

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF: :

RCX, LLC t/a Stadium :
 2127 Queen Chapel Road NE : Fact Finding
 : Hearing
 Retailer CN :
 License No. 94244 :

ANC 5C :

-----:

FEBRUARY 11, 2015

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

PRESENT:

RUTHANNE MILLER, Chairperson

DONALD BROOKS, Member

NICK ALBERTI, Member

HECTOR RODRIGUEZ, Member

MIKE SILVERSTEIN, Member

JAMES SHORT, Member

HERMAN JONES, Member

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

2:00 p.m.

CHAIR MILLER: The Board's next hearing is a fact finding case. RCX, LLC t/a Stadium, 2127 Queen Chapel Road, Northeast, License No. 94244 in ANC 5C. It's with respect to an application to transfer the license.

Yes, sir, would you introduce yourself for the record, please?

MR. HAFFNER: Julian Haffner on behalf of RCX, LLC.

CHAIR MILLER: Could you say that again?

MR. HAFFNER: Julian Haffner.

CHAIR MILLER: Okay, is anyone joining you today?

MR. HAFFNER: Just me today.

CHAIR MILLER: Okay, so, I have before me, a letter dated January 29, 2015, that was sent to you, asking you to come to this hearing, so that we could get

1 information about what's happening with your
2 application to transfer the license, the
3 Stadium Group, to you all.

4 This was in January, but the
5 license, I believe was approved last August,
6 and am I correct, you're not operating under
7 a temporary license either?

8 MR. HAFFNER: That's correct. We
9 haven't applied for a temporary license.

10 As you know, there are several
11 contingencies that had to be met before we
12 could affect the transfer. We've been in
13 the process of trying to get those
14 contingencies met.

15 So, we're at the last stretch
16 here with the scheduling of a Department of
17 Health inspection, which is a requirement
18 for us to get our business license, and that
19 should be scheduled for tomorrow. I have a
20 call out to Ms. Coleman, from the Department
21 of Health.

22 We've been trying to set up,

1 pretty much all week, and I finally got in
2 touch with her this morning. So, we should
3 have that set for tomorrow, and barring any
4 other complications, that should be the
5 final hurdle between us and the license.

6 CHAIR MILLER: How are you
7 related to Mr. Schaffer? You're related to
8 Martin Schaffer?

9 MR. HAFFNER: No. So, Marty
10 Schaffer was actually handling the ABRA
11 matter prior to my coming into the case.

12 CHAIR MILLER: Okay, are you
13 aware that as of August 14th, when he was
14 handling the matter, that he was told that
15 the approval is contingent upon submission
16 to the Office of Business License,
17 certificate of occupancy, settlement
18 statement and bill of sale?

19 MR. HAFFNER: Correct.

20 CHAIR MILLER: Okay, so, could
21 you -- so, business license, you're saying -
22 -

1 MR. HAFFNER: Yes.

2 CHAIR MILLER: -- you're going to
3 get an inspection tomorrow and when should
4 you get the business license?

5 MR. HAFFNER: So, it's my
6 understanding that as soon as that
7 inspection is done, it's pretty much
8 instantaneous, so we can go take the results
9 of that inspection over to DCRA and get the
10 license.

11 CHAIR MILLER: So, conceivably,
12 that could be tomorrow?

13 MR. HAFFNER: Conceivably, yes,
14 but to -- I guess to be conservative, I
15 would say probably some time next week.

16 CHAIR MILLER: Okay, and how
17 about the certificate of occupancy?

18 MR. HAFFNER: Right, so, we've
19 secured the certificate of occupancy.

20 CHAIR MILLER: Same thing?

21 MR. HAFFNER: We've already
22 secured that.

1 CHAIR MILLER: You have?

2 MR. HAFFNER: Yes.

3 CHAIR MILLER: Okay, how about
4 the settlement statement?

5 MR. HAFFNER: So, the settlement
6 statement is contingent upon the license
7 transferring. Once the license transfers,
8 you can close the transaction. We will have
9 a settlement statement and we will have the
10 Bill of Sale.

11 So, those haven't been executed
12 until we get this license issued, get the
13 license issue straightened out.

14 CHAIR MILLER: So, you're saying
15 that you need the license transferred before
16 you have the settlement statement?

17 MR. HAFFNER: That's correct. We
18 couldn't close the transaction to acquire
19 the assets of the Stadium Group until we
20 were confident that we were going to get the
21 liquor license.

22 CHAIR MILLER: Okay, so, but you

1 already got approval?

2 MR. HAFFNER: Right.

3 CHAIR MILLER: So, we're only
4 talking about issuance, and the way I read
5 this letter is that the office needs the
6 settlement statement in order to issue the
7 license.

8 MR. HAFFNER: Right. So, I guess
9 what I'm saying is that as soon as the
10 inspection is taken care of, we get the
11 business license, we will proceed
12 immediately to closing, at which point, we
13 will execute the settlement statement and
14 the Bill of Sale.

