

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

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IN THE MATTER OF: :  
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BJ Enterprises, Inc. :  
t/a JP's :  
2412 Wisconsin Avenue, NW : Protest  
Retailer CN : Hearing  
License No. 8511 : (Status)  
Case No. 13-PRO-00108 :  
ANC 3B :  
Substantial Change :  
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OCTOBER 23, 2013

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

PRESENT  
RUTHANNE MILLER, Chairperson  
NICK ALBERTI, Member  
DONALD BROOKS, Member  
MIKE SILVERSTEIN, Member

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

9:45 a.m.

CHAIRPERSON MILLER: Next case is 13-PRO-00108, JP's, located at 2412 Wisconsin Avenue, N.W., License No. 8511. And this involves a substantial change.

Is everybody here on this case? Doesn't look that way. Well, why don't you identify yourselves for the record and then we'll decide what we're going to do here.

MS. BLUMENTHAL: Jackie Blumenthal for ANC 3B.

MR. GROSSMAN: Milton J. Grossman representing the Glover Park Citizens Association.

MS. O'RIORDAN: Carol O'Riordan for O'Riordan Bethel on behalf of group of eight. And with me is my partner Pamela Bethel, also on behalf of the group of eight.

CHAIRPERSON MILLER: Okay. And the Licensee is not here at this moment. Are you aware if he's coming? Do you have any

1 information?

2 MS. O'RIORDAN: We have no idea,  
3 no.

4 CHAIRPERSON MILLER: Okay.

5 MR. GROSSMAN: I would move to  
6 dismiss the substantial change application.

7 CHAIRPERSON MILLER: Okay. So --

8 MS. O'RIORDAN: We both join in.

9 CHAIRPERSON MILLER: Okay. So you  
10 have an option. Okay. So what's been our  
11 practice at these hearings is a lot of  
12 hearings are called for 9:30, and so when one  
13 party doesn't show, we usually give them 10 or  
14 15 minutes, whatever. We take the other cases  
15 ahead. And so we'll come back to your case.  
16 And if you notice that he comes in the room,  
17 you can just kind of signal us that he's here.

18 MS. O'RIORDAN: Thank you.

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

21 (Whereupon, at 9:48 a.m. off the  
22 record until 9:58 a.m.)

1 CHAIRPERSON MILLER: Okay. So I'm  
2 going to recall Case No. 13-PRO-00108, JP's.

3 All right. I'm sorry, I think I'm  
4 going to call the other case. Let me just say  
5 this: I have a note that Mr. Kadlick called  
6 and said he was running a little late, but  
7 would be here at 9:45. And it's not 9:45, so  
8 what I'm just going to do is take the other  
9 case first and then when we finish that case,  
10 we'll call your case. Thank you.

11 (Whereupon, at 9:59 a.m. off the  
12 record until 10:03 a.m.)

13 CHAIRPERSON MILLER: Okay. We're  
14 now going back to Case No. 13-PRO-00108.

15 So why don't you identify  
16 yourselves for the record one more time?

17 MR. GROSSMAN: I'm Milton Grossman  
18 representing the Glover Park Citizens  
19 Association.

20 CHAIRPERSON MILLER: Okay.

21 MS. BLUMENTHAL: I'm Jackie  
22 Blumenthal, commissioner, ANC 3B.

1 MS. BETHEL: And I'm Pamela  
2 Bethel, O'Riordan Bethel Law Firm and I  
3 represent the group of eight property owners.  
4 And with me is Carol O'Riordan, also of eh  
5 O'Riordan Bethel Law Firm who also represents  
6 the group of eight.

7 CHAIRPERSON MILLER: Okay. So we  
8 came prepared to consider and address your  
9 motions that you filed, however, it may be  
10 that may just proceed and dismiss as with the  
11 previous case for the Applicant's failure to  
12 appear.

13 MR. GROSSMAN: I would so move.

14 CHAIRPERSON MILLER: You would be  
15 in support of that?

16 MS. BETHEL: Oh, I move on behalf  
17 of my clients, the concerned property owners.

18 CHAIRPERSON MILLER: Okay. So for  
19 the same reason as in the previous case the --  
20 we did get a call from the Applicant and  
21 therefore we did move this case to the last  
22 one on the status hearing agenda. And it's

1 now 10:05 and the case was called from 9:30.  
2 He did say he'd appear at 9:45 and we've  
3 waited beyond that 20 minutes. So I'm going  
4 to move that we dismiss the case for failure  
5 to appear pursuant to our Rule 1603.3.

