

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
 2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
 3 ALCOHOLIC BEVERAGE CONTROL BOARD

4
 5 - - - - -X
 6 IN THE MATTER OF: :
 7 Colorado & Cohen, LLC, : Roll Call Hearing
 8 t/a Bullfrog Bagels :
 9 317 7th Street, SE :
 10 License #ABRA-10121 : Case #15-PRO-00121
 11 Retailer Class CR :
 12 New Application :
 13 - - - - -X

14 Monday, January 11, 2016

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

20
 21
 22

1 CHAIRPERSON:

2 DONOVAN ANDERSON, Presiding

3

4 BOARD MEMBERS:

5 RUTHANNE MILLER

6 NICK ALBERTI

7 MICHAEL SILVERSTEIN

8 JAMES SHORT

9

10 ALSO PRESENT:

11 JEREMIAH COHEN

12 MATTHEW FRUMIN

13 ELLEN OPPER-WEINER

14 MEHMET YALCIN

15 BRISA RAMIREZ

16 JAY WILLIAMS

17 ANDREW KLINE, ESQ.

18 ELBIA SOLLOSO

19 TED GUTHRIE

20

21

22

1

2

P R O C E E D I N G S

3

[10:08 a.m.]

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

MS. FLETCHER: Would the parties in the matter of Bullfrog Bagels please come forward? The parties in the matter of Bullfrog Bagels?

This is case number 15-PRO-00121, Colorado and Cohen, LLC, trading as Bullfrog Bagels, 317 7th Street, South East, License number ABRA-100249.

This is a retailer class CR, new application. The protest issues are adverse impact on peace, order and quiet.

My name is LaVerne Fletcher, and I'm conducting the roll call hearing as the Board's Agent pursuant to D.C. Official Code 1601.2.

Introductions, beginning with the applicant.

MR. COHEN: Hi. My name is Jeremiah Cohen, and I run Bullfrog Bagels.

MS. FLETCHER: Mr. Cohen, would you spell your name for the record, please?

1 MR. COHEN: C-O-H-E-N.

2 MS. FLETCHER: Mm hmm. And Jeremiah?

3 MR. COHEN: Yeah.

4 MS. FLETCHER: And can you spell it:

5 MR. COHEN: J-E-R-E-M-I-A-H.

6 MS. FLETCHER: Thank you very much. And
7 your name, sir?

8 MR. FRUMIN: And my name is Matthew
9 Frumin. I'm assisting Jeremiah Cohen. My -- the
10 spelling of my name is M-A-T-T-H-E-W and then F-
11 R-U-M-I-N.

12 MS. FLETCHER: And who is going to be the
13 contact person beyond today?

14 (No response heard)

15 MS. FLETCHER: Mr. Cohen, are you going
16 to be the contact person?

17 MR. COHEN: Sure.

18 MS. FLETCHER: We just need -- you're
19 going to be the designated rep?

20 (No response heard)

21 MS. FLETCHER: So, on that sheet of
22 paper, would you put your contact information?

1 Thank you.

2 And on behalf of Roberta Blanchard and
3 Jack W. Blanchard?

4 MS. OPPER-WEINER: Right. They're not
5 here today. There is a medical emergency.
6 They're in New York City. I am here, Ellen
7 Opper-Weiner, representing the Blanchard's and
8 Mr. Yalcin.

9 MS. FLETCHER: Okay. Ms. Opper-Weiner,
10 would you spell your name for the court reporter,
11 please?

12 MS. OPPER-WEINER: Yes. My first name is
13 E-L-L-E-N. Last name is O-P-P-E-R hyphen W-E-I-
14 N-E-R.

15 MS. FLETCHER: And so, I'll spell the --
16 the protestant's name for the record. Roberta is
17 R-O-B-E-R-T-A and Blanchard is B-L-A-N-C-H-R-D.

