

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

2 (9:41 a.m.)

3 CHAIRPERSON MILLER: Good morning,
4 ladies and gentlemen. I would like to welcome
5 you to the regular scheduled meeting of the
6 District of Columbia Alcoholic Beverage
7 Control Board.

8 We have a new sound system, so I
9 hope that we can do this alright.

10 Today is January 11, 2012. My
11 name is Ruthanne Miller, I'm the Chairperson
12 of the ABC Board.

13 Joining me today to my far right
14 is Mr. Calvin Nophlin, to his immediate left
15 is Mr. Donald Brooks, to my immediate right is
16 Mr. Nick Alberti, to my far left Mr. Herman
17 Jones will be joining us shortly and next to
18 him would be Ms. Jeannette Mobley and to my
19 immediate left is Mr. Mike Silverstein.

20 The Board has seven Members in
21 attendance for the conduct of business today
22 with three constituting a quorum and with Mr.

1 Jones joining us shortly.

2 Copies of today's hearing agenda
3 and calendar are available at the reception
4 desk. Please, be aware that these meetings
5 are being recorded by a court reporter.

6 Accordingly, we must ask you to
7 refrain from any disruptive noises or actions
8 in the hearing room.

9 If you have any electronic
10 devices, pagers, cell phones or such, please,
11 make certain that they are turned off to avoid
12 any interruption of the proceeding.

13 Please note that there is a piece
14 of paper on each table. When you come forward
15 as your case is called, please, take a seat at
16 the table and, please, sign in. This is to
17 ensure the correct spelling of your name for
18 the record.

19 The record will be closed at the
20 conclusion of each case, except for any
21 material specifically requested by the Board
22 or if the parties elect to submit proposed

1 findings of fact and conclusions of law within
2 30 days after the conclusion of the hearing as
3 permitted by 23 DCMR ^U 1717.2.

4 After the record is closed, no
5 other information will be accepted by the
6 Board.

7 Copies of transcripts are
8 available by contacting ABRA's Records
9 Manager, Bill Hager, and it is the sole
10 responsibility of the parties to make this
11 request.

12 The Open Meetings Act requires
13 that the public hearing on each case be open
14 to the public. The Board may consistent with
15 ^U 405(b) of the Open Meetings Act enter a
16 closed meeting during or after the public
17 hearing on a case to consult with an attorney
18 to obtain legal advice, discuss settlement
19 agreements or deliberate upon a decision in an
20 adjudication proceeding.

21 Today, the Board's calendar
22 includes Show Cause (Status) Hearings, a Show

1 Cause Hearing and Protest (Status) Hearings.

2 As defined in 23 DCMR ^U 1603.1 a
3 Protest (Status) Hearing is a proceeding held
4 by the Board in which the parties inform the
5 Board of the progress in reaching a voluntary
6 agreement or alternative settlement.

7 If the parties have not reached a
8 settlement, the Board will schedule the
9 meeting for a Protest Hearing.

10 You may be represented by legal
11 counsel at a Protest Hearing or any of the
12 other hearings this morning. All hearings are
13 conducted before the Board in the English
14 language. If you or any corporate officer or
15 any witness to be called are deaf, have a
16 hearing impediment or do not readily
17 understand or communicate the spoken English
18 language, you may request an interpreter by
19 contacting ABRA's Mediation Specialist, La
20 Verne Fletcher.

21 Now, the approximate time is 9:45
22 a.m. and I think that we are ready to call our

1 first case of the morning.

2 We are going to start with the
3 Protest (Status) Hearing cases. The first
4 case is Case No. 11-PRO-00055. It's Silkari
5 East, Inc. t/a M Cafe, License No. 87240.

6 Would the parties come to the
7 table, please, and identify yourselves for the
8 record? Okay. Good morning.

9 MR. KARABASSIS: Good morning. My
10 name is Iraklis Karabassis. I-R-A --

11 CHAIRPERSON MILLER: I'm sorry,
12 could you spell your last name, please?

13 MR. KARABASSIS: Yes, yes, I-R-A-
14 K-L-I-S last name is K-A-R-A-B-A-S-S-I-S.

15 CHAIRPERSON MILLER: Okay.

16 MR. KARABASSIS: I'm president of
17 the company.

18 CHAIRPERSON MILLER: You're the
19 president of what?

20 MR. KARABASSIS: Of the company.

21 CHAIRPERSON MILLER: Of the
22 company. Okay.

1 MR. KARABASSIS: Yes, as applied
2 for.

3 CHAIRPERSON MILLER: Silkari?

4 MR. KARABASSIS: Correct.

5 CHAIRPERSON MILLER: Okay. Good
6 morning.

7 MS. CRUSE: Good morning. I'm
8 Karen Cruse and I'm with the Citizen's
9 Association of Georgetown.

10 CHAIRPERSON MILLER: Okay.

11 MR. STARRELS: Good morning. I'm
12 Bill Starrels, that's S-T-A-R-R-E-L-S, ANC-2E.

13 CHAIRPERSON MILLER: Okay. So
14 this is a status conference, Status Hearing,
15 excuse me. Did you all have mediation on this
16 case?

