

DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE CONTROL BOARD  
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MEETING

IN THE MATTER OF:

Emily Jane Phifer  
t/a Lautrec's  
2431 18th Street, NW  
Retailer CR - ANC-1C  
License No. 85236

Fact-  
Finding  
Hearing

(License in Extended  
Safekeeping)

May 1, 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  
HERMAN JONES, Member  
MIKE SILVERSTEIN, Member  
HECTOR RODRIGUEZ, Member

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

(4:41 p.m.)

CHAIRPERSON MILLER: Okay. Hi.

We are --

MS. PHIFER: Hi.

CHAIRPERSON MILLER: We are the ABC Board and we are back on the record. We have been holding a series of hearings this afternoon with licensees who have licenses in safekeeping that have been there awhile and our regs require that we review those licenses and that they can't stay in safekeeping too long.

MS. PHIFER: No.

CHAIRPERSON MILLER: Okay. So I would like to ask you first if you could identify, you know, yourself for the record, okay?

MS. PHIFER: Sure. My name is Emily Jane Phifer. And I am representing -- I am the owner of 2431 18th Street, which you know as Lautrec's.

1                   CHAIRPERSON MILLER: Okay. So why  
2 is your license in safekeeping?

3                   MS. PHIFER: There is a little bit  
4 of history that I'll try to sort out.

5                   CHAIRPERSON MILLER: Okay.

6                   MS. PHIFER: After I had to -- or  
7 during the time that the last occupants did  
8 not open the business, they under -- they were  
9 under-funded, unfortunately, and spent about  
10 five years trying to make a glamorous place  
11 and in the process altering the interior quite  
12 a bit. And finally, I had to initiate  
13 eviction and that process is ongoing.

14                   But in the -- at the same time, I  
15 learned unfortunately that my brother, who was  
16 the oldest member of the siblings, had cancer  
17 and he fought that good fight for nine years  
18 and then passed away recently.

19                   So, unfortunately, as his  
20 situation, his health became worse, I devoted  
21 more and more time to caring for that  
22 situation. And I had been approached by some

1 business owners on 18th Street who lost  
2 patience. I understood I'm not the only person  
3 who had that kind of a situation.

4 I think they lost patience with  
5 the D.C. Government in other locations. So I  
6 thought that it is probably for the best that  
7 I wasn't in a position to seriously negotiate  
8 with them.

9 Following that, I was almost at  
10 the point of having a lease executed with a  
11 gentleman who had a business down here in the  
12 14th Street area and had closed that when  
13 there was a death in his family or some time  
14 shortly after the death in his family and he  
15 suddenly disappeared. This was last August.  
16 And then he -- I understand through various  
17 sources, that he has not opened up again  
18 anywhere. So it wasn't a matter of my being  
19 in contention with someone else.

20 As -- after he disappeared, then I  
21 was really dumbfounded and then Christmas was  
22 approaching and so I thought that I best start

1 up again when someone else approached me.

2 Now, I have been asked -- as you  
3 know from the record, I have kept the  
4 entertainment license and the outdoor cafe  
5 license active and they -- and of course, the  
6 license itself, I have paid the fees each  
7 year. But I was approached by someone who had  
8 separately gotten a license and wanted to  
9 alter the use of the property, so that I would  
10 then be in a position of trying to market the  
11 license, as I understand is the case if you  
12 don't use it on your property.

13 And I really have been putting  
14 those people off. And now, I have come to the  
15 realization, with the help of and  
16 encouragement of the BID, to secure a contract  
17 with a firm that seems to be quite successful  
18 and, consequently, the Agent said that you are  
19 welcome to call him if you have a question  
20 about our negotiation on this contract.

21 Unfortunately, my lawyer is in  
22 court this week, so he hasn't been available

1 to really get down to the nitty gritty of this  
2 contract, but I do have it with me if you  
3 would like to see a copy. It seems to be the  
4 kind of --

5 CHAIRPERSON MILLER: You have a  
6 contract to sell your license or what?

7 MS. PHIFER: I'm sorry?

8 CHAIRPERSON MILLER: Your contract  
9 is for what?

10 MS. PHIFER: Oh, the contract is  
11 for the real estate company to market -- in  
12 other words, to really actively market this  
13 property.

14 CHAIRPERSON MILLER: Okay. So is  
15 it marketing the -- are you a landlord with a  
16 space?

17 MS. PHIFER: Yes.

18 CHAIRPERSON MILLER: Okay. So  
19 it's to market that space and the license is  
20 for that space, correct?

21 MS. PHIFER: Yes, to get a good  
22 tenant in there that will make use of the

1 liquor license and the entertainment and the  
2 outdoor cafe.

