

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF: :

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BCI FOOD SERVICES, LLC :

t/a Standard :Roll Call

1801 14th Street, NW :Hearing

License #ABRA-083769 :

Retailer CR, License Renewal :

Case #13-PRO-00049 :

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MAY 28, 2013

The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, 7th Floor, at 941 North Capitol Street, N.E., Washington, D.C., La Verne Fletcher, Chairperson, presiding.

PRESENT

LA VERNE FLETCHER, Chairperson

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

10:27 a.m.

AGENT FLETCHER: Would the parties in the matter of Standard please come forward. The parties in the matter of Standard.

This is Case Number 13-PRO-00049. BCI Food Services, LLC, trading as Standard, 1801 14th Street, NW, License Number ABRA-083769. This is a Retailer CR license renewal.

The protest issues are adverse impact on peace, order and quiet and residential parking and vehicular and pedestrian safety.

My name is La Verne Fletcher and I'll be conducting the roll call hearing as the Board's Agent pursuant to D.C. Official Code 1601.2.

Introductions beginning with the licensee, please.

MR. ROSNER: Hello. My name is David Rosner, R-O-S-N-E-R. I'm a co-owner

1 of --

2 AGENT FLETCHER: David. What's  
3 the last name again?

4 MR. ROSNER: Rosner, R-O-S-N-E-R.

5 AGENT FLETCHER: And you're the  
6 Applicant?

7 MR. ROSNER: Yes.

8 AGENT FLETCHER: Okay. Your name,  
9 sir?

10 MR. MORRIS: Dustin Morris, M-O-R-  
11 R-I-S.

12 MR. MORRIS: I'm a manager at  
13 Standard.

14 AGENT FLETCHER: Thank you.  
15 And your name, sir?

16 MR. CURTZ: My name is Tad Curtz.  
17 First name T-A-D. Last name C-U-R-T-Z. I'm  
18 one of the co-owners of BCI Food Services.

19 AGENT FLETCHER: Thank you, Mr.  
20 Curtz.

21 Is anyone present on behalf of the  
22 Shaw Dupont Citizens Alliance?

1                   Mr. Curtz, just want you to know  
2                   that we did receive your correspondence  
3                   regarding failure of the SDCA to give you  
4                   seven days' notice of its April 18 meeting to  
5                   allow you an opportunity to attend the meeting  
6                   and make a presentation to the entire voting  
7                   body. But I don't have to make a decision  
8                   with respect to that issue today because the  
9                   Shaw Dupont Citizens Alliance is not present  
10                  and so the protest is dismissed.

11                  MR. CURTZ: Thank you very much  
12                  for that.

13                  I would like to go on the record  
14                  as stating that the representative of the Shaw  
15                  Dupont Citizens Association who made a claim  
16                  to have served us with notice is in the room.  
17                  He's currently stepped outside but he's aware  
18                  that we are here and that this is proceeding--

19                  AGENT FLETCHER: Okay.

20                  MR. CURTZ: -- in case we're  
21                  interested in following up with the Board on  
22                  this matter. He's standing outside by the

1 door of the room right now.

2 AGENT FLETCHER: Okay. Well, he's  
3 not present for the Roll Call Hearing.

4 MR. CURTZ: I understand.

5 AGENT FLETCHER: I understand  
6 you're making that hearing --

7 MR. CURTZ: For the record we'd  
8 like to have our manager, Dustin Morris, say  
9 when he received them.

10 AGENT FLETCHER: Mr. Ferris who is  
11 representing the Shaw Dupont Citizens Alliance  
12 has just entered the room. Before he entered  
13 the room I had dismissed the protest filed by  
14 the SDCA but he is now present so I retract  
15 that decision.

16 MR. FERRIS: Can I introduce  
17 myself for the record?

18 AGENT FLETCHER: Yes.

19 MR. FERRIS: I'm Elwyn Ferris, E-  
20 L-W-Y-N F-E-R-R-I-S for SDCA.

21 AGENT FLETCHER: Thank you, Mr.  
22 Ferris and before you entered I made note that

1 I had received a letter from Thaddeus Curtz  
2 with respect to the SDCA's failure to give  
3 notice of it within seven days of the SDCA  
4 meeting.

5 MR. FERRIS: Yes. There is  
6 currently a dispute on the nature of the  
7 placarding. All we were able to do was to  
8 hand deliver notification. We were able to  
9 get the item on our publicly posted agenda  
10 seven days in advance of our meeting. But  
11 because of the dispute on the nature of the  
12 placarding we were unable to get seven days'  
13 notice to the Applicant. So, in lieu of that  
14 we hand delivered a copy of the agenda and had  
15 it signed by an employee of the establishment.  
16 I believe it was the day before our meeting.