17 MR. STARRELS: Yes, we did.

18 CHAIRPERSON MILLER: Okay. And
19 were you able to come up with a voluntary
20 agreement or what's the status?

21 MR. STARRELS: This is what's
22 going on. We had a very good mediation

1 hearing. The issue, it's a little bit outside
2 of the box. The applicant has a building that
3 needs -- that has to be totally renovated. He
4 does not know -- he can speak for himself,
5 obviously, but he is not sure, at this point,
6 what the actual plans are going to be for the
7 interior to the restaurant and a few other
8 things.

9 And it would be unfair for us from
10 a Commission level, per the restaurant owner,
11 to enter into a voluntary agreement before we
12 know actually how the restaurant is going to
13 be laid out.

14 So what we had all agreed to at
15 the mediation was to ask for a postponement of
16 things until, I think, give or take around
17 October. I know that's completely outside of
18 what we usually would do, but I think it's
19 going to serve the best interest with not just
20 the community, but also the business, because
21 we don't want to get into an agreement which
22 would just not make sense for the business

1 ultimately here.

2 And the business owner has a great
3 pedigree to them and the concepts, and
4 successful businesses elsewhere in the
5 District and elsewhere and we want to make
6 sure this thing works and works properly.

7 So I think it is the interest of
8 the Board, our constituency and to the
9 District as a whole to allow us to step
10 outside of the box here and to have a
11 continuance here.

12 CHAIRPERSON MILLER: Could you
13 just explain to me why I need to know the
14 layout in order to deal with the general
15 concerns?

16 MR. STARRELS: I think the
17 business owner can speak to that.

18 CHAIRPERSON MILLER: Okay.

19 MR. KARABASSIS: Yes.

20 CHAIRPERSON MILLER: Okay.

21 MR. KARABASSIS: First of all, the
22 property needs a lot of work.

1 CHAIRPERSON MILLER: Yes.

2 MR. KARABASSIS: So I do need to
3 hire engineer and architect to put that
4 together. So this is how we left it, but I'm
5 willing to proceed with that knowing that we
6 have an understanding. And then after this,
7 we can walk through the property with the
8 drawings and we can move on.

9 MR. STARRELS: And to be a bit
10 more specific to your question, again, he can
11 address it a little bit better than I can, one
12 of the factors that came up under discussions
13 is the actual type of food they are going to
14 serve. In other words, if he does Greek food,
15 he is going to need a much larger kitchen than
16 if he did a concept with Italian food over
17 there.

18 So in other words, if it varied
19 by, you know, 50 seats, let's say, it could,
20 you know, have an impact of an outdoor garden
21 area. We just want to make sure that it is
22 done right. So we never want to enter into a

1 voluntary agreement or ask somebody to sign an
2 agreement which isn't realistic for the
3 business plan.

4 CHAIRPERSON MILLER: Okay. So one
5 of the issues is the number of seats, so that
6 would impact --

7 MR. STARRELS: Absolutely, right.

8 CHAIRPERSON MILLER: Okay.

9 MR. STARRELS: Right.

10 CHAIRPERSON MILLER: Do Board
11 Members have questions?

12 MEMBER ALBERTI: Well, actually, I
13 just want to point something out to the
14 parties, Madam Chair.

15 And that is that if there is a
16 substantial change to occupancy to the nature
17 of the business, I mean, you now have -- are
18 doing a CR License. If that changes or there
19 is a substantial change to parts of the
20 premise that are being occupied, that are
21 licensed or their capacity, then the applicant
22 will have to file with the Board for a change

1 with the Board.

2 And the Board has the opportunity,
3 at that point, if it decides to do so, to
4 declare that a substantial change, in which
5 case the licensee -- that application for a
6 substantial change would be placarded. And
7 there would be another opportunity for the
8 community to weigh in.