3 CHAIRPERSON MILLER: Okay.

4 MS. PHIFER: And hopefully it  
5 would be a business that is not going to have  
6 some of the ruckus atmosphere that exists in  
7 the past 20 years on 18th Street.

8 CHAIRPERSON MILLER: Okay. So  
9 when did you enter that contract?

10 MS. PHIFER: Oh, I met with the  
11 gentleman last week.

12 CHAIRPERSON MILLER: Okay.

13 MS. PHIFER: And consequently  
14 it's, you know, very active right this minute  
15 and that's why he said that since we couldn't  
16 finalize it with my lawyer until he finished  
17 up this case that he is engaged in, then you  
18 are very welcome to call him and he will  
19 answer any questions you have about the  
20 seriousness of my involvement.

21 CHAIRPERSON MILLER: Okay. We  
22 don't really do that.

1 MS. PHIFER: No, I can appreciate  
2 that. But I just wanted you to know that he  
3 volunteered that and I felt really good about  
4 that.

5 CHAIRPERSON MILLER: Okay. And  
6 who is your lawyer?

7 MS. PHIFER: His name is Bernard  
8 Gray. He is not a liquor license lawyer,  
9 though he does have experience in that regard,  
10 but he doesn't advertise himself as --

11 CHAIRPERSON MILLER: Okay.

12 MS. PHIFER: -- a ABRA attorney.

13 CHAIRPERSON MILLER: Right. And  
14 what's the name of the company that you have  
15 the contract with?

16 MS. PHIFER: Streetsense.

17 CHAIRPERSON MILLER: Okay. And  
18 did they give you an idea of how quickly they  
19 thought they would be able to find someone for  
20 that spot?

21 MS. PHIFER: To be honest, they  
22 are very optimistic. They have already

1 indicated to me that they have more than one  
2 party from New York, they say, interested in  
3 seeing the property, but they can't really  
4 continue until we get this license -- this  
5 contract finalized.

6 CHAIRPERSON MILLER: I see. Okay.  
7 All right. Do other Board Members have  
8 questions? No? Okay. What we have been  
9 doing in general, according to our statute, it  
10 talks about reviewing within a six month  
11 period. So and yours has been sitting for a  
12 couple of years, so that's a long time to sit,  
13 so --

14 MS. PHIFER: Oh, I have -- I am  
15 very --

16 CHAIRPERSON MILLER: You know.

17 MS. PHIFER: -- sympathetic to  
18 that --

19 CHAIRPERSON MILLER: Right.  
20 That's why you are here.

21 MS. PHIFER: -- situation.

22 CHAIRPERSON MILLER: So what we

1 have been doing is scheduling another status  
2 within six months by which time we are  
3 requiring licensees, like yourself, to show at  
4 minimum definite contracts, plans for the sale  
5 or the use of the license.

6 MS. PHIFER: Sure.

7 CHAIRPERSON MILLER: They don't  
8 necessarily have to be consummated by them,  
9 but they have to be in place.

10 MS. PHIFER: Yes.

11 CHAIRPERSON MILLER: So we would  
12 ask you to submit when we tell you, once you  
13 get -- you know, when your date is, but in six  
14 months or so, 10 days before the hearing to  
15 submit the documents that will prove that you  
16 have a contract, you know, for that space or  
17 the license --

18 MS. PHIFER: Yes.

19 CHAIRPERSON MILLER: -- etcetera,  
20 or you are selling it. And then you would  
21 have six more months to complete whatever  
22 arrangements. But we want to see in six

1 months definite arrangements.

2 MS. PHIFER: Sure.

3 CHAIRPERSON MILLER: Okay. It  
4 sounds like what you are telling me that  
5 should work within your schedule.

6 MS. PHIFER: I certainly am  
7 optimistic that it will, but I know salesmen  
8 can be very assertive and promise you great  
9 things. Let's just hope that that's what  
10 happens.

11 CHAIRPERSON MILLER: Okay. Okay.  
12 Yes, Mr. Alberti?

13 MEMBER ALBERTI: I just want to  
14 make it clear that within a year from today,  
15 if the license is not operational, we will  
16 schedule a hearing and at that time, if we are  
17 not satisfied or confident that its operation  
18 is imminent, the Board may cancel the license,  
19 at that time.

