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GOVERNMENT OF THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
ALCOHOLIC BEVERAGE CONTROL BOARD

- - - - -X
IN THE MATTER OF: :
Chaplin Restaurant DC, :
t/a Chaplin :
1501 9th Street Northwest : Case #15-PRO-00120
License #ABRA-095700 :
Retailer Class CR: :
Substantial Change :
December 18, 2015 :

- - - - - X
Friday, December 28, 2015

Whereupon, the above-referenced matter
came on for hearing at the Alcoholic Beverage
Control Board, Reeves Center, 2000 14th Street,
N.W., Suite 400S, Washington, D.C. 20009.

1

2 CHAIRPERSON: LAVERNE FLETCHER, MEDIATOR

3

4 ADRIAN WILLIAMS, ESQ.,

5 On behalf of Chaplin Restaurant DC, trading
6 as Chaplin

7

8 BRIAN FOOTER, ESQ.,

9 On behalf of ANC 1B

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11 OTHER PERSONS PRESENT

12 Ari Wilder

13 Joyce Njoroge

14 Alexander M. Padro ANC 6E 01 Vice Chair

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

2 MS. FLETCHER: Would the parties in the
3 matter of Chaplin please come forward? The
4 parties in the matter of Chaplin. This is Case
5 #15-PRO-00119, Chaplin Restaurant DC, LLC,
6 trading as Chaplin, 1501 9th Street Northwest,
7 License #095700. This is a Retailer Class CR,
8 Substantial Change for an entertainment
9 endorsement including live music, disc jockey and
10 karaoke. The protest issues are adverse impact
11 on peace, order and quiet. My name is Laverne
12 Fletcher. I am conducting the Roll Call Hearing
13 as the Board's Agent pursuant to D.C. Official
14 Code 1601.2. Introductions beginning with the
15 applicant. Are we on opposite sides? The
16 applicant is on this side?

17 SPEAKER: Adrian Williams.

18 MEDIATOR FLETCHER: Are you the
19 applicant?

20 MR. WILLIAMS: Yes.

21 MEDIATOR FLETCHER: And just -- normally
22 you would be on that side but I am going to

1 remind myself.

2 SPEAKER: We can split up if you'd
3 rather.

4 MEDIATOR FLETCHER: That's okay. You're
5 the applicant, right?

6 MR. WILLIAMS Yes.

7 MEDIATOR FLETCHER: Okay, so. Let me get
8 your name first, sir.

9 MR. WILLIAMS: Adrian Williams. A-D-R-I-
10 A-N.

11 MEDIATOR FLETCHER: Williams?

12 MR. WILLIAMS: L, and then the last name
13 Williams.

14 MEDIATOR FLETCHER: Thank you. And your
15 name, sir?

16 SPEAKER: Ari Wilder. A-R-I, first name.
17 Last name is Wilder, W-I-L-D-E-R.

18 SPEAKER: Joyce Njoroge.

19 MEDIATOR FLETCHER: Okay, can you state
20 that one more time and spell it for the record?

21 MS. NJOROGE: Joyce Njoroge, last name
22 spelled as N-J-O-R-O-G-E.

1 MEDIATOR FLETCHER: Thank you. Also Mr.
2 -- who's the applicant or the owner? Okay, so
3 that will be Mr. Williams.

4 MR. WILLIAMS Yes.

5 MEDIATOR FLETCHER: And so, Mr. Williams,
6 are you going to be the person that we contact
7 beyond today?

8 MR. WILLIAMS: Joyce. Joyce.

9 MS. NJOROGE: I am the designated
10 representative.

11 MEDIATOR FLETCHER: I'm sorry.

12 MS. NJOROGE: I'm the designated
13 representative.

14 MEDIATOR FLETCHER: The attorney
15 representative?

16 MS. NJOROGE: I'm the representative.

17 MEDIATOR FLETCHER: Okay, thank you. So,
18 will you put your contact information on that
19 sheet for me and then future communication will
20 be with you.

21 MS. NJOROGE: Okay.

22 MEDIATOR FLETCHER: Okay, and present on

1 behalf of ANC 6E?

