

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
 :
Wal-Mart Stores East, LP, :
t/a Wal-Mart :
99 H Street, NW : Fact Finding
Retailer B : Hearing
License No. 92202 :
ANC 6E :
New Application :
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JUNE 26, 2013

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Washington, D.C., Nick Alberti, Acting Chairman, presiding.

PRESENT
NICK ALBERTI, Acting Chairman
DONALD BROOKS, Member
HERMAN JONES, Member
MIKE SILVERSTEIN, Member

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

5:33 p.m.

ACTING CHAIRMAN ALBERTI: We are ready to begin. We're on the record and I apologize for the delay. I was hoping that we'd get here sooner.

The next case we're going to consider is a fact finding hearing for a full-service grocery store application. This is with regards to Wal-Mart Stores East, LP, trading as Wal-Mart, License No. 92202.

The parties I believe are seated. And if you would identify yourselves, please?

MR. FONSECA: Thank you, Mr. Chairman, Members of the Board. Michael Fonseca on behalf of -- Wal-Mart's counsel. With me, I have to my left Nina Albert, who's the director of community affairs, and Gregory Williams Evans, who's the regional compliance manager.

I'd like, and I think I broached this with general counsel -- I have John

1 Clark, who's the shell design manager who
2 produced the drawings and has the best
3 knowledge, numbers. And if we start to adjust
4 things, perhaps the ability to give us
5 changes. And Jacqui Lyons, which is --
6 spelling is J-A-C-Q-U-I, Lyons, L-Y-O-N-S.
7 I'd like to be able -- they are in
8 Bentonville, Arkansas. They're at
9 headquarters. And she's the director of
10 grocery and consumables, by the way. If I
11 could put them on speaker next to our speaker
12 here and advise them, you know, to listen.
13 And if a question is directed at them or if I
14 ask, if they could then become part of the
15 record.

16 ACTING CHAIRMAN ALBERTI: That is
17 fine by me. Hopefully it will work. You hope
18 it will.

19 MR. FONSECA: I certainly do.
20 We're going to find out.

21 ACTING CHAIRMAN ALBERTI: We'll
22 find out. Let's give it a try. I have no

1 problems.

2 So, you know, we've gotten lots of
3 information from you. Are you ready?

4 MR. FONSECA: Yes, I'm dialing now
5 to see --

6 MR. CLARK: Hello, this is John.

7 MR. FONSECA: John, you're on the
8 record. Do you have Jacqui there with you?

9 MR. CLARK: Yes, she's over here.

10 MR. FONSECA: All right. Court
11 reporters, can you pick them up?

12 Speak, John.

13 MR. CLARK: Yes, this is John
14 Clark.

15 MR. FONSECA: Can I get an
16 affirmative?

17 (No audible response.)

18 MR. FONSECA: Okay. We're good.
19 Board Members, you can hear their voices?

20 ACTING CHAIRMAN ALBERTI: Yes, and
21 if we can't --

22 MR. FONSECA: Okay.

1 ACTING CHAIRMAN ALBERTI: --

2 we'll --

3 MR. FONSECA: Yes, just let me
4 tell you, and then I'll let the Board instruct
5 thereafter, that don't just blurt out or speak
6 without either being asked a question, or I'll
7 ask you question, or at least direct so that
8 we don't have cross-talking, because you know,
9 you don't have the ability to visibly or
10 visually see the Board Members. Thank you.

11 ACTING CHAIRMAN ALBERTI: Great.
12 Well, thank you all for coming today. I know
13 that there has been a lot of communication and
14 you have supplied quite a bit of information,
15 and we appreciate that. Thank you very much
16 for that.

17 I think what we want to do today
18 is I think we're zeroing in on kind of
19 finalizing the information that we have,
20 knowing whether we have the right information,
21 not have the right information, and just
22 identifying what's left to be known.

1 So what we're going to do is start
2 off with Board questions, and I'll probably
3 turn it over to Mr. Jones. He's going to tell
4 you where we still need clarification on some
5 of the measurements. All right? Hopefully
6 with that we can get to a point where
7 everyone's on the same page. So if there's
8 additional information that is needed, you'll
9 know what it is and you'll know how to address
10 it. And you'll have an opportunity after Mr.
11 Jones speaks to ask any additional questions
12 or provide any additional information. So,
13 but I think it's going to be most efficient if
14 we start with Mr. Jones telling you where we
15 need clarification. Okay?

