

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
 :
Edwards Bar & Grill : Fact-
License No. 1341 : Finding
Retailer CN : Hearing
 :
(License in Safekeeping) :
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April 3, 2013

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
HERMAN JONES, Member
MIKE SILVERSTEIN, Member

ALSO PRESENT:

FELICIA MARTIN, ABRA Investigator

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(10:01 a.m.)

CHAIRPERSON MILLER: Okay. Our next case on the calendar is a Fact-Finding Hearing for Edwards Bar & Grill. It is License No. 1341 involving a license in safekeeping. Good morning.

INVESTIGATOR MARTIN: Good morning.

CHAIRPERSON MILLER: When you are ready, introduce yourselves for the record.

MR. GRANDIS: My name is Ed Grandis. I'm the attorney for the family of Edwards Bar & Grill.

CHAIRPERSON MILLER: Okay. And will you sign in also?

MR. GRANDIS: Yes.

CHAIRPERSON MILLER: Okay. Good.

INVESTIGATOR MARTIN: Good morning. My name is Felicia Martin, Investigator with ABRA.

CHAIRPERSON MILLER: Okay. This

1 is just a Fact-Finding Hearing. You know,
2 nothing is under oath. We just want to gather
3 some information and see where Edwards Bar &
4 Grill is with respect to selling its license
5 or whatever.

6 MR. GRANDIS: Well, good morning.
7 We were back here about, I think it was,
8 September and, at that time, I explained to
9 you what that -- my client is actively trying
10 to resolve this matter. There is an estate
11 issue in trying to satisfy some federal debts
12 due to illness of the decedent and they were
13 looking at this as the primary, if not the
14 only, asset that they are able to do that
15 with. So there is the interest in the family
16 to move this.

17 We had mentioned last fall that we
18 were concerned about some legislation. At
19 that time, the legislation did not address
20 Ward 5, but was my concern that with the
21 expiration of that moratorium set for, I
22 think, February of this year, that there would

1 be possible -- that there would be an address
2 of that issue.

3 I think within a short period
4 after this hearing, there was an amendment by,
5 I think, McDuffy, Ward 5, to that to make --
6 to I guess put in as a permanent measure the
7 moratorium that I think was a temporary
8 measure in Ward 5 at that time.

9 When we heard about the amendment,
10 we did ask for a meeting with that Council
11 Member's office. We met with one of his
12 representatives who was, I think, very
13 knowledgeable about the amendment and
14 explained the rationale for why the Council
15 Member was moving in that direction.

16 I also introduced my client, whose
17 business was in Ward 5, and they were very
18 positive. They were very polite. They just
19 said that there was, you know, community
20 concern throughout Ward 5 about that concern.
21 And that they said, at the time, we could --
22 if we found someone to do a transfer, that

1 they would be interested in meeting with that
2 person and see what position they would take
3 at that time.

4 So the legislation was amended.
5 It is somewhat permanent now in Ward 5. As
6 you all know, this licensee had a location in
7 Ward 5. We went back to some realtors after
8 the first of the year. The realtors go back--
9 always come back to me and say well, where can
10 we legally put this? And I would state to
11 them what is in the statute.

12 They said that, you know, people
13 are interested in acquiring these licenses
14 that are in safekeeping.

15 And we have also since February
16 been in contact with an individual out in the
17 west coast who does work here, who actually
18 has knowledge of the nightclub/adult
19 entertainment industry that is more west
20 coast-oriented. And so that they were also
21 going to be actively looking for people out
22 there to be in touch with us.

1 And that's where we are. I think
2 it was clear from the record back in September
3 that my client probably would not be
4 interested in maintaining this license once
5 the license period was over. He notes himself
6 that the Board is interested in getting final
7 resolution on these type of licenses.

8 But we really would like to be
9 able to go through the time period. We had
10 mentioned back in September, which is in the
11 record, that we believe this will be resolved
12 before September.

