



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

2 9:36 a.m.

3 CHAIRPERSON MILLER: Good morning,  
4 ladies and gentlemen. I'd like to welcome you  
5 to the regularly scheduled May 2nd, 2012  
6 meeting of the District of Columbia Alcoholic  
7 Beverage Control Board.

8 My name is Ruthanne Miller. I'm  
9 the Chair. Joining me today, to my far right  
10 is Mr. Calvin Nophlin. To his immediate left  
11 is Mr. Donald Brooks. To my immediate right  
12 is Mr. Nick Alberti. To my far left is Ms.  
13 Jeanette Mobley. And to my immediate left is  
14 Mr. Mike Silverstein. The Board has six  
15 members in attendance for the conduct of  
16 business today, with three constituting a  
17 quorum.

18 Copies of today's hearing calendar  
19 and agenda are available at the receptionist's  
20 desk.

21 Please be aware that these  
22 proceedings are being recorded by a court

1 reporter. Accordingly, we must ask you to  
2 refrain from any disruptive noises or actions  
3 in the hearing room. If you have any  
4 electronic devices; pagers, cell phones or  
5 such, please make certain that they're turned  
6 off to avoid any interruption of the  
7 proceeding.

8 Please note that there's a piece  
9 of paper on each table in the front. When you  
10 come forward as your case is called, please  
11 take a seat at the table and sign in. This is  
12 to ensure the correct spelling of your name  
13 for the record.

14 The record will be closed at the  
15 conclusion of each case except for any  
16 materials specifically requested by the Board  
17 or if the parties elect to submit proposed  
18 findings of fact and conclusions of law within  
19 30 calendar days after the conclusion of the  
20 hearing as permitted by 23 DCMR Section  
21 1717.2. After the hearing is closed, no other  
22 information will be accepted by the Board.

1                   Copies of transcripts are  
2                   available by contacting ABRA's records manager  
3                   Bill Hager and it's the sole responsibility of  
4                   the parties to make this request.

5                   The Open Meetings Act requires  
6                   that the public hearing on each case be open  
7                   to the public. The Board may, consistent with  
8                   Section 405(b) of the Open Meetings Act enter  
9                   a closed meeting during or after the public  
10                  hearing on a case to consult with an attorney,  
11                  to obtain legal advice, discuss settlement  
12                  agreements or deliberate upon a decision in an  
13                  adjudication proceeding.

14                  Okay. We're ready to move to our  
15                  calendar for this morning. The first case on  
16                  the calendar is Case No. 12-PRO-00016, HGH  
17                  1610, LLC located at 1610 14th Street, N.W.,  
18                  License No. 88785 in ANC 2F.

19                  And when you're ready, would you  
20                  introduce yourselves for the record, please?

21                  MS. FITCH: Good morning. Candace  
22                  Fitch, attorney agent for the Applicant.

1 MR. HILTON: Good morning. Ian  
2 Hilton, Applicant.

3 CHAIRPERSON MILLER: Okay.

4 MS. FERSTER: Good morning.  
5 Andrea Ferster, counsel for the 45  
6 Protestants.

7 MR. CIPPO: Louis Cippo,  
8 Protester.

9 CHAIRPERSON MILLER: I'm sorry, I  
10 can't hear you.

11 MR. CIPPO: Louis Cippo.

12 CHAIRPERSON MILLER: Okay. And  
13 you are?

14 MR. CIPPO: A Protester.

15 CHAIRPERSON MILLER: A Protestor?  
16 Okay. Why don't we start with some  
17 preliminary matters. I think that the  
18 Protestants were granted conditional standing,  
19 okay, because there were four Protestants  
20 there?

21 MS. FERSTER: That's correct.  
22 Mary Draper, Fred Weis, Martha Taft and Miguel

1       Navarro attended the roll call hearing and we  
2       were granted conditional status and advised to  
3       have one additional Protestant available.  
4       That's Mr. Cippo.

