

Capital Reporting Company
In the Matter of: Mexican Cafe, Inc. t/a Margarita Restaurant 10-24-2012

DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF: :
 :
Mexican Cafe, Inc. :
t/a Margarita Restaurant :
2317 Wisconsin Avenue, NW : Fact Finding
Retailer CR : Hearing
License No. 16488 :
ANC 3B :
Request for Reconsideration by :
Licensee; License was Cancelled :
On July 11, 2012 :
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October 24, 2012

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
HERMAN JONES, Member
CALVIN NOPHLIN, Member
MIKE SILVERSTEIN, Member

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

2 2:13 p.m.

3 CHAIRPERSON MILLER: This brings us to our
4 second fact finding hearing. And you can come forward
5 if you're on this case, Margarita Restaurant, located
6 at 2317 Wisconsin Avenue, N.W., License No. 16488, in
7 ANC 3B. Hi. You can have a seat and when you're
8 ready, sign in, and then introduce yourselves for the
9 record.

10 MS. CANDON: Okay. Madam Chair, Board, I
11 have signed in already. I'm MaryEva Candon --

12 CHAIRPERSON MILLER: Okay.

13 MS. CANDON: -- counsel to Margarita's
14 Mexican Cafe. And with me is Maria Villalta, the owner
15 of the license.

16 CHAIRPERSON MILLER: Do you want to sit down?
17 Because actually the mikes are lower. Have a seat.
18 Yeah. And I just want to say, this is -- this is a
19 fact finding hearing. Nobody's testifying under oath
20 or anything like that at this point. And I know that,
21 you know, we had this case before. And so you're
22 familiar a little bit with it.

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1 Yeah, we are -- it's about the license. It's
2 been in safekeeping all this time. And I know it went
3 -- when we had a hearing before, we were supposed to
4 have a second hearing and find out the status with
5 respect to is there a sale -- an eminent sale or is she
6 going to open up a restaurant soon? Otherwise, the
7 license can't stay in safekeeping, you know, ad
8 infinitum.

9 So that's basically where we are. So we'll
10 be interested in what you have to say about, you know,
11 the status here.

12 MS. CANDON: Right. We -- Madam Chair, we
13 provided today a little packet of information, the
14 cover sheet of which is a listing of the dates that are
15 pertinent to Ms. Villalta not knowing that July -- she
16 was supposed to be here July 11th. And upon learning
17 that she was supposed to be here July 11th -- she only
18 learned it August 27th. It's explained there why. I
19 can embellish on that.

20 But she came right down the Board immediately
21 following Labor Day because it was a weekend in there
22 of the holiday and was advised, thankfully, by Board

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1 staff to write a letter to the Board explaining the
2 circumstances of her absence on July 11th. And she
3 wisely, I hope, got a lawyer to help represent her and
4 help her with it. So September 5th -- well, I -- we
5 wrote the letter on September 5th and you granted this
6 hearing today.

7 CHAIRPERSON MILLER: Right.

8 MS. CANDON: And so what I -- what we wanted
9 to say is, as you all know, Ms. Villalta has had the
10 license in safekeeping since 2008. And she has
11 maintained all the responsibilities that one is
12 supposed to to keep the license in safekeeping. And
13 she even paid, for what she understood from the notice,
14 \$1000 for the next year fee in February. That's also
15 on your list.

16 And she's a great businesswoman, an asset to
17 the city. She has two other establishments still. One
18 is a DR license just up the street from this room. And
19 -- but she doesn't have full command of the English
20 language. And apparently, she did not -- it wasn't
21 communicated to her that July 11th was a very urgent
22 date for her to attend, as well as she moved in, I

1 think -- well, in 2011 and thinks that she told the
2 Board on January 11th of her new address.

3 But through August, everything was going to
4 her old address, so that the notice that there was a
5 July 11th hearing, which of course, you all always take
6 care of, went to the wrong address. And she was out of
7 the country. And her son didn't give it to her until
8 August 27th. So there's just a number of reasons,
9 language difficulty -- when she came to the January
10 11th hearing and then not receiving notices and --

11 CHAIRPERSON MILLER: Okay. I mean, we got
12 that in your letter. And that's why we're having this
13 hearing to, you know, pick up -- okay. You didn't get
14 -- we didn't have the hearing in July. So here it is.
15 So you don't -- you don't have to revisit. I mean, I
16 know, you know -- and I remember all those things.

17 MS. CANDON: Great.

18 CHAIRPERSON MILLER: Yeah, that -- so that's
19 fine.

20 MS. CANDON: So we're asking to have the
21 Order for the -- deeming it abandoned to be withdrawn
22 or rescinded and allowing her to continue her efforts,

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1 which she plans to open a new restaurant, as well as
2 she has had discussions -- though, since August 27th
3 they've been stopped -- to sell this license. So she's
4 moving in both directions. Whichever works the best is
5 what she's going to do.

6 CHAIRPERSON MILLER: Okay. What we're
7 looking for is more specifics because it's been very
8 vague. And the way we understand the regs is that you
9 just can't keep a license in safekeeping for years and
10 years and years, especially -- and this is a valuable
11 one -- and the, you know --

12 MS. CANDON: A moratorium.

13 CHAIRPERSON MILLER: -- where there's a
14 moratorium and it's in demand. And so we would like to
15 hear from you if you have some specifics, you know,
16 like, you're going to know within, you know, one month,
17 two months, because such and such is happening. I
18 mean, do you have anything specific to tell us?
19 Otherwise, it's, like --

20 MS. CANDON: Well, the discussions of telling
21 it are somewhat -- first of all, the other thing is Ms.
22 Vallalta has had to go back and forth to Mexico many

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1 times for her -- for her ailing and elderly parents.
2 And she's taking care of her elderly parents, making
3 sure that they're set up well. So -- and then we
4 stopped negotiations of selling it as of hearing it was
5 abandoned -- that the license had been abandoned.

6 So we hope to -- well, we will reopen those
7 discussion. And there is a restaurant that would like
8 to be in Glover Park that we have had discussions with.
9 Now, we'll -- we will expedite them or speed them up
10 now that -- if we -- if we have the license to speed it
11 up with.

12 CHAIRPERSON MILLER: Right. Okay.

13 MS. CANDON: Yeah.

14 CHAIRPERSON MILLER: So there is a specific
15 restaurant that --

16 MS. CANDON: Yes, yes. And I do -- I mean, a
17 month we can certainly be back to you and tell you how
18 -- what the progress is. I would assume a sale like
19 this might take two or three months but we would know
20 that we were -- what was happening and could inform the
21 Board of the specific steps. It's -- you know, it's a
22 business -- confidential business right now. But, yes,

1 there is a hoped-for restaurant.

2 And Ms. Vallalta would like to work with ANC
3 3B, knowing that they too want some good restaurants, a
4 few more in their neighborhood. So we'll work with
5 them to bring another Licensee to the area.

6 CHAIRPERSON MILLER: So is it no longer an
7 option that she's going to open a restaurant herself
8 with her license?

9 MS. CANDON: Not in -- not in Glover Park.
10 For some reason, that concept didn't seem to work. And
11 she's got this great concept now with these Pica Tacos.
12 And she's expanding that brand. So she doesn't -- she
13 herself would rather not be in Glover Park. So she's
14 hoping to sell it. But we will also abide by the
15 Board's concern. If we -- if we can't sell it, then we
16 will open a restaurant and then probably sell it.

17 You see what I mean? So it's a -- so, you
18 know, we -- she has full intention of maintaining a
19 license and abiding by the Board's concern.

