

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

IN THE MATTER OF:

Kat, LLC t/a Cloud	
Restaurant and Lounge	Protest
1919 9th Street, NW	Hearing
Retailer CT - ANC-1B	(Status)
License No. 93572	
Case #14-PRO-00048	

(Substantial Change -
Increase in Occupancy from
50 to 122)

July 30, 2014

The Alcoholic Beverage Control
Board met in the Alcoholic Beverage Control
Hearing Room, Reeves Building, 2000 14th
Street, N.W., Suite 400S, Washington, D.C.
20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
DONALD BROOKS, Member
HERMAN JONES, Member
MIKE SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member

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

2 (9:32 a.m.)

3 CHAIRPERSON MILLER: Good morning.

4 I would like to welcome you to the regularly

5 scheduled meeting of the District of

6 Columbia's Alcoholic Beverage Control Board.

7 Today is July 30, 2014.

8 My name is Ruthanne Miller. I'm

9 the Chairperson. Joining me to my far right

10 today is Mr. Donald Brooks. To my immediate

11 right is Mr. Hector Rodriguez. To my

12 immediate left is Mr. Mike Silverstein. And

13 next to Mr. Silverstein is Mr. James Short.

14 We have five Members in attendance

15 today and three constitutes a quorum.

16 Copies of today's hearing calendar

17 and agenda are available at the receptionist

18 desk. Please be aware that these proceedings

19 are being recorded by a court reporter.

20 Accordingly, we must ask you to refrain from

21 any disruptive noises or actions in the

22 hearing room.

1 If you have any electronic
2 devices, pagers, cell phones or such, please,
3 make certain they are turned off to avoid any
4 interruption of the proceedings.

5 When I call your case, please,
6 come forward and take a seat at the table.
7 You will notice that there is a piece of paper
8 on each table for you to sign-in. This is to
9 ensure the correct spelling of your name for
10 the record.

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

20 So that concludes my general
21 remarks. And we are ready now to turn to this
22 morning's calendar.

1 The first case on the calendar is
2 a Protest (Status) Hearing. It is Case No.
3 14-PRO-00048, Cloud Restaurant and Lounge
4 located at 1919 9th Street, N.W., License No.
5 93572, in ANC-1B.

6 Would the parties on this case,
7 please, come forward and take a seat at the
8 table?

9 And could you introduce yourself
10 for the record, sir?

11 MR. NELSON: My name is Patrick
12 Nelson.

13 COURT REPORTER: Sir, if you could
14 turn your microphone on? That's that little
15 button in the front. Thank you.

16 MR. NELSON: My name is Patrick
17 Nelson, spelled P-A-T-R-I-C-K N-E-L-S-O-N.
18 And I am representing 1B Commission.

19 CHAIRPERSON MILLER: Okay. Do you
20 have any information with respect to whether
21 Cloud Restaurant and Lounge is on their way?

22 MR. NELSON: We had finalized

1 their SA and tried to get the ANC to approve
2 it and sign-off on it at the last meeting, but
3 there was not a quorum, so it's then expected
4 to their next meeting and hopefully will have
5 a quorum to approve it.

6 CHAIRPERSON MILLER: Okay. So
7 when is the next meeting?

8 MR. NELSON: The next meeting is--
9 oh, I didn't bring my calendar. It's August.
10 The second Tuesday in August.

11 CHAIRPERSON MILLER: Okay. Second
12 Tuesday in August. Could I ask you if you
13 wouldn't mind just hanging in here a little
14 longer and see if they show up, so we can get
15 you both on the record?

16 We call several cases for 9:30 and
17 it's 9:36, so I would like to just give them
18 a little more time.

19 MR. NELSON: I also wanted to just
20 say that the chair of the committee was
21 supposed to be sending you a letter to explain
22 what happened in the meeting --

1 CHAIRPERSON MILLER: Oh.

2 MR. NELSON: -- as to why we
3 didn't approve that. We didn't do any of our
4 -- we had a couple of actions that needed to
5 be done on the ABC Committee stuff and we
6 couldn't do anything, because there was no
7 quorum.

8 CHAIRPERSON MILLER: Okay. All
9 right. We will look for that. When was that
10 sent? Do you know?

11 MR. NELSON: It was after last
12 meeting, so I'm not sure whether it was sent
13 out or not. When I talked to James last
14 night, he just said come to the meeting. I'm
15 sure we have it present.

16 CHAIRPERSON MILLER: Okay. All
17 right. So that was probably like the second
18 Tuesday in July or something. Okay. All
19 right. So I'm going to just leave this case
20 open just a little longer.

