

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

IN THE MATTER OF:

JC 7, LLC  
t/a NY NY Diva  
2406 18th Street, NW  
Retailer CR - ANC-1C  
License No. 92380  
Case #13-CMP-00359

Show Cause  
Hearing  
(Status)

(Substantial Change in  
Operation Without Board  
Approval)

March 26, 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  
NICK ALBERTI, Member  
DONALD BROOKS, Member  
MIKE SILVERSTEIN, Member  
HECTOR RODRIGUEZ, Member  
JAMES SHORT, Member

ALSO PRESENT:

MICHAEL STERN, OAG

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

(9:47 a.m.)

CHAIRPERSON MILLER: Okay. The next case on the calendar is Case No. 13-CMP-00359, NY NY Diva located at 2406 18th Street, N.W., License No. 92380, in ANC-1C.

MR. STERN: Good morning. Michael Stern representing the District of Columbia.

CHAIRPERSON MILLER: Okay. Is there anybody here representing NY NY Diva? Okay. This case was scheduled for 9:30. It's 9:48, no one has appeared as of yet, so at this point, I'm going to -- Mr. Stern, have you talked to anyone from the establishment?

MR. STERN: I have not. And though I will be here most of the morning, so if --

CHAIRPERSON MILLER: Okay. Well, I'm going to --

MR. STERN: Perhaps you can recall it. I mean, the Board can recall it.

CHAIRPERSON MILLER: Oh, you can

1       come back at the end of the statuses if they  
2       come in. But right now, I'm going to set it  
3       for Show Cause Hearing on May 28, 2014 at 2:30  
4       p.m.

5                       So what I want to say is that this  
6       is a Status Hearing in which we are just  
7       setting it for the hearing on the merits.  
8       This is not the hearing on the merits. And I  
9       understand that there are people in the  
10      audience who have serious concerns with  
11      respect to this restaurant or establishment.

12                      And this is not the time that we  
13      actually can entertain them, but what I want  
14      to say is I'll give you two courses of remedy.  
15      One is this is Mr. Stern's case and if you  
16      have information that is relevant to the case,  
17      you can -- is that right, Mr. Stern, they can  
18      bring that to your attention?

19                      MR. STERN: If it's relevant to  
20      this case. I believe their concerns involve  
21      other actions.

22                      CHAIRPERSON MILLER: Oh, okay. If

1 it's relevant to this case. Okay.

2 Second, I would say that you  
3 should bring your concerns to Mr. Moosally,  
4 the Director, who is sitting in the room right  
5 here, so I would suggest that as he is right  
6 here --

7 MR. NIXON: We have repeatedly  
8 over an eight month period. Ma'am, he, for  
9 whatever reasons either disinterested or  
10 incapable, they will not enforce the laws.

11 CHAIRPERSON MILLER: Okay.

12 MR. NIXON: We have submitted  
13 numerous violations. Investigators have been  
14 in our various homes on numerous occasions.  
15 And I find it very insulting that they lead us  
16 to believe that they are building a case on  
17 this place. The Investigators are working to  
18 get them shut down and yet, I find out last  
19 Friday, this one so-called Status Hearing is  
20 the only case in the pipeline.

21 CHAIRPERSON MILLER: Okay.

22 MR. NIXON: If you are tolerable,

1 ma'am --

2 CHAIRPERSON MILLER: I hear what  
3 you are saying.

4 MR. NIXON: -- this so-called  
5 restaurant is a nightclub, out of control  
6 nightclub and lately there has been violence  
7 there. Six violent incidents in the last two  
8 weeks between Saturday night, the police have  
9 hauled seven people away.

10 It is dangerous and it is  
11 intolerable. We have to make -- we are being  
12 run out of our homes. And we pleaded with Mr.  
13 Moosally for -- to help us. Nothing has come  
14 forth, so we are bringing it to the Board  
15 hoping that you will impress upon the Agency  
16 to do something and fast.

17 CHAIRPERSON MILLER: Okay. So we  
18 hear you, I hear you and we will follow-up  
19 with Mr. Moosally for sure, but I would  
20 suggest if there is anything else you need to  
21 say, that you bring it to his attention out in  
22 the hallway or in his office, because there is

1 nothing that we can do today, but I hear you.

2 MR. NIXON: And there is nothing  
3 that he will do, so we are --

4 CHAIRPERSON MILLER: No. I --

5 MR. NIXON: -- I guess the  
6 citizens can move and these guys from Virginia  
7 can just run this nightclub. Is that what we  
8 are being told?

9 CHAIRPERSON MILLER: I'm telling  
10 you that the proper course of action right now  
11 is to work with Mr. Moosally and Mr. Stern.

