

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: :

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Bon Appetit Mgt. Co. :

t/a Bon Appetit Mgt. Co. :

4400 Massachusetts Avenue, NW:

License #ABRA-071077 :

Retailer DR :

License Renewal :

Case #13-PRO-00089 :

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June 24, 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

10:08 a.m.

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2  
3 AGENT FLETCHER: Will the parties  
4 in the matter of Bon Appetit please come  
5 forward. The parties in the matter of Bon  
6 Appetit, Case No. 13-PRO-00089, B on Appetit  
7 Management Company trading as Bon Appetit  
8 Management Company, 4400 Massachusetts Avenue,  
9 N.W., License No. ABRA-071077.

10 This is a Retailer DR license  
11 renewal. The protest issues are adverse  
12 impact on peace, order, and quiet. My name is  
13 La Verne Fletcher and I'll be conducting the  
14 roll call hearing as the Board's agent  
15 pursuant to D.C. official code 1601.2.

16 Introductions beginning with Bon  
17 Appetit. Is anyone present from Bon Appetit?

18 Present on behalf of the  
19 Protestants, the individual group of 11?

20 MR. SMITH: Thomas M. Smith.

21 AGENT FLETCHER: Thank you, Mr.  
22 Smith. Would you please spell your name for

1 the court reporter?

2 MR. SMITH: S-M-I-T-H. There are  
3 several additional people here.

4 AGENT FLETCHER: That's perfect.  
5 If you could line up behind Mr. Smith and just  
6 state your name into the microphone and spell  
7 it for the court reporter. There's a  
8 microphone right in the middle of the table  
9 there.

10 MR. SMITH: Also we have letters  
11 for people who are not present.

12 AGENT FLETCHER: I'll take those.

13 MR. FEHRMANN: Are you ready?

14 AGENT FLETCHER: Yes.

15 MR. FEHRMANN: David Fehrmann,  
16 F-E-H-R-M-A-N-N.

17 AGENT FLETCHER: Could you spell  
18 the last name one more time?

19 MR. FEHRMANN: Fehrmann, F-E-H-R-  
20 M-A-N-N.

21 AGENT FLETCHER: Thank you.

22 MS. FEHRMANN: Mary Ellen

1 Fehrmann, F-E-H-R-M-A-N-N.

2 MR. JOSEPH: Larry M. Joseph, J-O-  
3 S-E-P-H.

4 MR. MARTIN: Thomas H. Martin, M-  
5 A-R-T-I-N.

6 AGENT FLETCHER: Thank you.

7 MS. KRESS: Maria F. Kress, K-R-E-  
8 S-S.

9 AGENT FLETCHER: Thank you, Ms.  
10 Kress.

11 The group of 11 is granted  
12 standing as a protestant.

13 Mr. Smith, are you going to be the  
14 designated representative for the group?

15 MR. SMITH: Yes.

16 AGENT FLETCHER: Do you all agree  
17 with that?

18 MEMBERS: Yes.

19 AGENT FLETCHER: Mr. Smith, at the  
20 upcoming status hearing because at least five  
21 individuals appeared from your group today,  
22 only you would need to appear at the status

1 hearing.

2 MR. SMITH: Thank you.

3 AGENT FLETCHER: Also, for the  
4 mediation, if there is going to be one, you  
5 would only need to appear as the designated  
6 representative.

7 On behalf of the Spring Valley-  
8 Wesley Height Citizens Association.

9 MR. MAZZUCHI: Yes. Good morning.  
10 It's Michael Mazzuchi, M-A-Z-Z-U-C-H-I.

11 AGENT FLETCHER: Thank you, Mr.  
12 Mazzuchi. You're the president?

13 MR. MAZZUCHI: Yes, ma'am.

14 AGENT FLETCHER: I have a couple  
15 questions for you, Mr. Mazzuchi. I read your  
16 protest letter and it does indicate that you  
17 are incorporated in the District of Columbia  
18 which is a requirement. There is one  
19 requirement that I'm not sure about because  
20 it's not in the letter. I'll just ask you  
21 about it.

22 You are required to provide at

1 least seven-day's notice to the applicant of  
2 a duly-noted meeting to give the applicant an  
3 opportunity to speak before your voting body.  
4 That's a new law. I don't know if you're  
5 aware of it but I'll just state it for the  
6 record.

7 That is a requirement. Seven days  
8 notice is a requirement pursuant to D.C. law  
9 19310, the Omnibus Alcoholic Beverage  
10 Regulation Amendment Act of 2012 which  
11 actually took effect on May 1, 2013.

12 MR. MAZZUCHI: There wasn't  
13 anything on there. There were representatives  
14 of the Citizens Association at a community  
15 liaison meeting at the university that talked  
16 about the issue. I'm sure it was seven days  
17 in advance. There was no contact details on  
18 the application in terms of how to invite  
19 someone to our meeting or something like  
20 that.

21 AGENT FLETCHER: Yes. The  
22 Citizens Associations in the District of

1 Columbia were advised at some point regarding  
2 this new requirement. Of course, I don't have  
3 any way of knowing if you received notice of  
4 it. Are you registered with ABRA as an  
5 association?

6 MR. SMITH: If I could, I'm also  
7 on the board. I'm the treasury of the  
8 Citizens Association. We re registered but we  
9 have not received anything. In fact, we have  
10 not received anything from ABRA for some time.

11 The situation with this is that  
12 Bon Appetit is a contractor of American  
13 University and we have informed American  
14 University of our concerns and of our meeting.