18 MS. OPPER-WEINER: H-A-R-D.

19 MS. FLETCHER: H-A-R-D.

20 And also, Jack W. Blanchard, and is Mr.
21 Yalcin present?

22 MR. YALCIN: Yes.

1 MS. FLETCHER: Mr. Yalcin, would you
2 spell your name for the record, please?

3 MR. YALCIN: Sure. First name is Mehmet.
4 It's spelled M-E-H-M-E-T. Last name Yalcin, Y-A-
5 L-C-I-N.

6 MS. FLETCHER: Thank you. The
7 Blanchard's and Yalcin felt -- protest as
8 abutting property owners?

9 MS. OPPER-WEINER: Yes.

10 MR. YALCIN: Yes.

11 MS. FLETCHER: According to the
12 geographic information system, you are abutting
13 property owners. I'm not clear right now, Mr.
14 Yalcin, if all of your properties abut.

15 I mean, your address is 311 -- you can
16 clear that up for me, too. It's 311 --

17 MR. YALCIN: 313 and 315.

18 MS. FLETCHER: So, is it three different
19 properties or one?

20 MR. YALCIN: It's actually 313, 315 is
21 two units in one, which I own. 311 is one that I
22 rent.

1 MS. FLETCHER: Oh, okay.

2 MR. YALCIN: So, it's all --

3 MS. FLETCHER: You're all --

4 MR. YALCIN: -- next to one another, but
5 the next unit is 317.

6 MS. FLETCHER: Okay, because I was trying
7 to look at it on the map --

8 MR. YALCIN: Yeah, yeah.

9 MS. FLETCHER: -- and I'm thinking
10 something abuts here. So, I'm going to say that
11 your properties abut.

12 MR. YALCIN: Yeah.

13 MS. FLETCHER: Yeah, one of them
14 absolutely does, but they all seem to --

15 MR. YALCIN: Yeah 315 is the one --

16 (Simultaneous discussion)

17 MS. FLETCHER: If there's any challenge
18 to that, we'll -- we'll address it at the time.

19 And so, standing is granted to the Blanchard's
20 and to Mr. Yalcin as abutting property owners.

21 MS. OPPER-WEINER: Ms. Fletcher?

22 MS. FLETCHER: Yeah.

1 MS. OPPER-WEINER: Could I ask for a
2 point of information with regard to Mr. Frumin's
3 role?

4 MS. FLETCHER: Uh-huh.

5 MS. OPPER-WEINER: I have asked him if
6 he's representing Mr. Cohen, and the applicant --
7 you know, Bullfrog Bagels. He has told me no.

8 MS. FLETCHER: Mm hmm.

9 MS. OPPER-WEINER: So, I want to know
10 what his role is, vis-à-vis the application.

11 MS. FLETCHER: Mr. Frumin, what you said
12 just now is that you're assisting Mr. Cohen.

13 MR. FRUMIN: Yes, that's right. I -- I'm
14 not formally acting as an attorney. I have been
15 -- have worked on these sorts of --

16 MS. FLETCHER: Mm hmm.

17 MR. FRUMIN: -- and am considering going
18 into partnership with Mr. Cohen on a different
19 project that I've been assisting him on, on this.

20 MS. FLETCHER: Mm hmm.

21 MR. FRUMIN: And if Ellen wanted to raise
22 that issue, I guess -- we also are wondering,

1 Jeremiah was never served the protest, nor is
2 there any indication on the protest letter that
3 he was served.

4 We had awareness of it, but we weren't
5 served. And the protest letter says that the
6 designated agent is Roberta Blanchard, not Ellen.

7 So, to the extent that there's a question
8 about a role --

9 MS. FLETCHER: Mm hmm.

10 MR. FRUMIN: -- I suppose it's cured at
11 this point, if Mr. Yalcin says, yes, she's our
12 designated agent.

13 MS. FLETCHER: Mm hmm.

14 MR. FRUMIN: But she has played a role up
15 till now, and we had not been served, nor was
16 she, until now, a designated agent.