16 Mr. Jones, would you like to
17 begin?

18 MEMBER JONES: Thank you, Mr.
19 Chairman. So just to make sure we're starting
20 from the same baseline, there was a document
21 that was handed up to the Board, or I guess
22 just moments before we came out onto the dais,

1 and this document -- I am looking for some
2 identifying information on it, but I don't see
3 it. So I'll just hold it up and say does this
4 comport with your expectation of what we
5 should be referencing today?

6 MR. FONSECA: Yes, and that is an
7 11 by 17 of the poster size, which you also
8 should have 2 of and 1 on the easel here.

9 MEMBER JONES: Excellent. So
10 based on our cursory review of this, it's
11 pretty self-evident, but it never -- the bad
12 thing to ask and confirm, based on our review
13 then, it would appear that you're trying to
14 pass test 1 via the 6,000 square foot measure.
15 Is that a fair assumption or assessment at
16 this point?

17 MR. FONSECA: That is correct.

18 MEMBER JONES: Okay. Given that,
19 one of the questions that we had was related
20 to how specifically are you defining what that
21 area consists of; i.e., the area that you're
22 dedicating for the sale of food items as per

1 the seven food categories? How is it defined
2 as it relates to this drawing?

3 Our assumption was that there's a
4 bold line that seems to be creating a
5 perimeter around a certain section that is the
6 focal point of this drawing. Is that the
7 basis for which you're using to make the
8 determination of your food selling area?

9 MR. FONSECA: That is accurate
10 with one exception. And if I could, there's
11 a second 11 by 17 that showed the full store
12 with a whitened version of that same
13 footprint --

14 MEMBER JONES: Yes.

15 MR. FONSECA: -- which is the food
16 selling area.

17 MEMBER JONES: I am familiar with
18 that document.

19 MR. FONSECA: Your assessment of
20 -- in the larger poster size and the color-
21 coded, it is that outer perimeter that's in
22 the bold, is the area that we're -- consisting

1 of the seven categories, excluding the NFs or
2 non-food, including within the non-food aisles
3 of which there are two, because the other non-
4 food areas are outside of the boundaries. The
5 aisle space, to be consistent with what was
6 told to us or instructed by the director -- so
7 that we're allowed three feet on each side of
8 the aisle. And what's beyond that in effect
9 becomes part of what we are calling
10 circulating space.

11 MEMBER JONES: Understood.

12 MR. FONSECA: So all circulating
13 space then, even in the non-food section, is
14 counted in the numbers that are on the top
15 chart of the legend to the right.

16 MEMBER JONES: Okay.

17 MR. FONSECA: Okay?

18 MEMBER JONES: So is the entire
19 area inside of the -- so you held up a diagram
20 that was a black and white diagram only. The
21 white cut-out portion of that diagram, with
22 the exception of the NF or hash-marked areas

1 within that white cut-out, the square footage
2 of that space equates to what? What's the
3 value?

4 MR. FONSECA: Thirteen-thousand
5 five-hundred three square feet -- point sixty-
6 two square feet. That is that total food
7 selling area.

8 MEMBER JONES: Okay. So that is
9 the number that we have at the top right, with
10 the top right table, the sum of 13,503.82 or
11 62?

12 MR. FONSECA: That is correct.

13 MEMBER JONES: Okay. The NF of
14 1,458 -- the non-food area of 1,458.35 is not
15 included in the food selling area of
16 13,503.62, correct?

17 MR. FONSECA: That is correct.

18 MEMBER JONES: Okay. So in the
19 process of determining what your food
20 percentages were for each one of the
21 categories you're using what as your
22 denominator?

1 MR. FONSECA: Thirteen-thousand,
2 five, oh, three, point sixty-two.

3 MEMBER JONES: Excellent. Okay.
4 That clarifies that.

5 And the only other question I have
6 related to this from a clarification
7 standpoint is the non-food selling areas that
8 you have determined to be -- excuse me, that
9 result or add up, excuse me, to be the
10 1,458.35, I just want to make sure I'm clear,
11 if you could reference those specifically
12 going from left to right on this diagram so
13 that I'm clear on which areas they are as we
14 do our own calculations. So just as a full
15 disclosure and caveat, we independently go
16 through, use your CAD drawings and the
17 measurements that you provided us to calculate
18 to make that determination to see if our
19 values comport with what you've provided.