15 CHAIR MILLER: Okay, so, are you
16 -- would that all happen next week?

17 MR. HAFFNER: That's the hope and
18 the intent, yes.

19 CHAIR MILLER: Okay, it's been a
20 -- this is a long period of time that you're
21 operating, not even with a temporary
22 license.

1 MR. HAFFNER: Understood.

2 CHAIR MILLER: Well, I'm going to
3 let others start and I'll get back to
4 something else. Go ahead, other Board
5 Members can ask questions, if you'd like.
6 Are there other questions?

7 MEMBER ALBERTI: I guess I'll
8 start. I mean, I sort of want to get back
9 to basics.

10 So, the current status, back in
11 January, I think earlier in 2014, at a Fact
12 Finding Hearing, you informed us that you
13 had a -- RCX had a management agreement.

14 MR. HAFFNER: Correct.

15 MEMBER ALBERTI: Had a management
16 agreement with Mr. Redding's LLC, the one
17 LLC that Mr. Redding was referring, is that
18 correct?

19 MR. HAFFNER: Correct.

20 MEMBER ALBERTI: Is that still in
21 place?

22 MR. HAFFNER: Yes, it is.

1 MEMBER ALBERTI: Okay, so, to put
2 it simply, Mr. Redding was deferring, you're
3 still the rightful owners of the business,
4 is that correct?

5 MR. HAFFNER: Correct.

6 MEMBER ALBERTI: All right, who
7 owns the property, the building?

8 MR. HAFFNER: RF Holdings still
9 owns the property.

10 MEMBER ALBERTI: RF Holding,
11 which is?

12 MR. HAFFNER: That is --

13 MEMBER ALBERTI: Who is -- who
14 owns RF Holdings?

15 MR. HAFFNER: That is an entity
16 owned by Mr. Redding and Mr. Forney.

17 MEMBER ALBERTI: So, that
18 property hasn't transferred?

19 MR. HAFFNER: Right. So, the
20 idea is that they were going to have
21 simultaneous closings on the property and
22 the acquisition of the assets.

1 MEMBER ALBERTI: Why -- just out
2 of curiosity, why, since it's -- since RCX
3 isn't involved in the acquisition of the
4 property? That's what you represented to
5 us.

6 You represented there was a
7 separate LLC that was -- that was -- what
8 you're saying, the building.

9 MR. HAFFNER: Correct. So, there
10 are two entities, RCX LLC and QC21 LLC.
11 QC21 LLC will be acquiring the real estate.
12 RCX LLC will be acquiring the assets.

13 MEMBER ALBERTI: I got that. Why
14 the link there?

15 MR. HAFFNER: It's been several
16 hurdles that we had to overcome, with
17 respect to the certificate of occupancy, it
18 took us a while to get that.

19 It's taken us a while to get the
20 --

21 MEMBER ALBERTI: No, why the
22 link? Why the link? You don't have to have

1 a CFO to purchase a building.

2 I mean, I understand the CFO and
3 the transfer of the license, but why the
4 link between the purchase of the property
5 and RCX's completion of the process to
6 transfer the license.

7 MR. HAFFNER: You're asking why
8 the link?

9 MEMBER ALBERTI: Yes, why the
10 link? Why the link between the purchase of
11 the property and the execution of the -- of
12 the purchase of the business itself?

13 MR. HAFFNER: So, I agree with
14 you that they could have -- they could
15 happen independent of each other. It's just
16 in the parties understanding and assumption
17 that they were going to be simultaneous
18 closings.

19 So, to answer your question I
20 guess most directly, there is no reason that
21 they're linked. There's no reason that they
22 should -- that they have to be, but that has

1 been the approach.

2 MEMBER JONES: Board Member

3 Alberti, may I just ask a quick follow up?

4 MEMBER ALBERTI: Sure, you may.

5 MEMBER JONES: Just to make sure

6 I'm following.

7 So, you're saying there is no
8 reason that they have to be linked, correct?

9 MR. HAFFNER: Correct.

10 MEMBER JONES: But there is no
11 reason that they -- the contrary is also
12 true, is that correct?

13 MR. HAFFNER: Contrary being
14 that?

15 MEMBER JONES: That they don't --
16 they don't have to be linked, but there is
17 no issue with them linking -- with them
18 being linked, from your perspective,
19 correct?

20 You're operating under the
21 construct that they are linked, and there --
22 you see no issue with them being linked, as

1 in simultaneous processes, correct?

