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

(10:58 a.m.)

CHAIRPERSON MILLER: All right.

We have two minutes to go to an 11:00 hearing for Legends. Are the parties here on that?

MR. HURWITZ: Yes, good morning. Come forward?

CHAIRPERSON MILLER: Sure. Come and take a seat.

MR. HURWITZ: Good morning. My name is Ely Hurwitz. I'm an attorney in the District of Columbia. I'm here to represent Legends, the licensee.

CHAIRPERSON MILLER: Okay. Now, this is just a Fact-Finding Hearing, but I do want to ask you did you file a Notice of Appearance?

MR. HURWITZ: Not yet.

CHAIRPERSON MILLER: Okay. But will you do so today?

MR. HURWITZ: Yes.

CHAIRPERSON MILLER: Okay. I

1 think we can proceed on this as it is only a
2 Fact-Finding Hearing. Nobody is going to be
3 bound by anything said.

4 Okay. So this involves a license
5 in safekeeping, I believe. And let me just
6 take a look at this. I'm sure it is because
7 it has been let in safekeeping for quite a
8 while, correct?

9 MR. HURWITZ: Yes.

10 CHAIRPERSON MILLER: Okay.

11 Perhaps you can explain why it has been in
12 safekeeping so long. Maybe if you have got
13 the facts before you, also, when it was put in
14 safekeeping.

15 MR. HURWITZ: Excuse me?

16 CHAIRPERSON MILLER: Do you have
17 the date that it was put in safekeeping?

18 MR. HURWITZ: Yes, approximately.

19 CHAIRPERSON MILLER: Okay.

20 MR. HURWITZ: November 4, 2002.

21 CHAIRPERSON MILLER: Wow.

22 MR. HURWITZ: By agreement, this

1 license was purchased, a purchased license.
2 The owner of the property contracted to
3 purchase the license and then contracted to
4 buy a piece of property where he intended to
5 use the license.

6 They bought the property and the
7 original plan was to just use the license in
8 that property that they purchased. Once they
9 completed the purchase, they found that the
10 building was too -- the condition was so poor
11 that they decided to tear the building down
12 entirely, which they did ultimately. And then
13 they built a new building on the property and
14 they built a very nice building in conformance
15 with the architecture of the neighborhood and
16 with the consent of the neighbors.

17 They built a six story Class A
18 building with apartments above and the
19 restaurant space on th ground floor. This
20 took a number of years to complete, that's one
21 of the reasons that this has been in
22 safekeeping for such a long period of time.

1 By the time they completed the
2 building, they were in an economic situation
3 where they could not afford to build-out the
4 restaurant, because of the change in the
5 economy and the marketplace, at that time.

6 So they proceeded to rent the
7 property out to a furniture store and although
8 the property was built to have the hood, walk-
9 in refrigerators and they were all ready to go
10 in that regard with the property, they
11 couldn't afford to finance the completion of
12 the restaurant, that's why they had leased it
13 at that time.

14 They are still intending to put
15 the restaurant in there and they have been
16 working with architects and engineers to
17 design actually a two story restaurant, two
18 floors, first and second floor, and they plan
19 to do that and they have a whole plan to make
20 a farm -- you know, fresh farm produce/food
21 restaurant. They still plan to do it.

22 And they would like that you would

1 consider their good intentions in this matter
2 and allow them to continue to hold this
3 license in safekeeping until such time as they
4 can get the restaurant built.

5 CHAIRPERSON MILLER: So is there a
6 schedule for when this restaurant would be
7 ready?

8 MR. HURWITZ: There is not a firm
9 schedule, but, you know, they are working
10 diligently on it and they intend to do so.
11 The principal, Mr. Hoitus, happens to be
12 traveling in Greece during this period that we
13 are having this hearing and he was away when
14 we got the notice. He apologies for not being
15 able to be here in person to present these
16 facts and plans to you. I was just called in
17 at the last moment.

18 CHAIRPERSON MILLER: Okay. And
19 when is he going to be back?

20 MR. HURWITZ: I believe in several
21 weeks.

22 CHAIRPERSON MILLER: Okay. Is --

1 MR. HURWITZ: He also mentions
2 again in his letter to me that he is a native
3 of Washington. He grew up in this
4 neighborhood with his family and he is very
5 committed to the community.

