

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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ROLL CALL HEARING

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IN THE MATTER OF: :

:

Sunshine Bar & Lounge, LLC :

t/a Sunshine Bar & Lounge :

7331 Georgia Avenue, N.W. :

License #ABRA-085239 :

Retailer CR - License :

Renewal :

Case #13-PRO-00022 :

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MONDAY, JUNE 3, 2013

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The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street N.W., Washington, D.C., Ms. La Verne

Fletcher, Agent, presiding.

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

(10:16 a.m.)

1
2
3 MS. FLETCHER: Would the parties
4 in the matter of Sunshine Bar and Lounge
5 please come forward.

6 This is Case No. 13-PRO-00022,
7 Sunshine Bar and Lounge, LLC, trading as
8 Sunshine Bar and Lounge, 7331 Georgia Avenue,
9 Northwest, License No. ABR-A085239. This is
10 a retailer CR license renewal. The protest
11 issues are adverse impact on peace, order and
12 quiet.

13 My name is La Verne Fletcher and
14 I'll be conducting the Roll Call Hearing as
15 the Board's agent, pursuant to D.C. Official
16 Code 1601.2.

17 Introductions, beginning with the
18 licensee, please.

19 Would you speak up into the
20 microphone, please.

21 MS. KIDANE: My name is Alganesh
22 Kidane. I am the Sunshine Bar and Lounge's

1 owner.

2 MS. FLETCHER: And would you
3 please spell your first and last name for the
4 court reporter, please.

5 MS. KIDANE: A-l-g-a-n-e-s-h.

6 MS. FLETCHER: What was that? A-
7 l-g-a- --

8 MS. KIDANE: n-e-s-h.

9 MS. FLETCHER: Yes.

10 MS. KIDANE: For my last name, K-
11 i-d-a-n-e.

12 MS. FLETCHER: K-i -- what was
13 that?

14 MS. KIDANE: K-i-d-a-n-e.

15 MS. FLETCHER: D as in dog?

16 MS. KIDANE: Yes.

17 MS. FLETCHER: K-i-d- --

18 MS. KIDANE: a-n-e.

19 MS. FLETCHER: Thank you. And
20 your name, sir?

21 MR. HAILU: My name is Sam Hailu.

22 MS. FLETCHER: That's S-a-m?

1 MR. HAILU: Yes.

2 MS. FLETCHER: And how do you
3 spell the last name?

4 MR. HAILU: H-a-i-l-u.

5 MS. FLETCHER: H-a --

6 MR. HAILU: i-l-u.

7 MS. FLETCHER: i-l-u.

8 MR. HAILU: Middle name, Yenenh,
9 Y-e-n-e-n-h.

10 MS. FLETCHER: Thank you very
11 much.

12 And on behalf of ANC4B?

13 MS. GREEN: Sara, S-a-r-a, Green,
14 like the color.

15 MS. FLETCHER: Ms. Green, do you
16 have a protest letter signed by ANC4B today?
17 I have in the record your resolution to file
18 the protest, but there's no protest letter.

19 MS. GREEN: I do not have it with
20 me. What is it that you require?

21 MS. FLETCHER: A signed protest
22 letter.

1 MS. GREEN: I received a letter in
2 the mail saying that we were protest -- I was
3 unaware that we needed a signed -- I received
4 a letter in the mail saying, you know, we were
5 protesters, and there was no problem and
6 here's the date to show up and that's why I'm
7 here.

8 But if you tell me what is
9 required, we will provide it.

10 MS. FLETCHER: One second, Ms.
11 Green.

12 What ANC4B does have a letter that
13 it signed and submitted to ABRA 4 of the
14 protest. Is there a signed protest letter?

15 MS. GREEN: I -- we did not do
16 that. I -- I don't -- I was unaware that was
17 required.

18 MS. FLETCHER: Yes.

19 MS. GREEN: We received a letter
20 in the mail that said we were protesters.

21 MS. FLETCHER: Yes.

22 MS. GREEN: I didn't receive

1 anything in the mail saying that we had to
2 have a signed protest letter.

3 MS. FLETCHER: Yes. You received
4 the letter, you're right, from the staff,
5 informing you of the Roll Call Hearing and
6 telling you that a timely protest had been
7 filed.

8 MS. GREEN: Correct.

9 MS. FLETCHER: So there's nothing
10 in there that tells you that you are required
11 to sign a protest.

12 MS. GREEN: Correct.

13 MS. FLETCHER: But you -- but
14 there is a requirement that a signed protest
15 be submitted in order for us to accept a -- in
16 order for it to be a valid protest.

