

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
3 ALCOHOLIC BEVERAGE CONTROL BOARD
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6 IN THE MATTER OF: :

7 750 Biere, LLC, t/a Duchess and the Queen

8 2102 18th Street NW :

9 License #89545 :

10 Retailer CR ANC 1C :

11 Request to Extend Safekeeping :

12 - - - - - --X

13 Wednesday, November 16, 2016

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

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22 BOARD MEMBERS PRESENT

1 DONOVAN ANDERSON, CHAIRMAN

2 NICK ALBERTI, BOARD MEMBER

3 JAMES SHORT, BOARD MEMBER

4 MIKE SILVERSTEIN, BOARD MEMBER

5 JAKE PERRY, BOARD MEMBER

6 MAFARA HOBSON, BOARD MEMBER

7

8 ALSO PRESENT:

9 RISA HIRAO

10 JORGE AGUILAR

11

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

2 FACT FINDING HEARING

3 CHAIRPERSON ANDERSON: I now call a fact
4 finding hearing on Duchess and Queen, license
5 #89545. Will the parties please approach and
6 identify themselves for the record, please?

7 MS. HIRAO: Good afternoon, board members,
8 Risa Hirao with the law firm of Pascal, Weiss &
9 Hirao. I'm here with Jorge Aguilar, the owner of
10 The Duchess and the Queen.

11 CHAIRPERSON ANDERSON: Good afternoon.

12 MR. AGUILAR: Jorge Aguilar, president of
13 Duchess and the Queen.

14 CHAIRPERSON ANDERSON: There's a sign-in
15 sheet on the table there that I would like you to
16 make sure that you sign your name.

17 MS. HIRAO: That's been completed.

18 CHAIRPERSON ANDERSON: Okay, thank you. The
19 purpose of this hearing is a request to extend
20 safekeeping for this establishment, Duchess and
21 Queen. The request is that the board is being
22 asked to extend safekeeping of the license and I

1 saw the letter in front of me but I would like
2 just some background information why this license
3 is in safekeeping since the issuance of the
4 license, has this license ever been active, and
5 why should the board continue extending this
6 license within a safekeeping status.

7 MS. HIRAO: Chairman Anderson, the last time
8 we were before the board , we --

9 CHAIRPERSON ANDERSON: You can start out with
10 -- I'm not sure if you appeared before me before
11 with this request, but the first question I asked
12 was has this license ever been utilized? And if
13 it has never been utilized why was the license
14 applied for that has never been used? Start from
15 there and just bring me up to speed on that.

16 MR. AGUILAR: Sure. When the license was
17 initially issued back 2011-2012 we went through a
18 couple of issues with mainly DCRA delays that we
19 had at that time as far as plans that we had
20 initially and dealing with the Kalorama Citizens'
21 Association which ate up pretty much a lot of
22 that time. Another huge issue that has delayed

1 me for some time now was a major accident that my
2 mother went through a year and a half ago when
3 she was run over by a car so I had to push back a
4 bit. Now the construction itself on the
5 location, it is about 95% complete. The most
6 recent major part of the building aspect which is
7 the fire part of it, the permit was obtained back
8 in July of this year, three months ago, and most
9 of that, which is the sprinkler system for the
10 entire building, basically has been completed
11 within the past two months. I am now faced with
12 an issue where the [inaudible 28:59] has a five-
13 year moratorium which dates back to August 17 of
14 2012 which basically DDOT said doesn't 100%
15 prevent me from breaking ground to install a new
16 water line for the sprinkler system, but they do
17 require me to basically resurface the asphalt
18 from block to block, from corner to corner, of
19 the entire block which has become a huge
20 financial burden.

21 Two ways I can go about it: One is I can
22 begin to seek financing to complete that job

1 which is estimated somewhere around \$45,000 -
2 \$60,000 just for the asphalt part of it. The
3 second thing is, wait out the moratorium which
4 expires August 17 of next year. Those are my
5 options to complete -- to be able to obtain the
6 final walk-through and final inspections for my
7 CFO, basically.

8 CHAIRPERSON ANDERSON: So you're saying if
9 you were to wait until August of 2017, when
10 potentially could this license be in operation?

11 MR. AGUILAR: I would say within 30 to 45
12 days of the August 17th, if not within weeks. I
13 would say depending on just the final certificate
14 of occupancy final license from ABRA, two weeks,
15 that sort of thing, so I would say about 30 to 45
16 days to be reasonable after August 17. Given the
17 fact that everything had been completed within
18 the inside and basically right now the 5% that
19 I'm missing is the connection -- the waterline
20 connection from the outside to the inside of the
21 sprinkler system.

22 CHAIRPERSON ANDERSON: Are there any other

1 questions by any other board members? Mr. Short?