6 CHAIRPERSON MILLER: So right now,
7 is there a furniture store there?

8 MR. HURWITZ: Yes.

9 CHAIRPERSON MILLER: Still. Okay.
10 So that furniture store has a lease until a
11 certain date?

12 MR. HURWITZ: Yes. But it is
13 uncertain as to what the, you know, ability of
14 that store is, so he has been working with
15 them to make a plan on dealing with that
16 space.

17 I also would comment again that he
18 purchased this license at a substantial
19 investment because it's just -- you know, they
20 filed an application, picked up a license, you
21 know, negotiated a community agreement with
22 the neighborhood. He has got a big commitment

1 in this license.

2 CHAIRPERSON MILLER: What
3 neighborhood is this?

4 MR. HURWITZ: Adams Morgan.

5 CHAIRPERSON MILLER: Okay.

6 MR. HURWITZ: I'm sorry, it's the
7 Kalorama Citizens Association.

8 MEMBER ALBERTI: In Adams Morgan.

9 MR. HURWITZ: Columbia Road.

10 MEMBER ALBERTI: Adams Morgan.

11 CHAIRPERSON MILLER: Okay. Other
12 Board Members have questions? Mr. Brooks?

13 MEMBER BROOKS: Yes. Now, what is
14 presently in this basement?

15 MR. HURWITZ: A furniture store.

16 MEMBER BROOKS: What's the name of
17 it?

18 MR. HURWITZ: I can look it up if
19 you give me a moment.

20 MEMBER BROOKS: Okay.

21 CHAIRPERSON MILLER: Okay.

22 MEMBER BROOKS: Go ahead.

1 MR. HURWITZ: Design Within Reach.

2 MEMBER BROOKS: I understand that
3 furniture store moved about a year ago.

4 MR. HURWITZ: Okay. Well, then my
5 information that I'm looking at is not
6 correct.

7 MEMBER BROOKS: Yes, well,
8 obviously not.

9 MR. HURWITZ: I don't know the
10 name of the store that's in there.

11 MEMBER BROOKS: Well, I'm just
12 trying to figure out what is there now.

13 MR. HURWITZ: I apologize. I
14 thought it was Design Within Reach.

15 MEMBER BROOKS: Yes, it was there
16 at one time, but it moved.

17 MR. HURWITZ: Okay. Then I --
18 my --

19 MEMBER BROOKS: I'm just trying to
20 figure out how it's used now rather than a
21 restaurant and what's the future plans are
22 really actually going to be?

1 MR. HURWITZ: I believe that it is
2 currently used as a furniture store. Maybe a
3 different name, but still a furniture store.
4 But the second part of your question was how
5 was it going to be used?

6 MEMBER BROOKS: Yes, the plans.
7 The plans are going to be a restaurant?

8 MR. HURWITZ: Restaurant, yes.

9 MEMBER BROOKS: That's correct.

10 MR. HURWITZ: On two floors. A
11 two floor restaurant.

12 MEMBER BROOKS: And how soon are
13 we talking about?

14 MR. HURWITZ: I don't know the
15 answer to that honestly.

16 MEMBER BROOKS: And in fact, the
17 license has been in safekeeping for, what, 11
18 years?

19 MR. HURWITZ: 10 or so years, yes.
20 Right, yes.

21 MEMBER BROOKS: Thank you, Madam
22 Chair.

1 CHAIRPERSON MILLER: Others?

2 MEMBER ALBERTI: Mr. Jones and
3 then I'll go.

4 CHAIRPERSON MILLER: Okay. Mr.
5 Jones?

6 MEMBER JONES: Thank you, Madam
7 Chair. So let's be candid here. So this
8 license -- you are coming to us and you are
9 indicating that this individual has invested
10 quite a bit in this license and that's
11 something that we should take into
12 consideration as we evaluate this process. Is
13 that a fair statement?

14 MR. HURWITZ: Yes, it is.

15 MEMBER JONES: Okay. If the
16 intent was for them to, them being the owner,
17 utilize this license, what has been the hold-
18 up to date over the last X number of years, 10
19 to 11 years?

20 MR. HURWITZ: It took them several
21 years to demolish the existing building that
22 was on the property and build a completely new

1 six story building on the property. That took
2 them a number of years.

3 By the time they got completed
4 with the construction of the building, the
5 economy was, you know, a difficult period of
6 time, the recession.