17 So, Ms. Green, what I'm going to
18 do, for the purpose of the Roll Call Hearing,
19 because there's not a signed protest letter in
20 the file and you're not aware that there is
21 even one in existence for right?

22 MS. GREEN: I'm the chair, and I

1 am the person who is also a single-member
2 district. So, I wouldn't know if there was
3 such a letter, I would be asked to sign it and
4 I have not signed it, our staff person.

5 But I guess, on the record, I'm --
6 I'm objecting to this -- this further hurdle,
7 because we had a vote in a properly-noticed
8 public meeting with a forum present. We met
9 the deadline.

10 I -- I don't understand why our
11 protest -- we received a letter from you
12 stating that we were protestants. I'm not
13 sure what else -- you know, I'm not sure why
14 -- why there's even a question.

15 MS. FLETCHER: Well, what I'm
16 going to have to do for the purpose of Roll
17 Call is to dismiss the protest filed by ANC4B.

18
19 And, Ms. Green, what you can do is
20 you can petition the ABC Board to be granted
21 standing based on what you just said to me,
22 that you weren't aware that the ANC needed to

1 submit a signed protest letter.

2 MS. GREEN: Yes.

3 MS. FLETCHER: And the Board, of
4 course, has the right to grant standing to
5 ANC4B before the purpose of Roll Call.

6 MS. GREEN: That's -- that
7 ludicrous. It's ludicrous that we have to go
8 through this. Absolutely ludicrous.

9 MS. FLETCHER: Okay. So your
10 objection is so noted. I understand, but
11 there is no signed protest. I -- for the
12 purpose of Roll Call, I have to dismiss the
13 ANC4B protest.

14 But, as I said, you may seek
15 standing from the Board. You will get an
16 order dismissing the protest and what it will
17 give you, ten days to seek standing as a
18 protestant, and you would need to make a
19 written submission to the ABC board.

20 MS. GREEN: Unbelievable.
21 Unbelievable.

22 MS. FLETCHER: Mr. Carley?

1 MR. CARLEY: Yes, ma'am.

2 MS. FLETCHER: Could you please
3 spell your name for the court reporter?

4 MR. CARLEY: My name is Andre, A-
5 n-d-r-e, Carley, C-a-r-l-e-y.

6 MS. FLETCHER: And you are
7 representing a group of approximately 15?

8 MR. CARLEY: Approximately --

9 MS. FLETCHER: Fifteen --

10 MR. CARLEY: Yes, around 16
11 people.

12 MS. FLETCHER: Could you please
13 state your name and spell it for the court
14 reporter.

15 MR. CARLEY: My name again?

16 MS. FLETCHER: Yes.

17 MR. CARLEY: Andre, A-n-d-r-e,
18 Carley, C-a-r-l-e-y.

19 MS. FLETCHER: And would each
20 person with Mr. Carley, please stand behind
21 him. There's a microphone on the table.
22 You'll need to state your name and spell it

1 for the court reporter, please.