20 CHAIRPERSON MILLER: It's most valuable to
21 sell it where there's a moratorium.

22 MS. CANDON: Yeah.

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1 CHAIRPERSON MILLER: Correct? Okay. So is
2 there actually a space in Glover Park that is vacant
3 that this restaurant may be going to or --

4 MS. CANDON: Well, what's going on is there's
5 a restaurant that we think is going to cease.

6 CHAIRPERSON MILLER: Okay.

7 MS. CANDON: And --

8 MR. SILVERSTEIN: Say again, please.

9 MS. CANDON: We think there's a restaurant in
10 Glover Park that is going to move out of the moratorium
11 zone across town. And Ms. Vallalta would like to
12 either have a new restaurant come there and sell her
13 license to them or open her restaurant there. But we
14 are in discussions with that.

15 CHAIRPERSON MILLER: Well, let me ask you
16 this. Why would -- why wouldn't that restaurant sell
17 the license to the other restaurant coming in?

18 MS. CANDON: Because they want to open
19 another restaurant with the license.

20 CHAIRPERSON MILLER: They want to go
21 somewhere else --

22 MS. CANDON: Yeah.

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1 CHAIRPERSON MILLER: -- with the license?

2 MS. CANDON: Yeah, I guess they've done some
3 marketing study and they're going to be better off in
4 one of these up-and-coming neighborhoods that we're all
5 so proud of.

6 CHAIRPERSON MILLER: So would you know in a -
7 - in a month? Would you say that you would know if --

8 MS. CANDON: I think we'd know --

9 CHAIRPERSON MILLER: -- you're going to have
10 a deal consummated? You might know that that's what's
11 going to happen?

12 MS. CANDON: I think we -- I think we could
13 know something, I could assure you, for sure --
14 something that will help -- it's really been a little
15 difficult with it being abandoned. And it was
16 advertised abandoned -- yeah, understandably -- by the
17 ANC. So it had a stymied -- and certainly since Ms.
18 Vallalta got counsel -- we really had to deal with this
19 issue first and then resume our business development
20 discussions.

21 CHAIRPERSON MILLER: And then I'll go ahead
22 and let my other --

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1 MS. CANDON: Yeah.

2 CHAIRPERSON MILLER: -- ask questions. But
3 have you had some conversations with the ANC about the
4 license?

5 MS. CANDON: You know, I apologize. We have
6 not. And only yesterday -- I think you all got a
7 letter from them. And it was -- we got a copy. So I
8 will follow up immediately. Because they are clearly
9 concerned about the licenses and very responsible about
10 the growth of liquor licenses in their neighborhood.
11 So we'll -- we will work closely with them.

12 CHAIRPERSON MILLER: Okay. Do others have
13 questions? Mr. Silverstein.

14 MR. SILVERSTEIN: You mentioned something
15 about you would know in 60 days or you could get back
16 to us in 60 --

17 MS. CANDON: Well, in terms of more
18 specificity about the selling of the license, we could
19 be much more specific within -- Madam Chair has asked
20 for within 30 days.

21 MR. SILVERSTEIN: Yeah.

22 MS. CANDON: We will try to do that. And --

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1 but I was just saying --

2 MR. SILVERSTEIN: If --

3 MS. CANDON: -- we could definitely do it by
4 60 days. But we'll -- we will work toward the goal of
5 within 30 days or sooner, you know, when we get this
6 thing going.

7 MR. SILVERSTEIN: This has -- this has been
8 out there far, far, far too long. I think we all agree
9 on that.

10 MS. CANDON: Well, in safekeeping?

11 MR. SILVERSTEIN: Yes.

12 MS. CANDON: Yeah, I -- been in a long time.
13 I don't think Ms. Vallalta -- I think she's been so
14 distracted by her parents that -- and opening -- she
15 was opening this other set of restaurants. I think
16 that -- but she's been responsible about it. The only
17 time she missed keeping her license up to date was --

18 MR. SILVERSTEIN: Okay.

19 MS. CANDON: And she never missed keeping the
20 license up to date. She missed the hearing.

21 MR. SILVERSTEIN: Okay.

22 MS. CANDON: -- that was to address --

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1 CHAIRPERSON MILLER: Uh-huh. Uh-huh.

2 MR. SILVERSTEIN: No further questions.

3 MS. CANDON: Yeah.

4 CHAIRPERSON MILLER: Mr. Alberti, did you
5 have a question?

6 MR. ALBERTI: Yeah.

7 CHAIRPERSON MILLER: Yeah, okay.

8 MS. CANDON: Also Ms. Vallalta is reminding
9 me, she was not aware that keeping the license in
10 safekeeping was something -- was detrimental or was a
11 negative thing. So she now realizes it and that's just
12 another urgency on her part.

13 CHAIRPERSON MILLER: Yes, Mr. Jones.

14 MR. ALBERTI: Go ahead, Mr. Jones. We've got --

15 MR. JONES: Madam, thank you. Your client --
16 your client has been before us before. Are you aware
17 of that?

18 MS. CANDON: January 11th.

19 MR. JONES: You're aware of that?

20 MS. CANDON: Yeah. Oh, yes.

21 MR. JONES: Okay. So at that -- that
22 opportunity was provided to her to give us a detailed

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1 explanation as to what she planned to do with this
2 license.

3 MS. CANDON: Right.

4 MR. JONES: It was clearly identified, noted
5 to her that we had serious concerns about the fact that
6 there was no plan, that it'd been in safekeeping for an
7 extended period of time. There was no definitive,
8 concrete plan as to what she was going to do with it.
9 And I'm pretty sure we made it very clear that she ran
10 the risk of losing her license if she did not heed our
11 concerns.

12 So I'm challenged with the statement that she
13 wasn't clear that it being in safekeeping was a
14 detriment, at least to her, based on what we
15 communicated to her. And I was -- I was here. I was
16 present. I'm one of the ones who spoke to her. So I'm
17 fairly clear in my own words and I'm fairly clear in
18 the message that I delivered.

19 Now, I'm not sure how she received it, given
20 what you've put out there, but I'm having a hard time
21 with what you just said regarding her not being clear
22 and not having an understanding that it being in

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1 safekeeping was a detriment and that we still -- even
2 after all of this time, we don't have any more
3 granularity, any more detail about the specifics of
4 what you plan on doing with that beyond what she
5 presented at that time?

6 This whole amorphous, "I'm going to sell it
7 or I might open up a business or I may do something in
8 between," it's not -- that's not enough for me to feel
9 comfortable with the fact that you made any progress at
10 all --

11 MS. CANDON: Right.

12 MR. JONES: -- in this process and that you
13 have taken this seriously. And I'm having a hard time
14 following your logic behind that. So if you could help
15 me get past that stumbling block, it would help
16 tremendously.

17 MS. CANDON: Well, Ms. Vallalta, I do think
18 she understood that she was to take some action with
19 her license after she was here January 11th, when you -
20 - we spoke to her. She was not aware of a July 11th --
21 or she -- somehow it wasn't communicated to her the
22 July 11th date for the -- you know, what would you call

1 it, the -- you know, the abrupt -- I mean, not the
2 abrupt -- the hearing on the -- on the status. And
3 unfortunately -- and she didn't have counsel.

4 Unfortunately, during that time, she was back
5 and forth to Mexico a number of times. She felt -- she
6 thought she would be getting another notice about July
7 -- about a time she had to come in again. She never
8 got a notice about July 11th. And she was in Mexico
9 until August 15th. I mean, this is all written down.
10 And she was only able to get a lawyer by September 5th.