20 So in doing so I want to make sure
21 that I am on the same page as you all are in
22 terms of how you came to these numbers. And

1 the only thing I want to make sure I'm clear
2 on, that I'm not totally clear on right now,
3 is NF includes exactly what, so that when I
4 add up my calculations I know what I'm
5 comparing it to in terms of what you provided.

6 MR. FONSECA: Two things, and then
7 I may ask John or Jacqui to step in because of
8 the drawings. But I think after I speak it
9 may just be, yes, that's correct, my goal or
10 let me qualify.

11 MEMBER JONES: And just one more
12 pause. So this is the only diagram I have in
13 front of me right now. So when you get to
14 this point if you could go from left to right,
15 top to bottom in identifying what those are.

16 MR. FONSECA: Okay. I'll do that.

17 MEMBER JONES: And I apologize. I
18 didn't mean to interrupt, but I --

19 MR. FONSECA: No, no, no, no.

20 MEMBER JONES: Okay.

21 MR. FONSECA: And I think it's
22 important, because one of the things we ended

1 up not including on the document you have are
2 the full dimensions of each and every display
3 case. This was delivered also this morning.
4 Should have been added into what you have. So
5 this will be in essence an all-white document
6 showing the same layout. And there you'd end
7 up being able to match up the aisles that are
8 NF or any other ones and get the full display
9 case width and depth.

10 Now remember then when you start
11 counting the food category, you're then
12 getting also your three-foot reach-in, my
13 word.

14 MEMBER JONES: Sir. Yes, sir.

15 MR. FONSECA: So this would
16 include the three-foot reach-in, but now we'll
17 -- John, am I correct?

18 MR. CLARK: I'm sorry, what was
19 the question again?

20 (Laughter.)

21 MR. FONSECA: Am I correct in when
22 we discussed these areas, the total, that it

1 included the dimensions of all the aisles to
2 come up with the minus the non-food areas for
3 the 13,503.62?

4 MR. CLARK: Right. That's right.

5 MR. FONSECA: That is right?

6 Okay. So then going -- and maybe I wan to
7 stand so it might be easier on the large --

8 MEMBER JONES: Yes.

9 ACTING CHAIRMAN ALBERTI: But,
10 yes, why don't you just go to the big easel
11 and point?

12 MR. FONSECA: And I want to keep
13 what I have here and hopefully you guys can
14 hear me on the other end. So you want to go
15 from --

16 MEMBER JONES: Left to right, top
17 to bottom.

18 MR. FONSECA: Left to right. So
19 I'm going to put back to you, and I apologize.

20 MEMBER JONES: No problem.

21 MR. FONSECA: Or I'll stand over
22 here. It might be a little better.

1 So over here, far left -- I'm
2 going to call it north, south, east, west. So
3 the far north, this NF is outside of the
4 boundaries.

5 MEMBER JONES: Okay.

6 MR. FONSECA: And this, just so
7 you'll know, is the hot food kind of deli
8 component. This bunker or cooler is non-food,
9 as is this. Both of these are outside, and
10 you correctly followed. Starting here would
11 be the outer boundary. And then it tails in,
12 comes up, tails in so that this doorway is out
13 of the boundary. And then you start to go all
14 the way back, or to the west from the top and
15 on the bottom.

16 MEMBER JONES: I follow.

17 MR. FONSECA: So going with your
18 letter coding, A is the fresh produce. You're
19 now starting with produce in these areas here.
20 They're all produce. With your three feet.
21 And then again you see the hash marks. You
22 see the bold lines. That's to get your food

1 categories. And then you now have the very
2 first shall we call it circulation.

3 MEMBER JONES: Okay.

4 MR. FONSECA: To the bottom you
5 start -- all of these are plastic stacks at
6 the bottom. And after is your category that
7 is -- are dry groceries, which is the largest
8 category.

9 MEMBER JONES: May I jump in just
10 really quickly, sir?

11 MR. FONSECA: Certainly.

12 MEMBER JONES: Just want to make
13 sure. So on the bottom left of your diagram
14 there are two --

15 MR. FONSECA: Non-food --

16 MEMBER JONES: -- squares that are
17 non-food squares.

18 MR. FONSECA: They're outside.

19 MEMBER JONES: They're outside?
20 So they would --

21 MR. FONSECA: They're hot -- those
22 would have like some -- I believe some cooked

1 rotisserie chickens in heaters.