6 MEMBER BROOKS: Second.

7 CHAIRPERSON MILLER: Mr. Brooks  
8 has seconded the motion. Any comments?

9 MEMBER SILVERSTEIN: I have --

10 CHAIRPERSON MILLER: Yes?

11 MEMBER SILVERSTEIN: -- several  
12 questions on this.

13 CHAIRPERSON MILLER: Okay. Yes?

14 MEMBER SILVERSTEIN: I want to be  
15 sure that what we're doing here is not simply  
16 creating more work and more time for everyone  
17 involved. Our precedent in matters where  
18 people have called and have been delayed by  
19 excusable things --

20 CHAIRPERSON MILLER: Yes.

21 MEMBER SILVERSTEIN: -- accidents,  
22 stuck on the Metro, a bad traffic situation

1 because of a motorcade or something like that,  
2 we always allow them to reapply and always  
3 reinstate. And that puts everybody back 45  
4 days, 90 days, heaven knows what, while at the  
5 same time they are allowed to continue to  
6 operate. That has been the precedent. I want  
7 everybody to understand that we've done this  
8 time after time. Is this what would happen  
9 here?

10 PARTICIPANT: This is not a  
11 renewal.

12 MEMBER SILVERSTEIN: This is not a  
13 renewal? So this would not happen here?

14 CHAIRPERSON MILLER: Okay.

15 MEMBER SILVERSTEIN: So this would  
16 simply be dismissed? The individual could  
17 not --

18 CHAIRPERSON MILLER: Could not do  
19 the substantial change. Yes, that's what  
20 would be delayed. He'd have to reapply.

21 MEMBER SILVERSTEIN: For the  
22 substantial change? But the renewal has --

1                   MEMBER ALBERTI:  There is not a  
2                   renewal.  This is an application for a  
3                   substantial change.

4                   MR. GROSSMAN:  As a matter of  
5                   information, the Board dismissed the protest  
6                   against the renewal and the Protestants filed  
7                   an application for reinstatement and the Board  
8                   indicated last week that it wished to hear  
9                   oral argument on that application.

10                  MEMBER SILVERSTEIN:  Okay.

11                  MR. GROSSMAN:  So I assume that  
12                  will be scheduled in due course.

13                  MEMBER SILVERSTEIN:  Well, right.  
14                  Okay then.  I'm clear on this now and I'm good  
15                  with it.

16                  MEMBER ALBERTI:  I will note that  
17                  we just gave the Applicant an extra three  
18                  minutes to appear and he hasn't appeared.

19                  MEMBER SILVERSTEIN:  He still has  
20                  not appeared.

21                  (Laughter.)

22                  MEMBER SILVERSTEIN:  Madam Chair,

1 I think that we've discussed this far enough.  
2 Let's move forward.

3 CHAIRPERSON MILLER: Okay. Any  
4 other comments?

5 (No audible response.)

6 CHAIRPERSON MILLER: All right.  
7 Then there's a motion to dismiss for failure  
8 to appear. All those in favor, say aye?

9 (Chorus of ayes.)

10 CHAIRPERSON MILLER: All those  
11 opposed?

12 (No audible response.)

13 CHAIRPERSON MILLER: All those  
14 abstaining?

15 (No audible response.)

16 CHAIRPERSON MILLER: Motion passes  
17 4-0-0.

18 So there will be a written order  
19 issued and then the Licensee will have 10 days  
20 to seek reinstatement. Okay.

21 MS. O'RIORDAN: Thank you very  
22 much.

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MS. BETHEL: Thank you.

CHAIRPERSON MILLER: Thank you.

MEMBER SILVERSTEIN: Thank you.

(Whereupon, the hearing was  
concluded at 10:08 a.m.)