13 CHAIRPERSON MILLER: Okay. Ms.
14 Martin, do you have any comments or anything
15 else?

16 INVESTIGATOR MARTIN: No.

17 CHAIRPERSON MILLER: Knowledge or
18 information you want to bring to the Board?

19 INVESTIGATOR MARTIN: No. Just to
20 add that as far as the enforcement section
21 goes, I did a history on Edwards Bar & Grill
22 and there are no outstanding matters or no

1 ABRA violations as relates to the property.

2 In addition, I did a check as well
3 with the Licensing Division to ensure that the
4 establishment doesn't have any outstanding
5 fines and that also proved to be a positive,
6 that there were no outstanding fines for the
7 establishment.

8 CHAIRPERSON MILLER: Thank you.

9 Okay. Board questions? Mr. Alberti?

10 MEMBER ALBERTI: Hi, Mr. Grandis.

11 Okay. Did I hear you correctly that you said
12 you were confident that this would be resolved
13 by September?

14 MR. GRANDIS: Well, yes, sir.

15 MEMBER ALBERTI: What's that mean?

16 MR. GRANDIS: Well, I think if you
17 go back to the transcript, I think you were
18 very clear, sir, that you were not in the
19 position, perhaps, to continue this in
20 safekeeping after next September. And my
21 client is aware of that.

22 MEMBER ALBERTI: Okay. From your

1 perspective, what does having this resolved by
2 September mean?

3 MR. GRANDIS: The license is a
4 three year license. And we are in the third
5 year. My client is motivated to have this
6 license transferred. If he cannot have it
7 transferred, I think my client is of the
8 mindset that it will not continue in
9 safekeeping after the licensing period ends.

10 MEMBER ALBERTI: So --

11 MR. GRANDIS: That's the best I
12 can give you. We are pursuing the correct
13 channels, we believe, of trying to get the
14 word out there that this is a valuable license
15 and that there are legal locations in the
16 District that this license can go.

17 I tell you that. I get responses
18 from these commercial realtors that they --
19 the first question these people ask is is this
20 license going to be transferred? And we
21 answer that, we cannot make that
22 determination, that's a Board decision. But

1 there are legal areas in the city and it seems
2 like from our dialogue we had in September,
3 that there is an interest that if there is a
4 transferee that does meet the qualifications
5 of the Board, that the Board may be inclined
6 to transfer it.

7 MEMBER ALBERTI: So when you were
8 here last September, you intimated to us that
9 you were, as you are now saying to us, seeking
10 a potential buyer, someone to transfer this
11 to, the license to back in September. Is that
12 correct?

13 MR. GRANDIS: What we have said
14 and I think it is in the record is that we had
15 a written agreement between a commercial
16 broker and ourselves that we terminated before
17 September, because we felt that that person
18 wasn't able to meet the time line that we had
19 asked them to meet, which would have been
20 before September.

21 And I think that is in the record.
22 And that when we came in September, we did not

1 have a new commercial broker. We do not have
2 an exclusive right now. We have decided that
3 the exclusive did not seem to work right, but
4 we are getting the word out to commercial
5 brokers that this is a valuable license that
6 we would like to see transferred and I believe
7 the Board would like to see transferred.

8 MEMBER ALBERTI: Okay. So --

9 MR. GRANDIS: We are not sitting
10 on our hands, sir. We are not.

11 MEMBER ALBERTI: All right. So
12 that's what I'm hearing you saying, that you
13 are actively looking for a buyer, I'll say.

14 MR. GRANDIS: Yes. And I'll tell
15 you what the --

16 MEMBER ALBERTI: But --

17 MR. GRANDIS: -- we just get hit in
18 the head with can you guarantee? What can you
19 give this for potential? And we say we can't
20 give them anything other than to sit down with
21 them, find a location hopefully with them and
22 they can come back to the ABC attorneys, which

1 we have worked with in the past.

2 I think Mr. Berman we have met
3 with in the past or at least by phone and
4 email communication about this matter.

5 We are not -- we are not -- you
6 know, we wish we had a resolution now. My
7 client would be better off if there was a
8 resolution of a successful transfer.