2 MEMBER JONES: Okay.

3 MR. FONSECA: And things like
4 that. They're cooked food.

5 MEMBER JONES: Okay. Further
6 interjection. So there are a total of five
7 rectangles including the two squares at the
8 bottom. So the top three --

9 MR. FONSECA: You have got five --

10 MEMBER JONES: -- at the top and
11 then two at the bottom. Those are five --

12 MR. FONSECA: You have five.

13 MEMBER JONES: -- non-food areas.

14 I'm assuming, based on my inference from what
15 you've stated, that those five non-food
16 sections are not included in the total
17 1,458.35 that you have noted on the top table
18 at the top right of the document you provided.

19 MR. FONSECA: You are correct.

20 MEMBER JONES: Okay. Cool.

21 MR. FONSECA: You are correct.

22 MEMBER JONES: Thank you.

1 MR. FONSECA: All right.

2 MEMBER JONES: Continue.

3 MR. FONSECA: And then we continue
4 and you end up having an awkward -- one
5 frozen. These are called end caps. These are
6 at the top. And then you have at the very top
7 a dry goods. And then if we go down this
8 first aisle you start with your C category
9 there. It's a mixed aisle. And then you have
10 further frozen. I'm not sure if this is where
11 the ice cream and other items are, but if you
12 need to have the specifics -- because I can't
13 -- they're in there. You can read them if you
14 get up close on them.

15 MEMBER JONES: Fair enough. But
16 just so -- to be fair and to make sure we stay
17 on task, my main focus right now is just
18 clarifying what --

19 MR. FONSECA: The boundaries --

20 MEMBER JONES: -- NF sections are
21 included in the total that is provided for us
22 in the top right.

1 MR. FONSECA: From the far left
2 and come close to the far right and you'll hit
3 your first one.

4 MEMBER JONES: All right.

5 MR. FONSECA: All right?

6 MEMBER JONES: So that is the
7 first NF section that is included as part of
8 the total calculation of NF or non-food area
9 that is provided in the document in the top
10 right-hand table?

11 MR. FONSECA: That is correct.

12 MEMBER JONES: Okay.

13 MR. FONSECA: And then the second
14 one is here. The third. And then you jump
15 over to non-alcoholic beverages.

16 MEMBER JONES: Yes, sir.

17 MR. FONSECA: Which actually, for
18 your information this would be the beer
19 coolers in this B section. This would be the
20 wine eventually, if the Board is gracious
21 enough to grant us this license.

22 MEMBER JONES: Understood.

1 MR. FONSECA: Then we'd move to
2 the next two NFs. And again, with these
3 you'll see four -- or you'll see three
4 distinct; one, two, three distinct separations
5 where we're counting this as circulation
6 space.

7 MEMBER JONES: Understood.

8 MR. FONSECA: So but those are in
9 fact the four -- one, two, three, four, five
10 -- sorry, five --

11 MEMBER JONES: Got it.

12 MR. FONSECA: -- non-food
13 categories within the footprint of what is
14 otherwise the --

15 MEMBER JONES: Food selling area.

16 MR. FONSECA: -- food selling area
17 of which that's where that 1,400 -- 1,458.35
18 is extracted.

19 MEMBER JONES: Understood. And
20 one other clarifying question: Now I'm
21 looking for some details and specifics as you
22 have it available. At a high level, G, the

1 two aisles noted as G in between the two non-
2 food selling or non-food display areas, those
3 would consist of what types of grocery items?

4 MR. FONSECA: Those are the ones I
5 told you were the beer and wine.

6 MEMBER JONES: So those would be
7 beer and wine?

8 MR. FONSECA: Yes.

9 MEMBER JONES: Okay.

10 MR. FONSECA: On this side here is
11 the beer coolers. On this side of the wine.
12 Is that clear?

13 MEMBER JONES: Yes, sir.

14 MR. FONSECA: Can you see that,
15 Mr. Brooks? Am I blocking you?

16 MEMBER BROOKS: I can see it. No,
17 I can see it.

18 ACTING CHAIRMAN ALBERTI: So all
19 the entire G area --

20 MR. FONSECA: That's not correct,
21 John? On the far right?

22 MR. CLARK: No. No, the G

1 categories are non-alcoholic beverages. The
2 G category is not food. That's the alcohol.
3 That's the beer and the wine.

4 MEMBER JONES: Okay.

5 MR. FONSECA: Oh, you're right.
6 My apologies.

7 MEMBER JONES: Yes, that's okay.

8 MR. FONSECA: My apologies. This
9 would be the beer cooler. Yes, thank you,
10 John. That's when you need to speak up.

11 (Laughter.)