2 SPEAKER: Alexander M. Padro,
3 Commissioner, ANC 6E01, and Vice Chair of the
4 Commission.

5 MEDIATOR FLETCHER: Thank you, Mr. Padro.
6 P-A-D-R-O?

7 MR. PADRO: Correct.

8 MEDIATOR FLETCHER: ANC 6E does have
9 standing as a protestant. We need to set a date
10 for a mediation, a status hearing and a protest
11 hearing. I'll give you the dates of the status
12 and protest hearings first. The status hearing
13 is set for January 27, January 27 at 9:30 a.m.
14 The protest hearing is set for February 24,
15 February 24 at 1:30 p.m. And we need to set a
16 date for mediation. The first day that's
17 available is Tuesday January 5 at 11:30, if that
18 works.

19 MR. PADRO: That won't work for me.

20 MEDIATOR FLETCHER: Okay, do you have a
21 preference for morning or afternoon?

22 MR. PADRO: Personally I prefer afternoon

1 but --

2 MR. WILLIAMS: Us too.

3 MEDIATOR FLETCHER: Is that good,
4 afternoon?

5 MR. WILLIAMS: Yes.

6 MEDIATOR FLETCHER: What about Monday,
7 January 11 at 1:00? That work for anybody?

8 MS. NJOROGE: January 11 at 1:00.

9 MR. WILDER: Yeah that's good.

10 MR. PADRO: I actually have work-related
11 business that day.

12 MEDIATOR FLETCHER: What about Tuesday,
13 January 12?

14 MR. WILLIAMS: That works for us.

15 MS. NJOROGE: Okay.

16 MR. WILLIAMS: That works for us.

17 MEDIATOR FLETCHER: That works for you?

18 MS. NJOROGE: Okay.

19 MEDIATOR FLETCHER: At 1:00.

20 MS. NJOROGE: Okay.

21 MR. PADRO: 1:00 should be fine.

22 MEDIATOR FLETCHER: Mediation is set for

1 Tuesday, January 12, at 1:00. Any questions at
2 all?

3 MS. NJOROGE: Yes. The letter that we
4 received, the notice, we had a little bit of a
5 question on the date marked on the letter,
6 whether it was hand delivered or it was e-mailed
7 or it was by mail.

8 MEDIATOR FLETCHER: Do you mean the
9 initial Roll Call Hearing notice?

10 MS. NJOROGE: No, the protest.

11 MEDIATOR FLETCHER: The protest?

12 MS. NJOROGE: Yeah. When it was filed.

13 MEDIATOR FLETCHER: Okay, you, with
14 respect to the timeliness of the protest? What
15 do you -- do you need a copy of the protest
16 letter?

17 MS. NJOROGE: No, we have the copy.

18 MEDIATOR FLETCHER: Uh huh.

19 MS. NJOROGE: Our question is, was it
20 mailed in or was it e-mailed in?

21 MEDIATOR FLETCHER: I'm looking for you
22 real quick. Does it matter?

1 MS. NJOROGE: Yes, because we are not
2 very sure about the date that is marked there
3 with a pen, it's kind of marked off, we are not
4 sure whether it was filed on the 15th or on the
5 13th.

6 MEDIATOR FLETCHER: Yeah, so we're
7 looking at whether or not it was timely filed?

8 MS. NJOROGE: Yes.

9 MEDIATOR FLETCHER: Okay. If you
10 received -- whether or not a protest is timely
11 filed is determined at the very beginning, as
12 soon as it comes in. So, that determination is
13 actually made by the person that handles the
14 protest process. So, at this point I have to
15 assume that it was filed on time. I'm looking at
16 the petition dateline which is December 14th. Is
17 that the petition dateline you have? December 14
18 on the placard notice? The petition dateline is
19 December 14th.

20 MS. NJOROGE: Yes.

21 MEDIATOR FLETCHER: And we received the
22 protest on December the 13th.

1 MS. NJOROGE: Was it e-mailed?

2 MEDIATOR FLETCHER: Um, I don't know if
3 it was e-mailed or not. I can't tell from this
4 document, but that is when we received the
5 protest, on December 13. So, whether it was e-
6 mailed, faxed, it doesn't really matter as long
7 as we received it by the petition dateline.

