

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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EL ATARDECER, LLC :

t/a Atardecer Restaurant :Roll Call

3475 14th Street, NW :Hearing

License #ABRA-092346 :

Retailer DR, New Application :

Case #13-PRO-00095 :

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AUGUST 5, 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

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

10:11 a.m.

1
2
3 AGENT FLETCHER: Would the parties
4 in the matter of El Atardecer please come
5 forward. This is Case Number 13-PRO-00095, El
6 Atardecer, LLC, trading as Atardecer
7 Restaurant, 3475 14th Street, Northwest,
8 License #ABRA-092346. This is a Retailer DR,
9 New Application.

10 The protest issues are adverse
11 impact on peace, order and quiet, real
12 property values, parking, pedestrian safety.

13 Is the Applicant present? Is the
14 Applicant present in the matter of El
15 Atardecer? Okay. Thank you.

16 My name is La Verne Fletcher.
17 I'll be conducting the Roll Call Hearing as
18 the Board's Agent pursuant to D.C. Official
19 Code 1601.2.

20 Introductions beginning with ANC-
21 1A.

22 MS. WRIGHT-SMITH: Good morning,

1 Vickey Wright-Smith for ANC-1A.

2 AGENT FLETCHER: Thank you, Ms.
3 Smith, and would you spell your name for the
4 Court Reporter, please?

5 MS. WRIGHT-SMITH: Sure. Vickey,
6 V-I-C-K-E-Y, Wright, W-R-I-G-H-T - Smith, S-M-
7 I-T-H.

8 AGENT FLETCHER: Okay. And is
9 Chad Alan here? Mr. Alan, can you step
10 forward for us please from your group?

11 You signed a protest letter but
12 you are an abutting property owner.

13 MR. ALAN: Correct.

14 AGENT FLETCHER: Okay. So, I want
15 to acknowledge you first as an abutting
16 property owner because you have standing as an
17 abutting property owner in your own right in
18 addition to being a part of a group. So, I
19 wanted to establish that first.

20 MR. ALAN: Okay. But there's more
21 than must me though.

22 AGENT FLETCHER: I know, but

1 you're abutting also.

2 MR. ALAN: All right.

3 AGENT FLETCHER: So, what I'm --

4 MR. ALAN: Additional abutting
5 property owner.

6 AGENT FLETCHER: You're at 3473.

7 MR. ALAN: Correct.

8 AGENT FLETCHER: And so --

9 MR. DALE: It's a multi-unit
10 building.

11 MS. RITACCO: Yes, there's four
12 units within that building.

13 AGENT FLETCHER: Well, that was
14 going to be my next question. I have a lot of
15 letters here so I'm trying to see who actually
16 abuts.

17 Now, who share a common wall?

18 MR. ALAN: Technically, we all do.

19 MS. RITACCO: We're all on the
20 same floor.

21 AGENT FLETCHER: You're all going
22 to be granted standing as Protestants. The

1 abutting property owner can only be the one
2 that actually shares the common wall.

3 You mentioned in your letter, Mr.
4 Dale that you share a common wall.

5 MR. DALE: I do, but we all do.
6 We're just on different floors of the --

7 AGENT FLETCHER: You have to share
8 a common wall with the establishment, not with
9 one another?

10 MS. RITACCO: I do and I submitted
11 an abutting protest.

12 AGENT FLETCHER: Okay. So,
13 everybody shares a common wall with the
14 establishment?

15 MR. ALAN: Correct.

16 AGENT FLETCHER: Okay. That's
17 fine.

18 So, what I want to do is -- I can
19 do this one of two ways. Now, that I realize
20 that, I can grant you all standing as a group
21 of five because five of you are here or I can
22 grant each one of you standing as an abutting

1 property -- is anyone else here from your
2 group?

3 MS. RITACCO: There's five. We
4 each want to be our own abutting property.

5 AGENT FLETCHER: Okay. So, then
6 what I'm going to do is have you read your
7 name into the record and spell it for the
8 Court Report. And so, Mr. Alan, would you
9 state your name and spell it for the Court
10 Reporter?