12 MR. FONSECA: This is the beer
13 cooler. You know, one knows when one has made
14 a mistake.

15 (Laughter.)

16 MR. FONSECA: This is the beer
17 cooler. This is the wine cooler. My
18 apologies. And these would be the non-
19 alcoholic beverages over here. And again over
20 here at the very tail end or the --

21 ACTING CHAIRMAN ALBERTI: Right.

22 MEMBER JONES: Got it.

1 MR. FONSECA: -- western wall --
2 or the eastern wall, rather.

3 MEMBER JONES: Follow. Thank you.
4 And those concluded the clarification
5 questions that I had, or concerns that I had.
6 And from there I will turn it back over to the
7 Chairman. Thank you. Appreciate it.

8 MR. FONSECA: Sure. Should I stay
9 with the easel or sit down?

10 ACTING CHAIRMAN ALBERTI: Probably
11 -- have a seat.

12 MR. FONSECA: All right.

13 ACTING CHAIRMAN ALBERTI: I think
14 we're -- does anyone else have any questions
15 on the Board?

16 MEMBER SILVERSTEIN: No.

17 ACTING CHAIRMAN ALBERTI: Okay. I
18 don't have any other clarification --

19 MEMBER SILVERSTEIN: I'm just
20 trying to uncross my eyes right now.

21 ACTING CHAIRMAN ALBERTI: --
22 questions. What I'm going to do is see if you

1 have any information you'd like to add or any
2 questions you have about the questions that
3 were asked, or any concerns that you have. I
4 will tell you; and I think Mr. Jones alluded
5 to this, what will happen after this is we
6 will take the CAD drawings that you have with
7 all the measurements, we'll go through that,
8 we'll verify your measurements, to make our
9 final decision.

10 MR. FONSECA: Okay.

11 ACTING CHAIRMAN ALBERTI: Okay?

12 MR. FONSECA: I think the only
13 thing is because we are somewhat concerned --
14 without criticism, because I know the Board
15 has to do this because of the nature of the
16 Council's imposition and requirement of the
17 Board to issue these new regulations. But you
18 know, we've already gone about 30 days in the
19 system and not been placarded yet.

20 We are going to appear before ANC
21 6E next Wednesday evening. If we're not
22 placarded next Friday -- which I would think

1 if you were to approve it in the next day or
2 two, we likely could make that. But it would
3 still be after their hearing date. But they
4 were kind enough -- they had us scheduled for
5 June, now July. We're going to take advantage
6 and meet with them, because we want to do
7 that.

8 But we are flexible and if need be
9 -- if there's a reason that -- because we were
10 prepared to argue this, is the issue of
11 perishable foods, the concept of the category
12 of fresh and uncooked meats, because it -- and
13 that's why we also have on the phone also
14 Jacqui Lyons -- is an ability -- you see how
15 heavily weighted the dry grocery figures are,
16 which is our largest component. I believe
17 what she's prepared to do is if there needs to
18 be a flipping -- because right now our meats
19 are closest to five. Everything else by far
20 exceeds it -- is that we believe because of
21 the nature of non-perishables in their
22 containers perhaps more accurately being

1 reflected as canned foods could be swapped
2 around. So we would still have six of seven.

3 So I just wouldn't want the Board
4 to go back and for some reason want to
5 recalculate things. And if that's the case,
6 if it gets communicated, we could reconfigure
7 if necessary. So I wanted to address that now
8 if necessary.

9 ACTING CHAIRMAN ALBERTI: I
10 understand where you're going, but I didn't
11 understand your explanation of how you would
12 redistribute the goods.

13 MR. FONSECA: And I think that's,
14 if I can -- I understand that's where Ms.
15 Lyons --

16 ACTING CHAIRMAN ALBERTI: I don't
17 know all the details, but you really confused
18 me. It was like -- because I thought you said
19 you were going to swap out canned good space
20 for the perishable space, the fresh meats
21 and --

22 MR. FONSECA: Yes, we might

1 actually be able to get canned goods up beyond
2 five percent so that if for any reason there
3 is a drop after the --

4 ACTING CHAIRMAN ALBERTI: Oh, I
5 understand what you're saying.

6 MR. FONSECA: Yes, so that we
7 wouldn't fall to one category that leaves us
8 with five instead of six.

9 ACTING CHAIRMAN ALBERTI: All
10 right. So, I understand what you're saying.
11 Okay. But that's a decision you have to make
12 based on what information -- the feedback we
13 give you.