17 MS. FLETCHER: Well, the -- just for the
18 record, we have a letter from the Blanchard's
19 designating Ms. Opper-Weiner as their
20 representative.

21 You don't have a copy of that.

22 (Simultaneous discussion)

1 MS. FLETCHER: So, I have the official
2 letter here from the Blanchard's, designating Ms.
3 Oppen-Weiner.

4 And in the case of Mr. Yalcin, he is here
5 himself.

6 MR. FRUMIN: He gave --

7 MS. FLETCHER: But what I know is that
8 you're going to -- you're still considering Ms.
9 Oppen-Weiner to be your designated
10 representative, although you are present.

11 MR. FRUMIN: And actually, we -- I'm not
12 sure we want to challenge that, and it is cured
13 in this sense. But also, the fact that you have
14 the letter and Jeremiah neither got the protest
15 letter nor got that letter, does seem like --

16 MS. FLETCHER: Yeah, we don't have an
17 issue with the fact that you're present. You can
18 be -- we don't have an issue with the fact that
19 you're present.

20 MR. FRUMIN: But isn't there a
21 requirement that he have been served with the
22 protest --

1 (Simultaneous discussion)

2 MS. FLETCHER: Yes. Let me tell you --

3 MR. FRUMIN: -- information?

4 MS. FLETCHER: -- where the protest
5 letter was mailed to, so that you -- we can make
6 sure that we have the right address.

7 The address that the protest letter was
8 mailed to is 317 7th Street, South East. It was
9 mailed to Bullfrog Bagels.

10 MR. COHEN: I have no affiliation with --

11 MS. FLETCHER: At that address.

12 MR. COHEN: -- that address.

13 MS. FLETCHER: That's what's on the
14 placard notice?

15 MS. OPPER-WEINER: Yes.

16 MR. YALCIN: Yes.

17 (Simultaneous discussion)

18 MS. FLETCHER: There's a placard notice
19 that was posted at the establishment. You know
20 the placard notice that --

21 MR. COHEN: That's the landlord.

22 MS. FLETCHER: Yeah, we don't know -- we

1 -- this is the address of the location. So,
2 you're aware that there was a placard notice
3 posted at 317 7th Street, to let the public know
4 that there are new -- that there was a new
5 application being filed?

6 MR. COHEN: The placard was posted at 307
7 7th Street.

8 MS. FLETCHER: The --

9 MS. OPPER-WEINER: No, 317.

10 MS. FLETCHER: It was posted at 317.

11 MR. FRUMIN: It would have been posted on
12 the building, but the building is not yet
13 Jeremiah's. That's part of the challenge. It
14 will be, but it's --

15 MS. FLETCHER: Yeah, we don't know that.
16 What happens when somebody files an application,
17 this is the address that was on the application.
18 And so, that's the address where the placards
19 were posted.

20 And so, the scheduling notice went to
21 that address, because that's the address we were
22 given. We were given that -- the address of 317

1 7th Street, South East.

2 And Mr. Cohen, your name is on this
3 placard notice as the contact person.

4 MR. COHEN: True. Could I see that
5 protest letter that was mailed to me?

6 MS. FLETCHER: Yeah, just --

7 (Pause)

8 MS. FLETCHER: Your name is not on that
9 protest letter, because when we see contact
10 person on the placard notice, we don't know who
11 it is. So, we mail it to the address. So,
12 that's the address that it went to.

13 MR. COHEN: And where does it show that
14 Ellen has (Inaudible portion 00:08:37)?

15 MS. FLETCHER: There's nothing about --
16 you mean Ms. Oppenheimer?

17 MR. COHEN: Yeah.

18 MS. FLETCHER: Oh, sure. This is the
19 letter that we received from the Blanchard's
20 designating Ms. Oppenheimer as the
21 representative.