2 MR. SHORT: I see we have some documentation
3 in front of you. What is that you have in front
4 of you?

5 MR. AGUILAR: Basically I just wanted to show the
6 board that I have not held off or just frozen
7 from my purpose of this license. I have been
8 operating the permits on this particular job, so
9 just to show the board that I have continued to
10 maintain the --

11 MR. SHORT: And you did say the sprinkler
12 system is in now?

13 MR. AGUILAR: Yes, sir.

14 MR. SHORT: Did they run the test on the
15 sprinkler system?

16 MR. AGUILAR: No, not until we have -- they
17 do a final connection and it has not been
18 finalized as far as inspection-wise, no, but as
19 far as based on the plans that were approved July
20 25th, they have, so the piping has been
21 installed.

22 MR. SHORT: Okay. Do you mind submitting

1 those? I'd like to take a look at them before I
2 make my decision.

3 MR. AGUILAR: Okay.

4 CHAIRPERSON ANDERSON: We will give them
5 back.

6 MR. AGUILAR: Okay, okay, okay.

7 CHAIRPERSON ANDERSON: You can give her all
8 the documentation that you want the board to look
9 at. Do you have anything else in front of you
10 that you'd like us to consider? Well, why don't
11 you show it to your lawyer first and then I'll --
12 yeah, show it to your lawyer first and make sure
13 that she approves that we see stuff.

14 MR. SHORT: I'll withhold my questions until
15 I can look at the documents, Mr. Chair.

16 CHAIRPERSON ANDERSON: That's fine. Are
17 there any other questions by any other board
18 members? I thought you had a list of stuff that
19 had A's and B's, the permits, I thought you said
20 you had the list of permits that you have. My
21 goal, sir, whatever document that you have in
22 front of you that you believe will show the board

1 that you've been moving forward, I think will be
2 helpful, so if you have more documents I just
3 think that the board can look at and see that --

4 MS. HIRAO: Also, would the board be
5 interested in at least we have cursory
6 information on the moratorium that Mr. Aguilar
7 was referring to?

8 CHAIRPERSON ANDERSON: Whatever information
9 you want to share with the board that you believe
10 will sway the board in agreeing, because I think
11 also part of what the board normally does is to
12 approve this for six months and so even if the
13 board would approve it for six months which would
14 be March 2017 tells me that you're going to be
15 back in front of us again. You would have to
16 still make another request so if the board was to
17 approve it today and if you have this information
18 then we'll know that --

19 MS. HOBSON: I have a question for
20 clarification.

21 CHAIRPERSON ANDERSON: Go ahead, Ms. Hobson.

22 MS. HOBSON: So you say after August 17th,

1 are you saying the only thing that would be left
2 for you to do in order to operate, to keep
3 everything cleared with ABRA?

4 MR. AGUILAR: Correct.

5 MS. HOBSON: [inaudible 34:51.

6 MR. AGUILAR: Correct. And so as of 8/17
7 they can break ground and do their work that they
8 need to be done which is approximately seven or
9 ten days, and after that final inspection and
10 then the entire CFO with DCRA and licensing with
11 ABRA.

12 MR. SHORT: And didn't you say that DDOT is
13 going to require you to replace the whole --

14 MR. AGUILAR: Yes. The map that I've showed
15 you there has highlighted there, they're asking
16 me to do corner to corner, replace corner to
17 corner, sidewalk to sidewalk.

18 MR. SHORT: Is that in these papers?

19 MR. AGUILAR: That is not in those papers,
20 no. For that particular documentation I have
21 spoken to DDOT and the response was I have to
22 apply to them and then meet -- get the final

1 documentation from the DDOT inspector
2 highlighting where it needs to be replaced. I
3 have to through an application first which is
4 about 45 to 60 days.

5 MR. SHORT: Is all the other work done inside
6 at the location?

7 MR. AGUILAR: I'm sorry?

8 MR. SHORT: All the other work with the
9 exception of the sprinklers?

10 MR. AGUILAR: That is correct, yes that is
11 correct. Washington Gas has already installed
12 their line. That is complete. Electrical has
13 been there so there was no issue with that, so
14 gas line.

15 MR. SHORT: Washington Gas didn't have to
16 tear the street up?

17 MR. AGUILAR: Washington Gas, no they did the
18 sidewalk only, which they had to replace the same
19 way that it was before, so you go there it looks
20 like almost nothing happened, but they did break
21 ground, they did that job I want to say late last
22 year.

1 MR. SHORT: So, I see on your plans a two-
2 inch water main that you're adding or do you
3 already have a two-inch?

4 MR. AGUILAR: No, right now it's a one-inch
5 line.

6 CHAIRPERSON ANDERSON: Does anyone else need
7 to look at these documents? Do we have any other
8 questions from any other board members? I'm
9 going to allow the board members to look at it
10 before I close out this case, but any further
11 representation that you wish to make?