12 MR. NIXON: Could you possibly  
13 appoint some outside Investigator or  
14 administrator because --

15 MEMBER SILVERSTEIN: No.

16 MR. NIXON: -- we have gotten  
17 nowhere with Mr. Moosally.

18 CHAIRPERSON MILLER: And the other  
19 thing is that if you want to address your  
20 concerns in writing for the Board's  
21 consideration, I would suggest you do that,  
22 but there is nothing that the Board can tell

1 you today, except that we will pay attention  
2 to this and to speak to those people and put  
3 something in writing for our consideration.

4 MR. NIXON: Okay. Thank you.

5 CHAIRPERSON MILLER: Thank you.

6 Mr. Silverstein?

7 MEMBER SILVERSTEIN: May I also  
8 suggest, sir, that you work more closely or  
9 you attempt to with the commander of your  
10 Police District --

11 MR. NIXON: We have --

12 MEMBER SILVERSTEIN: -- because --

13 MR. NIXON: -- on numerous  
14 occasions.

15 MEMBER SILVERSTEIN: Sir, I'm  
16 speaking.

17 MR. NIXON: Yes, sir.

18 MEMBER SILVERSTEIN: The police  
19 have -- we cannot take steps unilaterally.  
20 The Court of Appeals has told us that and has  
21 shown us that. We are restricted in how we  
22 handle things as a Board.

1                   If you work more closely with  
2                   them, it is possible that there are remedies  
3                   that they can bring forward to us involving  
4                   the Chief of Police.

5                   MR. NIXON:   Okay.

6                   MEMBER SILVERSTEIN:  I'm trying to  
7                   be helpful here.  We hear the case and trust  
8                   me when I tell you there is nothing that sears  
9                   our conscience more than when something  
10                  terrible happens and there is the thought or  
11                  the fear that we might have done something to  
12                  stop it.  We are not turning our back on this  
13                  case.

14                  It's just that we are, as a  
15                  judicial body, limited in what we can do and  
16                  how we can do it by the laws and by cases that  
17                  have been overturned by the Court of Appeals.  
18                  I hope you understand that.

19                  MR. NIXON:  Just to paint a little  
20                  bit further picture, in case you are not  
21                  aware, the police are dedicating four, six,  
22                  eight, ten officers a night four nights a week

1 posted in front of this place with a  
2 restaurant license, because it is a hot spot.  
3 They have told us --

4 MEMBER SILVERSTEIN: All right.

5 MR. NIXON: -- that it's the worst  
6 location in the city, at this time. Well --

7 MEMBER SILVERSTEIN: As I said,  
8 I've told you where to go and I have told you  
9 what to do.

10 MR. NIXON: Thank you.

11 MEMBER SILVERSTEIN: I cannot go  
12 any further in my capacity legally.

13 MR. NIXON: Thank you, sir.

14 MEMBER SILVERSTEIN: Thank you,  
15 sir.

16 CHAIRPERSON MILLER: Thank you.

17 And I just want to put on the record for NY NY  
18 Diva, I failed to mention that my records show  
19 that they were served with notice of this  
20 hearing on February 21, 2014 as well.

21 (Whereupon, the Show Cause  
22 (Status) Hearing in the above-entitled matter

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was concluded at 9:53 a.m.)

<hr/> <p style="text-align: center;"><b>A</b></p> <hr/> <p><b>a.m</b> 2:2 10:1  <b>above-entitled</b> 9:22  <b>action</b> 6:10  <b>actions</b> 3:21  <b>address</b> 6:19  <b>administrator</b> 6:14  <b>Agency</b> 5:15  <b>ALBERTI</b> 1:18  <b>Alcoholic</b> 1:2,12,13  <b>ANC-1C</b> 1:7 2:6  <b>anybody</b> 2:10  <b>Appeals</b> 7:20 8:17  <b>appeared</b> 2:12  <b>appoint</b> 6:13  <b>Approval</b> 1:10  <b>attempt</b> 7:9  <b>attention</b> 3:18 5:21  7:1  <b>audience</b> 3:10  <b>aware</b> 8:21</p> <hr/> <p style="text-align: center;"><b>B</b></p> <hr/> <p><b>back</b> 3:1 8:12  <b>believe</b> 3:20 4:16  <b>Beverage</b> 1:2,12,13  <b>bit</b> 8:20  <b>Board</b> 1:2,9,13  2:21 5:14 6:22  7:22  <b>Board's</b> 6:20  <b>body</b> 8:15  <b>bring</b> 3:18 4:3 5:21  8:3  <b>bringing</b> 5:14  <b>BROOKS</b> 1:18  <b>building</b> 1:13 4:16</p> <hr/> <p style="text-align: center;"><b>C</b></p> <hr/> <p><b>calendar</b> 2:4  <b>capacity</b> 9:12  <b>case</b> 1:8 2:4,4,11  3:15,16,20 4:1,16  4:20 8:7,13,20  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