20 MS. PHIFER: I --

21 MEMBER ALBERTI: That's a real  
22 possibility.

1 MS. PHIFER: Yes, I appreciate you  
2 spelling that out and being very definite.

3 MEMBER ALBERTI: I think Mr.  
4 Jones --

5 CHAIRPERSON MILLER: Um-hum.

6 MS. PHIFER: Yes?

7 MEMBER JONES: Additionally, if  
8 after the six months, when we get to that six  
9 month point and you haven't demonstrated any  
10 progress beyond what you communicated to us  
11 today, so it's one thing to say you have  
12 promise, you have leads. It's another thing  
13 to say that you have a contract in hand for  
14 imminent sale.

15 MS. PHIFER: Yes.

16 MEMBER JONES: That is the delta  
17 that we are looking for at that six month  
18 milestone. So it needs to be something  
19 concrete, definitive. It can't be I've  
20 contacted a sales person and they are looking  
21 into leads. It's good enough for today, but  
22 it won't be good enough six months from now.

1 MS. PHIFER: Oh, no, I understand.

2 MEMBER JONES: Understood? Okay.

3 MS. PHIFER: Mr. Jones, very much.

4 MEMBER JONES: Okay.

5 MS. PHIFER: And I -- that is why,  
6 one reason why I have attempted to hold off is  
7 the party that would not be making use of it.  
8 And I tried to maintain it, so that it would  
9 be used and bring back some of the positives  
10 of the -- that particular property.

11 MEMBER JONES: Understood. So you  
12 sound very genuine. You sound very sincere,  
13 but I want to make sure it's just conveyed  
14 clearly that it's not a guaranteed year.

15 MS. PHIFER: No.

16 MEMBER JONES: That despite how  
17 sincere you sound, if at six months you don't  
18 have definitive something -- something  
19 definitive, concrete that we can point to to  
20 say yes, you have actually made progress and  
21 it looks as if this is imminent, then at that  
22 six month point, the Board could take action

1 to cancel the license at that point as well.

2 MS. PHIFER: And I would like to  
3 ask then, because I feel the same way that  
4 within six months, I certainly would want to  
5 see something solid. But what I'm about to  
6 ask you is what I have been trying to stay  
7 away from, but I better get a definitive  
8 answer from you as well.

9 This license if it weren't used  
10 and I had to go back to the people that want  
11 to change the business altogether, have a  
12 different type of license, etcetera, what --  
13 then what are my alternatives if that party  
14 doesn't use the license, what happens to the  
15 license set for 2431 18th?

16 MEMBER JONES: So I'll speak to it  
17 in a general sense.

18 MS. PHIFER: Okay.

19 MEMBER JONES: It is your duty and  
20 responsibility as the license holder to ensure  
21 that the license is either in operation or  
22 sold.

1 MS. PHIFER: Okay.

2 MEMBER JONES: And you need to  
3 demonstrate progress to that point at the six  
4 month milestone. So if you present to us a  
5 business plan which involves a third-party  
6 that is intending to make use of the license,  
7 which it sounds like something along those  
8 lines, what you are presenting as a possible  
9 option, then that is a viable consideration,  
10 but it depends on how strongly the business  
11 case is that you are presenting to us at that  
12 six month milestone.

13 MS. PHIFER: Okay.

14 MEMBER JONES: It can't be fluff.

15 MS. PHIFER: Right.

16 MEMBER JONES: Don't come in here  
17 jerking us around. Let's be candid about what  
18 it is you are trying to do and how you are  
19 trying to get there to put the business -- to  
20 put the license into use.

21 MS. PHIFER: Yes.

22 MEMBER JONES: Or to sell it.

1 MS. PHIFER: Yes.

2 MEMBER JONES: So I'm not giving  
3 you advice or constructive feedback on what  
4 you should do, but I am telling you that what  
5 you must demonstrate as a license holder is  
6 either use or sale.

7 MS. PHIFER: Yes.

8 MEMBER JONES: And you have to  
9 demonstrate progress to that point at the six  
10 month milestone.

11 MS. PHIFER: All right.

12 MEMBER JONES: Is that clear?

13 MS. PHIFER: Yes.

14 MEMBER JONES: All right.

15 MS. PHIFER: That's a good solid  
16 answer.

17 MEMBER JONES: All right.

18 MS. PHIFER: Thank you.

19 CHAIRPERSON MILLER: Okay. I  
20 don't know, it just occurred to me, yeah.  
21 Okay. I wanted to say a couple of things to  
22 you.

1                   First of all, the default is if  
2                   you can't sell it and you can't use it, we  
3                   will cancel it. You won't be responsible for  
4                   it any more, we will cancel it.