9 So there is an opportunity in the
10 future if there is a -- if the change that is
11 being considered is large enough, there is the
12 potential opportunity for the community to
13 weigh in at that point. So it doesn't seem to
14 me that it is all or nothing now.

15 I mean, you can enter into a
16 voluntary agreement based on what you know
17 about the establishment, the way it has been
18 operating and if things change, there could be
19 an -- sufficiently, there could be an
20 opportunity in the future to renegotiate the
21 voluntary agreement.

22 MR. STARRELS: That is true, but

1 without having any plans to -- for the owner
2 or a representative of the company to present
3 to the Commission, let's say, at our ANC
4 meeting, I don't see how the Commissioners in
5 good conscience can approve or not approve
6 something when it is all central. Did you
7 want to speak?

8 MS. CRUSE: If I may, there are
9 also some elements that are not necessarily
10 going to be considered as a substantial
11 change. For example, the layout. Will the
12 dining room be in the back? Will it be in the
13 front? That wouldn't be considered a
14 substantial change necessarily and yet, it
15 could impact for noise issues, things like
16 that.

17 So, you know, if we had the full
18 work-out, build-out, it would be much easier
19 for us to evaluate it. And again, so that we
20 are not tying up Mr. Karabassis' hands
21 unfairly and that, you know, the community
22 concerns are being considered and everybody is

1 in agreement on this that we would all like to
2 go forward.

3 There was another case in
4 Georgetown where when we were first given
5 seven new licenses in the Moratorium Zone and
6 somebody made a grab for one of them and he
7 had no plans. He was looking for somebody to
8 come in with a restaurant. And that was a
9 different situation, but because Mr.
10 Karabassis does have plans, he is trying to go
11 forward and he has been involved in other
12 restaurants.

13 You know, we feel comfortable that
14 he really is doing something that the
15 community is going to be encouraging.

16 CHAIRPERSON MILLER: Okay. And
17 October is when you expect to have your
18 renovations completed?

19 MR. KARABASSIS: By that time,
20 correct, yes.

21 MR. STARRELS: And then we are
22 also committing or did commit at our mediation

1 and also discussions outside of mediation that
2 as soon as he has his plans to a state where
3 there is something to look at, we are going to
4 just sit and hunker down and get it done.

5 MS. CRUSE: At which point, we
6 could come in with a voluntary agreement even
7 before, you know, the October deadline.

8 CHAIRPERSON MILLER: Okay. Mr.
9 Jones has joined us. Mr. Jones, just so you
10 know what we are talking about, there are
11 requests being of a continuance, basically,
12 until October because the renovations are
13 basically in flux, if I can call it. There
14 are no set plans yet and, therefore, the
15 protestants can't really respond to any plans.
16 Okay.

17 Any comments by the Board? In
18 some instances the Board goes to talk about a
19 novel issue and then comes back. And I just
20 want to check whether any Board Members wish
21 to quickly recess or whether you want to
22 discuss it here?

1 MEMBER ALBERTI: I would like to
2 recess.

3 CHAIRPERSON MILLER: Okay.

4 MEMBER ALBERTI: To get advice
5 from our counsel.

6 CHAIRPERSON MILLER: Okay.

7 MEMBER ALBERTI: Or the Board's
8 counsel.

9 CHAIRPERSON MILLER: Okay. Okay.
10 As I stated at the beginning of this
11 proceeding, you know, under the Open Meetings
12 Act, the Board can recess to get legal advice
13 on an issue. And so there has been a request
14 that we do this and I think that this won't
15 take very long.

16 And I believe I need to move the
17 Open Meetings Act provision.

18 Okay. As Chairperson of the
19 Alcoholic Beverage Control Board for the
20 District of Columbia and in accordance with ^U
21 405 of the Open Meetings Amendment Act of
22 2010, I move that the ABC Board hold a closed

1 meeting for the purpose of seeking legal
2 advice from counsel and/or deliberating
3 quickly upon the request that had just been
4 made with respect to continuing this case.

5 MEMBER ALBERTI: I second it.

6 CHAIRPERSON MILLER: Second.

7 Others? Do we --

8 MEMBER ALBERTI: You can poll.

9 CHAIRPERSON MILLER: Okay. Mr.
10 Nophlin?

11 MEMBER NOPHLIN: I agree.

12 CHAIRPERSON MILLER: Mr. Brooks?

13 MEMBER BROOKS: I agree.

14 CHAIRPERSON MILLER: Mr.

15 Silverstein?

16 MEMBER SILVERSTEIN: I agree.

17 CHAIRPERSON MILLER: Ms. Mobley?

18 MEMBER MOBLEY: I agree.

19 CHAIRPERSON MILLER: Mr. Jones?

20 MEMBER JONES: I agree.

21 CHAIRPERSON MILLER: Okay. I

22 agree. We will take a very short recess and

1 come right back to you on this. Okay.