17 But, as mentioned, there is a  
18 dispute on the nature of the placarding as is  
19 covered in the DCMR Section 23 Municipal  
20 Regulations under 1601.8, where a dispute  
21 exists regarding whether the placards on the  
22 Applicant's premises have remained visible to

1 the public for a full 45-day calendar.

2 So, I guess I would like to ask  
3 that this process be postponed, I guess, until  
4 the Board can make an adequate decision on the  
5 nature of the placarding.

6 MR. ROSNER: We object. We  
7 correctly placarded for 45 days. This issue  
8 was not raised during the petition period and,  
9 therefore, is moot. This furthermore to have  
10 standing to protest the license, the  
11 association must notify the Applicant within  
12 seven days of their meeting where they vote to  
13 protest. This is according to D.C. Code,  
14 Title 25, Section 601.3b. Shaw Dupont  
15 Alliance notified us four hours before their  
16 meeting.

17 Our manager, Dustin Morris,  
18 sitting next to me can testify that the  
19 gentleman sitting here, Elwyn Ferris, came to  
20 Standard with a copy of their meeting on the  
21 same day as the meeting and did not receive  
22 specific notice from Shaw Dupont Citizens

1 Alliance at any other time. Therefore, Shaw  
2 Dupont Citizens Alliance lacks standing  
3 because they failed to comply with the notice  
4 provision and Shaw Dupont Citizens Alliance  
5 should be dismissed today at the Roll Call  
6 Hearing because of lack of standing.

7 AGENT FLETCHER: And would you  
8 just state your name for the record.

9 MR. ROSNER: My name is Davis  
10 Rosner.

11 AGENT FLETCHER: Okay. Thank you.  
12 And you wanted your manager to make a  
13 statement?

14 MR. ROSNER: Yes, please. Yes.

15 MR. MORRIS: This is Dustin  
16 Morris. I just wanted to say that I was the  
17 manager on duty on April 18th during the  
18 afternoon. I was sitting outside when Mr.  
19 Ferris came and dropped off a copy of the  
20 agenda and explained that it was for their  
21 meeting that evening and had me sign a copy.

22 As soon as he left around 3:00 I

1 sent a message to Mr. Curtz explaining that  
2 fact and I reviewed this morning and it did,  
3 in fact, say that the meeting was that night.

4 AGENT FLETCHER: Okay. Thank you.  
5 Any other statements?

6 MR. CURTZ: I'd like to add  
7 additionally that Mr. Ferris claimed that he  
8 had given us specific notice a day and a half  
9 before the meeting in this statement. This is  
10 the second inconsistency with dates that I've  
11 been aware of from Mr. Ferris in communication  
12 with the ABRA Board about when he actually  
13 provided notice to us. In their letter they  
14 claim that it was 10 days before their  
15 meeting. On the record now Mr. Ferris has  
16 claimed that it was one and a half days before  
17 their meeting. It was, in fact, approximately  
18 four hours before their meeting. This is the  
19 second inconsistency that I've been aware of  
20 from Mr. Ferris.

21 AGENT FLETCHER: Thank you.

22 Would you state your name for the

1 record?

2 MR. CURTZ: I'm Thaddeus Curtz and  
3 I'd also like to add that Mr. Ferris mentioned  
4 that he posted it on his website. And I'd  
5 like to remind ABRA that the law requires  
6 specific notification to the Applicant within  
7 seven days. The law used to permit general  
8 notification via the website but the D.C.  
9 Council specifically changed that position or  
10 that portion of the code as I'm sure you're  
11 well aware.

12 AGENT FLETCHER: And would you  
13 state your name for the record.

14 MR. ROSNER: David Rosner.

15 AGENT FLETCHER: Thank you.

16 MR. FERRIS: May I respond?

17 AGENT FLETCHER: Yes, Mr. Ferris.

18 MR. FERRIS: Okay. I don't know  
19 if we ever sent anything out that said that we  
20 had given proper -- 10-days notice to the  
21 Applicant. I believe that is what Tad just  
22 inferred. I won't dispute the date on which

1 we got the signed notice because I was there  
2 several days in a row trying to find someone.  
3 So, I -- I won't argue. I'll dispute that  
4 point.

5 AGENT FLETCHER: Yes.

6 MR. FERRIS: But we never claimed  
7 that we had given 10-days notice to the  
8 Applicant.

9 MR. ROSNER: I would also like to  
10 point out that Mr. Ferris just indicated that  
11 he was trying to find someone for several days  
12 which makes it somewhat dubious that he wasn't  
13 able to see the placards.

