DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF:               :
                                :
Sunshine Bar & Lounge, LLC      :
t/a Sunshine Bar & Lounge       :
7331 Georgia Avenue, NW         :
Retailer CR                     :  Show Cause
License No. 85239               :  Hearing
ANC 4B                          :  (Status)
Case No. 12-CMP-00054           :
Substantial Change (Operating   :
After Hours and Expansion of    :
Establishment)                  :
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August 15, 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
ALSO PRESENT
MICHAEL STERN, OAG

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

2 10:22 a.m.

3 CHAIRPERSON MILLER: The next case on our

4 calendar is Case No. 12-CMP-00054, Sunshine Bar and

5 Lounge, located at 7331 Georgia Avenue, N.W., License

6 No. 85239, located in ANC 4B.

7 And would the parties introduce themselves

8 for the record?

9 MR. STERN: Michael Stern representing the

10 District of Columbia.

11 MS. KIDANE: My name is Alganesh Kidane. I'm

12 one of the (inaudible).

13 CHAIRPERSON MILLER: You're the manage --

14 MS. KIDANE: Yeah, yeah, the owner.

15 CHAIRPERSON MILLER: Owner?

16 MS. KIDANE: Yeah.

17 CHAIRPERSON MILLER: Okay. And what -- did

18 you sign in also?

19 MS. KIDANE: Uh-huh.

20 CHAIRPERSON MILLER: Okay. And let me ask

21 you the preliminary questions. You might have heard me

22 ask the other parties before you. You can have a seat.

1 Did you receive notice of this hearing?
2 MS. KIDANE: Yes. I received my -- my
3 lawyer, he's not working longer -- right now and I need
4 another lawyer. I already get.
5 CHAIRPERSON MILLER: Okay.
6 MS. KIDANE: I already get. So I need
7 another day to --
8 CHAIRPERSON MILLER: You need a lawyer?
9 MS. KIDANE: Yes.
10 CHAIRPERSON MILLER: You want a lawyer?
11 MS. KIDANE: Another day extension to my
12 effort.
13 CHAIRPERSON MILLER: Okay, okay. Let me just
14 ask you these questions. And then we can --
15 MS. KIDANE: Okay.
16 CHAIRPERSON MILLER: -- address that.
17 MS. KIDANE: Okay.
18 CHAIRPERSON MILLER: All right. You did
19 receive notice of the hearing?
20 MS. KIDANE: Yes.
21 CHAIRPERSON MILLER: Okay. Did you read it?
22 MS. KIDANE: Yes.

1 CHAIRPERSON MILLER: Did you understand it?
2 MS. KIDANE: Not fully. I don't --
3 CHAIRPERSON MILLER: Not fully?
4 MS. KIDANE: Yes.
5 CHAIRPERSON MILLER: Okay.
6 MS. KIDANE: That's why I need --
7 CHAIRPERSON MILLER: A lawyer?
8 MS. KIDANE: A lawyer, yeah.
9 CHAIRPERSON MILLER: Okay. That's fine. All
10 right. I also just want to ask preliminary matters of
11 -- we received a letter related to this case from the
12 ANC, Ms. Sarah Green (ph) and Andre Carley (ph),
13 concerned neighbors. Are they here? Okay. I just
14 wanted to see if you were here. I understood you made
15 a request to possibly participate in this hearing. And
16 we'll get back to you if appropriate.
17 Mr. Stern, the owner here has indicated that
18 she would like a lawyer to proceed any further. So --
19 MR. STERN: Yes, Madam Chair.
20 CHAIRPERSON MILLER: -- perhaps you could --
21 MR. STERN: My understanding -- I have
22 actually discussed this case. My understanding is a

1 lawyer is preparing to enter his appearance and he is
2 aware that you can discuss the case with Mr. Adams, who
3 is assigned to the case, once his representation is
4 secured.
5 CHAIRPERSON MILLER: Okay. Mr. Stern, do you
6 have an opinion as to this case? You know, the last
7 case we scheduled another status?
8 MR. STERN: Yes.
9 CHAIRPERSON MILLER: Do you -- do you have an
10 opinion as to whether you think we should schedule
11 another status or just go to show cause?
12 MR. STERN: I wouldn't ordinarily but since
13 the Respondent indicated she didn't understand the
14 status of the-- of the show cause --
15 CHAIRPERSON MILLER: Uh-huh.
16 MR. STERN: -- I think that it would be in
17 everyone's interest to schedule something for a status
18 hearing, keeping the same show cause date that has
19 already been set.
20 CHAIRPERSON MILLER: Right. Similar to the
21 other case. I'm going to confer with Legal. Okay.
22 This case is scheduled for hearing in September. What