22 MR. COHEN: Got it. Okay. January 10th.

1 MS. FLETCHER: Yes.

2 MR. COHEN: That was yesterday.

3 MS. FLETCHER: Yes.

4 MR. COHEN: Okay.

5 MS. FLETCHER: It would have been if she
6 had brought it with her today, as well.

7 (Simultaneous discussion)

8 MR. COHEN: So it was yesterday.

9 MS. FLETCHER: As long as we see it.

10 MR. FRUMIN: Do you need this back?

11 MS. FLETCHER: Yes.

12 MS. OPPER-WEINER: I think that my
13 concern is that, that Mr. Cohen is -- is
14 suggesting that I've not been representing them.
15 And it was my understanding from you, Ms.
16 Fletcher, when we spoke, and from Ms. Moreland,
17 that I could appear today, and therefore,
18 solidify my representation --

19 MS. FLETCHER: That's right.

20 MS. OPPER-WEINER: -- on behalf of the
21 protestants.

22 MS. FLETCHER: And it would have also

1 been fine if -- if this letter had been presented
2 this morning.

3 MR. COHEN: Okay.

4 MS. FLETCHER: As long as we have
5 something for the record.

6 And so, Mr. Cohen, is this a good address
7 to mail future correspondence?

8 MR. COHEN: No.

9 MS. FLETCHER: Okay. So, what is the --
10 this is the wrong address?

11 (No response heard)

12 MS. FLETCHER: This is the address that
13 was on the placard notice. This is the wrong
14 address? So, we need to correct that.

15 MR. FRUMIN: It's a construction site
16 right now.

17 MS. FLETCHER: What's the correct
18 address?

19 MR. COHEN: 5540 Nevada Avenue, North
20 West.

21 MS. FLETCHER: Is that a home address?

22 MR. COHEN: Yeah, I have a home office

1 there.

2 MS. FLETCHER: Okay. Okay, because that
3 -- that is -- anytime there's -- a placard notice
4 goes up, the address on the placard notice is the
5 official address for us, and everything is sent
6 to that address.

7 And so, you're going to be requesting
8 that any further -- the place -- is it open and
9 operating yet?

10 (No response heard)

11 MS. FLETCHER: Okay. So, you want it
12 sent to -- we don't know that when you fill out
13 an application. So, we send it to the address on
14 the application; the address of the business
15 always.

16 But what you want us to do is mail
17 correspondence to you at home.

18 MR. COHEN: Correct.

19 MS. FLETCHER: Okay. So, you can
20 actually just jot down your home address if you
21 don't mind, right here. You can put it on there,
22 too.

1 MR. COHEN: Okay.

2 MS. FLETCHER: Is it on there?

3 (No response heard)

4 MS. FLETCHER: And if you will put by
5 that that -- to mail future communication there,
6 so that I can put in the record that it no longer
7 -- for now, it doesn't go to the -- the
8 establishment.

9 Any future notices that you receive
10 related to hearings is going to be -- are going
11 to be sent to your email address. So, that's why
12 we need that.

13 MS. OPPER-WEINER: What's the zip code
14 where he lives?

15 MS. FLETCHER: I'm sorry. What was that,
16 Ms. Opper-Weiner?

17 MS. OPPER-WEINER: The zip code on Nevada
18 Avenue. What is that, please?

19 MR. COHEN: 20015.

20 MS. FLETCHER: 20015.

21 MS. OPPER-WEINER: Thank you.

22 MS. FLETCHER: Okay? So, we'll -- we'll

1 correct that. And so, at some point, Mr. Cohen,
2 you're going to want the correspondence from us
3 sent to the address of the business. But for
4 now, this is where it's going to go; to your home
5 address?

6 MR. COHEN: Correct.

7 MS. FLETCHER: Okay. So, we'll do that
8 until you tell us otherwise, then.

9 MR. COHEN: Okay.

10 MS. FLETCHER: Is that the way we're
11 going to do it?

12 (No response heard)

13 MS. FLETCHER: Okay.

14 (Pause)

15 MS. FLETCHER: And did you say that 317
16 7th Street is the wrong address for the business,
17 as well? Oh, that is correct.