<b>A</b>	<b>C</b>	<b>doing</b> 6:15 <b>DONALD</b> 1:21 <b>due</b> 8:12 <b>D.C</b> 1:15	<b>information</b> 3:1 8:5 <b>involved</b> 6:17 <b>involves</b> 2:6 <b>issued</b> 9:19	<b>Milton</b> 2:13 4:17 <b>minutes</b> 3:14 6:3 8:18 <b>moment</b> 2:21 <b>motion</b> 6:8 9:7,16 <b>motions</b> 5:9 <b>motorcade</b> 7:1 <b>move</b> 3:5 5:13,16 5:21 6:4 9:2
<b>abstaining</b> 9:14 <b>accidents</b> 6:21 <b>address</b> 5:8 <b>agenda</b> 5:22 <b>ahead</b> 3:15 <b>ALBERTI</b> 1:20 8:1 8:16 <b>Alcoholic</b> 1:2,13,14 <b>allow</b> 7:2 <b>allowed</b> 7:5 <b>ANC</b> 1:10 2:12 4:22 <b>appear</b> 5:12 6:2,5 8:18 9:8 <b>appeared</b> 8:18,20 <b>Applicant</b> 5:20 8:17 <b>Applicant's</b> 5:11 <b>application</b> 3:6 8:2 8:7,9 <b>argument</b> 8:9 <b>Association</b> 2:15 4:19 <b>assume</b> 8:11 <b>audible</b> 9:5,12,15 <b>Avenue</b> 1:8 2:5 <b>aware</b> 2:22 <b>aye</b> 9:8 <b>eyes</b> 9:9 <b>a.m</b> 2:2 3:21,22 4:11,12 10:5	<b>call</b> 4:4,10 5:20 <b>called</b> 3:12 4:5 6:1 6:18 <b>Carol</b> 2:16 5:4 <b>case</b> 1:9 2:3,7 3:15 4:2,4,9,9,10,14 5:11,19,21 6:1,4 <b>cases</b> 3:14 <b>Chair</b> 8:22 <b>Chairperson</b> 1:15 1:19 2:3,20 3:4,7 3:9,19 4:1,13,20 5:7,14,18 6:7,10 6:13,20 7:14,18 9:3,6,10,13,16 10:2 <b>change</b> 1:10 2:6 3:6 7:19,22 8:3 <b>Chorus</b> 9:9 <b>Citizens</b> 2:14 4:18 <b>clear</b> 8:14 <b>clients</b> 5:17 <b>CN</b> 1:8 <b>COLUMBIA</b> 1:1 <b>come</b> 3:15 <b>comes</b> 3:16 <b>coming</b> 2:22 <b>comments</b> 6:8 9:4 <b>commissioner</b> 4:22 <b>concerned</b> 5:17 <b>concluded</b> 10:5 <b>consider</b> 5:8 <b>continue</b> 7:5 <b>Control</b> 1:2,13,14 <b>course</b> 8:12 <b>creating</b> 6:16	<b>E</b>	<b>J</b>	<b>N</b>
<b>B</b>	<b>D</b>	<b>F</b>	<b>K</b>	<b>O</b>
<b>back</b> 3:15 4:14 7:3 <b>bad</b> 6:22 <b>behalf</b> 2:17,19 5:16 <b>Bethel</b> 2:17,19 5:1 5:2,2,5,16 10:1 <b>Beverage</b> 1:2,13,14 <b>beyond</b> 6:3 <b>BJ</b> 1:6 <b>Blumenthal</b> 2:11 2:11 4:21,22 <b>Board</b> 1:2,14 8:5,7 <b>Brooks</b> 1:21 6:6,7 <b>Building</b> 1:14	<b>days</b> 7:4,4 9:19 <b>decide</b> 2:10 <b>delayed</b> 6:18 7:20 <b>discussed</b> 9:1 <b>dismiss</b> 3:6 5:10 6:4 9:7 <b>dismissed</b> 7:16 8:5 <b>DISTRICT</b> 1:1	<b>failure</b> 5:11 6:4 9:7 <b>far</b> 9:1 <b>favor</b> 9:8 <b>filed</b> 5:9 8:6 <b>finish</b> 4:9 <b>Firm</b> 5:2,5 <b>first</b> 4:9 <b>forward</b> 9:2	<b>Kadlick</b> 4:5 <b>kind</b> 3:17 <b>knows</b> 7:4	<b>NICK</b> 1:20 <b>note</b> 4:5 8:16 <b>notice</b> 3:16 <b>NW</b> 1:8 <b>N.W</b> 1:15 2:5
<b>G</b>	<b>H</b>	<b>I</b>	<b>L</b>	<b>P</b>
<b>M</b>				
<b>give</b> 3:13 <b>Glover</b> 2:14 4:18 <b>going</b> 2:10 4:2,4,8 4:14 6:3 <b>good</b> 8:14 <b>Grossman</b> 2:13,13 3:5 4:17,17 5:13 8:4,11 <b>group</b> 2:17,19 5:3,6	<b>happen</b> 7:8,13 <b>hear</b> 8:8 <b>hearing</b> 1:8,14 5:22 10:4 <b>hearings</b> 3:11,12 <b>heaven</b> 7:4	<b>idea</b> 3:2 <b>identify</b> 2:9 4:15 <b>indicated</b> 8:8 <b>individual</b> 7:16	<b>late</b> 4:6 <b>Laughter</b> 8:21 <b>Law</b> 5:2,5 <b>Let's</b> 9:2 <b>License</b> 1:9 2:5 <b>Licensee</b> 2:21 9:19 <b>little</b> 4:6 <b>located</b> 2:4 <b>look</b> 2:8 <b>lot</b> 3:11	<b>OCTOBER</b> 1:12 <b>Oh</b> 5:16 <b>Okay</b> 2:20 3:4,7,9 3:10,19 4:1,13,20 5:7,18 6:13 7:14 8:10,14 9:3,20 <b>operate</b> 7:6 <b>opposed</b> 9:11 <b>option</b> 3:10 <b>oral</b> 8:9 <b>order</b> 9:18 <b>owners</b> 5:3,17 <b>O'Riordan</b> 2:16,16 2:17 3:2,8,18 5:2 5:4,5 9:21
<b>Madam</b> 8:22 <b>matter</b> 1:5 8:4 <b>matters</b> 6:17 <b>MEETING</b> 1:3 <b>Member</b> 1:20,21 1:22 6:6,9,11,14 6:21 7:12,15,21 8:1,10,13,16,19 8:22 10:3 <b>met</b> 1:14 <b>Metro</b> 6:22 <b>MIKE</b> 1:22 <b>Miller</b> 1:15,19 2:3 2:20 3:4,7,9,19 4:1,13,20 5:7,14 5:18 6:7,10,13,20 7:14,18 9:3,6,10 9:13,16 10:2				<b>Pamela</b> 2:18 5:1 <b>Park</b> 2:14 4:18 <b>PARTICIPANT</b> 7:10 <b>partner</b> 2:18 <b>party</b> 3:13 <b>passes</b> 9:16 <b>people</b> 6:18 <b>practice</b> 3:11 <b>precedent</b> 6:17 7:6 <b>prepared</b> 5:8 <b>PRESENT</b> 1:18 <b>presiding</b> 1:15

