

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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Dcenter, Inc. :

t/a Dupont Underground :

1900 Massachusetts Ave, NW :

:

License No. 99436 :

ANC 2B :

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August 12, 2015

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

- PRESENT:
- RUTHANNE MILLER, Chairperson
 - DONALD BROOKS, Member
 - NICK ALBERTI, Member
 - HECTOR RODRIGUEZ, Member
 - MIKE SILVERSTEIN, Member

 - JAMES SHORT, Member

 - HERMAN JONES, Member

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

2 1:40 p.m.

3 CHAIRPERSON MILLER: Okay, good afternoon.

4 Thank you for your patience. We are here for a fact
5 finding hearing. On Dupont Underground, located at
6 1900 Massachusetts Avenue, Northwest, License No.
7 99436 in ANC 2B, and this is an application for a new
8 license, applying for a CX license. But let me first
9 get you all -- your names on the record, you know,
10 starting on my right please.

11 MR. WARWICK: This is Daniel Warwick. I'm
12 a Board Member of Dupont Underground. I am also an
13 Advisory Neighborhood Commissioner in 2B. That is not
14 why I am here.

15 CHAIRPERSON MILLER: Okay.

16 MR. WARWICK: Except here is not ANC
17 based.

18 CHAIRPERSON MILLER: Okay, good. Thanks
19 for clarifying, okay.

20 MR. HUNT: My name is Julian Hunt. I'm
21 the founder of the Dupont Underground and Board
22 Member.

1 CHAIRPERSON MILLER: You're a sponsor and
2 Board Member, is that what you said?

3 MR. HUNT: Yes, I'm an active Board
4 Member.

5 CHAIRPERSON MILLER: Okay, but did you say
6 something else?

7 MR. HUNT: Yes.

8 CHAIRPERSON MILLER: You're a sponsor?

9 MR. HUNT: I'm a founder of the --

10 CHAIRPERSON MILLER: Founder. Founder,
11 okay, thank you. Yes?

12 MR. AGNESE: Braulio Agnese, Board Member,
13 but also the managing director for the Dupont
14 Underground.

15 CHAIRPERSON MILLER: Okay.

16 MR. CHRISTOFIDES: Stylianos Christofides.
17 I am the current Chairman of the Board.

18 MEMBER RODRIGUEZ: Your name again?

19 MR. CHRISTOFIDES: Stylianos Christofides.
20 You can abbreviate it as you like.

21 CHAIRPERSON MILLER: Stylianos Christo
22 what?

1 MR. CHRISTOFIDES: Fides.

2 CHAIRPERSON MILLER: Fides?

3 MR. CHRISTOFIDES: Yes.

4 CHAIRPERSON MILLER: Okay, so, there's a
5 piece of paper in front of you all of you to actually
6 write your name, so we get them right in the
7 transcript, hopefully.

8 All right, so, this is what's called a
9 fact finding hearing. It's not an evidentiary hearing.
10 We're not, you know, investigating you for anything
11 wrong and you're not under oath.

12 We just want to get some more information
13 from you to understand your application, and you have
14 a novel kind of operation, at this point.

15 So, we're interested in hearing a little
16 bit more about it, and why you're also applying for a
17 CX license, why you chose that category.

18 So, I think just given that, I would let
19 you kind of start, if you want to just address that in
20 general, and then Board Members will ask you some
21 questions, I'm sure.

22 MR. AGNESE: Yes, so, the Dupont

1 Underground is a non-profit organization. We have a
2 lease for the entire Dupont Underground space, all
3 75,000 square feet below Dupont Circle.

4 The goal is to turn it into cultural
5 space, arts and design, live theater, dance and music,
6 perhaps pop-up retail and dining events, third-party
7 rentals to corporate and other types of events. We've
8 had a lot of interest from people who just want to use
9 the space.

10 But we will be controlling of course, what
11 goes in there, whether it's something we create
12 ourselves, something we work in partnership with
13 somebody else, another institution or a company, or
14 simply if we rent it out to everything from weddings,
15 to corporate parties, to just private events that we
16 don't have any say-so, we're just using it for income
17 generation.

18 The idea is that we would not be a
19 provider of alcohol, but simply, we would have the
20 same capability as any current museum or gallery
21 venue, where wine, beer and liquor can be served at
22 events if people so choose, because that's a big part

1 of the socialize aspect of these types of things.