5                   CHAIRPERSON MILLER:   Okay.  That's  
6       what I figured.  All right.  So then you all  
7       have standing now.  Okay.  Good.

8                   So that is one preliminary matter.  
9       Is there any other preliminary matter?

10                   MS. FERSTER:  The Protestants have  
11       filed a motion for a continuance of this  
12       status hearing as well as to re-calendar the  
13       protest hearing.

14                   CHAIRPERSON MILLER:  Is that  
15       Protestants' motion to dismiss or in the  
16       alternative for a continuance?

17                   MS. FERSTER:  We have since  
18       withdrawn the motion to dismiss and we're  
19       simply asking for a continuance of the status  
20       hearing and the protest hearing.

21                   CHAIRPERSON MILLER:  Oh, okay.

22                   MS. FERSTER:  Just to clarify, we

1       withdrew the motion to dismiss because when we  
2       filed our motion initially the Applicant had  
3       not filed any kind of application to change  
4       the ownership. And then the day after we  
5       filed our continuance, the Applicant filed its  
6       ownership change papers. So and given that  
7       filing, we withdrew the motion to dismiss.

8                   CHAIRPERSON MILLER: Okay. I  
9       guess my question is though your motion for a  
10      continuance, is that something that you would  
11      like the Board to look at within the papers  
12      that have already been filed, or do you just  
13      want to address it right now, that it's really  
14      -- the paper that you filed, the motion to  
15      dismiss or in the alternative for a  
16      continuance if it is withdrawn and you just  
17      want to explain why you want to have a  
18      continuance?

19                   MS. FERSTER: Yes, I would be  
20      happy to explain that.

21                   CHAIRPERSON MILLER: Okay.

22                   MS. FERSTER: Should I proceed?

1 CHAIRPERSON MILLER: Yes, just  
2 proceed.

3 MS. FERSTER: Okay.

4 CHAIRPERSON MILLER: It's not  
5 going to be too long, correct?

6 MS. FERSTER: No. No.

7 CHAIRPERSON MILLER: Okay. Yes,  
8 go ahead.

9 MS. FERSTER: Just very briefly,  
10 at the roll call hearing on April 2nd the  
11 owner did not appear, but a potential new  
12 owner did appear, advised the Board that  
13 papers were going to be filed with the Board  
14 for a change of ownership. The Board's agent  
15 said, well, you know, we can sort of have a  
16 conversation, although she was uncomfortable  
17 with proceeding without an owner present,  
18 didn't know what the ownership situation is.  
19 The Applicant advised that ownership change  
20 application would be filed very quickly.

21 We proceeded with some preliminary  
22 discussions at the mediation session on April

1 13th and at that point the Applicant indicated  
2 that they were going to file this, you know,  
3 application very quickly and also were going  
4 to get back to us with some of the issues that  
5 we had identified during the mediation. But  
6 more than two weeks went by with no  
7 application filed, no response from the  
8 Applicant. And so, we became very  
9 concerned --

10 CHAIRPERSON MILLER: We don't want  
11 too much at this time.

12 MS. FERSTER: Well, yes, the  
13 bottom -- and this is in our papers, but our  
14 basic concern at this point is that we have a  
15 status now. We've basically had no  
16 discussions with the entity, the owner who's  
17 actually going to be operating the  
18 establishment and nor can we actually conclude  
19 any kind of voluntary agreement until this  
20 application is approved. We're concerned we  
21 haven't had -- you know, the discussions  
22 haven't moved forward. The time is tight.

1 The protest hearing is June -- I think 8 -- 13  
2 -- 8 -- 13th.

3 CHAIRPERSON MILLER: It's  
4 scheduled for June 13th.

5 MS. FERSTER: The Board has to  
6 approve the application for an ownership  
7 change before we can even sort of conclude a  
8 discussion with the new owner. I don't know  
9 when that's going to happen, but everything is  
10 very compressed and we have not had any kind  
11 of mediation with the person who is going to  
12 actually operate the establishment.