2 MR. HAFFNER: Correct.

3 MEMBER JONES: Okay, thank you.

4 That's all. Just want to make sure I
5 understood what the understanding was.

6 MEMBER ALBERTI: So, are you
7 prepared to submit a lease agreement?

8 MR. HAFFNER: So, yes, I think
9 we've actually been asked that question
10 before, and we said yes, it's simply going
11 to be an assignment of lease, the lease that
12 -- stating --

13 MEMBER ALBERTI: And when does it
14 execute?

15 MR. HAFFNER: What does it
16 execute?

17 MEMBER ALBERTI: The signing of
18 the lease, who will hold the lease?

19 MR. HAFFNER: QC21.

20 MEMBER ALBERTI: All right, so,
21 they don't own the property yet?

22 MR. HAFFNER: Correct.

1 MEMBER ALBERTI: So, when will
2 that lease execute?

3 Let me just break this down for
4 you in laymen's terms.

5 You're going to lease the proper
6 from QC whatever it is, right?

7 MR. HAFFNER: Right.

8 MEMBER ALBERTI: What's the name
9 of it? QC?

10 MR. HAFFNER: QC21.

11 MEMBER ALBERTI: QC21. So, RCX
12 is going to lease the property to QC21, but
13 can't do that until QC21 owns the property.

14 MR. HAFFNER: Right.

15 MEMBER ALBERTI: Now, when does
16 that lease agreement execute?

17 MR. HAFFNER: So, it would
18 happen, the assignment would happen at the
19 closing. That would be one of the many
20 things that we would do at closing, would be
21 to just sign the current lease from Stadium
22 Group, LLC.

1 MEMBER ALBERTI: So, that's the
2 document you wrote us also?

3 MR. HAFFNER: That we need?

4 MEMBER ALBERTI: Yes, because you
5 can't -- we can't transfer the -- this
6 license until we have a lease agreement.

7 MR. HAFFNER: Well, correct. So,
8 there is an existing lease, it's just, there
9 is simply going to be an assigned -- terms
10 are going to be the same. The parties are
11 essentially --

12 MEMBER ALBERTI: Right, it
13 doesn't mean anything to us until it's
14 executed. So, you owe us that. Is that
15 correct?

16 MR. HAFFNER: Understood,
17 correct.

18 MEMBER ALBERTI: Okay, great.
19 All right, I'm good. I have no other
20 further questions right now.

21 CHAIR MILLER: Mr. Jones?

22 MEMBER JONES: Thank you, Madam

1 Chair. I just want to make sure we're on
2 the same page, in terms of what it is you
3 recognize as documents or items that are
4 required to complete this process, that have
5 yet to be submitted and acknowledged as
6 being received by ABRA.

7 Do you have a list of what those
8 items are --

9 MR. HAFFNER: Yes.

10 MEMBER JONES: -- and if so, can
11 you go through your list?

12 MR. HAFFNER: In the August 14th
13 letter, that Chairman -- that other guy --

14 MEMBER JONES: Okay, so, that
15 guide consisted of -- I'm not to be
16 contrite, I'm just trying -- can you -- what
17 are those items?

18 MR. HAFFNER: Let me pull it up,
19 because she just mentioned that, but I'll
20 pull it up.

21 We need a business license,
22 certificate --

1 MEMBER JONES: Okay, so, business
2 license, and the status of that, which you
3 just gave us is, you expect -- you hope to
4 have that some time next week, correct?

5 MR. HAFFNER: My hope and
6 expectation.

7 MEMBER JONES: All right, so,
8 that's item one. So, we can -- so, we hope
9 to get that next week, from you?

10 MR. HAFFNER: Correct.

11 MEMBER JONES: All right, what's
12 next? What's the next item on the list?

13 MR. HAFFNER: Occupancy.

14 MEMBER JONES: Say it, I'm sorry.

15 MR. HAFFNER: The certificate of
16 occupancy.

17 MEMBER JONES: Okay, and you
18 currently have that in your possession, but
19 you have not yet submitted it to ABRA,
20 correct?

21 MR. HAFFNER: That's correct.

22 MEMBER JONES: Okay, what's the

1 next item?

2 MR. HAFFNER: The settlement
3 statement, I believe.

4 CHAIR MILLER: Yes.

5 MEMBER JONES: Okay, and the
6 settlement statement, in your dialogue with
7 the Chair, is something that you will be
8 able to secure and submit to us at what
9 point, once you get the what?

10 MR. HAFFNER: Once we close,
11 which we hope is going to be next week --

12 MEMBER JONES: Okay.

13 MR. HAFFNER: -- because all of
14 that is contingent upon getting the business
15 license.

16 MEMBER JONES: Okay, so, going to
17 closing is contingent upon you getting a
18 business license?

19 MR. HAFFNER: Correct.

20 MEMBER JONES: And I'm just --
21 help me follow -- I'm not following how that
22 is linked, in the sense of, why can't you go

1 to closing --

2 MR. HAFFNER: Right.

3 MEMBER JONES: Why does Redding
4 or Forney care, if they're trying to sell
5 the business, why do they care about whether
6 or not you get a business license?

7 MR. HAFFNER: So, the idea was
8 that we couldn't go to closing until we
9 actually had the liquor license. We can't
10 get the liquor license until we secure all
11 of these documents.