2 MR. WARWICK: To address the CX license,
3 as you may know, the West Dupont Moratorium covers
4 this general. This space is actually excluded from
5 the moratorium zone. So, the moratorium has no impact
6 on this space.

7 We're an arts organization. We fit in the
8 same category as the Phillips Collection, the O Street
9 Mansion, our -- any other CX license. We're not a
10 restaurant. We're not a tavern. Alcohol would only
11 be served at special events.

12 CHAIRPERSON MILLER: So, are you going to
13 have different vendors under your purview or are you
14 going to be in charge of everything that goes on at
15 the Underground?

16 MR. AGNESE: It would be up to the user to
17 provide their own license bartenders, whatever, that
18 whoever provides the alcohol. We will not provide the
19 alcohol or the bartenders or sell alcohol as part of
20 the business.

21 CHAIRPERSON MILLER: Okay.

22 MR. AGNESE: We would simply have the

1 license to make it easier for these types of events to
2 happen.

3 CHAIRPERSON MILLER: Well, so, if somebody
4 wanted to put on an event down there, they would be
5 the ones who would need to provide the alcohol?

6 MR. AGNESE: Yes.

7 CHAIRPERSON MILLER: Okay, did you say you
8 might also have retail?

9 MR. AGNESE: It would be in a pop-up
10 capacity.

11 CHAIRPERSON MILLER: Pop-up, okay.

12 MR. AGNESE: Just like a weekend, you
13 know, fair, where people sell things, or we might have
14 pop-up dining events, you know, we've had tentative
15 discussions, say with Jose Andres people, you know, in
16 advance of their new restaurant, maybe just have a
17 teaser, you know, event of some kind.

18 The guy who is creating Anxo Cidery over
19 at Truxton Circle is very interested in doing a pop-up
20 there. So, it would be a one-night event, where they
21 would display their cider for comparing or have a
22 different kind of experience, but it will be just that

1 night only.

2 CHAIRPERSON MILLER: Okay, so, basically,
3 I mean, you have all the space, but different people
4 will come to you, to use it?

5 MR. AGNESE: Right.

6 CHAIRPERSON MILLER: Okay.

7 MR. AGNESE: In different ways.

8 CHAIRPERSON MILLER: Okay, all right, I'm
9 going to let others have some questions. Mr. Alberti,
10 did you want to?

11 MEMBER ALBERTI: Okay, so, I think -- it's
12 interesting, I think a lot of my questions are
13 answered in that short discussion.

14 So, you really -- you aren't really -- you
15 really aren't the producer of events. You're kind of
16 providing space.

17 MR. AGNESE: We will produce events, yes,
18 and there are things we will produce ourselves, aimed
19 in partnership with others, and those will be on a
20 case by case basis.

21 MEMBER ALBERTI: Right, but --

22 MR. AGNESE: There is no --

1 MEMBER ALBERTI: -- is that your primary
2 function or is your primary function to let out space
3 for others?

4 MR. AGNESE: I mean, the primary space --
5 the primary function is to use the space in a variety
6 of ways, whether that's with others or things we
7 create on our own.

8 MEMBER ALBERTI: Okay.

9 MR. AGNESE: But it's available for use by
10 --

11 MEMBER ALBERTI: Okay.

12 MR. AGNESE: -- many different types of
13 local theatrical groups that have no permanent home,
14 dancers, live bands, as I say, restaurants that want
15 to try something new or partnerships in the vain.

16 MEMBER ALBERTI: Okay.

17 MR. AGNESE: You know, if Pepsi is
18 debuting a new product and they're bringing it --
19 taking it on tour across the country, and wanted to
20 show it in our space, that type of thing.

21 You know, we've got a lot of interest from
22 the, you know, people who put together select events

1 for kind of bourbon and alcohol type related things
2 that are very kind of selective and exclusive.
3 There's a certain exclusivity factor that people are
4 kind of exploiting, you know.

5 So, we'll make it available for those
6 things. We'll also do our own kind of programming,
7 both in the arts and in the culture side.

8 MEMBER ALBERTI: You know, it sounds like
9 an exciting idea. I mean, if you guys -- if you all
10 can make this work, I think it will be a great
11 addition to the city.

12 CHAIRPERSON MILLER: Yes.

13 MEMBER ALBERTI: To have that venue there.
14 So, but still trying to figure out the licensing.

15 MR. AGNESE: Sure.

16 MEMBER ALBERTI: I mean, I don't think
17 there's any question if you can get a license, it's
18 just which license and how it's used.

