of receiving evidence and
17 testimony regarding the appropriateness of the
18 licensing action.

19 At the Protest Hearing, an
20 applicant or licensee may give a brief opening
21 statement summarizing the evidence and
22 testimony he or she intends to produce

1 regarding the appropriateness of the
2 application or license at issue.

3 Thereafter, the protestant may
4 give a brief opening statement summarizing the
5 evidence he or she intends to rebut or
6 overcome the evidence and argument presented
7 by the applicant or licensee.

8 At the conclusion of the opening
9 statements, the Board will call its own
10 witness, an ABRA Investigator, who will
11 testify to the results of their investigation
12 into the appropriateness of the establishment.

13 At the conclusion of the testimony
14 by the Board's witness, the applicant or
15 licensee will call its witnesses to give
16 testimony and present evidence regarding the
17 appropriateness of the establishment.

18 At the conclusion of testimony by
19 the applicant or licensee's witnesses, the
20 protestants will call witnesses to give
21 testimony and present evidence.

22 All witnesses shall testify under

1 oath and shall be subject to questioning by
2 the Board and to cross-examination by the
3 opposing party.

4 In any case where there is more
5 than one protestant, the Board, in its
6 discretion, may require the protestants to
7 confer among themselves and designate one
8 person to conduct the protestant's case, to
9 give the opening and closing statements and to
10 cross-examine the applicant or licensee's
11 witnesses.

12 Okay. Okay. There are a few
13 additional instructions. And let me say this,
14 you can follow-up with staff afterwards, you
15 know, when you are preparing, but I just want
16 to put this on the record, at this point, that
17 you hear it at least here and it also will
18 help you to focus on the evidence and the
19 issues that need to be addressed.

20 Okay. So at the Protest Hearing,
21 we are going to focus on those relevant issues
22 and the Board is not going to hear testimony

1 on matters that aren't relevant to the case.

2 You should have received in a
3 mailing from Sarah Fashbaugh, a letter,
4 explaining the protest process and a copy of
5 the Protest Information Form. If you do not
6 have these documents, please, see Ms.
7 Fashbaugh at the conclusion of this hearing.

8 It is imperative that you review
9 the rules closely and adhere to them before
10 and during the Protest Hearing.

11 You are also required to complete
12 and submit the Protest Information Form, PIF,
13 seven days before the date of the hearing.
14 This document needs to be submitted to ABRA
15 and to the opposing parties in this matter.

16 If we do not receive a copy of
17 your PIF, your application or your protest,
18 whichever side you are on, may be subject to
19 dismissal. This is not a frivolous exercise
20 on your part. This form greatly assists the
21 Board in narrowing the protest issues,
22 facilitating the process and keeping the

1 parties on point during the hearing.

2 Thank you for your cooperation.

3 If you have any questions today or at any time
4 leading up to the hearing, please, do not
5 hesitate to contact Ms. Fashbaugh at (202)
6 397-3971. Okay. Thank you.

7 Okay. I think that is the best
8 way to proceed, if you have questions, just
9 contact her.

10 Okay. Thank you very much. That
11 concludes this case today.

12 (Whereupon, the Protest (Status)
13 Hearing in the above-entitled matter was
14 concluded at 9:44 a.m.)

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