15 AGENT FLETCHER: Are you speaking  
16 for the -- are you speaking for the Spring  
17 Valley-Wesley Heights Citizens Association  
18 right now?

19 MR. SMITH: Yes, I am. American  
20 University was aware of this issue and we  
21 actually asked them to put us in contact with  
22 their contractor in advance of the decision

1 that we made and they did not do that.

2 AGENT FLETCHER: What I'm going to  
3 need to do for the purpose of the roll call  
4 hearing, that actually should have been  
5 indicated in the protest letter that you gave  
6 notice to Bon Appetit at least seven days  
7 before the date of your meeting.

8 Your protest letter doesn't state  
9 the date of the meeting but applicants have to  
10 be given at least seven days notice now of an  
11 association meeting so they have an  
12 opportunity to appear to address the voting  
13 body. That's a new rule. It's a new law  
14 actually.

15 For the purpose of roll call I'm  
16 going to dismiss the protest filed by Spring  
17 Valley-Wesley Heights Citizens Association.  
18 What you can do, you may petition the Agency  
19 Board for standing as a protestant for the  
20 purpose of the roll call. Because that  
21 requirement has not been met, the protest has  
22 to be dismissed.

1                   However, it's 10:17 and there's no  
2                   one present here for Bon Appetit Management  
3                   Company so the license renewal application is  
4                   actually dismissed. You will receive a copy  
5                   of the order from the ABC Board dismissing the  
6                   application. The Applicant will have 10 days  
7                   to seek reinstatement of the license renewal  
8                   application. For the purpose of roll call,  
9                   that application is dismissed.

10                   MR. SMITH: May we ask what that  
11                   means?

12                   AGENT FLETCHER: That means that  
13                   the application is dismissed. There is no  
14                   longer a pending license renewal application.  
15                   The Applicant can seek reinstatement of the  
16                   license renewal application from the ABC Board  
17                   and they will decide whether or not to grant  
18                   reinstatement of the license renewal  
19                   application.

20                   They may require the licensee to  
21                   submit a new application. I don't know what  
22                   the ABC Board will decide but the first step

1 is for the applicant to seek reinstatement of  
2 the license renewal application. As of today  
3 it doesn't exist.

4 MR. SMITH: Will we be notified?

5 AGENT FLETCHER: Yes. You'll have  
6 an opportunity -- if they seek reinstatement  
7 of the application, you'll have an opportunity  
8 to respond to that.

9 MR. SMITH: And that will go to  
10 the gang of 11 protestors?

11 AGENT FLETCHER: Yes. The gang of  
12 11. That's right.

13 MR. MAZZUCHI: Will we have the  
14 ability to establish our standing by inviting  
15 them with seven-days notice?

16 AGENT FLETCHER: At this point,  
17 Mr. Mazzuchi, that would not be possible.  
18 What you can do is you may petition the ABC  
19 Board for standing as a protestant. You will  
20 let them know that you appeared today and that  
21 the protest was dismissed for the reasons that  
22 I stated.

1                   You will receive an order from the  
2                   ABC Board as well dismissing the protest for  
3                   the reason that I just stated. Once you  
4                   receive that order, you will also have 10 days  
5                   to seek standing as a protestant. That's in  
6                   the order as well as the instructions for how  
7                   to do it.

8                   For the purpose of the roll call  
9                   hearing, the license renewal application is  
10                  dismissed. There is no need to schedule any  
11                  dates. We'll keep you posted about what  
12                  happens next.

13                  MR. MAZZUCHI: Thank you.

14                  AGENT FLETCHER: Mr. Smith, did  
15                  you put your contact information on that  
16                  sheet?

17                  MR. SMITH: Yes.

18                  AGENT FLETCHER: Mr. Mazzuchi, did  
19                  you put yours on there as well?

20                  MR. MAZZUCHI: Yes.

21                  AGENT FLETCHER: Okay. Thank you  
22                  very much. The roll call hearing is

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concluded.

(Whereupon, at 10:19 a.m. the  
hearing was adjourned.)

<b>A</b>	<b>Avenue</b> 1:11 2:8 <b>aware</b> 6:5 7:20 <b>A-R-T-I-N</b> 4:5 <b>a.m</b> 2:2 12:2	<b>David</b> 3:15 <b>days</b> 6:7,16 8:6,10 9:6 11:4 <b>decide</b> 9:17,22 <b>decision</b> 7:22 <b>designated</b> 4:14 5:5 <b>details</b> 6:17 <b>dismiss</b> 8:16 <b>dismissed</b> 8:22 9:4 9:9,13 10:21 11:10 <b>dismissing</b> 9:5 11:2 <b>District</b> 1:1 5:17 6:22 <b>DR</b> 1:12 2:10 <b>duly-noted</b> 6:2 <b>D.C</b> 1:21 2:15 6:8	<b>go</b> 10:9 <b>going</b> 4:13 5:4 8:2 8:16 <b>Good</b> 5:9 <b>grant</b> 9:17 <b>granted</b> 4:11 <b>group</b> 2:19 4:11,14 4:21	<b>La</b> 1:21 2:13 <b>Larry</b> 4:2 <b>law</b> 6:4,8 8:13 <b>letter</b> 5:16,20 8:5,8 <b>letters</b> 3:10 <b>liaison</b> 6:15 <b>license</b> 1:12,13 2:9 2:10 9:3,7,14,16 9:18 10:2 11:9 <b>licensee</b> 9:20 <b>line</b> 3:5 <b>longer</b> 9:14
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**#**

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