

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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Civil Lounge, LLC :

t/a Civil Lounge : Protest

5335 Wisconsin Ave., NW : Hearing

Retailer CT - ANC-3E : (Status)

License No. 90196 :

Case #13-PRO-00140 :

:

(Renewal Application) :

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December 11, 2013

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

NICK ALBERTI, Member

DONALD BROOKS, Member

MIKE SILVERSTEIN, Member

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

2 (9:56 a.m.)

3 CHAIRPERSON MILLER: Okay. Moving
4 on to Case No. 13-PRO-00140, Civil Lounge
5 located at 5335 Wisconsin Avenue, N.W.,
6 License No. 90196, in ANC-3E. And this is a
7 Protest (Status) Hearing.

8 MR. FONSECA: Michael Fonseca on
9 behalf of the licensee. F-O-N-S-E-C-A.

10 CHAIRPERSON MILLER: Okay.

11 MR. QUINN: Tom Quinn on behalf of
12 ANC-3E. I'm an ANC Commissioner for Single
13 Member District 3E04.

14 CHAIRPERSON MILLER: Okay. You
15 are here on behalf of the whole ANC, not just
16 your Single Member District, right?

17 MR. QUINN: Correct.

18 CHAIRPERSON MILLER: Okay. And my
19 understanding is that the group of five or
20 more individuals have withdrawn their protest.

21 MR. FONSECA: That is correct.
22 And we are having trouble locating parking,

1 representatives of my client, so they would be
2 walking in momentarily.

3 CHAIRPERSON MILLER: Okay.

4 MR. FONSECA: But I'm prepared to
5 discuss the matter, at this point.

6 CHAIRPERSON MILLER: You are
7 authorized to --

8 MR. FONSECA: Oh, absolutely.

9 CHAIRPERSON MILLER: Okay. So I
10 think we can proceed unless you wish to go to
11 the end of the queue.

12 MR. FONSECA: No.

13 CHAIRPERSON MILLER: Okay. Okay.

14 And I want to state for the record that ANC-3E
15 was dismissed by the Board on November 20th
16 for failure to appear at the Roll Call
17 Hearing. On December 4th, the Board
18 reinstated the ANC and that was on our agenda
19 last week.

20 Okay. So the ANC is a party. Is
21 there anything you all wish to tell us?

22 Otherwise, I'll be scheduling this for a

1 Protest Hearing.

2 MR. FONSECA: We would like to
3 have the protest scheduled. We are a bit
4 concerned because at this -- the reason the
5 group of five withdraw was they were satisfied
6 of the progress we were making and that the
7 issues otherwise that they were -- wanted in
8 the settlement agreement are those that the
9 Board would normally be disinclined to accept.

10 So we are now faced, at this
11 point, with -- that's what the ANC wants. We
12 believe are items that the Board would be
13 disinclined to accept. So I'm not sure that
14 we will ultimately agree to something, so, you
15 know, the earlier the protest can be
16 scheduled, the better.

17 CHAIRPERSON MILLER: Okay.
18 Anything you want to say before we schedule
19 it?

20 MR. QUINN: We don't object to the
21 hearing being sooner rather than later.

22 CHAIRPERSON MILLER: Okay. Well,

1 the date I have here is February 26, 2014 at
2 4:30 p.m. And --

3 MEMBER ALBERTI: Can I ask a
4 question?

5 CHAIRPERSON MILLER: Yeah.

6 MEMBER ALBERTI: Mr. Fonseca, I'm
7 not sure I understood you. And I don't want
8 to get too much into the weeds of
9 negotiations. But are you saying that you
10 believe that the sticking point is conditions
11 that you don't think the Board would approve
12 in a settlement agreement?

13 MR. FONSECA: Yes. I can give you
14 a for instance --

15 MEMBER ALBERTI: No, no.

16 MR. FONSECA: -- with specificity.

17 MEMBER ALBERTI: Let's not go into
18 the weeds.

19 MR. FONSECA: It's not that --

20 MEMBER ALBERTI: Maybe I'm out --

21 MR. FONSECA: -- difficult.

22 MEMBER ALBERTI: -- of bounds

1 here, but -- this is just a suggestion. I
2 mean, the parties could agree to submit it and
3 let the Board take a look at it. And I -- but
4 that's up to you. I don't know.

