

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

IN THE MATTER OF:

Darnell Perkins & Associates,	
LLC t/a Darnell's	Protest
944 Florida Ave., NW	Hearing
Retailer CT - ANC-1B	(Status)
License No. 95113	
Case #15-PRO-00002	

(Application to Renew the  
License)

February 18, 2015

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  
NICK ALBERTI, Member  
DONALD BROOKS, Member  
MIKE SILVERSTEIN, Member  
HECTOR RODRIGUEZ, Member  
JAMES SHORT, Member

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

2 10:06 a.m.

3 CHAIRPERSON MILLER: The next case on  
4 the hearing calendar is another Protest Hearing  
5 (Status) that is Case No. 15-PRO-00002, Darnell's  
6 located at 944 Florida Avenue, N.W., License No.  
7 95113, in ANC-1B.

8 And this is a renewal application,  
9 correct? Okay. So when you are ready, if you  
10 can identify yourselves for the record?

11 MS. TODD: Good morning. I'm Karen  
12 Todd on behalf of the applicant.

13 CHAIRPERSON MILLER: Okay.

14 MR. RILEY: My name is W. David Riley.  
15 I'm a protestant individual, abutting property  
16 owner.

17 CHAIRPERSON MILLER: Okay. I have  
18 some other protestants listed.

19 MS. TODD: Yes.

20 CHAIRPERSON MILLER: Yes.

21 MS. TODD: There were the ANC.

22 CHAIRPERSON MILLER: Yes.

1 MS. TODD: 1B as well as protestants  
2 of 10 or more citizens, but we entered into a  
3 settlement agreement that I believe has been sent  
4 to LaVerne. I'm not sure if Martha received it,  
5 but I have a copy of it here.

6 CHAIRPERSON MILLER: Oh, okay, good.  
7 It's a signed settlement agreement?

8 MS. TODD: Yes.

9 CHAIRPERSON MILLER: Okay.

10 MS. TODD: And I believe it was  
11 submitted about a week ago.

12 CHAIRPERSON MILLER: Okay. And who  
13 was it with?

14 MS. TODD: It's between ANC, the ANC  
15 Commissioners and the applicant and from my  
16 understanding that means that if the Board  
17 approves this, then that protest will be against  
18 the ANC as well as the other party.

19 CHAIRPERSON MILLER: I'm sorry, what?  
20 Could you repeat that? Sorry.

21 MS. TODD: The protest with the ANC  
22 would be dismissed as well as the protestants of

1 the 10 or more citizens as well.

2 CHAIRPERSON MILLER: I'm not sure that  
3 is correct. We have an abutting property owner  
4 who is still here.

5 MS. TODD: Well, yes. They will be,  
6 but I'm talking about the -- because there was  
7 three different protestant groups, that's what  
8 I'm referring to.

9 CHAIRPERSON MILLER: Okay. I'm not  
10 sure you are correct on that, but --

11 MS. TODD: Okay.

12 CHAIRPERSON MILLER: -- for the  
13 record, that's what you are stating?

14 MS. TODD: Yes.

15 CHAIRPERSON MILLER: Okay.

16 MEMBER ALBERTI: Ms. Miller, the group  
17 of 10 does get dismissed when the ANC -- because  
18 they are not a community --

19 CHAIRPERSON MILLER: I understand  
20 that.

21 MEMBER ALBERTI: -- neighborhood  
22 organization, so the group of 10 gets dismissed

1 as soon as you get a settlement agreement with  
2 the ANC.

3 CHAIRPERSON MILLER: My question -- I  
4 would want to check the law on that, because what  
5 my uncertainty is if there is still a hearing  
6 with an abutting property owner.

7 MS. TODD: Well, yes. That would not  
8 be dismissed.

9 MEMBER ALBERTI: Yes, the property  
10 owners still have standing, but the group of 10  
11 doesn't. That's all Ms. Todd was saying.

12 CHAIRPERSON MILLER: I understand  
13 that. I'm just --

14 MEMBER ALBERTI: Okay. All right,  
15 fine. Let's proceed.

16 MS. TODD: So we have one protestant  
17 now.

18 CHAIRPERSON MILLER: No, I understand  
19 that. I just want to check the law, because my  
20 understanding -- this is the first I have seen it  
21 where there is still a live protest by an  
22 abutting property owner when the ANC has entered

1 into a settlement agreement.

2 I know. I'm saying, I know in general  
3 if it's the ANC and some -- and a party of five,  
4 when the ANC enters into a settlement agreement,  
5 the party -- it's gone, the protest is gone.