8 MS. NJOROGE: But it's just that it
9 certainly raised some consideration on the actual
10 date and that the 13th is on a Sunday.

11 MEDIATOR FLETCHER: As long as we
12 received it before the 14th it's okay. It
13 doesn't matter to us when we receive a protest as
14 long as it's before the petition dateline. So,
15 what are you looking at? You're saying we have a
16 fax that has a Sunday date on it?

17 MS. NJOROGE: No, there is a
18 consideration -- this is what I'm looking at, I
19 don't know what you have. But this is where
20 there is some consideration of the date.

21 MEDIATOR FLETCHER: It's the 13th,
22 December 13th.

1 MS. NJOROGE: Okay.

2 MEDIATOR FLETCHER: That's the date it
3 was received on, that's the document that I'm
4 looking at.

5 MS. NJOROGE: Okay.

6 MEDIATOR FLETCHER: So, what's your
7 question?

8 MS. NJOROGE: So, this is the 13th. This
9 is the 13th?

10 MEDIATOR FLETCHER: The 13th, December
11 13.

12 MS. NJOROGE: Okay.

13 MEDIATOR FLETCHER: You were thinking it
14 was a different date?

15 MS. NJOROGE: Well, it's concern that
16 it's [inaudible 14:32]. There is some
17 consideration that there is scratching on it. So
18 it doesn't you know --

19 MEDIATOR FLETCHER: It is the 13th.
20 December 13th. I'm looking at it right here.
21 I'm still not sure what your question is, though.
22 I'm not understanding your question.

1 MS. NJOROGE: No, my question is if the
2 petition, whether it was filed on time.

3 MEDIATOR FLETCHER: It was filed on time
4 because the petition dateline, the date by which
5 you could file the protest was December 14th.

6 MS. NJOROGE: Okay. We will get.
7 [inaudible 15:14] received the incoming.

8 MEDIATOR FLETCHER: You can talk with her
9 if you like, but what I'm telling you is that
10 this petition, that this person, she writes the
11 date that she receives it. I make the decision
12 about whether or not it was timely today, if
13 there's a question. The petition dateline was
14 December 14, so the ANC had until December 14 at
15 11:59 p.m. to file a protest. And, so it was
16 received on December the 13th, but I still don't
17 understand your concern though. Do you have a
18 concern beyond that, that it was received in a
19 timely manner? You question whether or not it
20 was received in a timely manner?

21 MS. NJOROGE: Yes.

22 MEDIATOR FLETCHER: But I don't

1 understand why. Are you saying that you don't
2 understand that that's a 13?

3 MS. NJOROGE: It's scratched. It can be
4 13, it can be 15, it can be whatever.

5 MEDIATOR FLETCHER: But I have determined
6 that it's a 13. So, it's a 13. It is the 13th.
7 If it had been the 15th, the ANC would have
8 received a letter from us that the protest was
9 filed untimely. You never would have known about
10 a protest. We don't process a protest that's
11 untimely filed. We send out a notice saying it's
12 untimely. So, you would have been told that a
13 protest was not filed and that you could proceed
14 on the licensing application process, but that is
15 a 3. But, you can always call anybody that you
16 would like to call. Imani Mooreland is the
17 person who sent out that Roll Call Hearing
18 notice. You can send -- you can contact her if
19 you like, or if there's anybody else you want to
20 contact, you can.

21 MS. NJOROGE: Okay.

22 MEDIATOR FLETCHER: Okay. Can I be of

1 any assistance to you today at all, beyond what
2 we're doing here now?