1 is the date? September 12th and the -- at 10:00 a.m.
2 And there's not really a time to do another status
3 without postponing the hearing. So what the Board is
4 going to suggest is that as soon as you -- what the
5 procedures allow, Ms. Kidane -- Ms. Kidane, is that you
6 can get an attorney and you can meet with OAG. And if
7 you come to a settlement before the hearing, you can
8 still do that and then you can present it at the show
9 cause hearing.
10 If you don't come to settlement, then we'll
11 proceed with the hearing September 12th. That's about
12 -- that's almost a month away. Okay? So that's what
13 we'll do. We'll keep the dates the same and your
14 attorney can contact Mr. Stern. Now, since Ms. Green
15 and Ms. Carley - - do you want -- I'm sorry.
16 MR. CARLEY: Mr. Carley.
17 CHAIRPERSON MILLER: Mr. Carley. Do you want
18 to come forward for a minute? I want to, you know --
19 MR. CARLEY: Sure.
20 CHAIRPERSON MILLER: -- acknowledge you. You
21 can come to the table. I understand that Mr. Stern --
22 a letter was submitted to -- addressed to me, as Chair

1 of the ABC Board and in our files, it's not clear that
2 you're copied or that the Licensee was copied on this
3 letter.
4 MR. STERN: I understand that Mr. Adams has --
5 CHAIRPERSON MILLER: You can have a seat,
6 sir.
7 MR. STERN: -- been made aware of the letter.
8 I don't know if he received an actual copy of the
9 letter itself. I don't think he did read it but I know
10 he was made aware of it. And it is our position that
11 it's inappropriate for the ANCs to be a party to these
12 proceedings. They're certainly entitled to speak to
13 the Attorney General involved and decide, you know, and
14 have their concerns heard.
15 But the Attorney General represents the
16 entire District of Columbia and not just a particular
17 ANC, nor is there anything in the statute that provides
18 the ANCs to represent themselves at hearings such as
19 this. We would oppose them being made party.
20 CHAIRPERSON MILLER: You would be -- I'm
21 sorry, you drop -- your voice dropped at the end.
22 MR. STERN: I'm sorry. We would oppose them

1 being made a party.
2 CHAIRPERSON MILLER: Oh, okay. I understand
3 that the letter requested party being a party in the
4 case. It did not, did it?
5 MS. GREEN: It asked -- it asked -- I'm not
6 specifically sure what it said.
7 CHAIRPERSON MILLER: Did you write the
8 letter?
9 MS. GREEN: I did. I did. My recollection -
10 - I'm sorry -- is thin and I apologize for that.
11 CHAIRPERSON MILLER: Okay.
12 MS. GREEN: We wanted input and I know we
13 wanted input into any penalty that is imposed -- that
14 is imposed on this. And that's what we want. We
15 wanted to share the community's experiences with this
16 establishment. It is not a good establishment for the
17 community. And that is --
18 MR. SILVERSTEIN: Stop.
19 MS. GREEN: -- that is why -- I'm sorry.
20 MR. SILVERSTEIN: Stop it right there.
21 CHAIRPERSON MILLER: Okay.
22 MS. GREEN: We wanted -- we wanted to share.

1 MR. SILVERSTEIN: Stop it. Madam Chair --
2 MS. JONES: Hearing this, it's not even part --
3 MR. SILVERSTEIN: My concern is that we not
4 get this tossed back in our lap because we hear things --
5 MS. GREEN: I apologize.
6 MR. SILVERSTEIN: -- that are inappropriate.
7 And I think we all want to be careful that this doesn't
8 end up being reversed or whatever because it's
9 inappropriate.
10 CHAIRPERSON MILLER: Okay. All right. I
11 didn't hear anything inappropriate. But anyway, we can
12 stop there. I just wanted to acknowledge your letter
13 and put it -- that it be on the record that it is in
14 the -- it's in the form of a request to participate in
15 either, the way I understand it, the OIC proceeding, to
16 be heard on that, or the show cause hearing.
17 And Mr. Stern, I just want to clarify, when
18 you -- I mean -- yeah -- when you were speaking to it
19 being - - the rules not providing for them to
20 participate, were you referring to the OIC --
21 MR. STERN: Well, I think --
22 CHAIRPERSON MILLER: -- matter or --