11 And since September 5th, we have been moving
12 as fast as we can with the license in question.

13 MR. JONES: So my point -- my challenge is,
14 between January and July -- the purpose of the July
15 opportunity was for her to be able to present
16 definitively what her plan was, what actions she had
17 taken to that point, and then how those actions were
18 going to result in a positive outcome as we define what
19 positive was for her in January.

20 MS. CANDON: Yeah.

21 MR. JONES: So I would expect you to be able
22 to today -- because this whole thing about it being in

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1 question didn't come about until August.

2 MS. CANDON: Well, she -- as I've mentioned,
3 she has discussed that one of the -- with the owner
4 that a restaurant in Glover Park is moving or the --
5 they think they're moving. And she had been -- well, I
6 mean, that's another owner. But she's been in
7 discussion with them and -- before she went to Mexico
8 that last time and then, when she got back, found out
9 that the hearing had passed.

10 And we've been in this state since September
11 5th. It's very difficult to sell a license, I mean,
12 when people know that it was possibly -- I mean, it has
13 been abandoned -- been deemed abandoned. And it may
14 not -- she may not have it back. So we have to have it
15 to force our argument. But --

16 MR. JONES: Okay. So I just want you to
17 understand and recognize --

18 MS. CANDON: Yeah.

19 MR. JONES: -- that we're not hearing
20 anything more than what we heard back in January. And
21 with that --

22 MS. CANDON: And had you heard she had

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1 approached the restaurant that was thinking --

2 MR. JONES: We heard that she had approached,
3 not a specific restaurant -- and I'm not hearing a name
4 now and I'm not going to based on what you said. So --

5 MS. CANDON: Well --

6 MR. JONES: -- there's no more -- there's no
7 more specificity in what you're telling us than what
8 she told us back in January.

9 MS. CANDON: Well, I'm --

10 MR. JONES: So -- and that's all I --

11 MS. CANDON: Yeah, so --

12 MR. JONES: -- wanted to make sure you
13 understand that.

14 MS. CANDON: Yeah, yeah.

15 MR. JONES: That's what I'm hearing.

16 MS. CANDON: And I think that we should
17 consider hiring a -- retaining a lawyer as some more
18 specificity on the action needed. So I -- we do
19 understand that. Yeah.

20 MR. JONES: Okay. Thank you. Thank you,
21 Madam Chair.

22 MS. CANDON: So

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1 CHAIRPERSON MILLER: Yes, Mr. Alberti.

2 MR. ALBERTI: I too am struggling in the same
3 way that Board Member Jones is. It's just there's too
4 many ifs here. And you won't give us -- you haven't
5 given us any specifics. You say that you think another
6 owner may be -- may be wanting to sell. Well, and you
7 say, "Well, you know, but that's been in limbo since
8 September 5th." But we are now a month and a half past
9 that.

10 And even though you can't -- you couldn't
11 have been in the position to offer the license to that
12 Licensee, you could at least have some indication where
13 that Licensee stands in selling. It's a month and a
14 half. I mean, if this Licensee is no closer to selling
15 than they were in September, why are they going to be
16 any closer in next January? So maybe you want to talk
17 to us -- tell me what you know about that other owner's
18 intentions. And where were the negotiations when you
19 cut them off in August?

20 MS. CANDON: Well, I didn't cut them off.
21 Ms. Vallalta got a July 11th notice and the Order -- an
22 Order to deem it abandoned on August 27th. She stopped

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1 negotiating with the potential restaurant. It's really
2 not the potential -- the potential restaurant that's
3 moving, they're not going to sell us their license.

4 MR. ALBERTI: I understand that.

5 MS. CANDON: Yeah, yeah.

6 MR. ALBERTI: I understand. I --

7 MS. CANDON: I did -- okay. And so we had --
8 so Ms. Vallalta had to say to them, "I got -- I have to
9 make sure this -- the license won't be -- or isn't
10 abandoned. I apologize for -- to be able to continue
11 the discussions." The restaurant wants to move to a
12 newer location. And they are planning to move to a
13 newer location.

14 MR. ALBERTI: Can you be more specific about
15 their plans? I mean, because as a business person, I
16 would assume Ms. Vallalta knows she's coming here and
17 knows she's going to be facing the questions. She
18 should know the type of questions she's going to be
19 facing because it's the same types of questions she --
20 we put out there in January. All right?

21 So I would think that it would have behooved
22 her to go back to this Licensee and say, "Can you give

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1 me some more details about, you know, when we could
2 start serious negotiations on this if I got my license
3 back?" But I'm hearing nothing. I'm hearing -- not
4 hearing any details on that. So I'm having -- I have
5 no more comfort with -- or confidence that this license
6 will be put into use again.

7 And let me say, also earlier on, you said to
8 me -- you said to us, "Well, if she can't sell, she
9 might open -- you know, she can't -- she doesn't -- if
10 she doesn't sell it, she might -- to that owner, she
11 might -- she might open in that spot." Well, in
12 January, Ms. Vallalta told us very clearly that she was
13 struggling to be able to afford the rents in that area.
14 And you're not talking to me today any -- about any
15 specifics about how that has changed and what
16 parameters have changed for her.

17 I hear no specifics. And unless I can --
18 unless I hear something, I'm just not persuaded.

19 MS. CANDON: Okay. And Mr. Alberti, the -- I
20 think we should look at, you know, as a -- I actually
21 don't know your background but I assume you're a
22 business man of sorts and that you know how serious

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1 business negotiations are. I think what happened with
2 Ms. Vallalta is that she felt -- was not confident in
3 her ability to argue or to negotiate a good deal. So
4 having been frightened and alarmed by the abandonment
5 of the -- possible abandonment of the license, she got
6 a lawyer to help her with everything.

7 Now, I'm not saying I'm a wizard but I am a
8 lawyer -- a businesswoman in town. And I guess I would
9 like to put on the record -- I'm not sure that all of
10 our Board members know; I think our Chairwoman does --
11 I was Chair of the Alcoholic Beverage Control Board for
12 seven years in --

13 MR. ALBERTI: Yes. And I appeared before you
14 so I'm aware of that.

15 MS. CANDON: -- in the '90s. Okay. Yeah, so
16 I have some knowledge of -- I don't mean I have -- you
17 know, but I have some knowledge of the value of liquor
18 licenses, the importance of small businesses in the
19 District of Columbia, and the need for us to be very
20 responsible with our licenses. So I think that what --
21 that Ms. Vallalta just decided she needed someone, you
22 know, who could shore up her position in this.

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1 And I think I will do that. But I was not
2 willing -- and you can reprimand me, but I was not
3 willing to representing to anybody that we had a
4 license to sell until we cleared up this matter.

5 MR. ALBERTI: So are you representing her in
6 the business transaction of --

7 MS. CANDON: I will.

8 MR. ALBERTI: -- to sell or rent a place --

9 MS. CANDON: I will.

10 MR. ALBERTI: -- as --

11 MS. CANDON: That's part of our --

12 MR. ALBERTI: -- in addition to representing
13 her here?

14 MS. CANDON: Yes. I -- well, I will but
15 we'll have to have the license to have anything for her
16 to continue retaining me for. So -- but I do think it
17 was a very responsible decision on Ms. Vallalta's part.
18 Also Mr. Alberti, she has two or three -- is it two --
19 it's two right now -- other establishments that are
20 great contributions to the communities they're in.
21 One, Taco Pica [sic], is at the corner of Columbia and
22 -- well, it's almost 16th.

