

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE REGULATION  
ADMINISTRATION BOARD  
+ + + + +  
PUBLIC HEARING

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IN THE MATTER OF:	:
	:
Arm, LLC t/a Lux	:
649 New York Avenue, N.W.	:
	: Show Cause
License No. 71743	: Hearing (Status)
Retailer CN	:
Case No. 12-251-00137	:
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Wednesday,  
January 16, 2013  
ABRA Hearing Room  
Suite 400 South  
Reeves Municipal Center  
2000 - 14th Street, N.W.

Washington, DC 20009

The above-entitled matter convened  
at 9:46 a.m. before the District of Columbia  
Alcoholic Beverage Regulation Administration  
Board.

BEFORE:

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD C. BROOKS, Member

HERMAN JONES, Member

MIKE SILVERSTEIN, Member

The transcript constitutes the minutes  
from the Public Hearing held on January 16,  
2013.

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

2 9:46 a.m.

3 CHAIRPERSON MILLER: The next case  
4 on the Board's morning calendar is Case No.  
5 12-251-00137, Lux, located at 649 New York  
6 Avenue, N.W., License No. 71743, located in  
7 ANC 6E.

8 MR. ADAMS: Good morning, Madam  
9 Chairman. Walter Adams for the District.

10 CHAIRPERSON MILLER: Good morning.

11 MR. KLINE: Good morning, Madam  
12 Chairman, members of the Board. Andrew Kline  
13 on behalf of the licensee.

14 MR. ANDARGIE: Henock Andargie.

15 MR. KLINE: Mr. Andargie is the  
16 principal of the licensee.

17 CHAIRPERSON MILLER: Okay, thank  
18 you, and Mr. Kline, did he receive the notice,  
19 read and understand it?

20 MR. KLINE: Received the notice,  
21 read and understand it. We waive any required  
22 formal reading.

1 CHAIRPERSON MILLER: Okay. Mr.  
2 Adams, are there any preliminary matters in  
3 this case?

4 MR. ADAMS: Madam Chairman, there  
5 are no preliminary matters in this case.

6 CHAIRPERSON MILLER: Okay. Then  
7 this case is set for a Show Cause Hearing  
8 March 13th, 2013 at 10:00 a.m.

9 MR. KLINE: Madam Chair, I move that  
10 this Notice of Status and Order to Show Cause  
11 was signed by you on behalf of the Board on  
12 November 15th of 2012. On November 29th,  
13 2012, the decision came down on 1900  
14 Restaurant Associates v. D.C. Alcoholic  
15 Beverage Control Board, District of Columbia  
16 Court of Appeals No. 11-AA245.

17 We believe that that case controls  
18 this case, and that the charges asserted in  
19 this case are not sustainable, given that  
20 decision.

21 We would ask that the Office of  
22 Attorney General take another look at this

1 Notice of Order to Show Cause, in light of  
2 that decision, and to the extent that the  
3 Board in signing the Notice ruled on the  
4 sufficiency, also take another look at it.

5 Because as I said, in our opinion,  
6 it is not sustainable, and we would request  
7 before we waste the Board's resources and the  
8 licensee's resources and the government's  
9 resources, that another look be taken, because  
10 at the time that the Notice was written, the  
11 Office took a certain position with respect to  
12 these cases, and the Court of Appeals has  
13 indicated that that -- that that's not the  
14 correct interpretation of the law.

15 MR. ADAMS: Madam Chairman.

16 CHAIRPERSON MILLER: Yes.

17 MR. ADAMS: The District's response  
18 is that essentially what is being asked for is  
19 for there to be some sort of a substantive  
20 decision. If counsel plans on filing a motion  
21 to dismiss, certainly that will probably be  
22 appropriate, in terms of putting the issue in

1 front of the Board.

2 In terms of evaluation, the Office  
3 continually evaluates the merits of cases, and  
4 certainly a case like this is the type of case  
5 where we continue to do the analysis.

6 However, I mean when it comes down to it, if  
7 counsel has a motion to, from the Board, then  
8 it will be appropriate for the Board to take  
9 a look at that case.

10 MR. KLINE: I'm sure we're certainly  
11 willing to do that. But it would seem, given  
12 the timing of the writing of the notice and  
13 the Court's decision, that before, as I said  
14 before, before everybody wastes resources on  
15 that, it would be appropriate for both the  
16 Office.

17 If Mr. Adams say that they've done  
18 it and they do it, then I presume that that's  
19 sufficient. And also the Board, because the  
20 Board signed off on the Notice, and presumably  
21 that means the Board gave its at least  
22 preliminary decision that the charges were

1 appropriate given the allegations.

2 I'm not suggesting that the Board  
3 prejudged the case, by any means. But  
4 certainly the way the process is set up, the  
5 Board reviews it, I believe, and makes a  
6 decision as to whether it's appropriate given  
7 the law.

8 This Court decision is no different  
9 than the law change by the counsel. It  
10 clarifies the law and it would be appropriate  
11 to reevaluate whether those charges are  
12 appropriate. Now I can't, you know, Mr. Adams  
13 says that they've done it, and I guess they've  
14 done it.

15 MR. ADAMS: I think --

16 CHAIRPERSON MILLER: Okay, okay.  
17 Yeah, one at a time.

18 MR. ADAMS: I'm sorry. This is our  
19 response, that I guess at this point, since  
20 the charges have been issued at this point, to  
21 ask the Board to act sua sponte, I think,  
22 would be inappropriate.

1           Again, I think procedurally, it will  
2           be appropriate for some type of pleading to be  
3           set in front of the Board, as to the Board  
4           making a record at this point.

5           CHAIRPERSON MILLER: Okay. I'd like  
6           to make a suggestion, and if Board members  
7           feel otherwise, I'm sure they'll speak up.  
8           But I would say that again, this is a status  
9           hearing. It's set for March 13th, 2013 at  
10          10:00 a.m.

11          During that period of time, if the  
12          licensee wants to make a, file a motion to  
13          dismiss, or if the Office of Attorney General  
14          wants to reevaluate, there's time to do that.  
15          Certainly, if the Board wishes to do anything,  
16          it could do so as well.

17          But I think at this point, we've  
18          heard arguments. We're very familiar with  
19          that case, and at this point, I don't believe  
20          any further action is taken, needs to be taken  
21          right now. So other than setting it on the  
22          calendar. Do the Board members feel

1 otherwise?

2 (No response.)

3 CHAIRPERSON MILLER: Okay. But the  
4 Board does understand it. Thank you.

5 (Whereupon, at 9:53 a.m., the  
6 hearing was concluded.)

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<b>A</b>	<b>C</b>	<b>dismiss</b> 5:21 8:13 <b>District</b> 1:2,22 3:9 4:15 <b>District's</b> 5:17 <b>DONALD</b> 2:7 <b>D.C</b> 4:14	<b>J</b>	<b>N</b>
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