13 CHAIRPERSON MILLER: Yes.

14 MS. FERSTER: The owner.

15 CHAIRPERSON MILLER: Okay.

16 MS. FERSTER: And we're reluctant  
17 to simply at this point continue with sort of  
18 mediation until that is resolved.

19 CHAIRPERSON MILLER: Okay. And  
20 just you suggest -- so you're requesting that  
21 the protest hearing be postponed as well as,  
22 is that correct?

1 MS. FERSTER: That's correct.

2 CHAIRPERSON MILLER: Okay.

3 MS. FERSTER: And a new mediation  
4 date be set so that we --

5 CHAIRPERSON MILLER: And a new  
6 mediation date? Okay. Ms. Fitch?

7 MS. FITCH: Actually the potential  
8 purchaser of the Applicant LLC was at  
9 mediation, not at the roll call hearing,  
10 because they were still in early negotiations  
11 with the purchase agreement. But we certainly  
12 understand the need and desire for a  
13 continuance as we've -- at the mediation we  
14 brought in the purchaser thinking that it  
15 would be best for him to be involved in  
16 voluntary negotiations and there was some  
17 concern about that, which we certainly  
18 understand. And so, if a continuance is  
19 appropriate, we agree with that, until the  
20 Board can approve the transfer, make that  
21 decision.

22 CHAIRPERSON MILLER: Okay. Okay.

1 So we hear you that, you know, there's a  
2 request for a continuance based on the pending  
3 transfer and that the Applicant's not opposed  
4 to that. And so, we'll take that under  
5 advisement and look at the dates and our legal  
6 counsel will get back to you on that.

7 MS. FITCH: There is a draft  
8 voluntary agreement sort of going back and  
9 forth. It's hard to know who should be  
10 looking at it with this transfer pending. And  
11 so, we understand that concern.

12 CHAIRPERSON MILLER: Okay. Okay.  
13 Good. Thank you. So we hear you and we'll  
14 get back to you about a continuance. We can't  
15 set the date right now. We'll have to take a  
16 look at this.

17 MS. FERSTER: Okay.

18 CHAIRPERSON MILLER: Okay.  
19 Actually, before you go though, as of now  
20 because we haven't officially made any changes  
21 with respect to a continuance, it is set for  
22 6/13/2012 at 1:30. And I just need to tell

1 you a few things about the protest process.

2           And that is, you should have  
3 received a mailing from the adjudication  
4 assistant, Sarah Fashbaugh, which would be in  
5 the form of a letter explaining the protest  
6 process and a copy of the Protest Information  
7 Form. If you don't have these documents,  
8 please see Ms. Fashbaugh at the conclusion of  
9 the hearing. It's important that you review  
10 the rules and adhere to them before and during  
11 the protest hearing.

12           You're required to complete and  
13 submit the Protest Information Form, known as  
14 the PIF, seven days before the date of the  
15 hearing. The document needs to be submitted  
16 to ABRA and to the opposing parties in this  
17 matter. If we don't receive a copy of your  
18 PIF, your application or your protest,  
19 whichever side you're representing, might get  
20 subject to dismissal. And this form actually  
21 is very important. The Board focuses on this  
22 in narrowing the issues and keeping the

1 parties on point during the hearing.

2 So if you have any questions with  
3 respect to those issues, you can call Ms.  
4 Fashbaugh at (202) 397-3971.

5 So those are the general  
6 instructions and, you know, we will be  
7 entertaining a motion for a continuance based  
8 on the pending transfer and what you said  
9 today and get back to you. Okay. Thank you.

10 MS. FERSTER: Thank you.

11 MS. FITCH: Thank you.

12 (Whereupon, the hearing was  
13 concluded at 9:45 a.m.)