5                   MS. PHIFER: Right.

6                   CHAIRPERSON MILLER: Okay. And I  
7                   -- okay. Do you understand, that's what we  
8                   are talking about?

9                   MS. PHIFER: Yes.

10                  CHAIRPERSON MILLER: Okay, good.  
11                  And then I'm not sure, the first case on the  
12                  calendar, if when we came back whether I  
13                  called the right case and I want to clarify  
14                  for the record, we are talking about  
15                  Lautrec's, right?

16                  MS. PHIFER: Yes.

17                  CHAIRPERSON MILLER: At 2431 18th  
18                  Street, N.W., yes. I was looking at that, but  
19                  I wasn't sure if that's what I had said on the  
20                  record.

21                  MS. PHIFER: Right.

22                  CHAIRPERSON MILLER: Okay.

1 MS. PHIFER: One of -- I might  
2 just show you, you all are probably familiar  
3 with that case.

4 CHAIRPERSON MILLER: Right.

5 MEMBER JONES: Yes.

6 MS. PHIFER: That's the property.

7 CHAIRPERSON MILLER: Okay.

8 MS. PHIFER: And part of my  
9 concern also was that there has been a lot of  
10 Adams Morgan, if not a larger area of  
11 Washington, concerning themselves with the  
12 maintaining of that mural. And so it has been  
13 utilized by quite a few parties in and out of  
14 Government to recognize Washington, Adams  
15 Morgan, etcetera.

16 And so that has been another issue  
17 that I know is not of your concern, but I  
18 wanted you to know that that's my goal is to  
19 try to get someone that will maintain the  
20 atmosphere so that the headings in Washington  
21 and the people that have made use of it could  
22 continue.

1                   CHAIRPERSON MILLER: That's great.  
2 I hope you are successful.

3                   MS. PHIFER: Thank you. Thank you  
4 very much.

5                   CHAIRPERSON MILLER: So if you  
6 have any questions between now and the next  
7 six months, you can contact Martha Jenkins,  
8 our General Counsel.

9                   MS. PHIFER: All right.

10                  CHAIRPERSON MILLER: Okay. She  
11 will answer them.

12                  MS. PHIFER: Thank you.

13                  CHAIRPERSON MILLER: Okay.  
14 Otherwise, you will get a notice I'm sure some  
15 time before the hearing and, you know, you can  
16 submit your documents 10 days ahead of time,  
17 that would be good. We would get to read them  
18 ahead of time.

19                  MS. PHIFER: All right.

20                  CHAIRPERSON MILLER: All right.  
21 Thank you very much.

22                  MS. PHIFER: Thank you.

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CHAIRPERSON MILLER: All right.

MEMBER ALBERTI: Thank you.

MEMBER JONES: Thank you.

(Whereupon, the Fact-Finding  
Hearing in the above-entitled matter was  
concluded at 4:58 p.m.)

<b>A</b>	<p><b>best</b> 4:6,22  <b>better</b> 14:7  <b>Beverage</b> 1:2,11,12  <b>beyond</b> 12:10  <b>BID</b> 5:16  <b>bit</b> 3:3,12  <b>Board</b> 1:2,12 2:7  9:7 11:18 13:22  <b>bring</b> 13:9  <b>brother</b> 3:15  <b>Building</b> 1:12  <b>business</b> 3:8 4:1,11  7:5 14:11 15:5,10  15:19</p>	<p><b>come</b> 5:14 15:16  <b>communicated</b>  12:10  <b>company</b> 6:11 8:14  <b>complete</b> 10:21  <b>concern</b> 18:9,17  <b>concerning</b> 18:11  <b>concluded</b> 20:6  <b>concrete</b> 12:19  13:19  <b>confident</b> 11:17  <b>consequently</b> 5:18  7:13  <b>consideration</b> 15:9  <b>constructive</b> 16:3  <b>consummated</b> 10:8</p>	<p>16:5,9  <b>demonstrated</b> 12:9  <b>depends</b> 15:10  <b>despite</b> 13:16  <b>devoted</b> 3:20  <b>different</b> 14:12  <b>disappeared</b> 4:15  4:20  <b>DISTRICT</b> 1:1  <b>documents</b> 10:15  19:16  <b>doing</b> 9:9 10:1  <b>dumbfounded</b> 4:21  <b>duty</b> 14:19</p>	<p><b>find</b> 8:19  <b>Finding</b> 1:6  <b>finished</b> 7:16  <b>firm</b> 5:17  <b>first</b> 2:16 17:1,11  <b>five</b> 3:10  <b>fluff</b> 15:14  <b>Following</b> 4:9  <b>fought</b> 3:17</p>
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