18 (Simultaneous discussion)

19 MR. COHEN: No, that's correct.

20 MR. FRUMIN: No, that's correct for the
21 building.

22 MS. FLETCHER: Oh, okay.

1 (Pause)

2 MS. FLETCHER: Okay, so the Blanchard's
3 and Mr. Yalcin, you have standing as protestants.
4 We need to set a date for a mediation, a status
5 hearing and a protest hearing.

6 (Pause)

7 MS. FLETCHER: I'll give you -- that's
8 the available date for a mediation.

9 (Discussion off the record)

10 MS. FLETCHER: Mr. Guy? Mr. Guy? Can we
11 go off of the records for one minute?

12 SPEAKER: Okay.

13 MS. FLETCHER: Thank you.

14 (Off the record - 10:20 a.m.)

15 (On the record - 10:23 a.m.)

16 MS. FLETCHER: So, we're back on the
17 record for Bullfrog Bagels.

18 I'm going to give you the date for the
19 status and protest hearing first. The status
20 hearing is set for January 20th at 9:30. That's
21 20 at 9:30 a.m.

22 MS. OPPER-WEINER: That's before the

1 board?

2 MS. FLETCHER: Yes. The status hearing
3 is before the board, and so is the protest
4 hearing.

5 The protest hearing is set for February
6 10 at 1:30. And you'll receive an email
7 notification of these dates; an official hearing
8 notice by email.

9 We need to set a date for mediation.

10 (Discussion off the record)

11 (Pause)

12 MS. FLETCHER: The next available date
13 for mediation is January 26th. That's a Tuesday.
14 There -- the ideal situation is that the
15 mediation occurs before the status hearing, but
16 because this is a new application, the protest
17 hearing is coming up very fast, and so, we don't
18 have a lot of days left between now and then.

19 We do have -- well, I'm trying to see if
20 there's anything before the status hearing on the
21 20th.

22 (Pause)

1 MS. OPPER-WEINER: Mondays are very good
2 for the protestants.

3 MS. FLETCHER: It's Martin Luther King's
4 birthday.

5 MS. OPPER-WEINER: That's right.

6 MS. FLETCHER: So, we're closed. That
7 would have been the only day that we could do it
8 before the 20th, would have been the 18th.

9 On the 19th, we could do something. It
10 will be very late in the afternoon, though, two
11 or three. Otherwise, the mediation would occur
12 after the status hearing.

13 You will still need to come to the status
14 hearing, but you would just report to the board
15 that the mediation is coming up. The status
16 hearing still takes place on the 20th.

17 So, I can look at some dates that are
18 available after the 20th, and the first day is
19 Tuesday, January 26th at 9, 10 or 11.

20 MR. FRUMIN: 9, 10 or 11?

21 MS. FLETCHER: Mm hmm.

22 MS. OPPER-WEINER: Ten.

1 MS. FLETCHER: There are other dates
2 available that week, but the 26th is good.
3 That's a Tuesday.

4 MR. COHEN: I think I hear them talking
5 about a preference, so let's see if they have a
6 preference.

7 MS. FLETCHER: Well, do you -- yeah. Are
8 you available on that day?

9 MR. COHEN: On the 26th?

10 MS. FLETCHER: On the 26th?

11 MR. COHEN: Yes. Yes?

12 MR. FRUMIN: Yep.

13 (Discussion off the record)

14 MR. COHEN: And also, the 19th. Yes, the
15 19th?

16 MR. FRUMIN: Yes. Yep.

17 MS. OPPER-WEINER: Somehow, I feel it's
18 better that we try to do a mediation before the
19 status hearing --

20 MS. FLETCHER: Before the status hearing?

21 MS. OPPER-WEINER: -- first of all, even
22 if it's late afternoon. How long do they

1 generally last?

2 MS. FLETCHER: It sort of depends on you
3 know, how things move along. But this is a new
4 application, so there's no history to go through.