2 (Whereupon, at 9:55 a.m. a recess
3 until 10:14 a.m.)

4 CHAIRPERSON MILLER: Okay. We are
5 back on the record. We had a chance to
6 actually pull the file on this case. And what
7 I would like to say is, I mean, I'm
8 sympathetic to, you know, parties having
9 enough information to make an educated, well-
10 informed voluntary agreement and other such.

11 And so what I heard you saying
12 here was that there was this renovation and
13 you didn't know what the plans were going to
14 turn out to be, how many seats, etcetera.

15 However, when I look at the file,
16 when an applicant is applying for a license,
17 you know, there was a Notice of Public Hearing
18 and in that notice that went out to the ANC
19 and the DC Register, etcetera, it describes
20 the nature of the operation. It talks about
21 the hours of operation, the hours of sale,
22 pertinent information, seating, it talks about

1 seating capacity.

2 So it seems to me and I think my
3 colleagues that actually you have that
4 information to work with for a voluntary
5 agreement. So, therefore, I didn't see the
6 basis for your request for not knowing what to
7 address. And if you want to make one more,
8 you know, statement to this, you can before we
9 make a vote, but that's what the facts are in
10 the case, we think.

11 MR. STARRELS: I would like to
12 speak to this. I'm not disputing the facts.
13 I will say when we had a representative from
14 the business come to our ANC meeting, the
15 numbers were presented differently then than
16 what we all noticed in writing.

17 What I just don't understand here,
18 I guess, is with the -- how well we function
19 as an ANC in Georgetown with the reputation we
20 have earned over the years in Georgetown
21 dealing with ABC matters.

22 In a case when everybody is on the

1 same page here, it's not like we are
2 disagreeing with the business owner here or
3 with the citizens association here. We are
4 all seeking the same remedy here. You know,
5 I don't see why -- I think we deserve to be
6 supported here, that's all.

7 CHAIRPERSON MILLER: Okay. Any
8 other comments? Board Members, do you have
9 any other comments?

10 MEMBER ALBERTI: Yes, may I
11 question?

12 CHAIRPERSON MILLER: You have
13 questions?

14 MEMBER ALBERTI: Mr. Karabassis?

15 MR. KARABASSIS: Yes.

16 MEMBER ALBERTI: Did you have a
17 restaurant here before or was there a
18 restaurant there before?

19 MR. KARABASSIS: In that same
20 location?

21 MEMBER ALBERTI: In that same
22 location.

1 MR. KARABASSIS: No, no.

2 MEMBER ALBERTI: Okay.

3 MR. KARABASSIS: No.

4 MEMBER ALBERTI: Okay.

5 MR. KARABASSIS: This is an
6 office. As of now, it's an office.

7 MEMBER ALBERTI: Okay. Thank you.

8 CHAIRPERSON MILLER: I do actually
9 have one more question for you, Mr.
10 Karabassis.

11 Is your seating capacity going to
12 be different than what you represented for the
13 Notice of Public Hearing?

14 MR. KARABASSIS: Well, I think
15 this has to be clarified. What we have said
16 is what we desire to have. Now, what is going
17 to happen after we put engineers and
18 architects to work on the property, this is
19 what actually we were talking about. This is
20 what we were saying that we will come with
21 those drawings to have a better understanding
22 what is going to be the outcome out of this.

1 So this is what we have requested.
2 In fact, we need to put people, professionals,
3 on the job to draw drawings, so we know
4 exactly what is going to be the outcome of
5 this property converting it and what we said
6 on the application is what we were -- what I
7 would have desired to see happening. Correct.

8 CHAIRPERSON MILLER: Yes, Mr.
9 Silverstein?

10 MEMBER SILVERSTEIN: Sir, does
11 that mean that these are the maximum figures
12 that you could possibly have?

13 MR. KARABASSIS: Right.

14 MEMBER SILVERSTEIN: Or are you
15 hoping that it might be larger?

16 MR. KARABASSIS: I believe that
17 this is what it's going to be, yes. Those
18 numbers that we put there, this is pretty much
19 what it's going to be.