6 We still have a live protest. I'm  
7 just saying I'm personally not -- I want to check  
8 the law on that.

9 MS. TODD: That's fine. That's fine.

10 CHAIRPERSON MILLER: I mean, Mr.  
11 Alberti is interpreting the law the way you are  
12 and I just would want to check that.

13 MS. TODD: In addition to that --

14 CHAIRPERSON MILLER: Yes.

15 MS. TODD: -- there are two abutting  
16 property owners, Ms. Poole and Mr. Riley, but Ms.  
17 Poole is not here.

18 CHAIRPERSON MILLER: Right.

19 MS. TODD: So I would ask that her  
20 protest be dismissed.

21 CHAIRPERSON MILLER: Okay.

22 MR. RILEY: Excuse me?

1 CHAIRPERSON MILLER: Yes. And you are  
2 Mr. Poole? No, you are Mr. Riley.

3 MR. RILEY: No, Riley, yes.

4 CHAIRPERSON MILLER: Sorry. Yes?

5 MR. RILEY: Ms. Poole had a family  
6 matter. She had to go out of town. Because of  
7 the weather, she couldn't get back here and she  
8 asked me if you would accept at the mediation  
9 hearing that we both wanted to go to the Protest  
10 Hearing.

11 CHAIRPERSON MILLER: She asked you to  
12 make a representation to us here?

13 MR. RILEY: Yes. Yes, ma'am.

14 CHAIRPERSON MILLER: That she couldn't  
15 get in because of weather?

16 MR. RILEY: Because of the weather.

17 CHAIRPERSON MILLER: Okay. And where  
18 did she go? Do you know?

19 MR. RILEY: She went down to Virginia.  
20 Her family is way down in Virginia.

21 CHAIRPERSON MILLER: Okay. Okay.

22 MEMBER ALBERTI: Well, do you have

1 anything in writing?

2 MR. RILEY: I couldn't get anything in  
3 writing. She left before the snow come.

4 MEMBER ALBERTI: Well, I mean --

5 CHAIRPERSON MILLER: Go ahead.

6 MEMBER ALBERTI: -- no email?

7 MR. RILEY: No.

8 MEMBER ALBERTI: Nothing?

9 MR. RILEY: No.

10 MEMBER ALBERTI: Okay.

11 MR. RILEY: I'm not computer literate  
12 anyway and neither is she.

13 CHAIRPERSON MILLER: Okay. Okay.

14 MEMBER ALBERTI: So what are you doing  
15 about Ms. Poole?

16 CHAIRPERSON MILLER: Well, personally,  
17 I would not move to dismiss because I was  
18 traveling yesterday and trains were being  
19 canceled right and left because of the weather,  
20 so, at this point, I would accept -- I would  
21 personally accept Mr. Riley's representation that  
22 she couldn't be here. Others may not, but that's



1 where I am on it.

2 MEMBER ALBERTI: I would prefer to at  
3 least have something from Ms. Poole. I mean,  
4 it's just a matter of making sure that we have  
5 everything in place, that everything was  
6 documented. It's a matter of being fair. I  
7 mean, Ms. Poole could have 10 days to request  
8 reinstatement. And the way I view this if she  
9 came in and sent us an email confirming what Mr.  
10 Riley says, that would satisfy me.

11 But I think to have it for the record  
12 to be fair and documented, I think we need  
13 something from Ms. Poole.

14 MR. RILEY: Well, she can do that when  
15 she comes back.

16 MEMBER ALBERTI: Actually, that's what  
17 I'm saying. That's what I'm saying, but I would  
18 like us to have something in the record from Ms.  
19 Poole not to just oh, somebody said that she  
20 couldn't make it.

21 MR. RILEY: Sure, sure. That was  
22 being done at the mediation hearing.

1 MEMBER ALBERTI: I understand that.

2 Right, right.

3 CHAIRPERSON MILLER: Okay. So --

4 MEMBER SHORT: I agree with you, Madam  
5 Chair.

6 CHAIRPERSON MILLER: That's fine.

7 Somebody can make a motion. I just know from  
8 personal experience I went through this  
9 yesterday, so to have the other abutting property  
10 owner make that representation on the record here  
11 is satisfactory to me. Feel free to make a  
12 motion, you know.