previous 5:11,19  
 proceed 5:10  
 property 5:3,17  
 protest 1:8 8:5  
 Protestants 8:6  
 pursuant 6:5  
 puts 7:3  
**P-R-O-C-E-E-D-...**  
 2:1

---

**Q**

questions 6:12

---

**R**

reapply 7:2,20  
 reason 5:19  
 recall 4:2  
 record 2:9 3:22  
 4:12,16  
 Reeves 1:14  
 reinstate 7:3  
 reinstatement 8:7  
 9:20  
 renewal 7:11,13,22  
 8:2,6  
 represent 5:3  
 representing 2:14  
 4:18  
 represents 5:5  
 response 9:5,12,15  
 Retailer 1:8  
 right 4:3 8:13 9:6  
 room 1:14 3:16  
 Rule 6:5  
 running 4:6  
 Ruthanne 1:15,19

---

**S**

scheduled 8:12  
 Second 6:6  
 seconded 6:8  
 seek 9:20  
 show 3:13  
 signal 3:17  
**SILVERSTEIN**  
 1:22 6:9,11,14,21  
 7:12,15,21 8:10  
 8:13,19,22 10:3

simply 6:15 7:16  
 situation 6:22  
 sorry 4:3  
 status 1:9 5:22  
 Street 1:15  
 stuck 6:22  
 substantial 1:10  
 2:6 3:6 7:19,22  
 8:3

support 5:15  
 sure 6:15

---

**T**

take 3:14 4:8  
 Thank 3:18,19 4:10  
 9:21 10:1,2,3  
 things 6:19  
 think 4:3 9:1  
 three 8:17  
 time 4:16 6:16 7:5  
 7:8,8  
 traffic 6:22  
 t/a 1:7

---

**U**

understand 7:7  
 usually 3:13

---

**W**

waited 6:3  
 want 6:14 7:6  
 Washington 1:15  
 way 2:8  
 week 8:8  
 we'll 2:10 3:15 4:10  
 we're 2:10 4:13  
 6:15  
 we've 6:2 7:7 9:1  
 Wisconsin 1:8 2:4  
 wished 8:8  
 work 6:16  
 written 9:18

---

**P**

p 1:5,11

---

**1**

10 3:13 9:19

10:03 4:12  
 10:05 6:1  
 10:08 10:5  
 13-PRO-00108 1:9  
 2:4 4:2,14  
 14th 1:14  
 15 3:14  
 1603.3 6:5

---

**2**

20 6:3  
 2000 1:14  
 2013 1:12  
 23 1:12  
 2412 1:8 2:4

---

**3**

3B 1:10 2:12 4:22

---

**4**

4-0-0 9:17  
 45 7:3

---

**8**

8511 1:9 2:5

---

**9**

9:30 3:12 6:1  
 9:45 2:2 4:7,7 6:2  
 9:48 3:21  
 9:58 3:22  
 9:59 4:11  
 90 7:4