1 MR. STERN: -- both of that is correct.
2 CHAIRPERSON MILLER: -- you're referring to
3 both?
4 MR. STERN: I don't believe the rules provide
5 for participation by ANCs. If they want to express
6 their concern to the Attorney General handling the
7 case, they may. And the Attorney General will decide
8 what the appropriate avenue is to represent the
9 District in this hearing considering all of the
10 circumstances, not just the ANCs. But they can make
11 that one of the factors that the Attorney General
12 hears.
13 CHAIRPERSON MILLER: Okay. I just wanted to,
14 you know, get you all on the record. Ms. Kidane
15 doesn't have an attorney here to represent her position
16 on the record. And I think that it's the consensus of
17 the Board -- and the Board can stop me if I'm wrong
18 here -- but that an OIC is a settlement agreement
19 between the Government and the applicant or the
20 Licensee.
21 And therefore, I don't think the Board would
22 entertain your providing information on that. That's a

1 - - that's a settlement agreement. I think that the
2 Board would just take under advisement the request to
3 participate in the show cause hearing. And I -- the
4 rule that I see that applies is 1701.4. "The Board may
5 in its discretion permit interested persons other than
6 parties as defined in this chapter to intervene in a
7 proceeding for such general or limited purpose as the
8 Board may specify."
9 So if the parties want to submit anything
10 else to that issue, feel free to do so. And that will
11 be taken under advisement and the Board (inaudible).
12 MS. GREEN: May I ask a quick question?
13 Could you repeat that citation when you said, "The
14 Board may?"
15 CHAIRPERSON MILLER: Okay. It -- the ABRA
16 regulations?
17 MS. GREEN: Yes.
18 CHAIRPERSON MILLER: 23 DCMR 1701.4. It's my
19 understanding of authority that gives us discretion.
20 The Board does not have to, you know. But it's -- it
21 looks to me like the Board may consider it.
22 MS. GREEN: Thank you.

1 CHAIRPERSON MILLER: Okay. Thank you. Is
2 there anything else on this case then? All right. The
3 hearing is set --
4 MR. STERN: Oh, I'm sorry. There is actually
5 one other thing.
6 CHAIRPERSON MILLER: Okay.
7 MR. STERN: The Respondent, having not waived
8 a reading of the information, we can, I think, delay
9 that until the next hearing when she may be represented
10 by counsel. But I thought that we should at least put
11 it on the record that --
12 CHAIRPERSON MILLER: That's correct.
13 MR. STERN: -- it hasn't been done yet.
14 CHAIRPERSON MILLER: That's correct. And
15 that's why we stopped really proceeding with anything
16 decisions. So we'll do that at the -- before the show
17 cause hearing on that day. Anything else?
18 (No audible response.)
19 CHAIRPERSON MILLER: Okay. Thank you very
20 much.
21 MR. CARLEY: Thank you.
22 CHAIRPERSON MILLER: And if you are going to

1 -- all documents have to be served on all parties. I
2 just wanted to -- Mr. Carey [sic].
3 MR. SILVERSTEIN: Ms. Green? Ms. Green?
4 CHAIRPERSON MILLER: Ms. Green, if you intend
5 to file anything else and you should serve the document
6 you put in the record on the other party.
7 MS. GREEN: Thank you. Yes, we shall.
8 CHAIRPERSON MILLER: Okay. And feel free to
9 contact the office of the --
10 MR. JONES: Oh, wait. But they're not a
11 party.
12 CHAIRPERSON MILLER: They're not a party.
13 MR. JONES: So how are they going to submit
14 to the other party when they're not a party?
15 CHAIRPERSON MILLER: Excuse me, language.
16 MS. KIDANE: I'm sorry. I'm sorry.
17 CHAIRPERSON MILLER: Okay.
18 MS. KIDANE: I want to say something.
19 CHAIRPERSON MILLER: Oh, I'm sorry, ma'am.
20 Go ahead.
21 MS. KIDANE: But I'm telling you these people
22 -- since I start the job, they are harassing me and