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1 It's actually the -- off that little part --
2 what is that exact street, Vernon?

3 MS. VALLALTA: Harvard.

4 MS. CANDON: Carver?

5 MS. VALLALTA: Harvard.

6 MS. CANDON: Harvard Street. So it's right
7 there off of, you know, Columbia Road and very popular
8 and not -- with no alcohol license there. And she has
9 a second Taco Pica right up here at 1406 Florida and
10 that does have a DR license. And I'm sure if you look
11 at the records of all -- of all -- those two licenses,
12 the one that we're talking about today plus, the 1406
13 Florida, that she's been terribly responsible in all
14 her dealings with the Alcoholic Beverage Control Board.

15 And I think this -- I do think the
16 distraction of her parents -- she's personally only --
17 the one who's only responsible for her parents'
18 livelihood and care going forward. And I think that
19 there's been a distraction this year. I don't -- but
20 now, she's got someone -- so two people to be watching.
21 And we'll make sure we --

22 MR. ALBERTI: Okay.

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1 MS. CANDON: -- get on the game here.

2 MR. ALBERTI: So from hearing that, I guess I
3 can assume that Ms. Vallalta understands the need to
4 make this license productive and useful --

5 MS. CANDON: Oh, yeah.

6 MR. ALBERTI: -- for the city. All right?

7 MS. CANDON: We want to help.

8 MR. ALBERTI: And that's what --

9 MS. CANDON: Yes.

10 MR. ALBERTI: -- we're all about here, making
11 sure -- it's been in safekeeping since 2008.

12 MS. CANDON: Right.

13 MR. ALBERTI: It's been in a moratorium zone
14 since that time.

15 MS. CANDON: Yes.

16 MR. ALBERTI: So it's something that could be
17 productive to the -- to the city.

18 MS. CANDON: Yes, absolutely.

19 MR. ALBERTI: -- and to the owner.

20 MS. CANDON: Yes.

21 MR. ALBERTI: And to some -- and to some --
22 and it hasn't. And that's -- our concern is to make

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1 sure that that happens quickly.

2 MS. CANDON: Yeah. Well, I think that Ms.
3 Vallalta -- and certainly through me will -- we want to
4 jump-start that process and get it done. And that's
5 why we're here today, to --

6 MR. ALBERTI: Okay.

7 MS. CANDON: -- to explain to the Board the
8 circumstances.

9 CHAIRPERSON MILLER: Yes, Mr. Jones?

10 MR. JONES: Thank you, Madam Chair. Have you
11 spoken personally to this potential buyer?

12 MS. CANDON: No, because the -- when I got
13 involved -- when Ms. Vallalta called me, the Order says
14 it's been deemed abandoned. And plus, we had -- Miss
15 Vallalta was still in Mexico when the date by which she
16 was supposed to appeal that decision. So we were -- we
17 realized we were kind of in a -- in a hole here we had
18 to climb out of. And so, no, I didn't feel in a
19 position to --

20 MR. JONES: So you can't personally speak to
21 the intent of the potential buyer, the --

22 MS. CANDON: Oh, it's not a buyer actually.

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1 It's the restaurant that wants to move. Do you
2 understand?

3 MR. JONES: Okay. So --

4 MS. CANDON: Oh, and then -- and then, yes,
5 we will get another restaurant in there that will buy
6 the -- buy the license.

7 MR. ALBERTI: Oh --

8 MR. JONES: Right. So it's even further in -
9 -

10 MR. ALBERTI: So it's a two-step process?

11 MR. JONES: Correct.

12 MR. ALBERTI: It's a commitment from the
13 current occupant to move and waiting for them to move
14 and then another period of time in which you need to
15 find a buyer?

16 MS. CANDON: That won't be difficult. What
17 will be --

18 MR. ALBERTI: well, I think --

19 MR. JONES: Whoa, whoa, whoa, whoa.

20 MR. ALBERTI: Excuse me, Ms. Candon. If it
21 won't be difficult, why wasn't it done --

22 MR. JONES: It hasn't happened --

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1 MR. ALBERTI: -- already? This has been
2 since 2008. We had this hearing in January. We talked
3 about the possibility of selling it to somebody. And
4 if that's so easy, I don't understand why it hasn't
5 happened.

6 MS. CANDON: It's not so easy and I apologize
7 that I perhaps used an inappropriate word. I'm saying
8 now it is the absolute goal of this -- of this Licensee
9 to make sure that Glover Park has another good
10 restaurant there, it will happen. That hasn't been
11 that driven goal. And when her lawyer came -- got
12 involved, it was at a point where it was not
13 appropriate to be attempting those negotiations.

14 So she is committed to it now and understands
15 the -- actually the -- you know, the -- more how much
16 it matters to the city, the quality of businesses and
17 responsibilities that we have because of community with
18 them. So I feel confident -- I'm sorry that it didn't
19 come across in January as -- with this deadline
20 situation. But we're now changing it. We are
21 committed to getting it done.

22 MR. ALBERTI: I will tell you, I personally

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1 told her that if it had not -- if it was not put in use
2 by January that I --

3 MS. CANDON: By --

4 MR. ALBERTI: -- I -- my opinion would be
5 that it should be cancelled.

6 MS. CANDON: And you --

7 MR. ALBERTI: So the deadline was at least
8 conveyed by one Board member, myself.

9 MS. CANDON: Oh, no. I -- we don't --

10 MR. ALBERTI: I'm telling you --

11 MS. CANDON: -- we don't doubt that there was --

12 MR. ALBERTI: All right.

13 MS. CANDON: -- an attempt to convey it. No,
14 no, no, no. That's there. I think the -- it's simply
15 -- the date was missed somehow, perhaps through this
16 address problem because the Order went to the wrong
17 address. And now -- and I -- and the distraction of
18 taking care of her elderly parents, just -- it's --
19 that slipped. We're here to say we wish it were June
20 30th and we were preparing to come to see you on July
21 11th and have it all wrapped up.

22 But that just isn't the case. And Ms.

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1 Vallalta now wants to take the bull by the horns and
2 make this happen for all the parties.

3 CHAIRPERSON MILLER: Okay. Mr. Jones?

4 MR. JONES: Thank you, Madam Chair. So going
5 forward, if there is a forward to this, one simple
6 question, what happens if this place doesn't move?

7 MS. CANDON: Well, we will -- if -- you mean
8 if the license doesn't -- oh, you mean if the -- if the --

9 MR. JONES: So let's go back to what you said --

10 MS. CANDON: -- other restaurant --

11 MR. JONES: -- with your plan.

12 MS. CANDON: if the other restaurant that is
13 planning to move --

14 MR. JONES: So let's go back to what you said
15 was your plan. Will you quickly articulate to me
16 quick, simple steps, step one, step two, step three,
17 step four? What's your plan? Because part of it seemed
18 to include an establishment moving.