19 MR. AGNESE: Right.

20 MEMBER ALBERTI: So, go ahead.

21 MR. CHRISTOFIDES: Just to add onto that.
22 We're not talking about any permanent installations

1 that actually provide alcohol or make alcohol
2 available.

3 So, that's why we're saying that each
4 vendor is going to be on a case by case basis, but if
5 we have an overarching license and it offers everyone
6 else the opportunity to make it easier for them to
7 bring on the alcohol.

8 MEMBER ALBERTI: Okay.

9 MR. AGNESE: There will be no permanent
10 bar.

11 MR. CHRISTOFIDES: Yes, there is -- no.

12 MEMBER ALBERTI: Right, all right, so, I
13 got that and that was a -- I was going to clarify
14 that, and you answered my question, great.

15 So, you're ahead of me. So, I still -- and
16 we may have to get back to you on this, but I am --
17 still have a -- sort of a question around, you said
18 something about allowing people to sell alcohol.

19 You have to be mindful of the fact that
20 it's your license and you would be responsible for
21 anything involving the service of alcohol.

22 So, there is -- and I've got to consult

1 with others, our legal counsel here, but I'm wondering
2 about this ability to allow others to sell, because
3 you really are responsible and you have the license,
4 you should be under the control of that license and
5 the proceeds of that license, is my understanding, and
6 not, sort of allowing someone else to assume that
7 responsibility of sale --

8 MR. AGNESE: Well, as we understand, we
9 would always have an ABRA manager from our staff on
10 the --

11 MEMBER ALBERTI: Okay.

12 MR. AGNESE: -- at every event where
13 alcohol was sold.

14 MEMBER ALBERTI: All right, and you could
15 certainly have someone come in and offer alcohol, and
16 they could bring their own alcohol in, it's the sale
17 --

18 MR. AGNESE: It's not -- it won't only be
19 sales, direct sales. Sometimes it will be wrapped in
20 the ticket price, buy a ticket, you get two tickets
21 for Sears, you know, might be included in the ticket
22 price.

1 Sometimes there might be --

2 MEMBER ALBERTI: All right, so, there is
3 a nuance that we have to consider.

4 MR. AGNESE: Sure.

5 MEMBER ALBERTI: I just want to let you
6 know that that's an unsettled issue that we probably
7 will be talking to our General Counsel, I'm sure
8 others on the Board will be talking to our General
9 Counsel about this.

10 So, and that may factor into what license
11 you want to get, all right? Would you have objections
12 to getting another kind of license?

13 MR. WARWICK: What other license would you
14 suggest?

15 MEMBER ALBERTI: CT.

16 MR. WARWICK: X?

17 MEMBER ALBERTI: CT. I mean, I won't --
18 wouldn't necessarily say CN, I mean, but CT, and then
19 you could -- I mean, you could apply for entertainment
20 endorsements, to allow entertainment.

21 I mean, there is really -- I mean, I --
22 it's my opinion that there really is no downside to

1 that here, except that you don't get the lay -- I
2 don't know, somebody might want the label of the CX
3 for some reason, I'm not sure. But in all practical
4 purposes -- so, I mean, I'm not hearing that you guys
5 saying, "Well, you know, we see something wrong with
6 that."

7 All right, so, I think the Board needs to
8 figure this out. I think -- I am satisfied with what
9 I'm hearing. I think I know what your operation is
10 going to be like, we just need to kind of sort this
11 out and talk to our legal counsel, and see what I
12 think should be recommended. So.

13 MR. CHRISTOFIDES: And I think from our
14 perspective, if I may, we'll need to do a little bit
15 more research, in terms of the license you're
16 suggesting, what would that add to -- what complexity
17 might that add to hosting events, and to making the
18 availability of beverages or alcohol easier at these
19 events, or not. That would be the only question I
20 would have to that.

21 MEMBER ALBERTI: All right. I'm -- go
22 ahead, continue.

1 CHAIRPERSON MILLER: Did you want to --

2 MEMBER ALBERTI: I want to ask some other
3 question. Go ahead, I'm sorry.

4 CHAIRPERSON MILLER: Yes, go ahead.

5 MR. SMITH: I actually am the one who
6 submitted the license.

7 CHAIRPERSON MILLER: Okay, can you kind of
8 introduce yourself for the record and feel free to
9 comment.

10 MR. SMITH: My name is Patrick Smith. I'm
11 the director of real estate and I also submitted the
12 license.

13 CHAIRPERSON MILLER: Okay.

14 MR. SMITH: We chose the CX license
15 because it comes with entertainment endorsements and
16 that's particularly, with daytime art exhibits.