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<b>A</b>	<p><b>avoid</b> 3:6</p> <p><b>aware</b> 2:21</p> <p><b>a.m</b> 2:2 14:13</p> <hr/> <p style="text-align: center;"><b>B</b></p> <p><b>back</b> 9:4 12:6,8,14 14:9</p> <p><b>based</b> 12:2 14:7</p> <p><b>basic</b> 9:14</p> <p><b>basically</b> 9:15</p> <p><b>best</b> 11:15</p> <p><b>Beverage</b> 1:2,13,14 2:7</p> <p><b>Bill</b> 4:3</p> <p><b>Board</b> 1:2,14 2:7 2:14 3:16,22 4:7 7:11 8:12,13 10:5 11:20 13:21</p> <p><b>Board's</b> 8:14</p> <p><b>bottom</b> 9:13</p> <p><b>briefly</b> 8:9</p> <p><b>Brooks</b> 1:18 2:11</p> <p><b>brought</b> 11:14</p> <p><b>Building</b> 1:14</p> <p><b>business</b> 2:16</p> <hr/> <p style="text-align: center;"><b>C</b></p> <p><b>calendar</b> 2:18 3:19 4:15,16</p> <p><b>call</b> 6:1 8:10 11:9 14:3</p> <p><b>called</b> 3:10</p> <p><b>Calvin</b> 1:20 2:10</p> <p><b>Candace</b> 4:21</p> <p><b>case</b> 1:9 3:10,15 4:6 4:10,15,16</p> <p><b>cell</b> 3:4</p> <p><b>certain</b> 3:5</p> <p><b>certainly</b> 11:11,17</p> <p><b>Chair</b> 2:9</p> <p><b>Chairperson</b> 1:15 1:17 2:3 5:3,9,12 5:15 6:5,14,21 7:8 7:21 8:1,4,7 9:10 10:3,13,15,19 11:2,5,22 12:12 12:18</p> <p><b>change</b> 7:3,6 8:14</p>	<p>8:19 10:7</p> <p><b>changes</b> 12:20</p> <p><b>Cippo</b> 5:7,7,11,11 5:14 6:4</p> <p><b>clarify</b> 6:22</p> <p><b>closed</b> 3:14,21 4:9</p> <p><b>Columbia</b> 1:1 2:6</p> <p><b>come</b> 3:10</p> <p><b>complete</b> 13:12</p> <p><b>compressed</b> 10:10</p> <p><b>concern</b> 9:14 11:17 12:11</p> <p><b>concerned</b> 9:9,20</p> <p><b>conclude</b> 9:18 10:7</p> <p><b>concluded</b> 14:13</p> <p><b>conclusion</b> 3:15,19 13:8</p> <p><b>conclusions</b> 3:18</p> <p><b>conditional</b> 5:18 6:2</p> <p><b>conduct</b> 2:15</p> <p><b>consistent</b> 4:7</p> <p><b>constituting</b> 2:16</p> <p><b>consult</b> 4:10</p> <p><b>contacting</b> 4:2</p> <p><b>continuance</b> 6:11 6:16,19 7:5,10,16 7:18 11:13,18 12:2,14,21 14:7</p> <p><b>continue</b> 10:17</p> <p><b>Control</b> 1:2,13,14 2:7</p> <p><b>conversation</b> 8:16</p> <p><b>Copies</b> 2:18 4:1</p> <p><b>copy</b> 13:6,17</p> <p><b>correct</b> 3:12 5:21 8:5 10:22 11:1</p> <p><b>counsel</b> 5:5 12:6</p> <p><b>court</b> 2:22</p> <p><b>CT</b> 1:8</p> <hr/> <p style="text-align: center;"><b>D</b></p> <p><b>date</b> 11:4,6 12:15 13:14</p> <p><b>dates</b> 12:5</p> <p><b>day</b> 7:4</p> <p><b>days</b> 3:19 13:14</p>	<p><b>DCMR</b> 3:20</p> <p><b>decision</b> 