

BOARD MEMBERS PRESENT

NICK ALBERTI, BOARD MEMBER

JAMES SHORT, BOARD MEMBER

MIKE SILVERSTEIN, BOARD MEMBER

RUTHANNE MILLER, BOARD MEMBER

ALSO PRESENT:

TED GUTHRIE

P R O C E E D I N G S

PROTEST HEARING (STATUS)

CHAIRPERSON ANDERSON: Good morning, everyone. I would like to welcome you to the regularly scheduled meeting of the District of Columbia Alcoholic Beverage Control Board. Please note that today's hearings will be conducted in accordance with D.C. Official Code section 2574 of the Open Meetings Act. Today is September 14, 2016. I would like to introduce members of the board with us today. To my far right is Ms. Ruthanne Miller, to my immediate right is Mr. Nick Alberti, to my far left is Mr. Mike Silverstein and to my immediate left is Mr. James Short. My name is Donovan Anderson and I am the Chairman of the Board. The Board has five members in attendance today for the conduct of business today and that constitutes a quorum. I would like to mention two things before we get started. First of all, if you have any electronic devices, pagers, cells phones or such,

please make certain that they are turned off to avoid any interruption of the proceedings. Second, there is a piece of paper on each table. When you come forward as your case is called, please take a seat at the table and please sign in. This is to ensure the correct spelling of your name for the record. Additionally, when you introduce yourself for the record, please spell your name aloud for the court reporter. I would like to note that the approximate time is 9:37.

Our first case today on our protest hearing status calendar is Case #16-PRO-00075, My Canton Restaurant, license #75479. Will the parties please approach and identify themselves for the record, please?

MR. GUTHRIE: Good morning, I'm Ted Guthrie with ANC 1C.

CHAIRPERSON ANDERSON: Is the owner -- the licensee is not here at the moment. What I will do, and this is the normal procedure I follow. I will recall this case, since the hearing that was scheduled for 9:30 I'll recall the case and I'm

going to move on and try to move into the next calendar. Yes, sir.

I do have a logistic question. There were two cases, one for the license renewal and one for the sidewalk change. Did I understand that they had been consolidated? I was surprised to see this on the docket today. I was actually here for something else, so I don't know what the glitch was. I thought it got consolidated.

CHAIRPERSON ANDERSON: What I have -- the case that I have, sir, is a substantial change, request to add a sidewalk café with eight seats. That is the case that I just called. That is the only issue that is in this protest to the best of my knowledge.

MR. GUTHRIE: My concern is that -- my understanding was that this had been consolidated with the license renewal case and it may be that that is the reason that the owner isn't here. This isn't normally my case to [inaudible 04:25].

CHAIRPERSON ANDERSON: What I'll -- let me -- I'll recall the case and I'll have legal

investigate it. For now I'll recall the case to try to get a sense -- I realize that there's nobody here. Let me -- I'll take a break for just a couple of minutes.

[INTERVAL]

CHAIRPERSON ANDERSON: I'm going to recall Case #16-PRO-00075, My Canton Restaurant, License #75479. Will the parties please approach and identify themselves for the record, please?

MR. GUTHRIE: Ted Guthrie for the ANC 1C.

CHAIRPERSON ANDERSON: I do not see the licensee. The purpose of this protest hearing was substantial change request to add a sidewalk café with eight seats. This matter was scheduled for a protest hearing at 9:30. I called the case at 9:30 and the licensee was not here. It is now 10:22 and I have recalled the case and the licensee is still not here. The ANC, however, is here. With that said, I am making a motion that this matter be dismissed. This is because the licensee is not here. Is there a second?

MR. SHORT: Second.

CHAIRPERSON ANDERSON: Mr. Short has seconded the motion. Those in favor say aye (chorus of ayes.)

MR. SILVERSTEIN: I will vote with you. Just put on the record that if there was a mix-up because of the two protests in the mind of the licensee, the applicant, I will probably give him deference and reinstate the applicant.

MR. GUTHRIE: My understanding is that there have been significant negotiations between the ANC and the applicant and that it may well be that we've got a resolution in the form of a settlement agreement that'll resolve all of this problem. If we don't and they want to come back in on the substantial change, I would just ask that we be clear about how in the world we consolidate these so we don't have to keep coming down to multiple hearings. That just doesn't seem to make any sense for us or for you.

CHAIRPERSON ANDERSON: Yes, Mr. Silverstein.

MR. SILVERSTEIN: I just want to make sure that what we have voted to do is to dismiss the

substantial change request.

CHAIRPERSON ANDERSON: The record was clear, I stated and I'll say it again for the record, this case that I called is a protest hearing, case #16-PRO-00075 and the purpose of the protest hearing in the case I called was a substantial change, request to add a sidewalk café with eight seats. That is the only issue in the case that I just called and that is the only issue that was dismissed, and so, therefore, we have a vote that the matter is dismissed, the licensee is not here. The licensee, of course, can provide whatever clarification -- they will have a chance to ask us to put this matter back, but they need to -- they need to motion the board to do this, but it's only in this one issue, okay?

MR. SILVERSTEIN: Thank you, Mr. Chair.

CHAIRPERSON ANDERSON: Yes?

MR. GUTHRIE: Just for clarification purposes, assuming we come to a settlement agreement that includes provisions regarding the sidewalk application that is being discussed now,

they have to do some sort of reinstatement in order to get that, but we could still have it as part of the package right?

CHAIRPERSON ANDERSON: Yes.

MR. GUTHRIE: Okay.

CHAIRPERSON ANDERSON: Yes, Ms. Miller?

MS. MILLER: Are you in favor of the board dismissing that case?

MR. GUTHRIE: There's a continual struggle on the part of the ANC to deal with situations where an applicant fails to show, there's dismissal and we wind up coming back to do all of the steps through again --

MS. MILLER: Right.

MR. GUTHRIE: -- it winds up being a situation that is not particularly helpful for the ANC's ability to come to things, so in general when we don't have a recalcitrant applicant who has been refusing to meet with us, we generally prefer not to get it dismissed out of hand so that we have to go through the process again.

MS. MILLER: Okay, my understanding, Mr. Chairman is all that the board is doing at this point is dismissing the case but the applicant has ten days to move for reinstatement if in good cause and I also concur with Mr. Alberti about the confusion with the consolidation would be good cause in which case as long as we heard from the board it would be my position that this could be turned around in ten days or less, okay?

CHAIRPERSON ANDERSON: I don't know what is going on. We have a matter that's scheduled today. It's scheduled for 9:30, it is 10:26, the parties aren't here, so if you're not here the matter is dismissed and then the board will, through its agent, will inform the licensee what it needs to do. Thank you very much.

MR. GUTHRIE: Thank you.

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