19 MS. CANDON: Yeah. Well --

20 MR. JONES: Okay. So --

21 MS. CANDON: -- if the establishment doesn't
22 move --

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1 MR. JONES: No. I want -- can you go through
2 your plan to make sure I understand your plan --

3 MS. CANDON: Okay. Well --

4 MR. JONES: -- what the steps are?

5 MS. CANDON: -- it -- we'll find out the date
6 that the establishment is planning to move. That can
7 be, you know, January 1. I mean, who knows? And then
8 we will around that sell the license for that space.
9 We can't sell the space. It's not our space. We'll
10 sell the license to eager, potential restaurant owners
11 or even ready -- already, you know -- just want to
12 expand. We'll market it. We'll -- now that we know we
13 can, we will market it and draw -- I mean, draw good
14 clients to that neighborhood because it's quite an
15 appeal -- you know, quite a --

16 MR. JONES: And if this place doesn't move?

17 MS. CANDON: Yeah, if it doesn't move --
18 well, you know, there's a lot of construction along
19 there. And with this license and the other license
20 that's -- that isn't in use right now -- Glover Park,
21 I'm sure, will want us to find a space to draw a
22 restaurant there. So we will do that. If you --

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1 MR. ALBERTI: So why hasn't it been done?

2 MS. CANDON: And there's a second one. Yeah,
3 Ms. Vallalta's mentioning that there's a second,
4 smaller pizza place that is planning to close and that
5 there's a -- close or move? Are they --

6 MS. VALLALTA: No, they want to buy it but we
7 didn't really clear for that --

8 MR. JONES: What's the, "it?"

9 MS. VALLALTA: -- for how much?

10 MR. JONES: What's the, "it," that they want
11 to buy?

12 CHAIRPERSON MILLER: The license.

13 MS. VALLALTA: The license.

14 MR. JONES: I'm asking her.

15 MS. VALLALTA: For the license.

16 MR. JONES: The -- you're talking about your
17 license --

18 MS. VALLALTA: Yeah.

19 MR. JONES: -- that's in safekeeping? Okay.

20 MS. VALLALTA: And when I -- when I kind of
21 mentioned, it wasn't clear for, you know, the -- they
22 didn't want to really buy it for the amount that I

1 asked but they said, you know, that I can -- we can
2 talk later about that. So that's all --

3 MR. JONES: So are you offering that to say
4 if this place that you think might move doesn't move,
5 that your Plan B is to sell it to this pizza place?

6 MS. VALLALTA: Even if it -- even if it's not
7 for the amount of money that --

8 MS. CANDON: Yeah.

9 MS. VALLALTA: -- that I was asking. That's
10 another possibility.

11 MS. CANDON: She's willing to --

12 MR. JONES: Okay. So --

13 MS. CANDON: -- to drop --

14 MR. JONES: So what I want to understand --

15 MS. VALLALTA: -- to drop the price.

16 MR. JONES: -- is if this place that was
17 supposed to move doesn't move --

18 MS. CANDON: Doesn't move --

19 MR. JONES: -- by X date -- do you have an X
20 date in mind? Like, if they say, "Look, we're not
21 going to move until September of 2013," is that too --

22 MS. VALLALTA: Well, I will --

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1 MR. JONES: -- is that too far out as far as
2 you're concerned?

3 MS. CANDON: Well, what I would suggest is
4 since -- what I would suggest is we will approach both
5 of them again, this place that I've just found out
6 about and the other one immediately. And guess what?
7 First -- the one who takes it first is great, you know.
8 We'll work through the plans as fast as we can. We
9 won't stop.

10 MR. JONES: All right. Thanks.

11 MS. CANDON: It will be accomplished.

12 CHAIRPERSON MILLER: Okay.

13 MS. CANDON: We don't have a plan right --
14 you know, the -- it's not a business plan right now
15 except to sell the license.

16 CHAIRPERSON MILLER: Okay. Mr. Brooks?

17 MR. BROOKS: Yeah, thank you, Madam Chair.
18 Ms. Candon, the letter that I have that you wrote to
19 Chairperson Miller, it's dated September 5 --

20 MS. CANDON: Uh-huh.

21 MR. BROOKS: Okay. So have you made any
22 progress from that date of this letter to today or have

1 tried to sell the license?

2 MS. CANDON: Yeah. Mr. Brooks, perhaps you
3 all can advise me that I made a mistake, but with the
4 license being abandoned, it gave us very little
5 leverage to sell it. So what I thought was the most
6 important thing to do was to secure the license again
7 and then go full speed ahead. So I didn't take on one
8 issue when we didn't have the license until I got the
9 license secured.

10 MR. BROOKS: Okay. And one final question,
11 Madam Chair.

12 MS. CANDON: Uh-huh.

13 MR. BROOKS: When Ms. Vallalta was here back
14 in January -- and I can't -- I remember her being here
15 but I can't remember if she was accompanied by someone
16 else who spoke English? You said she doesn't speak
17 English very well.

18 MR. ALBERTI: She had a real estate agent.

19 MS. CANDON: She had -- she had a friend with
20 her?

21 MS. VALLALTA: It was -- it was just a friend
22 who came to my place and eat. And I was -- and I

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1 invite him to come and kind of, you know, explain
2 because my language.

3 MR. BROOKS: Okay.

4 MS. VALLALTA: So he wasn't either, like,
5 with the whole information. It was short information
6 and it was the first time when he came with me.

7 MR. BROOKS: So he spoke English and Spanish?

8 MS. VALLALTA: Not Spanish, only English and --

9 MR. BROOKS: Okay.

10 MS. VALLALTA: -- and tried -- and he tried
11 to, you know, to --

12 MS. CANDON: Tried to help.

13 MS. VALLALTA: -- tell me slowly and make me
14 understand.

15 MR. BROOKS: Thank you, Madam Chair.

16 MR. ALBERTI: So just so I'm clear, Ms.
17 Vallalta did not engage your services until the Order
18 was issued to cancel the license; is that correct?

19 MS. CANDON: Not -- actually almost correct.
20 She didn't engage me until September 4th, which was
21 after the August 27th, her receipt on August 27th --

22 MR. ALBERTI: Right.

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1 MS. CANDON: -- of the Order --

2 MR. ALBERTI: Right.

3 MS. CANDON: -- and having visited the ABC
4 Board September 4th to chat with staff, who said --

5 MR. ALBERTI: So --

6 MS. CANDON: -- "Please break down why you
7 weren't here July 11th and the Board will review that
8 letter."

9 MR. ALBERTI: So you can understand my
10 disappointment that she waited until, I mean, she
11 absolutely had to get legal advice? I mean, her
12 license was cancelled. She had really no other choice.
13 And it wasn't until that moment that she sought help in
14 dealing with a sale of this license. And I -- and
15 that's -- I find that very disappointing. Just no --
16 you don't need to respond.

17 CHAIRPERSON MILLER: Any other comments?
18 Okay. I -- what I want to say is, I mean, I get what
19 you're saying. And I think it's very valid that Ms.
20 Vallalta doesn't speak English as her first language,
21 didn't have legal counsel at the hearing and once the
22 license was cancelled, there was a cloud on it. So it

1 was very difficult to go out and to the business world
2 and negotiate.

3 And I think what she did was very smart
4 and responsible to hire an attorney to help her go
5 forward in this process. And what I heard you say
6 earlier to me is that you thought even within 30 days
7 you would be able to --

8 MS. CANDON: Sell it.

9 CHAIRPERSON MILLER: -- go out and meet with
10 these businesses and be able to report back to the
11 Board something definitive with respect to whether you
12 were going to have a business deal or not.

13 MS. CANDON: Right.

14 CHAIRPERSON MILLER: Okay. So I think that
15 that's reasonable for the Board to give Ms. Vallalta
16 this opportunity now that she has counsel. And I have
17 heard you say as much as you can as far as what steps
18 you're going to take and report back to us. So I would
19 recommend that we rescind the Order cancelling the
20 license so that Ms. Vallalta has a license to go out
21 and negotiate about and then have them report back to
22 us in a -- in a short time frame so that the Board

1 members are concerned that, you know, this license not
2 to stay in safekeeping for a long period of time
3 anymore.