17 We didn't feel going for separate
18 entertainment endorsements and the other endorsements
19 were appropriate. We figured that the overarching
20 multi-purpose facility, where we do control all of the
21 alcohol that comes in and out, I'm going to be a
22 beverage manager. Braulio is going to be a beverage

1 manager. We'll have two others, as well.

2 We will be responsible for the alcohol.
3 We're not going to be turning it over to someone else
4 to come and sell their's. I mean, that's kind of a
5 misnomer. It's more, they come in, we're still in
6 control.

7 MEMBER ALBERTI: Well, who would get the
8 proceeds from the sale?

9 MR. SMITH: We would get the proceeds from
10 the --

11 MEMBER ALBERTI: From the sale of alcohol?

12 MR. SMITH: We would get the proceeds from
13 the sale of the alcohol. We may split the proceeds,
14 but we will get the proceeds from the alcohol.

15 Well, that's the nuance. We're perfectly
16 happy to keep --

17 MEMBER ALBERTI: I mean, and I've got to
18 double-check my -- my understanding here, but I think
19 there is a problem with a licensee allowing anyone
20 else to be part of the profits of the sale of alcohol.

21 We have -- the laws are pretty clear about
22 that, and there is reasons for that. You don't want

1 silent partners that you don't know about, that are
2 involved in the -- not the -- doesn't speak to you
3 guys, but you know, I mean --

4 MR. SMITH: That is the --

5 MEMBER ALBERTI: We have to treat
6 everybody the same, and we have those laws, because
7 you don't want people involved with alcohol licenses,
8 you don't know about.

9 MR. SMITH: So, this pop up -- she was the
10 one who suggested, when we talked about which license
11 to get, she is the one who went with CX, and said this
12 is the one we should apply for.

13 MEMBER ALBERTI: Okay, no, I understand
14 and it's -- we go through this all the time. It's not
15 clear, the CX definition is just not clear and we have
16 these cross-overs and this grey area between licenses.
17 So, and you're getting caught in that with this type
18 of facility.

19 MR. SMITH: We're perfectly happy to keep
20 all the proceeds.

21 MEMBER ALBERTI: Yes.

22 MR. SMITH: We have to purchase the

1 alcohol from the people and then we keep the proceeds
2 from it, that may be what happens.

3 MEMBER ALBERTI: I mean, we have other --
4 I think -- I'm pretty sure we have other venues that
5 are CT's that host events, and they allow people to
6 come in and bring their own alcohol. They just can't
7 sell it. You know, it might be -- you know, that's
8 it. I mean, they just -- you know, it might be part
9 of a fund raiser and buy a ticket to the fund raiser
10 and essentially, there's free alcohol when you get to
11 that fund raiser, and that happens all the time.

12 MR. SMITH: Right.

13 MEMBER ALBERTI: And so, I mean, you could
14 do that. But you couldn't --

15 MR. SMITH: Thank you.

16 MEMBER ALBERTI: You couldn't really just
17 sell it outright. You couldn't allow someone to come
18 up and set up a pop-up bar.

19 CHAIRPERSON MILLER: Okay, okay.

20 MR. SMITH: Thank you.

21 MEMBER ALBERTI: You're welcome.

22 CHAIRPERSON MILLER: Others? So, I don't,

1 you know, get the impression that necessarily the
2 Board is saying you should get -- go for a CT. I
3 think Mr. Alberti is just suggesting -- is suggesting
4 that that was one consideration, you know, and wanted
5 to probe a little bit more about, you know, why the
6 CX.

7 So, the way you were talking, I was
8 thinking well, why not caterers, because I thought
9 they were -- they went with the individual
10 performances. But if you're saying that you're
11 responsible for all the events, for the alcohol at all
12 the events, that's a reason that you should have the
13 license.

14 Okay, are there other questions? Yes, Mr.
15 Rodriguez?

16 MEMBER RODRIGUEZ: So, you guys are going
17 underground and we want the license aboveground. I
18 think the best way to put it.

19 So, but very exciting about this project.
20 I used to live in Dupont Circle for many years, and I
21 know that there was a previous experiment that didn't
22 go as well, so, I'm sure you've learned from that

1 experiment, and but yes, I think things need to be
2 cleared up.