2 MS. WILLIAMS: Alice Williams, A-
3 l-i-c-e, W-i-l-l-i-a-m-s.

4 MS. FLETCHER: Thank you.

5 MS. ROBINSON: Diane Robinson. D-
6 i-a-n-e, R-o-b-i-n-s-o-n.

7 MS. JONES: Gertrude Jones --

8 MS. FLETCHER: What was the first
9 name again?

10 MS. JONES: Gertrude Jones.

11 MS. FLETCHER: Yes.

12 MS. JONES: G-e-r-t-r-u-d-e. Last
13 name, J-o-n-e-s.

14 MR. PAGE: William T. Page, W-i-l-
15 l-i-a-m. Last name is Page, P-a-g-e.

16 MS. JOHNSON: My name is Iris
17 Johnson, I-r-i-s, J-o-h-n-s-o-n.

18 MS. FLETCHER: Thank you.

19 MS. SMITH: My name is Theresa
20 Smith.

21 MS. FLETCHER: What's that?

22 MS. SMITH: Theresa Smith.

1 MS. FLETCHER: Yes.

2 MS. SMITH: T-h-e-r-e-s-a, S-m-i-
3 t-h.

4 MS. FLETCHER: Thank you.

5 MS. CARLEY: My name is Vera, V-e-
6 r-a, Carley, C-a-r-l-e-y.

7 MS. UDHIRI: My name is Cynthia
8 Udhiri, C-y-t-h-e-i-a, U-d-h-i-r-i.

9 MS. GOODWIN: My name is Icie
10 Goodwin. I-c-i-e, G-o-o-d-w-i-n.

11 MR. BRISCOE: My name is James
12 Briscoe, J-a-m-e-s, B-r-i-s-c-o-e.

13 MS. WEBB: My name is Judith Webb,
14 J-u-d-i-t-h, W-e-b-b.

15 MS. FLETCHER: Thank you.

16 Is there anyone else present from
17 your group, Mr. Carley? Is this everyone?

18 MR. CARLEY: I do have -- this is
19 everyone that's present.

20 MS. FLETCHER: Present. Okay.
21 That's fine.

22 MR. CARLEY: I do have three

1 affidavits granting me representation --

2 MS. FLETCHER: I'll take those.

3 MR. CARLEY: -- to represent them
4 on their behalf.

5 MS. FLETCHER: And I assume that
6 each one of you signed the protest petition?

7 MR. CARLEY: Yes.

8 MS. GREEN: Yes.

9 MS. FLETCHER: Thank you, Mr.
10 Carley.

11 I have three letters from
12 designated -- from individuals designating
13 you, Mr. Carley, as their representative
14 today. One of those individuals is Toussaint
15 Tyson, T-o-u-s-s-a-i-n-t, Tyson, T-y-s-o-n.
16 The other person is Lester H. Richardson, L-e-
17 s-t-e-r, Richardson, R-i-c-h-a-r-d-s-o-n.

18 The other person is Vivianne Chen,
19 V-i-v-i-a-n-n-e, C-h-e-n.

20 MR. CARLEY: Vivianne Chen. Yes.

21 MS. FLETCHER: Vivianne Chen.

22 MS. GREEN: Excuse me. Ms.

1 Fletcher, may I ask a question?

2 MS. FLETCHER: Yes. And, Ms.
3 Green is speaking.

4 MS. GREEN: I -- our staff person
5 sent a cover letter, attached to a copy of the
6 -- of our resolution. Does the cover letter
7 count as a protest letter?

8 MS. FLETCHER: Let's see.

9 MS. GREEN: I mean, I know he sent
10 a cover letter. He always sends a cover
11 letter, and I signed it.

12 MS. FLETCHER: Let me see that.
13 Thanks for pointing that out. If it's signed,
14 I will accept it as a protest.

15 MS. GREEN: I will send you a copy
16 of it. It's always sent with the resolution.

17 MS. FLETCHER: All right.

18 MS. GREEN: And I signed -- I
19 signed that cover letter.

20 MS. FLETCHER: I have the -- a
21 copy of the investigative history. I have the
22 -- the resolution. The resolution does not

1 have a signature page.

2 MS. GREEN: There is a cover
3 letter with a signature, with my signature at
4 the bottom of that letter, and I will provide
5 that to you. That was already sent.

6 I can provide a copy of that
7 electronically. Or, do you want me to come
8 down with a physical copy of the letter. It
9 was dated last month. It was dated May --
10 probably May 23rd or May 22nd, something like
11 that. Would that satisfy you?

12 MS. FLETCHER: Well, what I'm
13 going to do, Ms. Green, is ask you to submit
14 that letter with the signature. And you may
15 submit that even before the -- you receive an
16 order dismissing the protest.

17 You may submit that prior to
18 receiving the order, and if we receive it
19 before the Board issues the order, then they
20 can review your signature before the protest
21 is actually dismissed, and the Board at that
22 time, can make a decision to grant standing to

1 the ANC.

2 MS. GREEN: This is my point for
3 the record, that if it is your clerical error
4 that that letter did not get into the file --
5 as I guarantee you it probably is -- there is
6 no reason why this protest should be dismissed
7 in any way.

8 It should not have to go in front
9 of the Board for any kind of decision. And
10 so, my request would be that you submit --
11 that you accept me as a party pending --
12 pending my showing up this afternoon with a
13 copy of that letter.

14 If I don't produce that letter,
15 you know, in a reasonable period of time, the
16 you can clearly, you know -- but -- but I know
17 that letter was submitted. It was attached.
18 We always do that.

19 It was -- and I signed the letter.
20 It was -- it was attached to our resolution.
21 That's our practice.

22 MS. FLETCHER: Ms. Green, I'm

1 going to actually have to do it the other way
2 around and wait to get that signed letter
3 first.

4 And, as I stated, if we receive
5 that before you receive an order dismissing
6 the protest and the Board can review it before
7 the protest is actually dismissed, and you
8 won't have to wait for that entire dismissal
9 process.