12 MEMBER JONES: Okay.

13 MR. HAFFNER: We're in the
14 process of trying to secure these documents.
15 Looks like we've finally gotten to the last
16 stretch, where we're going to have them all.
17 We can finally close.

18 MEMBER JONES: Okay.

19 MR. HAFFNER: Submit the
20 documents and the package to ABRA.

21 MEMBER JONES: So, is that
22 contingency in place to protect you, the

1 buyer?

2 MR. HAFFNER: That's correct.

3 MEMBER JONES: All right. So,
4 and you do recognize, based on Board Member
5 Alberti's -- well, I think either Board
6 Member Alberti's or the Chair's questions to
7 you, that if we require the submission of
8 the settlement agreement, in order for you
9 to get a license, you're not going to have
10 that and therefore, you're not going to have
11 the protection that you're looking for from
12 the buyer standpoint, in order to go to
13 closing.

14 I think that's part of what's
15 causing me some confusion, when you respond
16 to that.

17 So, you understand my question of
18 why -- can you clarify that for me?

19 MR. HAFFNER: Okay, definitely,
20 definitely.

21 MEMBER JONES: Okay.

22 MR. HAFFNER: Okay, so, I

1 completely understand now.

2 The issue is that we weren't
3 certain that we were going to be able to
4 physically get the liquor license because of
5 all these contingencies.

6 Once we secure the business
7 license, we know for certain, that the
8 contingencies have been met and we can
9 therefore, proceed to closing. We will have
10 the settlement agreement.

11 So, it's not as though the
12 settlement is still hanging out -- the
13 settlement statement is still hanging out
14 there.

15 Once we get the business license,
16 the settlement agreement signed --

17 MEMBER JONES: Okay, so, I guess
18 what I'm hearing from you is that your
19 client is prepared to go forward with
20 settlement, even if you do not have in your
21 hands, an approved license from ABRA at that
22 point in time, because you're not going to

1 have one without us receiving the settlement
2 agreement.

3 MR. HAFFNER: Understood.

4 MEMBER JONES: Is that -- okay,
5 that's -- so, we're on the same page?

6 MR. HAFFNER: We are on the same
7 page.

8 MEMBER JONES: Okay, cool. All
9 right, so, that's item three, okay.

10 MEMBER ALBERTI: Just let me,
11 real quick ask. But you should add to your
12 list, an executed lease agreement.

13 MR. HAFFNER: Sure, or a signed
14 lease.

15 MEMBER ALBERTI: Signed lease
16 agreement, execute a signed lease agreement.

17 So, we have to know that it has
18 been executed, before we'll give you the
19 license.

20 Back to you, Mr. Jones. I'm
21 sorry.

22 MEMBER JONES: So, my Board

1 Member jumped the gun on me a little bit,
2 but so, we had three items, right, that we
3 were referring to, and the fourth item was
4 what?

5 MR. HAFFNER: The Bill of Sale.

6 MEMBER JONES: The Bill of Sale,
7 all right, and that is something that you
8 will have when?

9 MR. HAFFNER: We will execute
10 that at settlement.

11 MEMBER JONES: At settlement,
12 right, okay. So, then those are the four
13 items that you were expecting to have to
14 provide prior to coming in these doors and
15 sitting before us today, those four things?

16 MR. HAFFNER: Right.

17 MEMBER JONES: Right, as of the
18 dialogue that you had today, you're not --
19 you've now added a fifth item to your list,
20 is that correct?

21 MR. HAFFNER: Per Board Member
22 Alberti, yes.

1 MEMBER JONES: Well, is it your
2 understanding that you have a fifth item to
3 provide?

4 MR. HAFFNER: Yes.

5 MEMBER JONES: Okay, cool, and
6 that fifth item is an executed lease
7 agreement?

8 MR. HAFFNER: Right.

9 MEMBER JONES: And you understand
10 why?

11 MR. HAFFNER: Yes.

12 MEMBER JONES: As require --
13 okay, and those are the five things that
14 you're expecting to have to provide to us?

15 MR. HAFFNER: Absolutely.

16 MEMBER JONES: All right, thank
17 you. All right, that's all I have for now,
18 Madam Chair.

19 CHAIR MILLER: Mr. Short?

20 MEMBER SHORT: Good afternoon,
21 Mr. Haffner. I guess I've been here a year
22 on the Board, and I remember one of the

1 first cases, having you sit here and you
2 made a lot of promises to this Board, and I
3 guess what I need to ask is, if this isn't
4 taken care of within the next week, next two
5 weeks, how much longer do you think this
6 Board should allow you to operate without
7 the proper executed credentials?

8 MR. HAFFNER: I can't answer that
9 on behalf of the Board. All I can represent
10 is that it's my hope and my expectation that
11 we will have the documents necessary to
12 affect the transfer next week.