11 MR. ALAN: Chad Alan, C-H-A-D --

12 AGENT FLETCHER: Oh, I'm sorry.
13 There's a microphone on the desk.

14 MR. ALAN: Chad Alan, C-H-A-D A-
15 L-A-N.

16 AGENT FLETCHER: Thank you.
17 Abutting property owner.

18 MR. BURNETT: Douglas Burnett. F-
19 O-U-G-L-A-S Burnett, B-U-R-N-E-T-T.

20 AGENT FLETCHER: Thank you, Mr.
21 Burnett.

22 MS. RITACCO: Cara Ritacco, C-A-R-

1 A R-I-T-A-C-C-O.

2 AGENT FLETCHER: Thank you.

3 MR. DALE: David Dale, D-A-V-I-D
4 D-A-L-E.

5 AGENT FLETCHER: And you're
6 abutting, Mr. Dale?

7 MR. DALE: Yes, ma'am.

8 AGENT FLETCHER: Thank you.
9 Is that everybody?

10 MR. DALE: We're the abutting.

11 AGENT FLETCHER: Yes, for the
12 abutting. Is that everybody for the abutting?

13 MR. DALE: Yes, the four owners.

14 AGENT FLETCHER: Okay. So, that's
15 four abutting and everyone else now.

16 MR. COOK: Will Cook. W-I-L-L C-
17 O-O-K.

18 AGENT FLETCHER: Thank you.
19 Anybody else?

20 MS. KHACHATURIAN: Tamar
21 Khachaturian, that's T-A-M-A-R K-H-A-C-H-A-T-
22 U-R-I-A-N.

1 AGENT FLETCHER: I'm sorry, I'm
2 writing too slow. K-H-A --

3 MS. KHACHATURIAN: K-H-A-C-H-A-T-
4 U-R-I-A-N.

5 AGENT FLETCHER: Thank you very
6 much.

7 Is there anyone else here from
8 this protesting group? Okay.

9 So, we have Mr. Alan, Mr. Burnett,
10 Ms. Ritacco and Mr. Dale, you also signed the
11 protest letter as a group. Okay. So, what
12 that means is at least a group of five is here
13 also so your protesting group is granted
14 standing. So, I'm granting standing to four
15 abutting property owners and a group of one,
16 two, three, four, five, six -- that's seven --
17 and a group of seven.

18 Okay. The next thing you need to
19 do is to designate a representative for your
20 group. Is there any one person that you can
21 designate that we can contact on behalf of the
22 entire group?

1 MR. ALAN: I'm the condo
2 president.

3 AGENT FLETCHER: Okay. That's
4 perfect.

5 MR. ALAN: Chad.

6 AGENT FLETCHER: Chad Alan. Mr.
7 Alan, you are the designated representative
8 and what that means is that we -- if you could
9 sign your name and contact information on that
10 sheet there.

11 Mr. Alan will be the person that
12 we contact if we have some information instead
13 of contacting everybody. He's the person that
14 we'll contact and he'll share the information
15 with everyone else.

16 I'm going to set a date for a
17 Mediation and a Status Hearing in just a
18 minute.

19 Mr. Alan would need to appear for
20 the Mediation as the designated representative
21 on behalf of the entire group. Everyone else
22 could come if you wanted to, but only the

1 designated representative needs to appear for
2 the Mediation to attempt to negotiate a
3 settlement on behalf of the entire group.

4 Same thing with the Status
5 Hearing. There's going to be a Status Hearing
6 set and only the designated representative
7 needs to appear for that but everybody can
8 come.

9 At the Status Hearing, the Board
10 will only ask you the outcome of the Mediation
11 so there aren't going to be any decisions made
12 or anything. So, you may not want to come
13 just for that. It takes about a minute. Only
14 the designated representative needs to appear
15 for the Status Hearing.

16 And, Mr. Alan, if for some reason
17 you can't appear for the Status Hearing then
18 you would just designate somebody else from
19 your group. It doesn't matter for us. We
20 just need it in writing whoever it is going to
21 be.

22 MR. ALAN: Okay.

1 AGENT FLETCHER: For the record, I
2 now know and I'm going to put that in the
3 record that you're the designated
4 representative.

5 MR. ALAN: I'll be out of the
6 country a couple of times in but --

7 AGENT FLETCHER: Okay.

8 MR. ALAN: -- other than that I
9 should be readily available.

10 AGENT FLETCHER: And I'm going to
11 give you some dates and if you're out of the
12 country let me know and we'll move up or
13 back --

14 MR. ALAN: Okay.

15 AGENT FLETCHER: -- to accommodate
16 your schedule.

17 Is the Applicant here from El
18 Atardecer Restaurant? The time is 10:20. The
19 Applicant is not present. The application is
20 dismissed.

21 The Applicant will have 10 days
22 from receipt of a Board Order dismissing the

1 application to seek reinstatement of the
2 application, but as of today, there is no
3 application because it's dismissed.

4 You'll be kept informed regarding
5 whether or not it's reinstated, this
6 application. When the Board issues an order
7 dismissing the application, Mr. Alan, you'll
8 receive a copy of that order and if the
9 Applicant seeks reinstatement, you'll have an
10 opportunity to respond to it as well.