20 MEMBER SILVERSTEIN: And if you
21 ask for more, you would have to come back and
22 ask for a substantial change?

1 MR. KARABASSIS: Well --

2 MEMBER SILVERSTEIN: Is that
3 correct?

4 MR. KARABASSIS: Correct, correct.
5 Correct, sir.

6 MEMBER SILVERSTEIN: But you could
7 be asking for less if it turns out that in
8 your remodeling, you have less space or that,
9 you know, the moving of certain things might
10 deprive you of certain space?

11 MR. KARABASSIS: Correct, correct.

12 MEMBER SILVERSTEIN: No further
13 questions.

14 CHAIRPERSON MILLER: Just to
15 understand your process a little better
16 though, for you to get to where you might
17 change the numbers, isn't that something that
18 your architect would be working with on the
19 plans, it is not dependent upon how many
20 months the renovation takes with respect to
21 construction?

22 MR. KARABASSIS: I don't think

1 it's such a complicated issue.

2 CHAIRPERSON MILLER: Yes.

3 MR. KARABASSIS: I think that the
4 moment we are going to work on that is going
5 to come pretty much the actual thing what is
6 going to be. So my intention was to start to
7 work on that, so by that time, we will have
8 ready drawings, ready capacity say for the
9 space of the property.

10 CHAIRPERSON MILLER: By what time?

11 MR. KARABASSIS: By October.

12 CHAIRPERSON MILLER: Not until
13 October?

14 MR. KARABASSIS: Well, as of know,
15 this property has been leased, so
16 automatically this was also the time either it
17 will have worked for me. I don't know if it's
18 really there. The property belongs to myself,
19 one of my companies. So basically, I cannot
20 put the pressure now to townhouse, you know,
21 what I mean. So that time is going to be
22 enough for me to do this, to work out of the

1 same time as expiration of the lease.

2 CHAIRPERSON MILLER: Okay. Let me
3 just ask you this directly. You have these
4 numbers that were based on plans, correct?

5 MR. KARABASSIS: Correct.

6 CHAIRPERSON MILLER: And so you
7 are tweaking those plans or something. But
8 within a few weeks, would you have a better
9 idea of what you can do or can't do?

10 MR. KARABASSIS: Well, if this is
11 the issue that you have, eventually, we can
12 shorten the period of time, correct. I didn't
13 know that this is going to be an issue for you
14 guys, you know. But if that is the case,
15 definitely we can shorten the period of time,
16 correct, because the intention is that. We
17 have -- we want to understand what is going to
18 come out of this work over the engineer and
19 the architect.

20 CHAIRPERSON MILLER: Right.

21 Exactly.

22 MR. KARABASSIS: Yes.

1 CHAIRPERSON MILLER: Okay. Okay.
2 Okay. I understand this won't matter, but
3 actually we are going to take this under
4 advisement for a week and just get back to you
5 next week on this issue.

6 MEMBER ALBERTI: Just before you--

7 CHAIRPERSON MILLER: Yes?

8 MEMBER ALBERTI: -- return --

9 CHAIRPERSON MILLER: Mr. Alberti?

10 MEMBER ALBERTI: -- to that, Madam
11 Chair. Mr. Karabassis, so if I understand you
12 right, you still have a tenant in that
13 property?

14 MR. KARABASSIS: Correct, correct.

15 MEMBER ALBERTI: And their lease
16 ends when?

17 MR. KARABASSIS: End of this year
18 in November of 2012.

19 MEMBER ALBERTI: Their lease
20 doesn't end until 2012?

21 MR. KARABASSIS: Right.

22 MEMBER ALBERTI: And so you really

1 can't start construction until November?

2 MR. KARABASSIS: Correct.

3 MEMBER ALBERTI: And you really
4 don't have control. Because of the lease
5 agreement, you don't have control of that
6 space --

7 MR. KARABASSIS: Right.

8 MEMBER ALBERTI: -- until
9 November.

10 MR. KARABASSIS: Correct, correct.

11 MEMBER ALBERTI: Gotcha. Thank
12 you.

13 CHAIRPERSON MILLER: Okay. What
14 is going to happen is the Office of General
15 Counsel will be in touch with you within a
16 week and then we will reschedule a status
17 conference.

18 MR. KARABASSIS: Okay.

19 CHAIRPERSON MILLER: Okay. Thank
20 you very much.

21 MS. CRUSE: Thank you.

22 MR. KARABASSIS: Thank you.

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MR. STARRELS: Thank you.

(Whereupon, the Protest (Status)
Hearing in the above-entitled matter was
concluded at 10:22 a.m.)

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