5 MR. FONSECA: But the thing is, it
6 would require binding a third party that is
7 not before the Board, which would be the
8 owners of the Chevy Chase Pavilion.

9 MEMBER ALBERTI: All right.

10 MR. FONSECA: That's the problem.

11 MEMBER ALBERTI: Well, what I'm
12 saying is that it's up to you, but then you
13 could then have a reading from the Board,
14 because we would offer an opinion to either
15 accept or deny the settlement agreement, but
16 that's up to you whether you want to take --
17 I don't know how you feel about that
18 uncertainty in submitting it to the Board.

19 This is just a suggestion to think
20 about. I'll leave it at that.

21 MR. FONSECA: Understood.

22 MEMBER ALBERTI: And this is more

1 for the benefit of 6A, because I -- I mean, to
2 the ANC, because you may not be experienced
3 with what the Board will accept and doesn't
4 accept.

5 MR. FONSECA: We have submitted a
6 number of other agreements over the years. We
7 are aware they may be accepted, they may be
8 accepted in part, they may be rejected.

9 MEMBER ALBERTI: All right.

10 MR. FONSECA: We have experience.

11 MEMBER ALBERTI: The other thing I
12 will tell you is that both parties can consult
13 with our legal or general counsel who can give
14 you some guidance on what the Board has done
15 in the past. Okay. If this isn't helpful,
16 ignore it, but I'm just trying to be helpful.

17 MR. FONSECA: I appreciate that.
18 Thank you, sir.

19 CHAIRPERSON MILLER: Anything
20 else? Okay. I just want to give you a few
21 instructions in the event that you go forward
22 to the Protest Hearing. And that is primarily

1 that you should have received a mailing from
2 our adjudication assistant, Tesha Anderson,
3 explaining the protest process and a copy of
4 the Protest Information Form.

5 If you don't have those documents,
6 contact her at the conclusion of this hearing.
7 It is very important that you adhere to the
8 rules governing the Protest Information Form.
9 It needs to be filed within seven days before
10 the date of the hearing and it needs to be
11 served on all the parties.

12 If we don't receive a copy of your
13 Protest Information Form, it's possible that
14 your application or your protest may be
15 subject to dismissal. And it is really an
16 important tool for the conduct of the hearing.
17 We strongly encourage you to identify your
18 witnesses and your exhibits as explicitly as
19 possible, so that everyone knows and is on
20 notice of what your case is going to be about,
21 so when we come here, there won't be
22 discussion about well, we are surprised or we

1 didn't know this or that kind of thing, so it
2 can be a very efficient and focused hearing.

3 So if you have any questions, you
4 can contact Ms. Anderson or Ms. Jenkins prior
5 to the hearing.

6 MR. FONSECA: Thank you. For the
7 record seated beside me is Matt Krimm, K-R-I-
8 M-M, who is the general manager of Civil
9 Lounge.

10 MR. KRIMM: And owner.

11 MR. FONSECA: And part owner.

12 MR. KRIMM: Yes, that's okay.

13 MR. FONSECA: Sorry.

14 CHAIRPERSON MILLER: Okay. Great.
15 Is there anything you wanted to say?

16 MR. KRIMM: No.

17 CHAIRPERSON MILLER: Okay.

18 MR. KRIMM: I got stuck in
19 traffic.

20 CHAIRPERSON MILLER: Okay. All
21 right. Okay. And then your counsel has been
22 here for the whole proceeding.

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MR. KRIMM: Right.

CHAIRPERSON MILLER: So he can fill you in on anything. Okay. Then that's all I have to say. Thank you very much.

MR. FONSECA: Thank you.

MR. KRIMM: Thank you.

MR. QUINN: Thank you.

CHAIRPERSON MILLER: Okay.

(Whereupon, the Protest (Status) Hearing in the above entitled matter was concluded at 10:03 a.m.)

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