14 AGENT FLETCHER: Okay. Thank you.  
15 And your name, sir.

16 MR. ROSNER: David Rosner.

17 MR. CURTZ: To be clear, the  
18 letter that I was referencing is the letter  
19 that was signed by the President of Shaw  
20 Dupont Neighborhood Citizens Association that  
21 was signed by Joan Sterling that was issued to  
22 ABRA protesting our license. It stated that

1       there was 10-days notice given to the  
2       Applicant which is myself, Thaddeus Curtz.

3                   AGENT FLETCHER:   Thank you.

4                   For the purpose of the Roll Call  
5       Hearing I'm going to dismiss the Shaw Dupont  
6       Citizen Alliance because in accordance with  
7       the 25601.3B of D.C. Law 19310 of the Omnibus  
8       Alcoholic Beverage Regulation Amendment Act of  
9       2012. That is a new provision. Mr. Ferris,  
10      you may know this already but there is a new  
11      provision that the citizens associations have  
12      to provide an Applicant with at least seven  
13      days notice of a meeting to discuss a license  
14      application. And you, of course, can seek  
15      standing as a protestant beyond today if you  
16      want to petition the ABC Board.

17                   And, Mr. Ferris, on the placard  
18      issue, that's a separate issue that you know  
19      you can pursue outside of --

20                   MR. FERRIS:   That was my question.  
21      What would be my -- could you advise me on my  
22      recourse going forward so that we could regain

1 status?

2 AGENT FLETCHER: In terms of the  
3 actual protest, you can petition the ABC Board  
4 for standing in writing. Let them know that  
5 the SDCA was not granted standing during the  
6 Roll Call Hearing for the reason that I stated  
7 and ask them to grant standing to the SDCA.  
8 Of course, the Board can do that if it chooses  
9 to.

10 And with respect to the placarding  
11 that's a separate issue. You can raise that  
12 issue anytime you get ready. If you believe  
13 that the placards weren't posted for the  
14 entire protest period, you can raise that  
15 issue at anytime. The Board will look at that  
16 separately and make a decision about the  
17 placards.

18 MR. FERRIS: I would address that  
19 to the Board?

20 AGENT FLETCHER: Yes.

21 MR. FERRIS: Okay.

22 AGENT FLETCHER: Let's see. Mr.

1 Curtz or does somebody this side have contact  
2 information on that sheet?

3 MR. ROSNER: Yes, I put mine on.

4 AGENT FLETCHER: Okay. So, that's  
5 you, Mr. Rosner?

6 MR. ROSNER: Yes.

7 AGENT FLETCHER: Okay. You put  
8 your contact information on the sheet?

9 MR. ROSNER: I did.

10 AGENT FLETCHER: Okay. Thank you  
11 very much.

12 Mr. Ferris, you know what to do  
13 beyond today?

14 MR. FERRIS: I will follow your  
15 advice --

16 AGENT FLETCHER: Okay.

17 MR. FERRIS: -- and address the  
18 situation with the Board.

19 AGENT FLETCHER: Okay. Thank you  
20 very much.

21 The Roll Call Hearing is  
22 concluded.

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MR. ROSNER: Thank you, Ms.

Fletcher.

(Whereupon, the above matter was  
concluded at 10:38 a.m.)

<b>A</b>	<b>aware</b> 4:17 9:11,19 10:11 <b>a.m</b> 2:2 15:4	<b>contact</b> 14:1,8 <b>Control</b> 1:2,13,14 <b>copy</b> 6:14 7:20 8:19 8:21 <b>correctly</b> 7:7 <b>correspondence</b> 4:2 <b>Council</b> 10:9 <b>course</b> 12:14 13:8 <b>covered</b> 6:19 <b>co-owner</b> 2:22 <b>co-owners</b> 3:18 <b>CR</b> 1:9 2:9 <b>currently</b> 4:17 6:6 <b>Curtz</b> 3:16,16,20 4:1,11,20 5:4,7 6:1 9:1,6 10:2,2 11:17 12:2 14:1 <b>C-U-R-T-Z</b> 3:17	5:11 7:14,22 8:2,4 11:20 12:5 <b>Dustin</b> 3:10 5:8 7:17 8:15 <b>duty</b> 8:17 <b>D.C</b> 1:16 2:17 7:13 10:8 12:7	<b>full</b> 7:1 <b>furthermore</b> 7:9 <b>F-E-R-R-I-S</b> 5:20
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