13 MEMBER SHORT: Well, as I understand--

14 CHAIRPERSON MILLER: Okay.

15 MEMBER SHORT: -- Board Member  
16 Alberti, he is not saying we're shutting the door  
17 on --

18 CHAIRPERSON MILLER: No.

19 MEMBER SHORT: -- he was saying  
20 because of the circumstances of the weather and  
21 other things, that this person should have 10  
22 days to --

1 MEMBER ALBERTI: Confirm.

2 MEMBER SHORT: -- confirm that they --  
3 what Mr. Riley is saying was true.

4 MEMBER ALBERTI: Right, right.

5 CHAIRPERSON MILLER: Okay.

6 MEMBER ALBERTI: So I'll move that we  
7 dismiss Ms. Poole and noting that she has 10 days  
8 to seek reinstatement.

9 CHAIRPERSON MILLER: Okay. There is  
10 a motion to dismiss --

11 MEMBER SHORT: Second.

12 CHAIRPERSON MILLER: -- that has been  
13 seconded.

14 All those in favor say aye.

15 MEMBER ALBERTI: Aye.

16 MEMBER SHORT: Aye.

17 MEMBER SILVERSTEIN: Aye.

18 MEMBER RODRIGUEZ: Aye.

19 MEMBER BROOKS: Aye.

20 CHAIRPERSON MILLER: All those  
21 opposed? Opposed.

22 MEMBER ALBERTI: So Mr. Riley --

1 CHAIRPERSON MILLER: So the motion  
2 passes 5-1-0. And Ms. Poole is right now  
3 dismissed, but she will have 10 days to submit --  
4 well, after she gets the order dismissing her.  
5 She will get a written order. She will have 10  
6 days to submit something in writing as to the  
7 good cause that was the cause of her missing this  
8 hearing. And then she can be reinstated if the  
9 Board finds good cause.

10 MR. RILEY: Yes.

11 CHAIRPERSON MILLER: Okay?

12 MEMBER RODRIGUEZ: Madam Chair?

13 CHAIRPERSON MILLER: Yes?

14 MEMBER RODRIGUEZ: Mr. Riley, thank  
15 you for coming in and we appreciate you being  
16 here during this tough weather situation. We do  
17 appreciate your attendance here.

18 MR. RILEY: Thank you.

19 CHAIRPERSON MILLER: Okay. So we are  
20 here for a status for a Protest Hearing. And Ms.  
21 Todd has made her point that she thinks that  
22 there won't be a protest.

1 MS. TODD: No, that's not my point.

2 CHAIRPERSON MILLER: Oh, I'm sorry.

3 There will be a protest.

4 MS. TODD: Yes.

5 CHAIRPERSON MILLER: Okay. And that

6 the group of 10 should be dismissed.

7 MS. TODD: Yes, and I have a copy of

8 it here if you want, if the Board --

9 CHAIRPERSON MILLER: A copy of what?

10 MS. TODD: The settlement agreement.

11 I don't know if you have received a copy of it or  
12 not.

13 CHAIRPERSON MILLER: We will take it

14 then. Okay. Okay. Okay. So --

15 MEMBER ALBERTI: It's in our notes, so

16 we probably have it.

17 MS. TODD: Okay.

18 CHAIRPERSON MILLER: Thank you. Okay.

19 But it's on the record now that you have

20 submitted it to us here. All right. Is there

21 anything else before I give you your date as

22 scheduled and give you the instructions I gave to

1 the other cases? Yes?

2 MR. RILEY: Can I ask a question  
3 related to this application?

4 CHAIRPERSON MILLER: Yes.

5 MR. RILEY: The Protest Hearing  
6 against the original license holder was canceled  
7 without explanation. And I didn't know that a  
8 physical transfer of license had ever been  
9 approved to another person. If it has never been  
10 approved, that's the case we are having right  
11 now.

12 CHAIRPERSON MILLER: Okay. We really  
13 can't get into that, at this point, because we  
14 don't have all the facts before us. So this is  
15 just a status.

16 MR. RILEY: Okay.

17 CHAIRPERSON MILLER: I don't know if  
18 Ms. Todd has a comment, but --

19 MR. RILEY: Nobody is going to give me  
20 an answer.

21 CHAIRPERSON MILLER: Oh, all right,  
22 well, we will have our General Counsel be able to

1 talk to you.

2 MEMBER ALBERTI: Ms. Miller?

3 CHAIRPERSON MILLER: That's Martha  
4 Jenkins.

5 MEMBER ALBERTI: It's my understanding  
6 the transfer hasn't gone through.

7 MS. TODD: The transfer has gone  
8 through.

9 MEMBER ALBERTI: Pardon?

10 MS. TODD: From my understanding, the  
11 transfer went through. That's why this -- it's a  
12 new license holder.

13 CHAIRPERSON MILLER: Okay. Let's --

14 MEMBER ALBERTI: Well, who is the new  
15 license holder? Oh, hold it. Hold it.

16 MS. TODD: Darnell Perkins.

17 MEMBER ALBERTI: We definitely need to  
18 straighten that out with General Counsel.

19 CHAIRPERSON MILLER: Do you have a  
20 record of approval of that transfer?

21 MEMBER ALBERTI: Definitely need to.

22 MS. TODD: I don't have it with me,

1 but I did receive confirmation of it, I believe,  
2 from a Sean Gordy.