3 MS. NJOROGE: The other question is with
4 the mediation we will address other issues at the
5 mediation.

6 MEDIATOR FLETCHER: What about the
7 mediation?

8 MS. NJOROGE: I said, we will bring the
9 other issues we have during the mediation
10 process.

11 MEDIATOR FLETCHER: Okay.

12 MR. PADRO: I do have another question,
13 Ms. Fletcher.

14 MEDIATOR FLETCHER: What did you say, Mr.
15 Padro?

16 MR. PADRO: There is a second application
17 for Substantial Change from this applicant which
18 the ANC has already protested and is in our
19 protest letter for this application as well. So,
20 it certainly would be a good use of the board's
21 and the district's time and funds to consolidate
22 the two cases, so we --

1 MEDIATOR FLETCHER: What is the other
2 application for?

3 MR. PADRO: It's for a change in hours.
4 So, I would bring that to your attention.

5 MEDIATOR FLETCHER: So do you have
6 another application pending?

7 MR. WILLIAMS: Yeah.

8 MR. PADRO: Yeah.

9 MEDIATOR FLETCHER: Okay. Did you want
10 to say something?

11 MS. NJOROGE: Yeah, our concern is even
12 though the -- we never had the chance, the
13 community had never a chance to see our notice,
14 our placard, and get informed about what we are
15 applying for, a change of hours. Instead, even
16 before we received the placards and put them on
17 the door, the ANC went ahead and discussed and
18 voted on it without letting the community have
19 the due process to see the card or to get
20 informed what we applied for. We had not
21 received a placard before discussing the
22 application at the ANC meeting.

1 MEDIATOR FLETCHER: That doesn't concern
2 ABRA. That doesn't concern ABRA. The ANC
3 business is the ANC business, just so you know.
4 We're separate, so if the ANC or anybody else out
5 in the community wants to discuss whatever, they
6 can, we are only concerned about what happens,
7 once the matter reaches our agency.

8 MS. NJOROGE: But --

9 MEDIATOR FLETCHER: I understand what
10 you're saying, but as far as we're concerned, we
11 don't care who talks about it before it reaches
12 us.

13 MS. NJOROGE: But we would like that to
14 still continue as two separate applications on
15 file.

16 MEDIATOR FLETCHER: Well, we're not
17 gonna, it's gonna be considered -- I understand
18 what you -- it's gonna be considered two
19 applications. We're not going to combine the
20 applications and I will leave it up to you. Both
21 parties would have to agree to this. You can
22 have two separate mediations or you can have one

1 and talk about both issues, I'll leave that up to
2 you. Your second case has not reached me yet.
3 So, I don't know when the Roll Call Hearing is
4 for the second one, I don't know.

5 MR. PADRO: January 25th.

6 MEDIATOR FLETCHER: Okay, so that has not
7 reached me yet. So, your Roll Call Hearing, is
8 that correct, for the second one is going to be
9 January 25th?

10 MR. PADRO: Mm hmm.

11 MEDIATOR FLETCHER: So what I don't know
12 is whether or not your protest hearing is going
13 to -- I don't know what the date of the protest
14 hearing for that is going to be at this point, so
15 I don't know if the dates are gonna --

16 MR. WILLIAMS: Coincide.

17 MEDIATOR FLETCHER: Coincide, however, if
18 you wanted to have the mediation for both cases
19 at the same time, it doesn't matter for our
20 calendar. If you want to come twice for
21 everything, you can. If you want to come once
22 for everything, you can. Right now the status

1 hearing for this case is on January 27. If you
2 wanted to wait to see what the status hearing is
3 going to be for the second one, that might be
4 possible. You know, I could sort of leave that
5 part up to you. But, if you want to talk about
6 the -- if you want to talk about the change of
7 hours during this mediation, you can but I'll
8 leave it up to you. We can do it separate, two
9 everything. For our calendar, it's good. We
10 could have two separate mediations or you can
11 come back -- you can do it at one time.

12 MR. PADRO: From the ANC's perspective,
13 the issues are intertwined between the two
14 applications so it would simply be duplicative to
15 have two separate mediations. I would actually
16 suggest that there is a need, and I would
17 certainly, you know, look to resolve the issues
18 with an agreement in advance of the petition
19 date, but certainly if the applicant would rather
20 have two completely separate sets of meetings,
21 and separate sets of appearances, then certainly
22 the ANC will respect that.