4 I don't see why we shouldn't give them this
5 chance to go forward.

6 MR. JONES: Well, if you take that approach,
7 Madam Chair, then I would like to definitize [sic]
8 specifically what we want to hear from them in that
9 time period so that there's no ambiguity and what is
10 progress and what a step is and what the plan is. They
11 need to be crystal clear on what we expect to hear from
12 them by when.

13 And if they don't hear it -- we don't get it,
14 then I suggest we move forward with what we did in the
15 beginning, which was cancelling their license.

16 MR. ALBERTI: Ms. Miller?

17 CHAIRPERSON MILLER: Yes, go ahead.

18 MR. ALBERTI: Actually I would suggest a
19 different approach -- I -- but it's in line with Mr.
20 Jones's concerns in that we set some benchmarks that
21 they have to meet, a benchmark for a letter of intent
22 at least from a buyer, and then a benchmark by a date

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1 on which a sale or a transfer would be consummated, and
2 after which, the license is cancelled.

3 I -- just given what we heard in January and
4 the way this has progressed, I cannot be confident
5 unless we have something more concrete to -- as a guide
6 to show us when this license will be put back into
7 productive use.

8 CHAIRPERSON MILLER: Others? Ms. Candon,
9 what do you think you can commit to?

10 MS. CANDON: Well, I thought -- I think if
11 you want, if it isn't going to take up too much of your
12 time, I would suggest -- and I hope I'm meeting the
13 concerns -- that we -- you can have -- we can come back
14 -- what day is today, the 24th -- you know, by --
15 before Thanksgiving with the specific plans that are
16 being implemented and then by the next -- by -- before
17 Christmas have a letter of intent that you're asking
18 and then by January 24th have everything basically
19 fulfilled.

20 So it's a -- it's a three-month window that -
21 - where we will show steady progress, at least
22 reporting to you why --

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1 CHAIRPERSON MILLER: So --

2 MS. CANDON: -- why the contract fell through
3 or whatever.

4 MR. ALBERTI: So you would commit to January
5 24th either -- at the very least having --

6 MS. CANDON: Selling it --

7 MR. ALBERTI: -- a contract in place?

8 MS. CANDON: Yeah, or moving or taking the
9 license out of Glover Park, which we don't want to do.

10 MR. ALBERTI: No. Having a contract in place --

11 MS. CANDON: Yeah.

12 MR. ALBERTI: -- to put the -- put into use
13 either a contract for a location --

14 MS. CANDON: Yes, okay.

15 MR. ALBERTI: -- where it would be and at
16 that point have an application for transfer before this
17 Board --

18 MS. CANDON: Yeah, why don't we say --

19 MR. ALBERTI: -- or -- yeah, I'm looking at
20 the end of January having an application --

21 MS. CANDON: Yeah.

22 MR. ALBERTI: -- application -- having seen a

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1 contract which -- where Ms. Vallalta would -- Vallalta
2 would operate and having a lease and everything signed
3 or having an application for transfer --

4 MS. CANDON: Uh-huh.

5 MR. ALBERTI: -- before this Board to a new
6 owner or to a new location.

7 MS. CANDON: Can we -- what I'd like to say
8 is -- I'm thinking the three months. Can we say
9 January 31 just because it's a holiday --

10 MR. ALBERTI: Uh-huh.

11 MS. CANDON: -- easier sort of to say by the
12 end of January? So -- yeah, okay. That's fine. We
13 will have something concrete for you to feel confident
14 that this District of Columbia citizen is continuing to
15 contribute to the health of our business community. So
16 we will do that.

17 CHAIRPERSON MILLER: Let's just back up
18 though. So that's the outside date. Were you saying
19 before Thanksgiving you would have -- you would give us
20 a report on a --

21 MS. CANDON: Yeah, I'll give a report on how
22 the negotiations are going and --

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1 MR. JONES: But I thought I heard, "Plan."

2 MS. CANDON: Well, plan. I can -- yeah,
3 okay.

4 MR. JONES: Meaning a report on that plan?

5 MS. CANDON: Yeah, yeah.

6 MR. JONES: So there's --

7 MS. CANDON: We'll have a --

8 MR. JONES: -- two things. You're going to
9 give us a plan and then you're going to tell us a
10 report based on your progress related to that plan?

11 MS. CANDON: Yeah, okay. That's fine. I'd
12 better write down these words so I don't mix it up.

13 MR. ALBERTI: We'll have a transcript for you
14 in two weeks. So

15 MS. CANDON: Yeah, yeah. That's right.
16 Okay.

17 MR. NOPHLIN: Madam Chair?

18 CHAIRPERSON MILLER: Yes, Mr. Nophlin.

19 MR. NOPHLIN: Are we looking at the dates and
20 time in which we can do this -- she can do this?

21 CHAIRPERSON MILLER: Yeah, I think so.

22 MR. NOPHLIN: And then she's going to commit

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1 herself to those time schedules?

2 CHAIRPERSON MILLER: Yeah.

3 MR. NOPHLIN: Okay. I would feel more
4 comfortable.

5 CHAIRPERSON MILLER: Okay. Oh, we don't have
6 a -- we can look at the calendar for before
7 Thanksgiving Day, whenever that is. Does everybody
8 have a calendar?

9 MR. ALBERTI: Well, let's make it the first
10 hearing after Thanksgiving because we're in recess, I
11 think, just before Thanksgiving. And I'm trying to be
12 fair to everyone.

13 MR. JONES: Well, just to be fair, things can
14 be submitted to us.

15 CHAIRPERSON MILLER: Hearing or report or
16 both?

17 MR. JONES: Both.

18 CHAIRPERSON MILLER: For both.

19 MR. ALBERTI: Both. Both.

20 MR. JONES: On about 14th of November or --

21 CHAIRPERSON MILLER: Twenty-eighth. Twenty-
22 eighth of November?

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1 MS. CANDON: Yep, that's fine.

2 CHAIRPERSON MILLER: We are talking about --
3 okay --

4 MS. CANDON: Yep.

5 CHAIRPERSON MILLER: -- having a hearing -- a
6 short fact finding hearing like this but also a written
7 - - you'd supply something in writing ahead of time
8 that would set forth your plan and the status of
9 negotiations or whatever. Okay.

10 MS. CANDON: Fine.

11 CHAIRPERSON MILLER: And are you confident --
12 your -- in that January 31st date as things being done?
13 You would be ready to do a transfer of license or a --
14 or using the license, I guess, in your -- in her own
15 business? Was that the two options?

16 MS. CANDON: Yeah, or -- yes. Yeah.

17 MR. JONES: Well, just to be the clear, the
18 secondary or milestone, which were the LOI, by
19 December.

20 MS. CANDON: Oh, the location? Is that what
21 LO --

22 MR. JONES: No, letter of intent.

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1 MR. ALBERTI: Letter of intent.

2 MS. CANDON: Oh, letter of intent. What date
3 did you say?

4 MR. JONES: Whatever date you gave us.

5 MS. CANDON: Okay.

6 MR. ALBERTI: I think you said the end of
7 December.

8 MS. CANDON: Yeah. Little --

9 MR. ALBERTI: December 30 --

10 MR. JONES: Twenty-fourth.

11 MS. CANDON: Yeah, you want it on the 24th or
12 -- okay. What's your schedule?

13 CHAIRPERSON MILLER: I don't know if we can
14 have a --

15 MR. ALBERTI: No, we just --

16 CHAIRPERSON MILLER: -- hearing then.

17 MR. JONES: No. And LOI is something --

18 CHAIRPERSON MILLER: Right.

19 MR. JONES: -- you would submit.

20 MS. CANDON: You just want it submitted?

21 Okay.

22 CHAIRPERSON MILLER: By?

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1 MR. JONES: December 24th.