7 MEMBER JONES: Give me dates.
8 Give me years.

9 MR. HURWITZ: Well --

10 MEMBER JONES: Do you have them?

11 MR. HURWITZ: -- they bought this
12 license in 2002.

13 MEMBER JONES: Correct.

14 MR. HURWITZ: They tore the
15 building down, you know, a year or two
16 thereafter. And it took another year or two,
17 so we're talking about probably 2005/2006.

18 MEMBER JONES: Okay. So since
19 2006 they had an operational --

20 MR. HURWITZ: Building.

21 MEMBER JONES: -- valid building
22 that could serve as a restaurant host for this

1 license, correct?

2 MR. HURWITZ: That's correct.

3 MEMBER JONES: But you are saying
4 then in 2006 the economy was so poor that they
5 made the decision, they being the licensee, to
6 go a different direction with their business.

7 Now, at that point, they had
8 already invested the money in the license,
9 correct? So they chose to leverage the real
10 estate as opposed to enacting a business plan
11 that involved utilizing the license.

12 MR. HURWITZ: It wasn't a
13 voluntary choice. They had no choice.

14 MEMBER JONES: Who forced them to
15 make the choice?

16 MR. HURWITZ: The economics.

17 MEMBER JONES: So who forced them
18 to make that choice? Was there an agency?
19 Was there a mayor? Was there a law? They
20 voluntarily made a choice, made a business
21 choice. No one twisted their arm and forced
22 them to.

1 MR. HURWITZ: No.

2 MEMBER JONES: So let's be clear
3 and let's be candid, okay? Is that true? Did
4 someone force them to make that decision?

5 MR. HURWITZ: No.

6 MEMBER JONES: There is no mob
7 institution in his place, right? There are no
8 regulations in place here that forced him to
9 do this. They voluntarily made a business
10 choice, correct, to not utilize the license
11 for that space in 2006?

12 MR. HURWITZ: Yes.

13 MEMBER JONES: Correct? And they
14 have continued to voluntarily make that choice
15 since that time until now. Is that correct?

16 MR. HURWITZ: They made those
17 business decisions, yes.

18 MEMBER JONES: They have made
19 those business decisions on their own. They
20 have not been forced to make those decisions,
21 correct? Okay.

22 So now in 2013, we are in a

1 situation where they are now deciding that
2 they want to utilize that license and they
3 want to utilize it at this place that they
4 renovated back in 2006 for a two story
5 restaurant?

6 MR. HURWITZ: Yes.

7 MEMBER JONES: Okay. The existing
8 location right now, is that existing location
9 currently under lease?

10 MR. HURWITZ: Yes.

11 MEMBER JONES: Where is that
12 lease?

13 MR. HURWITZ: I can get you a
14 copy. I don't have a copy with me, but I --

15 MEMBER JONES: What are the terms
16 of that lease?

17 MR. HURWITZ: I don't know the
18 terms.

19 MEMBER JONES: When does that
20 lease term expire? Do you have any idea?

21 MR. HURWITZ: No. I'm sorry, I
22 don't.

1 MEMBER JONES: So you cannot offer
2 us anything definitive in terms of a clear
3 time line by which you want us to honor your
4 request?

5 MR. HURWITZ: Well, at this point,
6 I'm only asking for an extension of six
7 months.

8 MEMBER JONES: How can you even
9 tell me that that is a valid request when you
10 don't even know what the terms of your lease
11 are?

12 MR. HURWITZ: I think it's a
13 reasonable request.

14 MEMBER JONES: I didn't ask you
15 that. How can you tell me it's a valid
16 request when you don't even know what the
17 terms of your lease are?

18 CHAIRPERSON MILLER: Wait. What
19 is the request for, the six months, to do
20 what?

21 MR. HURWITZ: Just to give them
22 time to make progress with regard to their

1 plans and come to the Board and report within
2 that period of time as to what progress they
3 have made towards using the license.

4 CHAIRPERSON MILLER: So the Board
5 -- are you saying, you are requesting that the
6 Board, you now, postpone a decision on the
7 safekeeping issue for at least six months
8 while --

9 MR. HURWITZ: Well --

10 CHAIRPERSON MILLER: -- you can
11 get all their facts together and show the
12 Board a plan?

13 MR. HURWITZ: -- I don't think I'm
14 asking for a postponement of the decision. I
15 think that there is an existing safekeeping
16 filing that has been done and they paid the
17 filing fee to the extent that not just asking
18 to allow that extension to continue and review
19 it again at the end of that extension.