4:12 11:21</p> <p><b>deliberate</b> 4:12</p> <p><b>desire</b> 11:12</p> <p><b>desk</b> 2:20</p> <p><b>devices</b> 3:4</p> <p><b>discuss</b> 4:11</p> <p><b>discussion</b> 10:8</p> <p><b>discussions</b> 8:22 9:16,21</p> <p><b>dismiss</b> 6:15,18 7:1 7:7,15</p> <p><b>dismissal</b> 13:20</p> <p><b>disruptive</b> 3:2</p> <p><b>District</b> 1:1 2:6</p> <p><b>document</b> 13:15</p> <p><b>documents</b> 13:7</p> <p><b>Donald</b> 1:18 2:11</p> <p><b>draft</b> 12:7</p> <p><b>Draper</b> 5:22</p> <p><b>D.C</b> 1:15</p> <hr/> <p style="text-align: center;"><b>E</b></p> <p><b>early</b> 11:10</p> <p><b>elect</b> 3:17</p> <p><b>electronic</b> 3:4</p> <p><b>ensure</b> 3:12</p> <p><b>enter</b> 4:8</p> <p><b>entertaining</b> 14:7</p> <p><b>entity</b> 9:16</p> <p><b>establishment</b> 9:18 10:12</p> <p><b>explain</b> 7:17,20</p> <p><b>explaining</b> 13:5</p> <hr/> <p style="text-align: center;"><b>F</b></p> <p><b>fact</b> 3:18</p> <p><b>far</b> 2:9,12</p> <p><b>Fashbaugh</b> 13:4,8 14:4</p> <p><b>Ferster</b> 5:4,5,21 6:10,17,22 7:19 7:22 8:3,6,9 9:12 10:5,14,16 11:1,3 12:17 14:10</p> <p><b>figured</b> 6:6</p> <p><b>file</b> 9:2</p> <p><b>filed</b> 6:11 7:2,3,5,5</p>	<p>7:12,14 8:13,20 9:7</p> <p><b>filing</b> 7:7</p> <p><b>findings</b> 3:18</p> <p><b>first</b> 4:15</p> <p><b>Fitch</b> 4:21,22 11:6 11:7 12:7 14:11</p> <p><b>focuses</b> 13:21</p> <p><b>form</b> 13:5,7,13,20</p> <p><b>forth</b> 12:9</p> <p><b>forward</b> 3:10 9:22</p> <p><b>four</b> 5:19</p> <p><b>Fred</b> 5:22</p> <p><b>front</b> 3:9</p> <hr/> <p style="text-align: center;"><b>G</b></p> <p><b>general</b> 14:5</p> <p><b>gentlemen</b> 2:4</p> <p><b>given</b> 7:6</p> <p><b>go</b> 8:8 12:19</p> <p><b>going</b> 8:5,13 9:2,3 9:17 10:9,11 12:8</p> <p><b>Good</b> 2:3 4:21 5:1 5:4 6:7 12:13</p> <p><b>granted</b> 5:18 6:2</p> <p><b>guess</b> 7:9</p> <hr/> <p style="text-align: center;"><b>H</b></p> <p><b>Hager</b> 4:3</p> <p><b>happen</b> 10:9</p> <p><b>happy</b> 7:20</p> <p><b>hard</b> 12:9</p> <p><b>hear</b> 5:10 12:1,13</p> <p><b>hearing</b> 1:8,14 2:18 3:3,20,21 4:6,10 6:1,12,13,20,20 8:10 10:1,21 11:9 13:9,11,15 14:1 14:12</p> <p><b>HGH</b> 1:6 4:16</p> <p><b>Hilton</b> 5:1,2</p> <hr/> <p style="text-align: center;"><b>I</b></p> <p><b>Ian</b> 5:1</p> <p><b>identified</b> 9:5</p> <p><b>immediate</b> 2:10,11 2:13</p> <p><b>important</b> 13:9,21</p>
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