9 MEMBER ALBERTI: You also said
10 earlier that there is a federal tax issue
11 related to the estate?

12 MR. GRANDIS: Not tax.

13 MEMBER ALBERTI: Oh, federal --

14 MR. GRANDIS: Federal payment.

15 MEMBER ALBERTI: Federal payment?

16 MR. GRANDIS: And I don't know

17 if --

18 MEMBER ALBERTI: Related to the
19 estate?

20 MR. GRANDIS: Estate.

21 MEMBER ALBERTI: All right.

22 MR. GRANDIS: The bill.

1 MEMBER ALBERTI: Well --

2 MR. GRANDIS: It's not a tax.

3 MEMBER ALBERTI: -- it's the
4 estate. It's the estate?

5 MR. GRANDIS: Yes.

6 MEMBER ALBERTI: A federal payment
7 related to the estate. Is that in any way an
8 obstacle --

9 MR. GRANDIS: No.

10 MEMBER ALBERTI: -- to
11 transferring this license, selling it to
12 another owner?

13 MR. GRANDIS: No. No, there
14 isn't. It's probably the only way that the
15 estate can pay the bill.

16 MEMBER ALBERTI: Okay.

17 MR. GRANDIS: Quite frankly.

18 MEMBER ALBERTI: Thank you. No
19 further questions.

20 CHAIRPERSON MILLER: Mr. Jones?

21 MEMBER JONES: Thank you, Madam
22 Chair. Given your response to Board Member

1 Alberti's question, I guess I'm not totally
2 clear on what the encumbrances would be from
3 September to now that you don't have more
4 concrete progress to offer us outside of what
5 you just communicated verbally.

6 Do you have like a contingent
7 offer? You said you received emails. You
8 received correspondence. And the first
9 question is can you guarantee? Well, anybody
10 in the business knows you can't guarantee it,
11 because it's a Board decision from that
12 standpoint.

13 So anyone that would be willing to
14 pay that kind of money for a license, I would
15 have to assume, it may be a bad assumption,
16 but, would have some knowledge of the fact
17 that you are not in a position to guarantee
18 that. And you can clearly enter into a
19 contingent offer where all the other terms are
20 resolved with the exception of it's contingent
21 upon the Board approving the transfer.

22 I have seen those.

1 MR. GRANDIS: Yes.

2 MEMBER JONES: So for you to tell
3 me what you are telling me right now, I don't
4 hear that there are any things that -- nothing
5 in place that would keep you from making those
6 steps that I just indicated.

7 MR. GRANDIS: Right.

8 MEMBER JONES: And the fact that
9 you haven't done that doesn't make me feel
10 extremely confident that you are as far down
11 the rabbit hole as you would lead us to
12 believe. And I'm trying to get you to help me
13 understand and get a better appreciation for
14 that fact.

15 MR. GRANDIS: One of the things I
16 think did help us is getting the statute,
17 getting that bill voted on and signed by the
18 Mayor and now a statute, because when we were
19 here, there was no certainty on whether or not
20 that moratorium in Ward 5 would continue after
21 February. That was a stand-alone emergency
22 piece of legislation that was going to expire.

1 Okay. What had happened was --
2 what has transpired between September and the
3 end of the year is that that amend -- there
4 was an amendment to that statute, as I thought
5 there perhaps would be.

6 And so, therefore, we have not had
7 that legislative certainty until after that
8 bill was signed by the Mayor, which was the
9 end of the year. So we have had certainty
10 about that, which we can tell commercial
11 realtors that there is a certainty now. There
12 is a moratorium in Ward 5 and that wasn't a
13 certainty before when we were here in
14 September.

15 MEMBER JONES: Okay. So that--

16 MR. GRANDIS: That helps.
17 Seriously, in our view, that helps us.

18 MEMBER JONES: Right.

19 MR. GRANDIS: Having the certainty
20 helps us, because it gives at least clarity to
21 a commercial broker on where they should be
22 looking or where they should not be looking.

1 MEMBER JONES: Okay. So to be
2 perfectly candid and frank, speaking about the
3 legislation and the certainty that it now
4 provides and the fact that it helps you just
5 obfuscates my concern. It doesn't really
6 address the concern that I have and that's the
7 fact that you haven't made more progress than
8 you have, at this point, to be able to
9 demonstrate to us that you are in position to
10 have this license totally transferred or
11 whatever you want to call it to get this thing
12 out of safekeeping.