14 MR. FONSECA: Oh, no, absolutely.
15 And one of the difficulties is, you know, as
16 the shelf design manager John and as the
17 director of grocery and consumables, they --
18 these stores are set up irrespective of
19 whether they're supercenters or they're these
20 new urban size, which is a bit smaller. I
21 mean it is hard for us to move things around
22 or -- as I learned. When I say "us," I'm part

1 of this team and I now understand it. So it's
2 more -- it can be communicated, because all
3 along I was given the direction, you know,
4 they're concerned that your meat is close.
5 So, you know, you got to focus on that. But
6 we didn't -- you know, we left canned meats
7 alone -- not just meats, canned foods alone.
8 But I understand.

9 ACTING CHAIRMAN ALBERTI: Yes, and
10 I want to make it clear to you, we might say
11 that your close in this category, but that's
12 only to give you information that -- how do I
13 say this -- that, you know, if we measure, it
14 may fall below that, but in no way do we want
15 to tell you how you need to meet -- in which
16 categories you need to meet it and how you
17 need to design your shelving. That's entirely
18 up to you. So when you come back to us with
19 -- well, if we say, well, you don't quite meet
20 it, all right, and you come back with a new
21 proposal, it's up to you how you redistribute
22 things. Is that clear?

1 MR. FONSECA: It is clear and it
2 sounds to me we may have to be at another fact
3 finding hearing, which is --

4 ACTING CHAIRMAN ALBERTI: Well,
5 maybe not.

6 MR. FONSECA: Maybe not?

7 ACTING CHAIRMAN ALBERTI: No, I
8 mean the way these fact findings -- we wanted
9 to make sure that you understood --

10 MR. FONSECA: Certainly.

11 ACTING CHAIRMAN ALBERTI: -- what
12 our criteria were and that we're all on the
13 same page. But if you do, then this
14 information can be passed through the same
15 communication channels we've done in the past,
16 by talking to the director or your to our
17 general counsel.

18 MR. FONSECA: And we'll do that.
19 And just as a friendly suggestion one of the
20 things is, you know, we're all operating with
21 the emergency regulations and as proposed,
22 which will become final. And if nothing

1 changes, essentially the Board is establishing
2 standards like the three-inch --

3 ACTING CHAIRMAN ALBERTI: Yes.

4 MR. FONSECA: -- space -- the
5 three-foot, rather --

6 ACTING CHAIRMAN ALBERTI: Right.

7 MR. FONSECA: -- to, you know, go
8 with whatever the width and depth of your
9 display cases are.

10 ACTING CHAIRMAN ALBERTI: Yes.

11 MR. FONSECA: Which is fine. But
12 that's one that is, you know, not in the
13 regulations that perhaps needs to be so there
14 are clear standards and what can be in, what
15 can be out. The nature of packaging, I think
16 that's one of the reasons why dry groceries is
17 much broader, because of the nature of non-
18 perishables not being in cans anymore.

19 ACTING CHAIRMAN ALBERTI: Right.

20 MR. FONSECA: So something like
21 peanut butter that could last quite a long
22 time might be in a container other than a can,

1 but it is more of a traditional concept that
2 could that be treated as cans, you know?

3 ACTING CHAIRMAN ALBERTI: Right,
4 and we will endeavor to make those things
5 clear. It may not be through legislation or
6 regulation, but we may do it through
7 application process or information sheets.
8 But we will endeavor to make -- this is good
9 to hear this so that we know what information
10 needs to be made clearer. And hopefully that
11 will be an ongoing process with feedback from
12 the licensees so that we can make sure
13 everybody has the information. But we are
14 mindful that we need to be providing more
15 information and clarifying things for
16 everybody.

17 So well that brings me to a
18 question: So what do you think is included in
19 canned food?

20 MR. FONSECA: I'm going to have to
21 turn that over, if I could to -- Ms. Lyons?

22 MS. LYONS: Yes?

1 MR. FONSECA: Can you speak to
2 this concept?

3 MS. LYONS: What are we including
4 in canned food?

5 MR. FONSECA: Or --

6 MS. LYONS: Initially --

7 MR. FONSECA: Or not in canned
8 foods that might be in the dry grocery.

9 MS. LYONS: Well, what we
10 originally did not include in canned foods
11 that we included in dry grocery, which I think
12 we can consider to be canned are things like
13 salad dressing, oil and shortening, jams,
14 jelly, peanut butter, syrup, canned fruit and
15 applesauce. You know, applesauce comes in
16 plastic containers, etcetera, even though I
17 would consider it to be canned fruit. Our
18 Tex-Mex area which contains things such as
19 canned beans and things of that nature. Pasta
20 sauce, which comes in glass jars, but I think
21 also could be considered canned as it goes
22 through a canning process. Pickles and

1 olives. Pie filling. These are all things
2 that we included in dry grocery initially, but
3 I believe could be also considered or should
4 be considered canned foods.