3 CHAIRPERSON MILLER: Mr. Gordy? All  
4 right. We will look into this issue, since it's  
5 one of the issues, but, okay.

6 MS. TODD: Okay.

7 MEMBER ALBERTI: It may not have  
8 issued.

9 MS. TODD: Okay.

10 MEMBER ALBERTI: So you should  
11 definitely check with our General Counsel to see  
12 the status of that.

13 MS. TODD: Okay.

14 CHAIRPERSON MILLER: Okay.

15 MS. TODD: Thank you.

16 CHAIRPERSON MILLER: Anything else?  
17 No, no, you're not finished yet. I have to read  
18 you your instructions.

19 MR. RILEY: Oh, I understand.

20 CHAIRPERSON MILLER: So we will look  
21 into that issue.

22 MR. RILEY: I appreciate it, because



1 I don't understand.

2 CHAIRPERSON MILLER: If you still have  
3 a question in a few weeks or something and  
4 haven't heard -- feel free to call Martha  
5 Jenkins, our General Counsel. Okay?

6 MR. RILEY: Okay.

7 CHAIRPERSON MILLER: Anything else?

8 MS. TODD: No.

9 CHAIRPERSON MILLER: Okay. Your  
10 Protest Hearing is scheduled for April 8, 2015 at  
11 1:30 p.m. Prior to that hearing you will get in  
12 the mail a Protest Information Form and an  
13 Exhibit Form. These are very important. If you  
14 don't submit them back to the Board within seven  
15 days and serve the opposing counsel within seven  
16 days, your protest could be dismissed and  
17 likewise, the application could be denied.

18 On the Protest Information Form, you  
19 will be asked to identify issues as they have  
20 been narrowed now by the time it gets to hearing  
21 specific, not general, not peace, order, quiet,  
22 but, you know, as I was saying noise, noise at a

1 certain hour, noise from music, noise from  
2 sidewalk cafes, whatever it is, so very specific.

3 And then your witnesses by name. And  
4 then on the Exhibit Form you will identify the  
5 exhibits you wish to submit into the record that  
6 day as proof, be it, you know, photographs or  
7 anything like that. If you don't do it, it's  
8 possible your exhibit may not be allowed into the  
9 record if the Board finds that the other side was  
10 prejudiced because they didn't get that ahead of  
11 time and that you didn't have a good reason not  
12 to provide it ahead of time.

13 So these two forms actually we have  
14 found have focused the hearing and make it more  
15 efficient and make it more fair to everybody.

16 Okay. So if you have any questions  
17 prior the hearing, you can contact Janea Raines  
18 and her number is (202) 442-6492.

19 MEMBER SHORT: Madam Chair?

20 CHAIRPERSON MILLER: Yes?

21 MEMBER SHORT: Is all this based on if  
22 the actual license was transferred or was there

1       whether it was granted based on that or are we  
2       just moving forward?

3               CHAIRPERSON MILLER:   Well, we are  
4       moving forward with the date, but that will be  
5       sorted out before the hearing.

6               MEMBER SHORT:   Okay.   Thank you.

7               CHAIRPERSON MILLER:   Okay.

8               MR. RILEY:   Can I get the attorney's  
9       mailing address?

10              CHAIRPERSON MILLER:   Janea Raines is  
11       the one to ask about general questions before the  
12       hearing, like if the Protest Information Form if  
13       you don't get it, like you are 10 days out or  
14       something and you haven't gotten it.   Martha  
15       Jenkins you can call about the transfer issue if  
16       you are still uncertain where that stands.

17              MR. RILEY:   Okay.

18              CHAIRPERSON MILLER:   Okay.   Martha  
19       Jenkins.

20              MR. RILEY:   The phone number?

21              CHAIRPERSON MILLER:   Phone number.  
22       Okay.   We had a chance to -- well, not we.   Our

1 staff had a chance to check the records and in  
2 fact the license did transfer apparently November  
3 20, 2014.

4 MR. RILEY: It was and had to be  
5 approved?

6 CHAIRPERSON MILLER: That's what that  
7 means.

8 MR. RILEY: They wouldn't have a  
9 Protest Hearing on that. Then counsel would not  
10 have to make it.

11 CHAIRPERSON MILLER: Well, this is the  
12 Protest Hearing you are having. If you have  
13 questions afterwards, you can ask our General  
14 Counsel.

15 MR. RILEY: Okay.

16 MS. TODD: Thank you.

17 CHAIRPERSON MILLER: All right. Thank  
18 you.

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