2 MR. ALBERTI: Yep.

3 CHAIRPERSON MILLER: Okay.

4 MS. CANDON: Okay. Well --

5 CHAIRPERSON MILLER: See --

6 MS. CANDON: -- I think we can still do it
7 then. There's concern about December 24th being
8 Christmas Eve.

9 CHAIRPERSON MILLER: Being Christmastime.
10 Okay. Well, let's -- you know, we can pick a different
11 date.

12 MR. JONES: Oh, no. Submit it by --

13 CHAIRPERSON MILLER: What date do you --

14 MR. JONES: It's not something you're coming
15 in to do. It's not coming in to a hearing.

16 CHAIRPERSON MILLER: It's just writing.

17 MR. JONES: It's just writing, not --

18 MS. CANDON: No. What -- you know what? No,
19 that's right. OH, but you know what? The hecticness
20 of Christmas for --

21 MR. JONES: It's hectic for everything.

22 MS. CANDON: -- people I don't even know.

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1 Right. And --

2 CHAIRPERSON MILLER: Let's here --

3 MS. CANDON: Like, can we just make it

4 December 31st?

5 CHAIRPERSON MILLER: Yeah.

6 MR. ALBERTI: I'm agreeable to that.

7 CHAIRPERSON MILLER: It doesn't really --

8 MR. JONES: That's fine.

9 MS. CANDON: Christmas is --

10 MR. ALBERTI: That's fine.

11 MS. CANDON: -- (inaudible) less --

12 MR. ALBERTI: No, that's fine.

13 CHAIRPERSON MILLER: That's fine.

14 MS. CANDON: -- crazed.

15 CHAIRPERSON MILLER: I want you to really
16 pick a schedule that is going to work. Okay. So if
17 that's going to work, fine. Because if -- you know,
18 the end date is still the same.

19 MR. JONES: Well, with all due respect, Your
20 Honor, that's what she offered. That's what she
21 presented when she -- when Nick asked her the plan, she
22 presented that as the plan. Those are the dates that

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1 she gave.

2 CHAIRPERSON MILLER: Okay. Though --

3 MR. JONES: Those are the things that she
4 said she was going to provide.

5 CHAIRPERSON MILLER: I know. But her client
6 has had some concern about it. So, you know, here we
7 are. So if the -- if the 31st is going to work -- is
8 that going to work?

9 MS. CANDON: Yes, that'll work.

10 CHAIRPERSON MILLER: Okay. Let's do that
11 then.

12 MS. CANDON: And now, we'll do the January
13 31st too.

14 CHAIRPERSON MILLER: Right.

15 MS. CANDON: Okay.

16 MR. ALBERTI: So on January 31st -- just to
17 be clear -- you'll either have a contract for a
18 location of this license --

19 MS. CANDON: Uh-huh.

20 MR. ALBERTI: -- in Glover Park --

21 MS. CANDON: Uh-huh.

22 MR. ALBERTI: -- or you will have a transfer

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1 application to a new location or to a new owner?

2 MS. CANDON: Right.

3 MR. ALBERTI: Okay.

4 MS. CANDON: So we will work this out. It'll
5 be fun.

6 CHAIRPERSON MILLER: Okay. Good.

7 MR. ALBERTI: Oh, I know.

8 MS. CANDON: I mean, I hope it's --

9 MR. ALBERTI: It's tough.

10 MS. CANDON: -- it's a place I will love
11 frequenting. I love the city so much. And I'm a
12 native Washingtonian and, boy, to just watch it grow.
13 You -- much -- it's just a great place -- always was
14 but even getting better. I --

15 CHAIRPERSON MILLER: Right.

16 MS. CANDON: -- really like to find places
17 people want to go to to enjoy DC so they don't go to
18 Maryland and Virginia.

19 CHAIRPERSON MILLER: Right.

20 MR. ALBERTI: We appreciate that very much.

21 MS. CANDON: Yeah, okay.

22 CHAIRPERSON MILLER: Right.

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1 MS. CANDON: Okay.

2 CHAIRPERSON MILLER: Are you okay? Got it?

3 MS. CANDON: Yeah.

4 CHAIRPERSON MILLER: Got it? Okay.

5 MS. CANDON: That's fine. And I will -- if
6 you -- all right with you guys, I will avail myself or
7 may badger sometimes your staff for advice and
8 everything about that.

9 CHAIRPERSON MILLER: Right. I was going to
10 say, if you have any questions, you should contact Ms.
11 Jenkins.

12 MS. CANDON: Yeah, Ms. Jenkins has been very
13 helpful --

14 CHAIRPERSON MILLER: Oh, good.

15 MS. CANDON: -- so far.

16 CHAIRPERSON MILLER: Okay.

17 MS. CANDON: Since my -- since I was
18 retained, she was the first person I spoke to. So --
19 okay.

20 CHAIRPERSON MILLER: Great.

21 MS. CANDON: Thank you. Well, good luck and
22 it's really great to see you in these new digs. This

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1 is the first time I was here. You should have seen
2 what we had the in the '90s. Well, you remember.

3 MR. ALBERTI: I was there. I was there. I
4 spent many hours there.

5 MR. JONES: Is there an action that we need
6 to take or we --

7 CHAIRPERSON MILLER: No. We --

8 MR. SILVERSTEIN: I think we do.

9 MR. JONES: Do we have to --

10 CHAIRPERSON MILLER: What action is that?

11 MR. ALBERTI: I think that -- I think that
12 that -- I think that really be -- should be made as a
13 motion, that we -- that we made that decision. We put
14 -- set those dates as a motion and --

15 CHAIRPERSON MILLER: Okay. I'll make the
16 motion then --

17 MR. ALBERTI: -- we will --

18 CHAIRPERSON MILLER: -- okay -- that we
19 rescind the Order cancelling the license and that the
20 Licensee will report back to us on -- is it November
21 28th?

22 MS. CANDON: Yep. Yes.

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1 CHAIRPERSON MILLER: On November 28th prior -
2 - by -- let's see -- before the -- let's see -- I think
3 by November -- what is that, a Wednesday? I'm sorry.
4 Is that a Wednesday, the 28th?

5 MS. CANDON: Yes. That is a --

6 CHAIRPERSON MILLER: Okay. So by -- I'm
7 going to say this, by November 26th submit in writing a
8 plan and status of negotiations. And we'll hold a
9 hearing on November 28th. And December 31st, the
10 Licensee will submit a letter of intent and on January
11 31st a contract or transfer of license to a new
12 location.

13 MR. ALBERTI: And if that is not done?

14 CHAIRPERSON MILLER: Well, I don't want to go
15 that far at this point.

16 MR. JONES: Well, no. Let's go that far.

17 CHAIRPERSON MILLER: No. I don't -- it's not
18 my motion.

19 MR. ALBERTI: I mean, what's --

20 MR. JONES: Toss out --

21 CHAIRPERSON MILLER: We can always --

22 MR. ALBERTI: Well --

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1 CHAIRPERSON MILLER: -- take action at any
2 time. I don't see --

3 MR. ALBERTI: Yeah, I would offer amendment
4 to that motion that if these terms are not fulfilled
5 that we -- that we cancel the license.