13 MEMBER SHORT: Okay, thank you,
14 Madam Chair.

15 MEMBER RODRIGUEZ: Madam Chair?

16 CHAIR MILLER: Yes, Mr.
17 Rodriguez?

18 MEMBER RODRIGUEZ: Mr. Haffner,
19 good afternoon. The list that Member Jones
20 made, and Mr. Haffner conceded to, is there
21 a way that we can get that in writing today?
22

1 CHAIR MILLER: It's on the
2 record.

3 MEMBER ALBERTI: It's a matter of
4 record.

5 MEMBER RODRIGUEZ: It's on the
6 record?

7 CHAIR MILLER: It's on the
8 record.

9 MEMBER RODRIGUEZ: Okay.

10 CHAIR MILLER: And --

11 MEMBER RODRIGUEZ: I just want to
12 make sure.

13 CHAIR MILLER: -- if he doesn't
14 do it, there will be consequences.

15 MEMBER RODRIGUEZ: I just want to
16 make sure that somewhere, you know, we have
17 a record.

18 CHAIR MILLER: We've got the
19 Court Reporter going.

20 MEMBER RODRIGUEZ: Okay.

21 CHAIR MILLER: Yes.

22 MEMBER ALBERTI: So, the business

1 license, when did you begin that process?

2 MR. HAFFNER: We began that, I
3 want to say probably last October or
4 November.

5 MEMBER ALBERTI: Okay, and what
6 were the -- what's been holding it up?

7 MR. HAFFNER: So, the business
8 license was actually contingent on getting
9 the certificate of occupancy.

10 There was an issue with occupancy
11 because there was some concern about it
12 being an SOBE, and once we cleared that
13 hurdle, then we were able to get the
14 certificate issued and then move to the next
15 process.

16 MEMBER ALBERTI: And when was the
17 certificate of occupancy issued?

18 MR. HAFFNER: November 18th,
19 2014.

20 MEMBER ALBERTI: So, it was
21 issued November --

22 MR. HAFFNER: Eighteenth.

1 MEMBER ALBERTI: -- 18th, 2014.

2 So, starting November 18th, 2014, if you --
3 you were eligible to get your business
4 license, is that what you're telling me?

5 MR. HAFFNER: That's correct. We
6 proceeded to try to get the business
7 license, then once that --

8 MEMBER ALBERTI: So, my question
9 again to you is, what was the hold up?

10 MR. HAFFNER: So, once we started
11 to apply for the business license, that took
12 some time, came back and we were told that
13 we had to get an inspection, based on the
14 change of -- perspective change of
15 ownership.

16 In order to get the inspection
17 done, we had to get all of the service
18 contracts together, the most recent updated
19 service contracts together. That's been a
20 process, because it's been some back and
21 forth trying to secure them.

22 Once we'd gotten those, we had to

1 get our -- make sure that our -- we got a
2 food handler with a -- person with a food
3 handler's license. That took another couple
4 of weeks. We got that.

5 Now, we're in the position to
6 actually get the inspection. So, just
7 getting to that point has taken about a
8 month.

9 MEMBER ALBERTI: Okay, so, but
10 what I'm hearing is that you -- you're
11 pretty bright. You are -- you've had
12 control of the timing.

13 I mean, your inability to get
14 these things is your inability to get these
15 things. It's not some Government agency,
16 not responding to you, right?

17 MR. HAFFNER: I wouldn't agree.

18 MEMBER ALBERTI: All right, thank
19 you. No further questions.

20 CHAIR MILLER: I'd like to ask
21 you a question about that SOBE.

22 It's my understanding that there

1 was Court of Appeals case, with respect to
2 whether Stadium was an SOBE, is that right?

3 MR. HAFFNER: Right.

4 CHAIR MILLER: On operated,
5 whatever, business establishment, and it was
6 remanded to the Board of Zoning Adjustment
7 to address again somehow. Has there been
8 any development?

9 MR. HAFFNER: As far as that case
10 goes, I don't think there is -- well, I
11 haven't heard any development. I think
12 there is some further fact finding that
13 needs to happen, and they haven't set a date
14 for that.

15 CHAIR MILLER: Okay.

16 MR. HAFFNER: That did complicate
17 RCX's application, and so, we had to go
18 through that process. We were able to get
19 through that and actually get the
20 certificate of occupancy.

21 CHAIR MILLER: That's what I was
22 wondering, when you said that it was

1 resolved somehow, I was wondering how it --
2 how did --

3 MR. HAFFNER: So --

4 CHAIR MILLER: -- they resolve
5 it?

6 MR. HAFFNER: Right, the
7 certificate that we were issued was issued
8 pending the prior certificate of occupancy's
9 issue with the Board.