20 It doesn't harm anyone, I don't
21 believe, nor there is no violation of any
22 alcohol laws.

1 CHAIRPERSON MILLER: Oh, yes, Mr.
2 Alberti?

3 MEMBER ALBERTI: Hi, Mr. Hurwitz.
4 You obviously had some information about what
5 their plans were and how did you get that
6 information?

7 MR. HURWITZ: I talked with Mr.
8 Hoitus on the telephone and I asked him to
9 send me whatever he could by email, so that I
10 could come to the Board and make some kind of
11 presentation.

12 MEMBER ALBERTI: And what --

13 MR. HURWITZ: I have only a
14 limited amount of material that he had
15 available with him that he could send to me on
16 the lease.

17 CHAIRPERSON MILLER: Okay.

18 MEMBER ALBERTI: So really you
19 come to us with very little information, at
20 this point. I mean, really not enough
21 information to really speak --

22 MR. HURWITZ: I come to you with

1 everything I know --

2 MEMBER ALBERTI: -- to what --

3 MR. HURWITZ: -- at this point.

4 MEMBER ALBERTI: -- their plans
5 are and to the facts of the case. All right.

6 So --

7 MR. HURWITZ: I would ask that if
8 there is not enough information for you to
9 make a positive decision, that --

10 MEMBER ALBERTI: All right. I
11 understand. I understand your request.

12 So when will Mr. Hoitus be back in
13 the country?

14 MR. HURWITZ: I believe within
15 several weeks.

16 MEMBER ALBERTI: When is that?

17 MR. HURWITZ: I do not --

18 MEMBER ALBERTI: You have already
19 -- I need dates. I mean, just like Mr. Jones,
20 I need dates.

21 MR. HURWITZ: Okay. I believe by
22 April 1st.

1 MEMBER ALBERTI: He will be back
2 by April 1st?

3 MR. HURWITZ: To the best of my
4 knowledge.

5 MEMBER ALBERTI: All right. And
6 he is, according to your representation, all
7 right, indicated to you that the plans are in
8 the works for --

9 MR. HURWITZ: Yes.

10 MEMBER ALBERTI: -- the renovation
11 of this -- and the build-out of a restaurant
12 at this location, right?

13 MR. HURWITZ: Yes.

14 MEMBER ALBERTI: Okay. So he
15 should be prepared when he comes back to speak
16 to that. Is that correct?

17 MR. HURWITZ: Yes.

18 MEMBER ALBERTI: Is that a correct
19 assumption?

20 MR. HURWITZ: That's a fair
21 assumption.

22 MEMBER ALBERTI: As far as you --

1 MR. HURWITZ: Yes.

2 MEMBER ALBERTI: -- according to
3 your knowledge?

4 MR. HURWITZ: Yes.

5 MEMBER ALBERTI: Okay. Thank you.
6 I have no further questions.

7 CHAIRPERSON MILLER: Yes, Mr.
8 Brooks?

9 MEMBER BROOKS: Yes. I don't want
10 to prolong this, but let me be clear now. You
11 say there is a restaurant there now in the
12 space?

13 MR. HURWITZ: No, no, sir.

14 MEMBER BROOKS: Oh, I'm sorry. My
15 mistake. There is a furniture store there?

16 MR. HURWITZ: Yes.

17 MEMBER BROOKS: Okay. And the
18 furniture store has a lease?

19 MR. HURWITZ: Yes.

20 MEMBER BROOKS: For how long?

21 MR. HURWITZ: As I said to Mr.
22 Jones, I do not -- I haven't seen that lease.

1 I don't know the terms and conditions or the
2 dates on it.

3 MEMBER BROOKS: Okay. But you are
4 here requesting a six month extension?

5 MR. HURWITZ: Yes.

6 MEMBER BROOKS: Okay. Thank you,
7 Madam Chair.

8 CHAIRPERSON MILLER: Okay. I
9 don't know, I think we have a couple of
10 options. One is, let me ask you, I think what
11 you hear the Board asking for is a pretty
12 concrete plan to actually get to the point
13 where a restaurant is going to be opened and
14 when would that be.