1 they're coming in over there. And I don't want nobody
2 to stay for them. They stand here. They are against
3 me. They are in a neighborhood. They put -- hopefully
4 --
5 CHAIRPERSON MILLER: Okay. Ma'am? Ma'am?
6 MS. KIDANE: I can't -- I can't take it. The
7 -- I don't know why they take my business out of
8 personal business. So the Board, it have to see -- it
9 have to see that I don't have -- I got a lawyer but my
10 heart is another thing. They do every day --
11 MR. SILVERSTEIN: Madam Chair, this is --
12 this is out of order.
13 MS. KIDANE: Okay.
14 CHAIRPERSON MILLER: I'm sorry.
15 MS. KIDANE: No.
16 MR. SILVERSTEIN: Thank you.
17 CHAIRPERSON MILLER: Okay.
18 MR. ALBERTI: Madam Chair, I'm concerned
19 about your instructions to Ms. Green. I am not aware
20 that Ms. Green has intended to file a motion and I'm
21 not sure under what authority that the non-parties to
22 this case would be allowed to file a motion. I -- and

1 they may be but I would ask our general counsel staff -
2 - I would ask Ms. Green to consult with our general
3 counsel staff about what avenues are available to you.
4 Thank you, Ms. Green.
5 CHAIRPERSON MILLER: I didn't -- I don't
6 recall using the word, "Motion," if I did. And
7 anything you -- anything you thought -- anything you
8 put in the -- sent to the office is related to this
9 case, I would suggest that the parties in this case get
10 copies of it. That's all.
11 MS. GREEN: My lack of clarity here --
12 CHAIRPERSON MILLER: Uh-huh.
13 MS. GREEN: -- is due to the -- we did submit
14 a motion. And my understanding is a request to be
15 involved in penalty issues and my request -- we haven't
16 heard a ruling on that yet. So we don't know one way
17 or the other how the Board is going to decide that.
18 And so that's why we are willing to accept any
19 direction you give us and comply with anything.
20 CHAIRPERSON MILLER: I understood you
21 submitted a letter, which was a request to participate.
22 And that hasn't --

1 MS. GREEN: Right.
2 CHAIRPERSON MILLER: -- been ruled on by the
3 Board, except the Board did say that not with respect
4 to settlement agreement that would -- that there --
5 that that was not appropriate, but for a hearing we
6 would consider it. So there isn't anything for you to
7 do different. I was just saying that as a courtesy, at
8 least the people -- the parties -- the parties are the
9 Licensee and the Government -- that they should have a
10 copy as well.
11 MS. GREEN: Okay.
12 MR. ALBERTI: Madam Chair, I just want to
13 make sure for the record that this is not a ruling by
14 the Board. That letter was not on our agenda.
15 CHAIRPERSON MILLER: I --
16 MR. ALBERTI: So I just want to make sure
17 that we are clear on the record what is being stated
18 here.
19 CHAIRPERSON MILLER: What is being stated is
20 that we got a request. It was brought up. It was
21 addressed at this hearing, not ruled on, recognized,
22 acknowledged, and that no decision on whether they

1 could participate in the hearing was made. However, it
2 -- I said I believed it was the consensus of the Board
3 that they could not participate in settlement
4 agreements.
5 If that -- if the Board wants to overrule me
6 and say they do want them to participate in settlement
7 agreements, then somebody should make -- should say
8 that.
9 MR. ALBERTI: Thank you for that
10 clarification.
11 MR. JONES: Madam Chair, has the Board found
12 -- formally reviewed said document?
13 CHAIRPERSON MILLER: No. It's under -- I
14 said it would be taken under advisement.
15 MR. JONES: Then why are we talking about it?
16 MR. ALBERTI: It's a -- in --
17 CHAIRPERSON MILLER: It is a letter in the
18 record requesting their participation in the case and
19 I've acknowledged it.
20 MR. ALBERTI: Well, my -- Madam Chair, my
21 point is it's not on the agenda.
22 MR. JONES: It's not on the agenda.

1 MR. ALBERTI: So the Board cannot --
2 CHAIRPERSON MILLER: What agenda?
3 MR. ALBERTI: The Board's agenda that gets
4 published --
5 MR. JONES: How about we make --
6 MR. ALBERTI: -- in the -- in --
7 MR. JONES: You want to make a
8 recommendation?
9 MR. ALBERTI: -- in the public -- in the --
10 in the DC Register. And it's not appropriate for the
11 Board to be ruling on letters that come to it if
12 they're not -- if they're not part of our agenda.
13 MR. NOPHLIN: I make a recommendation, Madam
14 Chair, that we go in the back and talk about this, seek
15 legal counsel.
16 CHAIRPERSON MILLER: I think that this case --
17 MR. JONES: Thank you, Board member, Nophlin.
18 I second that.
19 CHAIRPERSON MILLER: Do you want to keep
20 these people waiting on this case? I think that we
21 have concluded this case, have we not?
22 MR. NOPHLIN: I don't -- I'm not related with