10 So, they were kind of issued
11 independent of each other, but contingent
12 upon what happens with --

13 CHAIR MILLER: With the Board.
14 So, I mean, as far as -- unless the Board
15 overturns itself or something, it's
16 considered valid still, or that --

17 MR. HAFFNER: As far as --

18 CHAIR MILLER: -- determination.

19 MR. HAFFNER: -- the Zoning
20 Administrator is concerned.

21 CHAIR MILLER: Okay, okay. All
22 right, Mr. Jones?

1 MEMBER JONES: Thank you, Madam
2 Chair. So, just out of curiosity, well, no,
3 not out of curiosity. Just making sure I'm
4 understanding.

5 There is a -- I was just handed,
6 so, I apologize, I haven't had a chance to
7 review it in great depth, but there is an
8 asset purchase agreement, which appears to
9 be governing the transaction over which
10 you're referring, in terms of the sale of
11 the Stadium Group property and the Stadium
12 Club, etcetera.

13 Are you familiar with that
14 document, by any chance?

15 Okay, there is a section in there
16 5.13, it says 'taxes and tax returns'. What
17 is your understanding of that clause or
18 provision as it relates to the ability to
19 move forward with the execution of this
20 agreement and thus, move forward with
21 closing?

22 MR. HAFFNER: I'm not quite

1 familiar with that, since I don't have --

2 MEMBER JONES: The language,
3 okay.

4 MR. HAFFNER: I don't --

5 MEMBER JONES: Can we give him a
6 copy? We've got to make a copy of Section
7 5.13 as the --

8 MEMBER ALBERTI: Can I just ask a
9 question? Have we seen this before?

10 MR. HAFFNER: What is this?

11 MEMBER ALBERTI: Have you seen
12 this document before, Mr. Haffner?

13 MR. HAFFNER: Yes, that's the
14 purchase agreement.

15 MEMBER ALBERTI: Yes.

16 MR. HAFFNER: Yes.

17 MEMBER ALBERTI: Yes, okay, thank
18 you. So, you're not totally unfamiliar with
19 it?

20 MR. HAFFNER: I'm just not
21 familiar with the language he's quoting.

22 MEMBER JONES: Yes, and I'll give

1 you --

2 MEMBER ALBERTI: Okay, all right.

3 MEMBER JONES: I'm going to just
4 -- in the interest of time, I'm just going
5 to ask some questions related to that. I
6 understand that -- you need to re-
7 familiarize yourself with it. So, but I
8 just wanted to give you direction of -- like
9 I said, in the interest of time.

10 From your standpoint of your
11 client, if there are any -- any tax issues
12 that are in play, is that something that
13 would prevent you from going to closing?

14 MR. HAFFNER: I don't think so,
15 and I don't think that there are any tax
16 issues, as it relates to my client, that
17 would prevent the closing of this agreement
18 -- of this transaction.

19 MEMBER JONES: So, if there are
20 any tax issues related to the seller, would
21 those transfer to you, as the buyer?

22 MR. HAFFNER: No.

1 MEMBER JONES: No?

2 MR. HAFFNER: No.

3 MEMBER JONES: So, it's your
4 understanding that any tax -- any
5 outstanding tax liabilities associated with
6 the operations of this establishment, prior
7 to the closing and fully executed -- full
8 execution of this agreement will remain with
9 the seller?

10 MR. HAFFNER: Or should have been
11 resolved. It depends on what tax you're
12 talking about.

13 I know there is a sales and use
14 tax issue right now, that RCX is doing
15 within -- has dealt with. So, that's not
16 going to affect the closing of this
17 transaction.

18 MEMBER JONES: So, more
19 specifically, if there are any income tax
20 related issues associated with or coming out
21 of OTR District of Columbia, is it your
22 understanding that those would remain with

1 the seller or would they transfer --
2 liability of those, would they transfer from
3 the seller to the buyer?

4 MR. HAFFNER: Right, no, RCX is
5 not assuming any tax liability other than
6 the sales and use tax.

7 MEMBER JONES: Okay, and it is
8 your understanding that the wording, the
9 verbiage in the asset purchase agreement
10 speaks to that effect?

11 In other words, if there are
12 outstanding tax liabilities associated with
13 the Office of Tax and Revenue, that are in
14 place right now, that have not been fully
15 addressed, that they will remain the
16 liability and obligation of the seller, as
17 they're identified in said asset purchase
18 agreement?

19 MR. HAFFNER: Correct.

20 MEMBER JONES: And they will not
21 prevent you -- if they are in place, because
22 of that contingency, because of what you

1 just noted, as them being -- remaining the
2 liability of the seller, that will not
3 prevent, hinder or hold up the closing
4 process, correct? That's your --

5 MR. HAFFNER: I can just answer
6 the question by saying they should remain
7 the seller's. They should not hinder the
8 closing.