21 MR. NELSON: Okay.

22 CHAIRPERSON MILLER: And see if

1 the establishment shows up. And feel free to
2 signal me if they come in. And we only have
3 a few cases, other cases to go forward on, so
4 it --

5 MR. NELSON: That's fine.

6 CHAIRPERSON MILLER: -- won't be
7 too long. All right. Thank you.

8 (Whereupon, the above-entitled
9 matter went off the record at 9:36 a.m. and
10 resumed at 9:46 a.m.)

11 CHAIRPERSON MILLER: All right.
12 Wait a minute. I think that is all of our
13 statuses, so let's see what we go back to, the
14 protest.

15 Let's go back to the Protest
16 Hearing. Mr. Nelson, could you come back to
17 the table? I'm recalling Case No. 14-PRO-
18 00048, Cloud Restaurant and Lounge.

19 The applicant, Cloud Restaurant
20 and Lounge, wasn't here at 9:36 or whatever
21 time when we got to it, so we passed it and
22 they haven't appeared, correct? Okay.

1 So we do have a rule that says
2 that if one of the parties to a protest
3 doesn't appear at the status, we can dismiss
4 the party, but it's a discretionary rule. And
5 I'm not sure whether that would be a good idea
6 in this case based on --

7 MEMBER SILVERSTEIN: Madam Chair,
8 I agree.

9 CHAIRPERSON MILLER: Okay.

10 MEMBER SILVERSTEIN: I think it
11 would be thoroughly inappropriate if the two
12 parties have reached a settlement agreement
13 and if the ANC has been unable to muster a
14 quorum.

15 CHAIRPERSON MILLER: Right.

16 MEMBER SILVERSTEIN: To penalize
17 the licensee or the applicant and to reward
18 the ANC for its failures, I think would be
19 absolutely inappropriate.

20 And while I'm at it, I don't want
21 to sound like the preacher who is scolding the
22 people in the congregation because no one

1 showed up for church.

2 ANCs have a vital role in
3 representing the citizens of our city. And we
4 are required, as a Board, to give their
5 decisions great weight, according to the Court
6 of Appeals.

7 We have been very disappointed in
8 the difficulties that 1B has had in fulfilling
9 its role and especially because there are so
10 many licensed establishments within the
11 boundaries of your District. And so I thank
12 you for your service and I thank you very much
13 for being here.

14 I don't know what to do because
15 the people who come here are the parishioners
16 who showed up for the service and it's the
17 ones who are out doing other things who need
18 being saved.

19 MR. NELSON: Okay. Well, we did
20 try to reschedule that meeting actually the
21 next week and we still couldn't get. We were
22 one short of a quorum the second time.

1 MEMBER SILVERSTEIN: I'm sorry?

2 MR. NELSON: The ANC tried to
3 reschedule their meeting to address the issues
4 that we needed to and they pushed it back the
5 one week and they still did not have a quorum
6 the second time. So that's not a good excuse,
7 in the sense of they tried, but --

8 MEMBER SILVERSTEIN: Well --

9 MR. NELSON: -- they were short
10 one person.

11 MEMBER SILVERSTEIN: Right.

12 CHAIRPERSON MILLER: So --

13 MEMBER SILVERSTEIN: Well, good
14 luck. Several of us on this Board are or have
15 been commissioners and it reflects on all of
16 us. We wish you personally good luck on
17 rounding up a quorum.

18 MR. NELSON: Okay.

19 MEMBER SILVERSTEIN: Getting
20 business done.

21 CHAIRPERSON MILLER: I think you
22 need probably more than that. But if that

1 continues, that's a big problem in these
2 proceedings.

3 MR. NELSON: I understand that.

4 CHAIRPERSON MILLER: Yes.

5 MR. NELSON: I will relay that to
6 them.

7 CHAIRPERSON MILLER: Yes.

8 MR. NELSON: Myself.

9 CHAIRPERSON MILLER: Okay. So
10 what I'm going to do is, unless I hear from
11 other Board Members that they want to dismiss
12 the application, which I agree with Mr.
13 Silverstein, I don't think it's appropriate in
14 this case, especially since you have come to
15 an agreement, you just need to have a vote on
16 it, I wouldn't recommend it. Yes?

17 MEMBER RODRIGUEZ: Madam Chair, I
18 also agree with Board Members on this and I
19 want to support, you know, his position on
20 this.

21 CHAIRPERSON MILLER: Okay. So
22 what I want to say then to you is a couple of

1 things which happened at the Status Hearing.