11 MR. ALAN: They were informed
12 about this meeting, correct?

13 AGENT FLETCHER: Yes. Yes. I'm
14 going to double-check just to make sure that
15 there's a letter in here that they were sent
16 as well. But, yes, the date is on the placard
17 notice. But for whatever reason he's not
18 here, his application is dismissed for the
19 purpose of Roll Call. And, yes, they did
20 receive notice of the hearing today.

21 MR. ALAN: Okay.

22 AGENT FLETCHER: So, any questions

1 at all?

2 MR. DALE: I have a quick
3 question.

4 At what point is their application
5 dismissed? I mean, they didn't even have the
6 respect that orders them to show up today.
7 Are we just simply going to go through this
8 all again?

9 AGENT FLETCHER: I'm the Board's
10 Agent and I make decision on behalf of the
11 Board for the purpose of Roll Call. But the
12 Board which you may know is a five-member
13 board. They will review this matter and an
14 order will be issued to dismiss the
15 application. That will happen.

16 And if the Applicant seeks
17 reinstatement, then the ABC Board will rule on
18 that as well. So, that's what happens next.

19 MR. ALAN: Are we informed if they
20 do submit for reapplication and we can
21 protest?

22 AGENT FLETCHER: I've already

1 granted you standing as Protestants today.

2 MR. ALAN: Okay.

3 AGENT FLETCHER: So, if the Board
4 grants reinstatement of the application, we'll
5 pick up where we left off today which means
6 that I will contact you, Mr. Alan, by email--

7 MR. ALAN: Okay.

8 AGENT FLETCHER: -- to let you
9 know that the Board reinstated the application
10 and then we would schedule dates for
11 Medication, a Status Hearing and a Protest
12 Hearing.

13 MR. ALAN: Okay.

14 AGENT FLETCHER: But that's the
15 only thing we didn't do today is set dates.

16 MR. ALAN: Okay.

17 AGENT FLETCHER: But you're
18 already granted standing as Protestants so you
19 would not need to appear again for Roll Call.

20 MR. DALE: So, this initial step
21 here today has not been in vain? If they
22 reapply --

1 AGENT FLETCHER: Oh, yes,
2 absolutely, because you've been granted
3 standing as Protestants. You won't need to
4 come back to another Roll Call Hearing.

5 MR. DALE: I just wanted to make
6 sure we weren't going to come back to square
7 o ne.

8 AGENT FLETCHER: Absolutely.

9 MR. DALE: It is your opinion as
10 when they feel like showing up.

11 AGENT FLETCHER: Exactly. That's
12 not going to happen either just so that you
13 know.

14 MR. BURNETT: It's 10 days from
15 today?

16 AGENT FLETCHER: It's 10 days from
17 the date that the Board issues an order. The
18 Board meets on Wednesdays and the Board meets
19 this coming Wednesday. The Board is in recess
20 beginning August 21-28 and the first Wednesday
21 in September, but I'm going to report today
22 that the Applicant did not appear. And what

1 normally happens is the issues appears on the
2 Board's agenda this coming Wednesday. So,
3 what would normally happy which almost always
4 happens. I'll report that today. The matter
5 will go on the Board's agenda this coming
6 Wednesday and the Board will issue an order
7 dismissing the application this coming
8 Wednesday.

9 MR. BURNETT: Okay.

10 AGENT FLETCHER: That's what
11 normally happens. Either way, nothing is
12 going to happen without your knowledge.

13 MR. ALAN: Wonderful.

14 AGENT FLETCHER: So, all you need
15 to do has been accomplished already.

16 And so, Ms. Wright-Smith, do you
17 have any questions at all?

18 MS. WRIGHT-SMITH: No.

19 AGENT FLETCHER: Okay. And, Ms.
20 Wright-Smith, is your email address on that
21 sheet also?

22 MS. WRIGHT-SMITH: Yes.

1 AGENT FLETCHER: Okay. Well, then
2 the Roll Call Hearing in this matter is
3 concluded.

4 MR. ALAN: Thank you.

5 AGENT FLETCHER: Okay.

6 MR. ALAN: We aren't getting any
7 dates today, we're going to wait until the --

8 AGENT FLETCHER: Exactly. Because
9 if the Board doesn't grant reinstatement of
10 this application, we won't need any dates.
11 And we can't set a date for Mediation without
12 the Applicant.

13 MR. ALAN: Wonderful. I'm sorry,
14 and your name was?

15 AGENT FLETCHER: Oh, there's my
16 card right there. La Verne Fletcher. Call me
17 anytime.

18 MR. ALAN: All right, we're good.

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

21 (Whereupon, the above matter was
22 concluded at 10:25 a.m.)

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