13 And that's really what my concern
14 is as an individual Board Member. And that's
15 where my vote would be cast.

16 MR. GRANDIS: Um-hum.

17 MEMBER JONES: I don't feel
18 confident that you have made progress. I
19 understand you are telling me that you are not
20 sitting on your hands, but I don't see any
21 tangible evidence to that effect. And I'm not
22 a fool. I do business and I know that there

1 are things that you can do to put in place to
2 provide a little bit more concrete validity to
3 what it is you are telling me of what you are
4 doing or what you presented today.

5 I don't know if you appreciate how
6 seriously I take it and I don't know that in
7 September, if you come with what you are
8 coming right now, that I will be as inclined
9 to listen to what it is you are saying right
10 now without any type of substantiation behind
11 it.

12 So just take that for what it's
13 worth. But I am just a single Board Member.
14 I have just one vote. Thank you, Madam Chair.

15 CHAIRPERSON MILLER: Okay.
16 Others? Anything else you want to say?

17 MR. GRANDIS: No. I appreciate
18 you all's indulgence of my time and I
19 appreciate you all understanding that we
20 cannot make someone appear. We really -- you
21 know, the first door round, there were some
22 people, I told you about, that we were not

1 confident in.

2 And we are not going to put
3 ourselves in a situation of even doing a
4 contingency if we didn't believe these people
5 would be accepted by the Board. And that --
6 and I don't know how you all want to accept
7 that, but having -- as someone who has been
8 before the Agency a number of years, I'm very
9 concerned.

10 And I advised my client, we cannot
11 take anyone who just comes forward. We have
12 to do our own due diligence to make sure it is
13 going to be a successful transition. And so
14 it's frustrating to my client. He would like
15 this resolved.

16 CHAIRPERSON MILLER: Right.

17 MR. GRANDIS: But I do understand
18 the importance of that statute you are
19 concerned about and I do understand why you
20 have us here today. We made the best faith
21 effort that this is going to be resolved by
22 September. And that's -- that would satisfy

1 my client very significantly.

2 CHAIRPERSON MILLER: Okay. Okay.

3 I hear you. And I certainly appreciate it
4 that it's in your best interest to get this
5 resolved as quickly as possible. And I think
6 the Board is also sending a message though
7 that, you know, that doesn't mean you have as
8 long as it takes necessarily.

9 And also, I believe that you are
10 under the impression that September is the
11 deadline, that today wasn't the deadline,
12 September is, you know, and you are going --
13 so you are not where you will be in September
14 hopefully. Right. Okay.

15 So I think that what we should do
16 is schedule the status for some time in
17 September. Is the Board amenable to that?
18 Okay. I think that we will have our attorney
19 get back to you with some date after Labor Day
20 for sure.

21 MR. GRANDIS: Thank you.

22 CHAIRPERSON MILLER: Okay. Good

1 luck with that then.

2 MR. GRANDIS: Ma'am, may I ask a
3 question?

4 CHAIRPERSON MILLER: Sure, yes.

5 MR. GRANDIS: If we know something
6 a head of that --

7 CHAIRPERSON MILLER: Yes.

8 MR. GRANDIS: -- time, we would
9 like to work with your staff.

10 CHAIRPERSON MILLER: Oh, please
11 do. And actually --

12 MR. GRANDIS: We are not going to
13 wait.

14 CHAIRPERSON MILLER: Actually,
15 please do.

16 MR. GRANDIS: I'm just putting it
17 for the record.

18 CHAIRPERSON MILLER: Right.

19 MR. GRANDIS: If we know something
20 a head of that time.

21 CHAIRPERSON MILLER: No, actually,
22 that reminds me. It's also beneficial to

1 everyone, even if we are -- if you put
2 something in writing. If we go forward to the
3 status in September, that you put something in
4 writing a week a head of time that the Board
5 can think about before the hearing.