9 However, I do not know of any
10 outstanding tax liabilities on the part of
11 the seller, as far as, I know --

12 MEMBER JONES: Right.

13 MR. HAFFNER: -- all have been
14 disclosed. So, if one were to show up next
15 week, that could be an issue.

16 MEMBER JONES: That could be an
17 issue, okay.

18 MR. HAFFNER: But even -- we've
19 been on that. There's been disclosure. So,
20 as far as I know, there aren't any.

21 MEMBER JONES: All right, fair
22 enough, and like I said, I just wanted to

1 make sure I understood what you're -- you,
2 as the buyer's understanding and
3 interpretation of that particular clause was
4 in this asset purchase agreement, because as
5 I read it, it wasn't extremely clear to me,
6 how that would unfold in this particular
7 scenario that I just painted for you.

8 So, I just wanted to have it on
9 the record, what your interpretation of that
10 was.

11 In the interest of fairness,
12 Madam Chair, if I can allow the attorney
13 here just to have a brief moment to peruse
14 that clause, just to make sure what he spoke
15 to does comport with what the written
16 language, just to make sure we're all on the
17 same page.

18 CHAIR MILLER: Sure.

19 MEMBER JONES: Thank you, ma'am.

20 MR. HAFFNER: All right.

21 MEMBER JONES: Cool. Thank you.

22 Thank you, Madam Chair.

1 Just let the record reflect that
2 I got a head nod from the licensee's
3 representative, or the applicant's
4 representative, in the affirmative.

5 CHAIR MILLER: Okay, Mr. Haffner,
6 what happens if you don't close?

7 MR. HAFFNER: If we don't close,
8 all this will be off, the management
9 agreement would terminate. We would vacate
10 the premises and it would be back -- it
11 would be Stadium Group and RF Holdings.

12 CHAIR MILLER: Okay, you wouldn't
13 be operating anymore?

14 MR. HAFFNER: We would not.

15 CHAIR MILLER: Okay, any other
16 questions? Yes, Mr. Jones.

17 MEMBER JONES: Just to clarify
18 that, is there a time period associated with
19 that?

20 So, you're saying if you don't
21 close, is it if you don't close by January
22 1, 2016? Is it -- does it -- it seems to be

1 an undefined amorphous time period that is
2 subject to your client's comfort level.

3 MR. HAFFNER: I wouldn't
4 necessarily characterize it as that.

5 MEMBER JONES: Okay.

6 MR. HAFFNER: It's more, so, we
7 could not put a time line on it, when the
8 liquor license would transfer.

9 Therefore, having a deadline
10 would have been artificial and not helpful.

11 MEMBER JONES: Okay.

12 MR. HAFFNER: So, we left it --
13 it seems open-ended, but it's not. There is
14 going to be a time certain, and we will --
15 when we know yay or nay that we can get the
16 license, and upon that, at that time, if we
17 cannot, then there is no transaction. We
18 can terminate and we can go back to square
19 one.

20 MEMBER JONES: Okay, and is that
21 specifically denoted somewhere in the asset
22 purchase agreement, that specific language

1 or --

2 MR. HAFFNER: Yes.

3 MEMBER JONES: -- a reasonable
4 effect? Okay, do you have any idea roughly,
5 where that clause might be? If you don't
6 have it in front of you, if you could --

7 MR. HAFFNER: It should be in
8 seller's obligation to close.

9 MEMBER JONES: Got it, okay.
10 That's sufficient enough for me. Thank you
11 very much.

12 MR. HAFFNER: Okay.

13 CHAIR MILLER: Okay, any other
14 questions? Okay, let me see if I can sum up
15 where we are, and then let's see what we
16 want to do.

17 But it sounds to me, I mean, this
18 hearing has been very helpful, in that
19 you're fortunately, very close to being able
20 to provide all the documents that are
21 required for the license to be issued.

22 You have indicated to that -- to

1 us, I believe, that that is within two
2 weeks.

3 Okay, so, I'm not sure if I want
4 to put an exact date on this, if we can talk
5 about that.

6 But in essence, you've been
7 operating without a license, so, I can say,
8 I think it's the consensus of the Board that
9 this -- we weren't going to let this go on
10 much longer, and that you were facing a
11 cease and desist, basically.

12 Now, you've indicated that you
13 can provide all these documents in a
14 reasonable amount of time. So, it's likely,
15 based on your representation, that you won't
16 be facing that.

17 But if we don't get the documents
18 within a couple weeks then --

19 MEMBER ALBERTI: Madam Chair, I
20 think we -- I think we ought to, as a Board,
21 take this under consideration and give a
22 time certain as to when these documents must

1 be submitted.

2 If you like, we can recess and
3 talk about that.

4 CHAIR MILLER: Other comments?

5 MEMBER SILVERSTEIN: I would like
6 to recess.

7 CHAIR MILLER: Okay.

8 MEMBER JONES: Yes, I agree.

9 CHAIR MILLER: All right, so,
10 that is -- if you would just wait, because -
11 - okay, so, we're going to give you more
12 strict guidance.