12 MS. HIRAO: No, not at this time.

13 MR. SHORT: Okay, so the application was made
14 in 2012 for the license? It was granted in 2012?
15 Or 2011 you said?

16 MS. HIRAO: I'm sorry, I didn't bring my
17 licensing file.

18 MR. SHORT: No, I'm simply saying when you
19 first got the license what year was it?

20 MS. HIRAO: The other thing guessing maybe, I
21 was like the [INAUDIBLE 38:06]

22 MR. SHORT: Okay, well I guess what I'm

1 trying to lead up to is the fact that on all of
2 this coming up, 2017, you would have had
3 everything done by then, correct?

4 MR. AGUILAR: Correct.

5 MR. SHORT : So, as the Chair was saying
6 earlier you're entitled to March 31st before we
7 have to call you back in again and then it would
8 be September of 2017, so if you have everything
9 done by September 17 that means you probably
10 won't get it done - Is that a fair assumption?

11 MR. AGUILAR: That's a fair assumption. More
12 than fair.

13 MR. SHORT: That's all I have, Mr. Chair.

14 CHAIRPERSON ANDERSON: Go ahead, Mr. Alberti.

15 MR. ALBERTI: Maybe I'm missing something.
16 You gave us this printout of DDOT but it doesn't
17 list the streets.

18 MR. AGUILAR: It does not and actually if you
19 go to the DDOT website also, it doesn't have it.
20 It's pretty much in sync with when I asked DDOT
21 and they said "that's all we have for you" and
22 not much I could get from DDOT.

1 MR. ALBERTI: So these streets are the ones.
2 How do you know what they are?

3 MR. AGUILAR: Well, it's the same when I
4 tried to apply for the excavation permit they say
5 right there that this street has a moratorium.

6 MR. ALBERTI: DDOT told you that's why
7 [inaudible 39:45].

8 MR. AGUILAR: Right, and when I went to DDOT
9 last week he said, I explained, I said I expected
10 [inaudible 39:54] paperwork. He said it's not
11 available.

12 MR. ALBERTI: So, have you applied for a
13 waiver?

14 MR. AGUILAR: No, I haven't. Like I said
15 before, it's not like they're telling me I can't
16 do it, I can do it, but they're going to require
17 me to replace corner to corner and sidewalk to
18 sidewalk asphalt.

19 MR. ALBERTI: You know, the stuff you gave us
20 from DDOT says there's a waiver process. Have
21 you attempted that route?

22 MR. AGUILAR: Yes, that will be the waiver.

1 The waiver will be, 'yes you can do it, but these
2 are the conditions.'

3 MR. ALBERTI: That's different than what it
4 says here.

5 CHAIRPERSON ANDERSON: I think what the -- at
6 least the information that you've provided is
7 that there is a waiver, you have to -- you can
8 apply for a waiver. You also have to provide
9 good cause. It also tells DDOT why is it the
10 work was not completed prior to the restoration
11 and can the work stay until the moratorium is
12 lifted? I mean, those are -- at least in the e-
13 mail that you provided, when I read it, the DDOT
14 stuff basically stated. So there's a process
15 that one has to follow that you have to comply
16 with and, just for the record, the agency has in
17 front of it an e-mail from DDOT that's dated
18 November 8, 2016, that stated basically that the
19 information, the address 2102 18th Street is part
20 of the suspended moratorium in the district so we
21 do have confirmation from DDOT that this specific
22 address is part of the moratorium zone, so we're

1 not going to question your integrity because the
2 previous e-mail that was provided to us did not
3 list the address but we do have confirmation that
4 the moratorium is in place for the address that's
5 listed and the moratorium will expire within five
6 years, 2017. One will either be sidewalk
7 construction December of 2016 the moratorium
8 expires and the other one for the reconstruction
9 of the street that expires in August of 2017.
10 Are there any other comments by any other board
11 members? Any further representation? Then I
12 make a motion that we agree to extend the
13 safekeeping through March 31, 2017.

14 MR. SHORT: Second.

15 CHAIRPERSON ANDERSON: Mr. Short has seconded
16 the motion. All in favor say aye. (Chorus of
17 ayes.) Those opposed? The matter passed 6-zero-
18 zero. So, we issue the safekeeping through March
19 of 2017, and so, therefore you need to reapply
20 again, and what I would ask you to do is maybe
21 you need to -- we'll give you a copy of this e-
22 mail that we received from DDOT and if you need

1 to reapply again I would ask you to include the
2 communication from DDOT for us within in your
3 application.

4 MR. AGUILAR: Okay.

5
6 (Whereupon, the above-entitled matter was
7 concluded.)

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