2 When the Protest Hearing date is
3 and time, it's September 17, 2014 at 4:30, in
4 the event that this isn't resolved and we
5 certainly hope it is resolved, you know.

6 MR. NELSON: September what?

7 CHAIRPERSON MILLER: September 17,
8 2014 at 4:30 p.m. --

9 MR. NELSON: Okay.

10 CHAIRPERSON MILLER: -- is your
11 scheduled date.

12 And ahead of that hearing, you
13 would receive in the mail from Tesha Anderson
14 a Protest Information Form and an Exhibit Form
15 and you need to pay careful attention to that.
16 They have to be filed within seven days of the
17 hearing and the Protest Information Form sets
18 forth your witnesses and your issues.

19 Witnesses have to be by full name. This has
20 to be served on the Board and the parties.

21 And sometimes if a PIF hasn't been
22 filed, the case could be dismissed. And

1 sometimes if exhibits aren't identified ahead
2 of time, they could be not admitted, because
3 they may be prejudicial to the other side if
4 they didn't have notice of it.

5 And you need to also attach copies
6 of the exhibits.

7 So this will be also in that
8 mailing, but I just wanted to bring it to your
9 attention.

10 If you have any questions in
11 between now and the hearing date, you can
12 contact Martha Jenkins, our General Counsel,
13 or Ms. Anderson and her number is 442-6492.

14 But we hope that this gets worked
15 out and you get your quorum. Whenever you get
16 your quorum, take advantage of it and take all
17 the actions you need to take.

18 MR. NELSON: Okay.

19 CHAIRPERSON MILLER: Okay. Thank
20 you very much.

21 MR. NELSON: Thank you.

22 CHAIRPERSON MILLER: Thanks for

1 coming down. Okay.

2 (Whereupon, the Protest (Status)

3 Hearing in the above-entitled matter was

4 concluded at 9:53 a.m.)