10 Mr. Carley, I need you to clarify
11 something for me.

12 MR. CARLEY: Yes, ma'am.

13 MS. FLETCHER: The letter that you
14 just gave me authorizes Concerned
15 Neighborhoods, Inc. as its representative
16 also.

17 MR. CARLEY: Yes.

18 MS. FLETCHER: So, is your group
19 also the Concerned Neighborhood --

20 MR. CARLEY: Yes, ma'am.

21 MS. FLETCHER: Okay. So, your
22 group is Concerned Neighbors, Inc.?

1 MR. CARLEY: And --

2 MS. FLETCHER: And also --

3 MR. CARLEY: Yes.

4 MS. FLETCHER: -- the group of 15?

5 MR. CARLEY: Yes, ma'am.

6 MS. FLETCHER: Okay. So, it's one
7 and the same group?

8 MR. CARLEY: Yes, ma'am. Yes.

9 MS. FLETCHER: So, what I'm about
10 to say now applies to your group of 16 and to
11 Concerned Neighbors, Inc.

12 MR. CARLEY: Okay.

13 MS. FLETCHER: The protest that
14 you filed, Mr. Carley, does not state a basis
15 upon which a protest may be filed. Your
16 protest states that -- your protest letter
17 basically is based on previous violations that
18 have been disposed of by the Board and,
19 because those violations existed, you expect
20 that Sunshine is going to be in violation at
21 some point in the future.

22 I mean, you expect, based on the

1 past that Sunshine -- I think you used the
2 word "portend" that they will --

3 MR. CARLEY: Right. Yes.

4 MS. FLETCHER: -- admit the -- let
5 me just read it into the record.

6 The protest letter states, based
7 on the following -- this is just some section
8 -- the pertinent sections states, "Based on
9 the following violations found to have
10 occurred by the ABC Board at Sunshine
11 Restaurant over the last year" -- that's the
12 first statement.

13 Then, the protest letter
14 summarizes adverse investigative history,
15 citing numerous violations and fines and
16 penalties imposed by the ABC Board.

17 Then the protest letter goes on to
18 say that "Sunshine's history of serious
19 violations also portends the occurrence of
20 similar conduct by it in the future."

21 So, it appears that your protest
22 was filed based on what you expect of Sunshine

1 in the future.

2 MR. CARLEY: The protest was filed
3 based on the past behavior of Sunshine's, and
4 past behavior is a -- what should I say -- and
5 example -- not an example, but as an indicator
6 of future behavior.

7 MS. FLETCHER: And that is not a
8 basis upon which a protest may be filed. A
9 protest must be filed -- and I'll give you the
10 citation for it so that you can take a look at
11 it.

12 A protest has to be filed pursuant
13 to D.C. Official Code 25-313, under the
14 appropriateness standard.

15 MR. CARLEY: What was that code
16 again?

17 MS. FLETCHER: It's D.C. Official
18 Code 25-313.

19 And, Mr. Carley, if you take a
20 look at that and you believe that this protest
21 was filed under that standard, petition the
22 Board with standing as a protestant.

1 For the purpose of Roll Call, I'm
2 going to have to dismiss the protest because
3 the protest was not filed under that standard.

4 I have a record that you all were
5 -- you all were here today, and so if the
6 Board has reason to schedule a follow-up
7 hearing, you all will not have to attend.

8 Only you, Mr. Carley, if they want
9 to schedule an additional hearing to gather
10 some additional information from you.

11 The fact that all of you are here
12 means that you will not need to appear again,
13 that only Mr. Carley would need to appear.

14 And, just for the record, if there
15 are any members of this protest and group who
16 are not present today and did not designate a
17 representative, they are dismissed in
18 accordance with the Roll Call Hearing notice.

19 Therefore, the protest -- for the
20 purpose of the Roll Call Hearing, the protest
21 filed by the group of 15, represented by Mr.
22 Carley, as well as the Concerned Neighbors,

1 Inc. are dismissed.

2 Mr. Carley, can you confirm
3 something for me? Concerned Neighbors, Inc.
4 is incorporated in the District of Columbia?

5 MR. CARLEY: Yes, ma'am.

6 MS. FLETCHER: Okay. Thank you.

7 MR. CARLEY: I must say for the
8 record, I totally disagree with this decision.

9 MS. FLETCHER: Yes, I understand.

10 MR. CARLEY: I guess --

11 MS. FLETCHER: And you -- and you
12 may seek reinstatement from the Board and you
13 can tell them why you disagreed with what --
14 with what was said today and the Board can
15 overrule that and grant you standing as a
16 group of protestants.