6 MR. GRANDIS: Yes.

7 CHAIRPERSON MILLER: But yes, if
8 you can resolve it before then, that would be
9 terrific. Great.

10 MR. GRANDIS: May I make a further
11 -- one further comment, not necessarily just
12 about this matter, but similar matters?

13 If it were possible for someone on
14 the Board's staff, I mean, on the ABRA staff
15 or in the legal area to actually have a
16 dialogue about legal locations for nightclubs
17 with adult entertainment, I really think that
18 would bolster not just my client, but there
19 are a number of people who are really confused
20 about that issue because of the changes in the
21 last decade in citing these things.

22 And I'm just -- I'm not trying to

1 help my client specifically, but just
2 generally we don't get very clear answers
3 other than the reading of the statute.

4 CHAIRPERSON MILLER: Okay.

5 MR. GRANDIS: And I'm only
6 throwing that out. Maybe there are others in
7 safekeeping like ourselves --

8 CHAIRPERSON MILLER: Right.

9 MR. GRANDIS: -- that that would
10 benefit.

11 CHAIRPERSON MILLER: Okay. I
12 understand your general point, but,
13 specifically, if you are trying to make this
14 happen and you have a question --

15 MR. GRANDIS: Yes.

16 CHAIRPERSON MILLER: -- you should
17 feel free to call --

18 MR. GRANDIS: Yes.

19 CHAIRPERSON MILLER: -- Mr. Berman
20 or Ms. Jenkins.

21 MR. GRANDIS: And I want you to
22 know your staff is very reliable and

1 responsive and timely. We do appreciate that.

2 Thank you.

3 CHAIRPERSON MILLER: Thank you.

4 Mr. Silverstein?

5 MEMBER SILVERSTEIN: Mr. Grandis,
6 we are fully aware of the special nature of
7 this license and the difficulties and the
8 challenges that are faced in trying to find a
9 new location. Anything that you can do to
10 move this forward, if you want to be in touch
11 with us great, our staff, I'm sure, can recite
12 the law, but I would ask you to understand
13 that they can't be making any promises or
14 telling you anything off the record that you
15 could then use or, in fact, telling you
16 anything off the record.

17 We want to be helpful. We
18 understand the situation. We wish you well.
19 And anything that you can do to move this
20 forward, I think, would make the Board very
21 happy.

22 MR. GRANDIS: Thank you.

1 MEMBER ALBERTI: A quick comment?

2 CHAIRPERSON MILLER: Yes, Mr.

3 Alberti?

4 MEMBER ALBERTI: Mr. Grandis, ABRA
5 staff is always here to answer questions about
6 licensing issues. But the questions you have
7 are -- when you talk about questions about
8 where to locate this are questions about
9 zoning. It's a zoning matter, not an ABRA
10 matter.

11 I recommend that you seek out
12 someone with knowledge of District Zoning
13 Laws.

14 MR. GRANDIS: Thank you.

15 MEMBER ALBERTI: They will be more
16 helpful than ABRA in talking to you about the
17 ability to locate this --

18 MR. GRANDIS: Good suggestion.

19 MEMBER ALBERTI: -- establishment.

20 MR. GRANDIS: Thank you, sir.

21 CHAIRPERSON MILLER: Mr. Grandis,
22 in the meantime, we actually have a hearing

1 date for you.

2 MR. GRANDIS: Oh, good.

3 CHAIRPERSON MILLER: September 11th
4 at 10:30 a.m.

5 MR. GRANDIS: 10:30?

6 CHAIRPERSON MILLER: Yes.

7 MR. GRANDIS: Okay. Thank you
8 very much.

9 CHAIRPERSON MILLER: Okay.

10 MR. GRANDIS: We will accept that
11 date.

12 CHAIRPERSON MILLER: Okay. Thank
13 you. Good luck.

14 MR. GRANDIS: Thank you.

15 CHAIRPERSON MILLER: Okay.

16 MR. GRANDIS: You all have a good
17 afternoon.

18 MEMBER ALBERTI: Take care. Thank
19 you for coming.

20 (Whereupon, the Fact-Finding
21 Hearing in the above-entitled matter was
22 concluded at 10:20 a.m.)

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