3 I agree with Mr. Alberti, about what he's
4 asking about, but pretty exciting project.

5 CHAIRPERSON MILLER: Mr. Silverstein?

6 MEMBER SILVERSTEIN: I'd like to welcome
7 you all here. I was in the back at the beginning of
8 this, watching this on the television. We're going on
9 break after this. We have a ton of paperwork we have
10 to take care of. So, I was multi-tasking, or trying
11 to.

12 You folks have worked so hard and for so
13 -- number of years, in trying to bring this to
14 reality, and a part of what Mr. Alberti is concerned
15 about is that we're all breaking new ground here, and
16 we want to make sure that it's done correctly, that
17 the precedent that we set here, is not one that works
18 for you, but won't work in the future for others or
19 opens up some loophole that could create a problem for
20 others.

21 So, we want to make sure that it's done
22 right and as we move on this together, I hope that we

1 can all work closely, so that what we do, we all know
2 what -- one hand knows what the other is doing, and we
3 can make it successful.

4 Thank you very much, and thanks for your
5 efforts because this is something that the whole city
6 has been looking at and everyone thinking, is this
7 going to happen, is this ever going to happen, and you
8 know, in Dupont, we do miracles all the time. If you
9 look at the soccer in the circle and some of the other
10 festivals and things that we do, I mean, it's common
11 place, it just sometimes takes a little longer to do
12 a miracle.

13 MR. AGNESE: And we're very conscientious
14 about wanting to be a good neighbor. We understand,
15 you know, we're very vested in Dupont Circle and its
16 neighbors. I lived around Dupont Circle the first 20
17 years I was here, so, it's the neighborhood I have in
18 my past. So, we're very conscientious about wanting,
19 you know, to be viewed as a responsible and then
20 proactive member of the community, helping Dupont
21 Circle.

22 MR. SMITH: We drafted a settlement

1 agreement already that we plan to present to the ANC
2 if we get by this.

3 MEMBER ALBERTI: Yes, we have that.

4 CHAIRPERSON MILLER: Great.

5 MEMBER SILVERSTEIN: When Mr. Rodriguez
6 lived there and when I first moved in down there,
7 there was so much of an art scene, and it was a very,
8 very art-centric neighborhood, but the neighborhood
9 has become so successful that many of those
10 establishments and much of that scene has been priced
11 out, and we don't have the variety of that, that we
12 once had, and this is a great opportunity to use an
13 unused public space for that purpose, so long as it's
14 done in a way that we're all comfortable.

15 MR. AGNESE: Absolutely, thanks.

16 MEMBER SILVERSTEIN: Thank you, gentlemen.

17 CHAIRPERSON MILLER: Any others? When do
18 you anticipate opening?

19 MR. AGNESE: We were looking at opening
20 part of the space, the east platform, the east side,
21 hopefully by late September or early October, to
22 capacity, and then we'll begin work on the west

1 platform opposite where the food court was, which we
2 want to open to a higher capacity, 500 to 1,000
3 people. The east side will be 99 people and that's to
4 code.

5 The amount of work we could accomplish
6 without interfering with the space, which has a
7 certain appeal to the D.C. Film Office and other
8 things, but the other side, the west platform where
9 the food court is has infrastructure we can make use
10 of, which would enable us to bring that side up to a
11 much higher capacity, at a lower cost and so, that
12 would be conditioned, have all the nice amenities, the
13 bathrooms, that would be the corporate type level
14 event, the east platform will remain a little more
15 experimental and raw, kind of unconditioned space for
16 site-specific performances and artworks, little more
17 seasonal in use, just because there is no HVAC, and
18 then we anticipate having both sides operating kind of
19 doing -- in concert, but also kind of doing their own
20 things, and two different ways to use the space, and
21 then the longer term plans beyond that, but we want to
22 get through this first --

1 CHAIRPERSON MILLER: Okay, well, yes --

2 MR. AGNESE: -- phase successfully and --

3 CHAIRPERSON MILLER: Okay, so, we'll look
4 forward to that. Any other questions?

5 Okay, so, we'll get back to you. We'll
6 think about what you said and make a decision on this
7 and get it going, and if you have any questions, you
8 know, you can always contact Martha Jenkins, our
9 General Counsel or also, Fred Moosally, sometimes if
10 you have some -- you know, if you're not sure about
11 what you can do on your license, once you get it, it's
12 a good idea to ask us. So, okay, thank you very much.

13 (Whereupon, the above-entitled matter went
14 off the record at 2:00 p.m.)

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