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<p style="text-align: center;">A</p> <p>a.m 2:2 7:9,10 14:4 ABC 6:5 above-entitled 7:8 14:3 absolutely 8:19 Act 3:11,14 actions 2:21 6:4 13:17 address 10:3 adjudication 3:19 admitted 13:2 advantage 13:16 advice 3:17 agenda 2:17 agree 8:8 11:12,18 agreement 8:12 11:15 agreements 3:18 ahead 12:12 13:1 Alcoholic 1:2,12,13 2:6 ANC 5:1 8:13,18 10:2 ANC-1B 1:7 4:5 ANCs 9:2 Anderson 12:13 13:13 Appeals 9:6 appear 8:3 appeared 7:22 applicant 7:19 8:17 application 11:12 appropriate 11:13 approve 5:1,5 6:3 attach 13:5 attendance 2:14 attention 12:15 13:9 attorney 3:16 August 5:9,10,12 available 2:17 avoid 3:3 aware 2:18</p>	<p>10:4 based 8:6 Beverage 1:2,12,13 2:6 big 11:1 Board 1:2,13 2:6 3:13 9:4 10:14 11:11,18 12:20 boundaries 9:11 bring 5:9 13:8 Brooks 1:17 2:10 Building 1:13 business 10:20 button 4:15</p> <hr/> <p style="text-align: center;">C</p> <p>calendar 2:16 3:22 4:1 5:9 call 3:5 5:16 careful 12:15 case 1:8 3:5,12,16 4:1,2,6 6:19 7:17 8:6 11:14 12:22 cases 5:16 7:3,3 cell 3:2 certain 3:3 certainly 12:5 chair 5:20 8:7 11:17 Chairperson 1:14 1:16 2:3,9 4:19 5:6,11 6:1,8,16,22 7:6,11 8:9,15 10:12,21 11:4,7,9 11:21 12:7,10 13:19,22 Change 1:9 church 9:1 citizens 9:3 city 9:3 closed 3:15 Cloud 1:5 4:3,21 7:18,19 COLUMBIA 1:1 Columbia's 2:6 come 3:6 4:7 6:14 7:2,16 9:15 11:14</p>	<p>coming 14:1 Commission 4:18 commissioners 10:15 committee 5:20 6:5 concluded 14:4 concludes 3:20 congregation 8:22 consistent 3:13 constitutes 2:15 consult 3:16 contact 13:12 continues 11:1 Control 1:2,12,13 2:6 copies 2:16 13:5 correct 3:9 7:22 Counsel 13:12 couple 6:4 11:22 court 2:19 4:13 9:5 CT 1:7</p> <hr/> <p style="text-align: center;">D</p> <p>D.C 1:14 date 12:2,11 13:11 days 12:16 decision 3:18 decisions 9:5 deliberate 3:18 desk 2:18 devices 3:2 difficulties 9:8 disappointed 9:7 discretionary 8:4 discuss 3:17 dismiss 8:3 11:11 dismissed 12:22 disruptive 2:21 District 1:1 2:5 9:11 doing 9:17 Donald 1:17 2:10</p> <hr/> <p style="text-align: center;">E</p> <p>electronic 3:1 ensure 3:9 enter 3:14</p>	<p>especially 9:9 11:14 establishment 7:1 establishments 9:10 event 12:4 excuse 10:6 Exhibit 12:14 exhibits 13:1,6 expected 5:3 explain 5:21</p> <hr/> <p style="text-align: center;">F</p> <p>failures 8:18 far 2:9 feel 7:1 filed 12:16,22 finalized 4:22 fine 7:5 first 4:1 five 2:14 Form 12:14,14,17 forth 12:18 forward 3:6 4:7 7:3 free 7:1 front 4:15 fulfilling 9:8 full 12:19</p> <hr/> <p style="text-align: center;">G</p> <p>general 3:20 13:12 Getting 10:19 give 5:17 9:4 go 7:3,13,15 going 6:19 11:10 good 2:3 8:5 10:6 10:13,16 great 9:5</p> <hr/> <p style="text-align: center;">H</p> <p>hanging 5:13 happened 5:22 12:1 hear 11:10 hearing 1:6,13 2:16 2:22 3:12,16 4:2 7:16 12:1,2,12,17 13:11 14:3</p>	<p>Hector 1:18 2:11 HERMAN 1:17 hope 12:5 13:14 hopefully 5:4</p> <hr/> <p style="text-align: center;">I</p> <p>idea 8:5 identified 13:1 immediate 2:10,12 inappropriate 8:11 8:19 Increase 1:9 information 4:20 12:14,17 interruption 3:4 introduce 4:9 issues 10:3 12:18</p> <hr/> <p style="text-align: center;">J</p> <p>James 1:19 2:13 6:13 Jenkins 13:12 Joining 2:9 JONES 1:17 July 1:11 2:7 6:18</p> <hr/> <p style="text-align: center;">K</p> <p>Kat 1:5 know 6:10 9:14 11:19 12:5</p> <hr/> <p style="text-align: center;">L</p> <p>leave 6:19 left 2:12 legal 3:17 let's 7:13,15 letter 5:21 License 1:7 4:4 licensed 9:10 licensee 8:17 little 4:14 5:13,18 6:20 LLC 1:5 located 4:4 long 7:7 longer 5:14 6:20 look 6:9</p>
<p style="text-align: center;">B</p> <p>back 7:13,15,16</p>				