13 We're going to take a roll call
14 vote to discuss in closed session.

15 Okay, as Chairperson of the
16 Alcoholic Beverage Control Board for the
17 District of Columbia, in accordance with
18 Section 405 of the Open Meetings Amendment
19 Act of 2010, I move that the ABC Board hold
20 a closed meeting for the purpose of seeking
21 legal advice from our Counsel on Case No. --
22 I don't have a case number on this. On RCX

1 LLC trading as Stadium.

2 Per Section 405(b)(4) of the Open
3 Meetings Amendment Act of 2010 and
4 deliberating upon this case and the reasons
5 cited in Section 405(b)(13) of the Open
6 Meetings Amendment Act of 2010. Do I have a
7 second?

8 MEMBER SILVERSTEIN: Second.

9 CHAIR MILLER: Mr. Silverstein
10 seconded the motion. I will now take a roll
11 call vote, now, that the motion has been
12 seconded. Mr. Brooks?

13 MEMBER BROOKS: I agree.

14 CHAIR MILLER: Mr. Alberti.

15 MEMBER ALBERTI: I agree.

16 CHAIR MILLER: Mr. Rodriguez.

17 MEMBER RODRIGUEZ: I agree.

18 CHAIR MILLER: Ms. Miller agrees.

19 Mr. Silverstein.

20 MEMBER SILVERSTEIN: I agree.

21 CHAIR MILLER: Mr. Short.

22 MEMBER SHORT: I agree.

1 CHAIR MILLER: Mr. Jones.

2 MEMBER JONES: I agree.

3 CHAIR MILLER: Okay, it appears
4 that the motion has passed by a 7-0-0 vote.

5 I hereby give notice that we will
6 recess to the ABC Board and discuss this
7 matter and then come back on the record and
8 give you further directions. Okay, thank
9 you.

10 (Whereupon, the above-entitled
11 matter went off the record at 2:30 p.m. and
12 resumed at 2:57 p.m.)

13 CHAIR MILLER: The Board met in
14 closed session to review what you stated,
15 with respect to your representations, as to
16 what documents could be submitted, when and
17 what activities had been delaying this
18 process.

19 I'm going to, I guess articulate
20 what the Board consensus is, as I understand
21 it, and put it in a motion, and that would
22 be in that your client was put on notice on

1 August 14, 2014, that the approval was
2 contingent upon submission of certain
3 documents that were listed that day, that
4 still have not been submitted.

5 The Board has -- I would move
6 that we give you until next Friday.

7 MR. HAFFNER: The 20th?

8 CHAIR MILLER: The 20th of
9 February, to provide the missing documents,
10 and they are the business license, the
11 certificate of occupancy, the executed
12 settlement statement, a bill of sale and an
13 executed lease agreement.

14 MEMBER ALBERTI: Did you say
15 business -- yes, you said business license?

16 CHAIR MILLER: I did.

17 MEMBER JONES: Yes, she did.

18 CHAIR MILLER: Okay, that they
19 should be submitted at the -- the Applicant,
20 actually should submit those documents by
21 close of business, February 20, 2015, and if
22 such documents are not received by that

1 date, then the Board will withdraw approval
2 of the license, and --

3 MEMBER ALBERTI: Approval if the
4 transfer of license -- of the transfer.

5 CHAIR MILLER: Approval of the
6 application to transfer the license, based
7 on it being incomplete and having had a very
8 long period of time to complete the
9 application, and that the Board also
10 consider issuing a cease and desist against
11 the license, at that point.

12 Do I have a second?

13 MEMBER SILVERSTEIN: Second.

14 CHAIR MILLER: Mr. Silverstein
15 seconded the motion. Does any Board Members
16 want to speak to the motion? Yes, Mr.
17 Short?

18 MEMBER SHORT: Yes, I think we
19 also want to mention that the date of
20 August, when this notice went out.

21 CHAIR MILLER: I prefaced the
22 beginning of the motion that way, in that

1 they were put on notice August 14, 2014.

2 MEMBER SHORT: Thank you.

3 CHAIR MILLER: And the documents
4 were -- had not been submitted.

5 MEMBER SHORT: Thank you.

6 CHAIR MILLER: Okay, but so, yes.
7 Any other comments?

8 All right, then there's a motion
9 that's been seconded. All those in favor,
10 say aye.

11 (Chorus of ayes)

12 CHAIR MILLER: All those opposed?

13 (No audible response)

14 CHAIR MILLER: All those
15 abstaining?

16 (No audible response)

17 CHAIR MILLER: The motion passes
18 7-0-0. Okay, if you have any questions, you
19 know you can call our attorney, Martha
20 Jenkins, okay.

21 We'll look forward to hopefully,
22 seeing all your documents next week.

1 MR. HAFFNER: Yes, ma'am. Thank
2 you.

3 CHAIR MILLER: Thank you.

4 MEMBER ALBERTI: Thank you, sir.

5 Can I just say, Mr. Haffner, if you can get
6 the documents -- if you can get the
7 documents to us before Friday, it would be
8 helpful. Thank you.

9 (Whereupon, the above-entitled
10 matter went off the record at 3:02 p.m.)

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