5 ACTING CHAIRMAN ALBERTI: Thank
6 you. That's been very, very, very, very
7 helpful. We will have comments on that.
8 Again, I'm not going to make them today,
9 but --

10 MR. FONSECA: I thought it would
11 be helpful. That's why --

12 ACTING CHAIRMAN ALBERTI: No, it's
13 very helpful. And like I say, the
14 communication doesn't stop. Mr. Fonseca, at
15 this point in time I'm going to tell you quite
16 honestly, personally I don't really envision
17 us having another fact finding. I envision us
18 at this point having the communications
19 continuing back and forth. But I think this
20 has been helpful so that we're more confident
21 that we're all on the same page.

22 MR. FONSECA: Excellent.

1 ACTING CHAIRMAN ALBERTI: And you
2 know what questions to ask. So I think this
3 has been helpful. So I think it seems we
4 don't have to wait until another fact finding
5 to proceed, hopefully. We'll see where we
6 are. I can't make any promises, but that's
7 not what I'm envisioning and it's not what I'm
8 aiming for.

9 MR. FONSECA: Excellent.

10 ACTING CHAIRMAN ALBERTI: I think
11 that's --

12 MEMBER JONES: I would echo that
13 sentiment, Mr. Chairman. I believe we've
14 collected enough information today to proceed
15 with the calculations that are needed.

16 ACTING CHAIRMAN ALBERTI: Great.
17 Very good. All right. So any other comments,
18 questions, Mr. Fonseca? Anyone?

19 MR. FONSECA: No. No, thank you.

20
21 ACTING CHAIRMAN ALBERTI: Thank
22 you very much for coming. We very much

1 appreciate this.

2 MR. FONSECA: Thank you.

3 ACTING CHAIRMAN ALBERTI: Good
4 luck. Wish you all success in your business
5 endeavor.

6 MR. FONSECA: All right. Thank
7 you all.

8 ACTING CHAIRMAN ALBERTI: Thank
9 you.

10 (Whereupon, the hearing was
11 concluded at 6:03 p.m.)