Lounge 1:6 4:3,21 7:18,20 luck 10:14,16	9:19 10:2,9,18 11:3,5,8 12:6,9 13:18,21 night 6:14 noises 2:21 notice 3:7 13:4 number 13:13 NW 1:6	preacher 8:21 prejudicial 13:3 present 1:15 6:15 presiding 1:14 probably 6:17 10:22 problem 11:1 proceeding 3:19 proceedings 2:18 3:4 11:2 protest 1:6 4:2 7:14 7:15 8:2 12:2,14 12:17 14:2 public 3:12,13,15 pushed 10:4	Restaurant 1:6 4:3 4:21 7:18,19 resumed 7:10 Retailer 1:7 reward 8:17 right 2:9,11 6:9,17 6:19 7:7,11 8:15 10:11 Rodriguez 1:18 2:11 11:17 role 9:2,9 room 1:13 2:22 rounding 10:17 rule 8:1,4 Ruthanne 1:14,16 2:8	signal 7:2 Silverstein 1:18 2:12,13 8:7,10,16 10:1,8,11,13,19 11:13 sir 4:10,13 sorry 10:1 sound 8:21 spelled 4:17 spelling 3:9 status 1:7 4:2 8:3 12:1 14:2 statuses 7:13 Street 1:6,14 4:4 stuff 6:5 Substantial 1:9 Suite 1:14 support 11:19 supposed 5:21 sure 6:12,15 8:5
M	O	Q	S	T
Madam 8:7 11:17 mail 12:13 mailing 13:8 Martha 13:12 matter 1:4 7:9 14:3 meeting 1:3 2:5 3:15 5:2,4,7,8,22 6:12,14 9:20 10:3 Meetings 3:11,14 Member 1:17,17,18 1:18,19 8:7,10,16 10:1,8,11,13,19 11:17 Members 2:14 11:11,18 met 1:13 microphone 4:14 Mike 1:18 2:12 Miller 1:14,16 2:3 2:8 4:19 5:6,11 6:1,8,16,22 7:6,11 8:9,15 10:12,21 11:4,7,9,21 12:7 12:10 13:19,22 mind 5:13 minute 7:12 morning 2:3 morning's 3:22 muster 8:13	obtain 3:17 Occupancy 1:9 oh 5:9 6:1 Okay 4:19 5:6,11 6:8,16,18,21 7:22 8:9 9:19 10:18 11:9,21 12:9 13:18,19 14:1 ones 9:17 open 3:11,12,14 6:20	questions 13:10 quorum 2:15 5:3,5 6:7 8:14 9:22 10:5,17 13:15,16	SA 5:1 saved 9:18 says 8:1 scheduled 2:5 12:11 scolding 8:21 seat 3:6 4:7 second 5:10,11 6:17 9:22 10:6 Section 3:14 see 5:14 6:22 7:13 sending 5:21 sense 10:7 sent 6:10,12 September 12:3,6,7 served 12:20 service 9:12,16 sets 12:17 settlement 3:17 8:12 seven 12:16 short 1:19 2:13 9:22 10:9 show 5:14 showed 9:1,16 shows 7:1 side 13:3 sign-in 3:8 sign-off 5:2	t/a 1:5 table 3:6,8 4:8 7:17 take 3:6 4:7 13:16 13:16,17 talked 6:13 Tesha 12:13 thank 4:15 7:7 9:11 9:12 13:19,21 Thanks 13:22 things 9:17 12:1 think 7:12 8:10,18 10:21 11:13 thoroughly 8:11 three 2:15 time 5:18 7:21 9:22 10:6 12:3 13:2 today 2:7,10,15 today's 2:16 tried 5:1 10:2,7 try 9:20 Tuesday 5:10,12 6:18 turn 3:21 4:14 turned 3:3 two 8:11
N	P	R		
N-E-L-S-O-N 4:17 N.W 1:14 4:4 name 2:8 3:9 4:11 4:16 12:19 need 9:17 10:22 11:15 12:15 13:5 13:17 needed 6:4 10:4 Nelson 4:11,12,16 4:17,22 5:8,19 6:2 6:11,21 7:5,16	P-A-T-R-I-C-K 4:17 P-R-O-C-E-E-D-... 2:1 p.m 12:8 paggers 3:2 paper 3:7 parishioners 9:15 parties 4:6 8:2,12 12:20 party 8:4 passed 7:21 Patrick 4:11,16 pay 12:15 penalize 8:16 people 8:22 9:15 person 10:10 personally 10:16 phones 3:2 piece 3:7 PIF 12:21 please 2:18 3:2,5 4:7 position 11:19	reached 8:12 ready 3:21 recalling 7:17 receive 12:13 receptionist 2:17 recommend 11:16 record 3:10 4:10 5:15 7:9 recorded 2:19 Reeves 1:13 reflects 10:15 refrain 2:20 regularly 2:4 relay 11:5 remarks 3:21 reporter 2:19 4:13 representing 4:18 9:3 required 9:4 requires 3:11 reschedule 9:20 10:3 resolved 12:4,5 respect 4:20		

U	2014 1:11 2:7 12:3 12:8		
unable 8:13			
understand 11:3	3		
V	30 1:11 2:7		
vital 9:2			
vote 11:15	4		
W	4:30 12:3,8		
Wait 7:12	400S 1:14		
want 8:20 11:11,19 11:22	405(b) 3:14		
wanted 5:19 13:8	442-6492 13:13		
Washington 1:14	5		
wasn't 7:20	50 1:10		
way 4:21	6		
week 9:21 10:5	7		
weight 9:5	8		
welcome 2:4	9		
went 7:9	9:30 5:16		
wish 10:16	9:32 2:2		
witnesses 12:18,19	9:36 5:17 7:9,20		
worked 13:14	9:46 7:10		
wouldn't 5:13 11:16	9:53 14:4		
X	93572 1:7 4:5		
Y	9th 1:6 4:4		
Z			
0			
00048 7:18			
1			
122 1:10			
14-PRO 7:17			
14-PRO-00048 1:8 4:3			
14th 1:13			
17 12:3,7			
1919 1:6 4:4			
1B 4:18 9:8			
2			
2000 1:13			
20009 1:14			