6 MR. SILVERSTEIN: We consider the license
7 abandoned.

8 MR. ALBERTI: That we consider the license
9 abandoned.

10 CHAIRPERSON MILLER: I would say that we take
11 under consideration whether we want to consider it
12 abandoned at that point --

13 MR. ALBERTI: I have a motion --

14 CHAIRPERSON MILLER: -- given the fact --

15 MR. ALBERTI: I have a motion too.

16 CHAIRPERSON MILLER: I had a motion on the
17 table and that's -- so I'm not accepting your
18 amendment.

19 MR. ALBERTI: Well, at least just have a
20 second to --

21 CHAIRPERSON MILLER: If it's a friendly
22 amendment then you can --

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1 MR. ALBERTI: Okay.

2 CHAIRPERSON MILLER: -- do a different
3 amendment if my -- if my motion doesn't pass, you can
4 do another motion.

5 MR. ALBERTI: Oh, I'm amending your motion.

6 CHAIRPERSON MILLER: But I'm not -- I don't
7 think it's a friendly amendment because I don't agree
8 with the end result.

9 MR. ALBERTI: I know. And we know that.

10 MR. JONES: We know that.

11 MR. ALBERTI: So we need to vote on it. We
12 need a second on your motion and then we need --

13 MR. SILVERSTEIN: I second the -- I second
14 the motion and then the amendment.

15 MR. ALBERTI: Okay. And then we need --

16 CHAIRPERSON MILLER: Okay.

17 MR. ALBERTI: You second the amendment? And
18 then we need to take a vote on the amendment.

19 MR. SILVERSTEIN: Yeah.

20 CHAIRPERSON MILLER: I didn't realize that
21 that's the way it goes.

22 MR. ALBERTI: It's Robert's Rules of Order.

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1 CHAIRPERSON MILLER: Oh, yeah, we have them?

2 MR. JONES: And you can oppose them. You can
3 oppose them.

4 CHAIRPERSON MILLER: No, it's okay. We don't
5 necessarily even use the Robert --

6 MR. JONES: (Inaudible) talk about Robert's
7 Rules --

8 CHAIRPERSON MILLER: No. Let's just decide
9 what we're voting on. So are we voting on his
10 amendment or are we voting on my motion?

11 MR. ALBERTI: On my amendment.

12 MR. JONES: Well, what was seconded.

13 MR. ALBERTI: Well --

14 CHAIRPERSON MILLER: Okay. That --

15 MR. ALBERTI: -- we have two -- we have an
16 amendment to the original motion which was seconded.

17 MR. JONES: Okay.

18 MR. ALBERTI: And we need to vote on that.

19 MR. JONES: No one has seconded the first
20 one.

21 MR. ALBERTI: I believe Mike did.

22 MR. JONES: Oh, you did?

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1 MR. ALBERTI: Yes.

2 MR. SILVERSTEIN: I seconded the motion. And
3 now, I second the amendment.

4 MR. JONES: Oh, cool.

5 CHAIRPERSON MILLER: The amendment doesn't
6 stand by itself though.

7 MR. ALBERTI: It's amendment to your motion.
8 It amends your motion.

9 CHAIRPERSON MILLER: Okay. So you're saying
10 now we're taking a vote on the amendment motion instead
11 of my motion.

12 MR. ALBERTI: No. We're amending -- we're
13 taking a vote first to amend your motion and then we'll
14 take a motion -- a vote on the motion with the
15 amendment -- as amended.

16 CHAIRPERSON MILLER: So wait. The -- I don't
17 think that's really right though. You're still having
18 my motion of a vote then. But -- all right. So you --
19 I don't want to belabor this. If there are votes for
20 the amendment --

21 MR. ALBERTI: We're not. I mean, if they
22 don't like my amendment, they can --

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1 CHAIRPERSON MILLER: Okay.

2 MR. ALBERTI: -- vote it down.

3 CHAIRPERSON MILLER: Okay. So then why don't
4 we take a roll call on Mr. Alberti's amendment? Is
5 that right?

6 MR. ALBERTI: Yes.

7 CHAIRPERSON MILLER: Okay. Mr. Nophlin? I
8 had a motion but it's been -- now, Mr. Alberti wants to
9 -- he's amending -- proposes amending it so that it
10 says that at the end of this period, if there's no
11 contract or transfer to -- or application for a license
12 to be transferred to a new location, then the license
13 will be cancelled. Okay. My motion didn't go that
14 far. My motion only set forth the schedule. And --

15 MR. NOPHLIN: I agree.

16 CHAIRPERSON MILLER: Okay. You're -- you
17 agree with Mr. Nick -- Mr. Alberti's amendment? Okay.
18 Okay. So Mr. Nophlin agrees. Is everybody clear what
19 we're voting on?

20 MR. SILVERSTEIN: Yes.

21 CHAIRPERSON MILLER: Okay. Mr. Brooks?

22 MR. BROOKS: I agree with Mr. Alberti's --

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1 CHAIRPERSON MILLER: Okay. Mr. Alberti, I'm
2 sure you agree with your motion.

3 MR. ALBERTI: I agree.

4 CHAIRPERSON MILLER: I disagree. All right.
5 Mr. Silverstein?

6 MR. SILVERSTEIN: I agree.

7 CHAIRPERSON MILLER: Silverstein agrees.
8 Okay. Mr. Jones?

9 MR. JONES: I agree.

10 CHAIRPERSON MILLER: Okay. So the motion as
11 -- the amendment passes 5-1-0. So now, we --

12 MR. SILVERSTEIN: We vote on the motion as
13 amendment, the full motion itself.

14 CHAIRPERSON MILLER: Okay. All right. Then
15 I would move the motion as amended.

16 Do I have a second?

17 MR. ALBERTI: Second.

18 MR. SILVERSTEIN: Second.

19 CHAIRPERSON MILLER: Okay. All those in
20 favor, say aye?

21 (Chorus of ayes.)

22 CHAIRPERSON MILLER: Those opposed?

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1 (No audible response.)

2 CHAIRPERSON MILLER: Okay. Those abstaining?

3 (No audible response.)

4 CHAIRPERSON MILLER: Okay. So then that vote
5 is 6-0-0. So that means that not only do you have the
6 schedule but if you don't meet it, your -- the license
7 will be cancelled. Okay. You got the -- you got the
8 schedule?

9 MS. CANDON: Yeah.

10 CHAIRPERSON MILLER: Okay. All right. Well,
11 thank you. Good luck.

12 MS. CANDON: Hey, thank you.

13 CHAIRPERSON MILLER: Okay.

14 MS. CANDON: Thank you very much.

15 MR. ALBERTI: Thank you. It's good seeing
16 you.

17 (WHEREUPON, at 3:06 p.m., the hearing was
18 concluded.)

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CERTIFICATE OF NOTARY PUBLIC

I, LINDA METCALF, the officer before whom the foregoing hearing was taken, do hereby certify that the testimony appearing in the foregoing pages was recorded by me and thereafter reduced to typewriting under my direction; that said transcription is a true record of the testimony given by said parties; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

LINDA METCALF

Notary Public in and for the
District of Columbia

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CERTIFICATE OF TRANSCRIPTION

I, MIRANDA PENNACHI, hereby certify that I am not the Court Reporter who reported the proceeding and that I have typed the transcript of the proceeding using the Court Reporter's notes and recordings. The foregoing/attached transcript is a true, correct and complete transcription of the proceedings.

Date

MIRANDA PENNACHI

Transcriptionist

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