1 MEDIATOR FLETCHER: So, Mr. Padro, if you
2 -- if the mediation for both cases was to be held
3 on one day and you were able to resolve the
4 issues related to change of hours the ANC would
5 withdraw the protest related to the change of
6 hours?

7 MR. PADRO: That is correct.

8 MEDIATOR FLETCHER: So, it's up to you
9 what you prefer to do. For our calendar it's
10 okay. If you want to, during the mediation on
11 January 12, to resolve the change of hour issues
12 at the same time, and have the ANC to just
13 withdraw their protest against that application,
14 we can do it that way. Or, if you would prefer
15 to wait and have that hearing separate, have the
16 Roll Call on the 25th and set a mediation, we can
17 just do it separately.

18 MR. PADRO: Okay.

19 MS. NJOROGE: We want two separate
20 mediation. We want -- we want to go for each
21 separate application separately.

22 MEDIATOR FLETCHER: The applications are

1 never going to be combined, just the procedures.
2 So, there's a protest hearing, at some point the
3 board could decide to combine them, I don't know,
4 it's one establishment, two separate issues, but
5 it's up to you. So, you want to have two
6 separate mediations? You would rather do that
7 than have resolved the matters at one mediation
8 and then just have the other protest dismissed or
9 withdrawn?

10 MS. NJOROGE: Actually, at the second --
11 we believe there is no basis for the second
12 protest because we are not asking for hours that
13 we do not have.

14 MEDIATOR FLETCHER: But, you're asking --
15 for hours that you -- in order to -- if you -- if
16 you're not asking for hours that you -- if you
17 had the hours already you wouldn't have needed to
18 file an application. They must be a change in
19 hours.

20 MS. NJOROGE: A change in service.

21 MEDIATOR FLETCHER: In hours. You
22 applied for a change in hours.

1 MR. WILDER: For the service.

2 MEDIATOR FLETCHER: For the service,
3 right. For the service of alcohol. So that's a
4 change in hours, yeah. Hours and operation are
5 two different things.

6 MR. WILDER: Yes.

7 MEDIATOR FLETCHER: So, there's a change
8 in the service, not the hours, so I understand
9 what you're saying. But, it's not for hours,
10 it's for service.

11 MR. WILLIAMS: Service.

12 MEDIATOR FLETCHER: Okay, so that is a
13 substantial change.

14 MR. WILLIAMS: Yes.

15 MEDIATOR FLETCHER: But -- but -- and so,
16 you can decide, I'll let you decide. I'll just
17 put it out there just, you know, one more time,
18 if you want to do it once and be done with the
19 whole thing, we can. Otherwise, we'll do exactly
20 what -- I'm going to say Joyce because I have a
21 hard time with the last name.

22 MS. NJOROGÉ: That's fine.

1 MEDIATOR FLETCHER: We can do exactly
2 what Joyce wants. For us, it's good either way,
3 but for your convenience if you wanted to combine
4 them we can. That's just the mediation.

5 MR. WILLIAMS: Okay.

6 MS. NJOROGE: Okay.

7 MEDIATOR FLETCHER: We're going to do
8 separate?

9 MS. NJOROGE: Yes.

10 MEDIATOR FLETCHER: Yeah. So, both
11 parties have to agree to change the dates. If
12 you change your mind during mediation I would be
13 willing to allow you to resolve the change of
14 hours issues during mediation if you want to.

15 MR. WILLIAMS: Okay.

16 MEDIATOR FLETCHER: So it's not too late.
17 Maybe it can all be resolved at one time, we'll
18 wait until then. Normally we don't do that but
19 we can.

20 MR. PADRO: Thank you.

21 MEDIATOR FLETCHER: So, we've got the
22 dates. Any more questions, Joyce, at all?

1 MS. NJOROGE: No. Thank you.

2 MEDIATOR FLETCHER: Okay. Mr. Williams,
3 Mr. -- Okay, well then I'll see you at 1:00 on
4 the 12th.

5 MR. PADRO: Thank you.

6 MS. NJOROGE: Thank you

7 MEDIATOR FLETCHER: Thank you.

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