17 So, for whatever reason you
18 disagree, just put it in writing, make a
19 statement to the Board and -- and they will
20 make a final decision. They will make a
21 decision. They will rule on your request to
22 be -- made in standing.

1 Mr. Carley, you will receive an
2 order. You don't have to do anything until
3 you receive an order from the ABC Board. Or,
4 if you want to petition the Board before you
5 receive an order.

6 MR. CARLEY: I can do so.

7 MS. FLETCHER: You can do that,
8 and ask that it be placed in the record,
9 because the order would still be issued, but
10 the Board would already have your response.

11 So, when you get an order stating
12 "Seeking reinstatement within ten days," you
13 will have already submitted --

14 MR. CARLEY: The order. The
15 appeal, I should say?

16 MS. FLETCHER: Yes.

17 MR. CARLEY: Okay. And you are
18 saying the reason that this is getting
19 rejected is because --

20 MS. FLETCHER: Is because the
21 protest wasn't filed under D.C. Official Code
22 25-313. That's the "Appropriateness Standard,"

1 under D.C. Official Code.

2 Okay. Well, any -- any questions?

3 (No response.)

4 MS. FLETCHER: Okay. Thank you
5 for coming. The Roll Call Hearing -- pardon
6 me?

7 Yes, sir. Could you step up and
8 state your name into the microphone, please.

9 MR. PAGE: William T. Page.

10 MS. FLETCHER: Yes.

11 MR. PAGE: Is it possible that any
12 of the Board members who live up there who can
13 observe what's going on?

14 MS. FLETCHER: Well, the Board
15 members wouldn't observe it. What you can do,
16 if you have problems that you want the Board
17 to be aware of, you can always file a
18 complaint and the complaint would be assigned
19 to the Enforcement Division, and they would
20 come out and observe what's going on at the
21 establishment.

22 So -- and they will report back to

1 the Board. They will prepare an investigative
2 report and report back to the Board their
3 findings. So, that can be done at any time.

4 MR. PAGE: I think that has been
5 done to a certain extent. But, thank you very
6 much.

7 MS. FLETCHER: You're welcome.

8 Mr. -- Ms. Kidane and Mr. Yeneneh.

9 MR. HAILU: Yes.

10 MS. FLETCHER: Once the Board
11 issues an order dismissing the protest, you'll
12 have -- and the protestants are going to seek
13 standing as protestants, you'll have an
14 opportunity to respond to those requests.

15 MR. HAILU: Okay.

16 MS. FLETCHER: But you'll be
17 notified throughout the process. I just
18 wanted you to know that.

19 Are you going to say something?

20 Can you state your name, please.

21 MS. WEBB: Judith Webb is my name.

22 MS. FLETCHER: Yes.

1 MS. WEBB: All right. I wanted to
2 know, as a follow-up to what Mr. Page has
3 asked, would it make a difference of several
4 of us posted a complaint, or would one? Would
5 you need to have several of the neighbors to
6 do this?

7 MS. FLETCHER: You mean, to file a
8 complaint at any time?

9 MS. WEBB: To file a complaint at
10 any time.

11 MS. FLETCHER: Or anyone -- any
12 one person -- there's no requirement to file
13 a complaint, that there be a group. Just any
14 -- anybody at any time can file a complaint
15 against an establishment. Any single person,
16 anytime.

17 MS. WEBB: Anytime?

18 MS. FLETCHER: Anytime. Yes,
19 ma'am.

20 MS. WEBB: And what would the
21 consequences -- what would be the follow-up to
22 that? Must we forward the complaint to you,

1 then what happens?

2 MS. FLETCHER: It goes to the
3 Enforcement Division. The Enforcement
4 Division will assign an investigator to
5 investigate the matter based on the claims
6 that you made in your complaint.

7 The investigator will prepare an
8 investigative report provided to the ABC Board
9 for review, and then the ABC Board will make
10 a decision in terms of what should be the next
11 step.

12 MS. WEBB: Thank you.

13 MS. FLETCHER: You're welcome.

14 The Roll Call Hearing is
15 concluded. Thank you.

16 Mr. Carley, did you put your
17 contact information on that sheet?

18 MR. CARLEY: Yes, I did.

19 MS. FLETCHER: And did you all do
20 the same? Excuse me. Email addresses on the
21 sheet?

22 MR. CARLEY: Sure.

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MS. FLETCHER: Do you have your
email address on there?

MR. CARLEY: Sure. I do.

MS. FLETCHER: Okay. As long as
one of you have it, that's fine. Okay. Thank
you.

(Whereupon, the Roll Call Hearing
was concluded at 10:39 a.m.)

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