15 It sounds like Mr. Hoitus --

16 MR. HURWITZ: Hoitus.

17 CHAIRPERSON MILLER: -- Hoitus, as
18 you are saying, does have a plan. So I guess
19 my question is in order to present that
20 information to the Board, how much time would
21 you need?

22 MR. HURWITZ: I would request

1 maybe until April 15th --

2 CHAIRPERSON MILLER: That's the
3 taxes.

4 MR. HURWITZ: -- to give time to
5 Mr. Hoitus to come back and for me to work
6 with him to prepare the materials.

7 CHAIRPERSON MILLER: Okay. So
8 then I would ask my Board Members whether if
9 they are interested in hearing from Mr.
10 Hoitus, you know, within the next month or two
11 or whether they are interested in setting this
12 for six months or whether they are interested
13 in something else. Yes, Mr. Silverstein?

14 MEMBER SILVERSTEIN: Go ahead.

15 CHAIRPERSON MILLER: Okay. Mr.
16 Jones?

17 MEMBER JONES: I'm interested in
18 hearing from them.

19 CHAIRPERSON MILLER: Yes.

20 MEMBER JONES: At our April 17th
21 meeting.

22 CHAIRPERSON MILLER: If we have

1 time on our calendar.

2 MEMBER JONES: I'm interested in
3 hearing from them on April 17th at our hearing
4 -- at our meeting.

5 CHAIRPERSON MILLER: Okay. Okay.
6 As I think the --

7 MEMBER ALBERTI: We might check
8 with our general counsel --

9 CHAIRPERSON MILLER: Right.

10 MEMBER ALBERTI: -- if it's
11 possible.

12 CHAIRPERSON MILLER: It is
13 possible.

14 MEMBER JONES: We can figure out
15 the possibilities thereof.

16 MEMBER ALBERTI: But I just --

17 CHAIRPERSON MILLER: Okay. You
18 would like --

19 MEMBER JONES: That's an internal
20 process. I'm expressing my interest.

21 CHAIRPERSON MILLER: Okay.

22 MEMBER ALBERTI: Yes.

1 CHAIRPERSON MILLER: Yes, yes,
2 yes, okay. Good. All right. Others?

3 MEMBER SILVERSTEIN: Yes.

4 CHAIRPERSON MILLER: Mr.
5 Silverstein?

6 MEMBER SILVERSTEIN: I associate
7 myself with the comments of my colleague and
8 friend, Mr. Jones. And I think Mr. Hurwitz
9 for that offer, that proffer.

10 We must treat all of our licenses
11 and applicants equally. We declared a license
12 valid this past month -- I mean vacant this
13 past month because of failure to act.
14 Safekeeping is not permanent. And we are
15 anxious to move this thing forward. Thank
16 you, sir.

17 MR. HURWITZ: Thank you.

18 CHAIRPERSON MILLER: Yes, others?
19 Mr. Alberti?

20 MEMBER ALBERTI: Yes. I just got
21 a nod from our great staff that there is an
22 opening on the 17th, so I suggest that we

1 schedule -- make a commitment to schedule a
2 hearing some time during that day.

3 CHAIRPERSON MILLER: Okay. Mr.
4 Brooks, do you have anything else?

5 MEMBER BROOKS: No, ma'am.

6 CHAIRPERSON MILLER: Okay. All
7 right. Now, Mr. Hurwitz, we have a 10:00 slot
8 available on April 17th.

9 MR. HURWITZ: That's fine.

10 CHAIRPERSON MILLER: That's fine.
11 Okay. So then you should be prepared to come
12 with Mr. Hoitus, so he can answer questions
13 directly, but I would also recommend even in
14 advance of the hearing, if you can, you know,
15 to have this type of real dates, whatever, a
16 concrete plan of how that space is going to
17 become a restaurant and when.

18 And I believe that from what I
19 have heard, the Board Members would probably
20 be interested in seeing that lease to see when
21 it terminates and what other terms might
22 affect the transformation of that property to

1 a restaurant.

2 Okay. If you have questions, you
3 should call Ms. Jenkins, you know, in the
4 meantime. Okay?

5 MR. HURWITZ: Thank you so much.

6 CHAIRPERSON MILLER: All right.

7 Thank you.

8 (Whereupon, the Fact-Finding
9 Hearing in the above-entitled matter was
10 concluded at 11:17 a.m.)

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