1 this case so I don't know that we concluded it but --
2 CHAIRPERSON MILLER: Okay. So if you would
3 like to hang around, the Board will clarify in the back
4 and come back to you. I'll read the Open Meetings
5 instructions.
6 As Chairperson of the Alcoholic Beverage
7 Control Board for the District of Columbia and in
8 accordance with Section 405 of the Open Meetings
9 Amendment Act of 2010, I move that the ABC Board hold a
10 closed meeting for the purpose of seeking legal advice
11 from our counsel on Case No. 12-CMP-00054 per Section
12 405(b)(4) of the Open Meetings Amendment Act of 2010
13 and deliberating Case No. 12-CMP-00054 with respect to
14 participation in this case, letters put in the record,
15 for the reasons cited in Section 405(b)(13) of the Open
16 Meetings Amendment Act of 2010.
17 Is there a second?
18 MR. NOPHLIN: Second.
19 CHAIRPERSON MILLER: Roll call. Mr. Nophlin?
20 MR. NOPHLIN: I agree.
21 CHAIRPERSON MILLER: Mr. Brooks?
22 MR. BROOKS: I agree.

1 CHAIRPERSON MILLER: Mr. Alberti?
2 MR. ALBERTI: I agree.
3 CHAIRPERSON MILLER: Ms. Miller agrees. Mr.
4 Silverstein?
5 MR. SILVERSTEIN: I agree.
6 CHAIRPERSON MILLER: Mr. Jones?
7 MR. JONES: I agree.
8 CHAIRPERSON MILLER: Okay. So we will take a
9 hopefully short recess and get -- come back and clarify
10 for everyone concerned. Okay.
11 (WHEREUPON, at 10:43 a.m., the hearing went
12 off record until 11:05 a.m.)
13 CHAIRPERSON MILLER: We're back on the
14 record. Sometimes the more we say, the more confusing
15 it is. So I am just going to say at this point that
16 the request was sent into ABRA. It's addressed to me
17 and the ABC Board and that request is going to be again
18 under advisement. Thank you.
19 And that concludes this case.
20 MS. KIDANE: Is this finished?
21 CHAIRPERSON MILLER: That's it.
22 MS. KIDANE: That mean I can go?

1 CHAIRPERSON MILLER: Yes.
2 MS. KIDANE: So September.
3 CHAIRPERSON MILLER: I'm sorry?
4 MS. KIDANE: September 12 but before
5 September 12 I can meet with the lawyer and do the --
6 CHAIRPERSON MILLER: Can we get -- is -- if
7 you could speak into the microphone?
8 MS. KIDANE: -- do the process -- I don't
9 know if this one is not working. Like you say, I have
10 to -- my lawyer, I have to make a process into Attorney
11 General Office?
12 CHAIRPERSON MILLER: You'll get -- you'll
13 speak with a lawyer. Your lawyer will have an
14 opportunity to speak with the Office of the Attorney
15 General, yes --
16 MS. KIDANE: Okay.
17 CHAIRPERSON MILLER: -- before the hearing.
18 Uh- huh.
19 MS. KIDANE: Okay, okay. Thank you.
20 CHAIRPERSON MILLER: All right. Mr. Stern,
21 is it you she --
22 MR. STERN: No, no. Unfortunately it's Mr. -

1 - not unfortunately. I just meant unfortunately in
2 that I couldn't, like, give her my card and have her
3 call me. That's all. It's Mr. Adams, I believe.
4 CHAIRPERSON MILLER: Okay. Do you have -- do
5 you have a card or anything to give her with --
6 MR. STERN: I do have a card and she's
7 welcome to call me. But I --
8 CHAIRPERSON MILLER: I know.
9 MR. STERN: -- can only refer her to Mr.
10 Adams.
11 MS. KIDANE: Okay. Thank you.
12 MR. STERN: There you go.
13 CHAIRPERSON MILLER: You're running out of
14 cards.
15 MR. ALBERTI: You're a popular guy, Mr.
16 Stern.
17 MR. STERN: Yeah. I usually really don't
18 keep very many of these around.
19 (WHEREUPON, at 11:07 a.m., the hearing was
20 concluded.)
21
22

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