5 MS. OPPER-WEINER: Right.

6 (Simultaneous discussion)

7 MS. FLETCHER: So, that's going to --

8 MS. OPPER-WEINER: It's really just the
9 issues.

10 MS. FLETCHER: It's going to take --
11 yeah, so it's going to take --

12 MS. OPPER-WEINER: Whether we can resolve
13 them.

14 MS. FLETCHER: We can do it on the 19th,
15 if you want. It would be --

16 (Pause)

17 MS. FLETCHER: It would be at 3:00 on the
18 19th. It would be late in the afternoon.

19 (Discussion off the record)

20 MR. FRUMIN: 3:00? Are you available at
21 3:00?

22 MR. COHEN: I'm fine.

1 MS. FLETCHER: That's okay with you, Mr.
2 Cohen? That's okay with you, Ms. Oppenheimer.

3 MS. OPPENHEIMER: Yes. I believe the
4 Blanchard's could be available.

5 (Discussion off the record)

6 MS. FLETCHER: So, mediation is set for
7 Tuesday, January 19 at 3:00.

8 MS. OPPENHEIMER: Okay.

9 MS. FLETCHER: You would still appear for
10 the status hearing on the 20th. The only way you
11 would not is if you reached a settlement
12 agreement and signed it before the 20th.

13 If that were to happen, the board would
14 cancel the status hearing. Otherwise, just show
15 up on the 20th and tell the board the status of
16 the case.

17 MR. COHEN: And is that it? It's not a
18 long proceeding? It's just telling the board the
19 status.

20 MS. FLETCHER: The status hearing is five
21 minutes.

22 MR. COHEN: And I'm sorry, because we're

1 new to this.

2 MS. FLETCHER: Yes?

3 MR. COHEN: Mediation takes place; where
4 did you say?

5 MS. FLETCHER: Here.

6 MR. COHEN: Here?

7 MS. FLETCHER: Probably in this room.

8 MR. COHEN: And is an hour kind of thing,
9 or less than --

10 MS. FLETCHER: I -- you know, it's only
11 an estimate, but I wouldn't expect this to take
12 longer than an hour, hour and a half.

13 MR. COHEN: You wouldn't expect it to?

14 MS. FLETCHER: I would not expect this to
15 take longer than an hour or an hour and a half.

16 MR. COHEN: Can I ask who mediates?

17 MS. FLETCHER: I'm the board's mediator.
18 There's my card on the table.

19 MR. COHEN: Got it. Okay.

20 MR. FRUMIN: Great. Thank you very much.

21 MS. FLETCHER: Uh-huh. And so, when you
22 come, you would just check in with the

1 receptionist, and most likely, we'll be in this
2 room. If it's not available, we'll go in the
3 room in the back.

4 MR. FRUMIN: Thank you.

5 MS. FLETCHER: You're welcome. Anything
6 else?

7 (No response heard)

8 MS. FLETCHER: Okay. See you on the 19th
9 at three. Thank you.

10 MR. FRUMIN: Thank you.

11 MS. OPPER-WEINER: Thanks so much.

12 MS. FLETCHER: The roll call hearing is
13 concluded.

14 MR. COHEN: And I suppose the last thing
15 -- you're comfortable with me appearing --
16 participating on the 19th?

17 MS. FLETCHER: It's up to the licensee
18 who -- who -- who is present.

19 MR. COHEN: Great. Thank you.

20 MS. FLETCHER: You're here today. I'll
21 leave that up to you to work out. You were here
22 today, so we know who you are.

1 MR. COHEN: Wonderful.

2 MR. FRUMIN: Thank you.

3 MS. FLETCHER: And what we would like is
4 for someone to be present who is in a position to
5 negotiate a settlement. Okay.

6 MR. COHEN: Thank you.

7 MS. FLETCHER: Thank you.

8 [Whereupon, at 10:14 a.m. the
9 above-entitled matter concluded.]