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A	<p>ability 3:4 5:9 25:14</p> <p>able 3:7 13:7 27:1</p> <p>absolutely 27:14</p> <p>accurate 8:9</p> <p>accurately 25:22</p> <p>Acting 1:15,19 2:3 3:16,21 4:20 5:1 5:11 14:9 21:18 22:21 23:10,13,17 23:21 24:11 26:9 26:16 27:4,9 28:9 29:4,7,11 30:3,6 30:10,19 31:3 33:5,12 34:1,10 34:16,21 35:3,8</p> <p>add 11:9 12:4 24:1</p> <p>added 13:4</p> <p>additional 6:8,11 6:12</p> <p>address 6:9 26:7</p> <p>adjust 3:3</p> <p>advantage 25:5</p> <p>advise 3:12</p> <p>affairs 2:18</p> <p>affirmative 4:16</p> <p>aiming 34:8</p> <p>aisle 9:5,8 18:8,9</p> <p>aisles 9:2 13:7 14:1 21:1</p> <p>Albert 2:17</p> <p>Alberti 1:15,19 2:3 3:16,21 4:20 5:1 5:11 14:9 21:18 22:21 23:10,13,17 23:21 24:11 26:9 26:16 27:4,9 28:9 29:4,7,11 30:3,6 30:10,19 31:3 33:5,12 34:1,10 34:16,21 35:3,8</p> <p>alcohol 22:2</p> <p>alcoholic 1:2,13,13 22:19</p> <p>allowed 9:7</p> <p>alluded 24:4</p>	<p>all-white 13:5</p> <p>ANC 1:9 24:20</p> <p>anymore 30:18</p> <p>apologies 22:6,8,18</p> <p>apologize 2:5 12:17 14:19</p> <p>appear 7:13 24:20</p> <p>applesauce 32:15 32:15</p> <p>application 1:10 2:9 31:7</p> <p>appreciate 5:15 23:7 35:1</p> <p>approve 25:1</p> <p>area 7:21,21 8:8,16 8:22 9:19 10:7,14 10:15 19:8 20:15 20:16 21:19 32:18</p> <p>areas 9:4,22 11:7 11:13 13:22 14:2 15:19 17:13 21:2</p> <p>argue 25:10</p> <p>Arkansas 3:8</p> <p>asked 5:6 24:3</p> <p>assessment 7:15 8:19</p> <p>assuming 17:14</p> <p>assumption 7:15 8:3</p> <p>audible 4:17</p> <p>available 20:22</p> <p>awkward 18:4</p>	<p>behalf 2:16</p> <p>believe 2:12 16:22 25:16,20 33:3 34:13</p> <p>Bentonville 3:8</p> <p>best 3:2</p> <p>better 14:22</p> <p>Beverage 1:2,13,13</p> <p>beverages 19:15 22:1,19</p> <p>beyond 9:8 27:1</p> <p>big 14:10</p> <p>bit 5:14 27:20</p> <p>black 9:20</p> <p>blocking 21:15</p> <p>blurt 5:5</p> <p>Board 1:2,13 2:15 4:19 5:4,10 6:2,21 19:20 23:15 24:14 24:17 26:3 30:1</p> <p>bold 8:4,22 15:22</p> <p>bottom 12:15 14:17 15:15 16:4,6,13 17:8,11</p> <p>boundaries 9:4 15:4 18:19</p> <p>boundary 15:11,13</p> <p>brings 31:17</p> <p>broached 2:21</p> <p>broader 30:17</p> <p>Brooks 1:20 21:15 21:16</p> <p>Building 1:14</p> <p>bunker 15:8</p> <p>business 35:4</p> <p>butter 30:21 32:14</p>	<p>canned 26:1,19 27:1 28:6,7 31:19 32:4,7,10,12,14 32:17,19,21 33:4</p> <p>canning 32:22</p> <p>cans 30:18 31:2</p> <p>caps 18:5</p> <p>case 2:7 13:3,9 26:5</p> <p>cases 30:9</p> <p>categories 8:1 9:1 10:21 16:1 20:13 22:1 28:16</p> <p>category 13:11 16:6,8 18:8 22:2 25:11 27:7 28:11</p> <p>caveat 11:15</p> <p>certain 8:5</p> <p>certainly 3:19 16:11 29:10</p> <p>Chairman 1:15,19 2:3,15 3:16,21 4:20 5:1,11 6:19 14:9 21:18 22:21 23:7,10,13,17,21 24:11 26:9,16 27:4,9 28:9 29:4,7 29:11 30:3,6,10 30:19 31:3 33:5 33:12 34:1,10,13 34:16,21 35:3,8</p> <p>changes 3:5 30:1</p> <p>channels 29:15</p> <p>chart 9:15</p> <p>chickens 17:1</p> <p>circulating 9:10,12</p> <p>circulation 16:2 20:5</p> <p>clarification 6:4,15 11:6 23:4,18</p> <p>clarifies 11:4</p> <p>clarifying 18:18 20:20 31:15</p> <p>Clark 3:1 4:6,9,13 4:14 13:18 14:4 21:22</p> <p>clear 11:10,13 12:1 12:2 21:12 28:10</p> <p>28:22 29:1 30:14 31:5</p> <p>clearer 31:10</p> <p>close 18:14 19:2 28:4,11</p> <p>closest 25:19</p> <p>coded 8:21</p> <p>coding 15:18</p> <p>collected 34:14</p> <p>color 8:20</p> <p>COLUMBIA 1:1</p> <p>come 14:2 19:2 28:18,20</p> <p>comes 15:12 32:15 32:20</p> <p>coming 5:12 34:22</p> <p>comments 33:7 34:17</p> <p>communicated 26:6 28:2</p> <p>communication 5:13 29:15 33:14</p> <p>communications 33:18</p> <p>community 2:18</p> <p>comparing 12:5</p> <p>compliance 2:19</p> <p>component 15:8 25:16</p> <p>comport 7:4 11:19</p> <p>concept 25:11 31:1 32:2</p> <p>concerned 24:13 28:4</p> <p>concerns 23:5 24:3</p> <p>concluded 23:4 35:11</p> <p>confident 33:20</p> <p>confirm 7:12</p> <p>confused 26:17</p> <p>consider 2:8 32:12 32:17</p> <p>considered 32:21 33:3,4</p> <p>consist 21:3</p> <p>consistent 9:5</p> <p>consisting 8:22</p>
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