

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

Ekho Events, Inc.
t/a Echostage
2135 Queens Chapel Road, NE
Retailer CN - ANC-5C
License No. 90250
Case #13-PRO-00174

Protest
Hearing
(Status)

(Renewal Application)

March 5, 2014

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
MIKE SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member

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

(9:51 a.m.)

CHAIRPERSON MILLER: The next case is another Protest Hearing (Status) case, Case No. 13-PRO-00174, Echostage located at 2135 Queens Chapel Road, N.E., License No. 90250, in ANC-5C. This is a renewal application.

When you are ready, if you would sign-in and identify yourselves for the record.

MS. THOMAS-WILLIFORD: Yes, good morning. Again, this is Kwamina Williford with Holland & Knight on behalf of the licensee, Echostage. Apologies for our client not being here today. This was re-put back on the schedule and also my apologies for that.

CHAIRPERSON MILLER: Okay. Sir?

MR. DAVIS: Good morning, Madam Chair. I'm Carlos Davis, the president-elect of Woodridge South Community Association, but I'm here today representing ANC Carla Butler, ANC-5C02.

1 MS. WARD: And I'm Martha Ward and
2 I am here representing the five from the
3 hearing we first had.

4 CHAIRPERSON MILLER: Okay. You
5 are representing the group of five?

6 MS. WARD: Yes, the group of five.

7 CHAIRPERSON MILLER: And your name
8 is what?

9 MS. WARD: Martha.

10 CHAIRPERSON MILLER: Martha?

11 MS. WARD: Ward.

12 CHAIRPERSON MILLER: Okay.

13 MS. WARD: And I'm also a member
14 of the, what we used to call, South Central
15 Community Association. For the last 10 years,
16 we have been Woodridge South.

17 CHAIRPERSON MILLER: Okay. Mr.
18 Davis, are you an ANC Commissioner?

19 MR. DAVIS: No. The ANC
20 Commissioner is out of town on a family
21 emergency. I'm the president-elect of
22 Woodridge South Community Association. She

1 contacted me and asked if I would represent
2 her today.

3 CHAIRPERSON MILLER: Okay. And
4 are you in the party of five, the group of
5 five, too, or no? You are just representing
6 the ANC?

7 MR. DAVIS: I'm just representing
8 the ANC.

9 CHAIRPERSON MILLER: Okay. I
10 believe she also contacted our General Counsel
11 about the emergency, so, okay. All right.
12 Right, we do have an email from her
13 specifically naming you, Mr. Davis, to
14 represent the ANC.

15 MR. DAVIS: Thank you.

16 CHAIRPERSON MILLER: Okay. Good.
17 All right. I'm going to set this for a
18 Protest Hearing on April 30th. Oh, I'm sorry?

19 MS. THOMAS-WILLIFORD: Madam
20 Chair, there is an issue that I wanted to
21 raise before you went forward, if it so
22 pleases the Board?

1 CHAIRPERSON MILLER: There is an
2 issue? Okay. Let me just finish my sentence
3 and then we will go back. Okay. So this is
4 set for April 30, 2014 at 1:30 p.m. And
5 before I read the instructions for the Status
6 Hearing, for the Protest Hearing, there is an
7 issue that Ms. Williford wants to bring to our
8 attention. Okay.

9 MS. THOMAS-WILLIFORD: Yes. You
10 may have received on February 12, 2014 -- the
11 parties have been working together to try to
12 resolve the issues that were raised in
13 connection with the protest and there was an
14 agreement that was reached in connection with
15 this protest.

16 And on February 12, 2014, both the
17 ANC-5C as well as the party of five submitted
18 a letter actually withdrawing the protest, so
19 there should actually not be a need to push
20 forward. I have a copy of the letter that I
21 can bring to your attention. This is a copy
22 that was submitted by Carla Butler on February

1 12th.

2 So at this point, the protests
3 have been withdrawn, so there really shouldn't
4 be a need to push forward.

5 CHAIRPERSON MILLER: Okay. I
6 think that the Board has to rule on that or
7 address it, the withdrawal, I think that is my
8 understanding that you submit a withdrawal and
9 the Board has to act on that.

10 So I would consider that pending.
11 I don't know that we have -- I don't believe
12 that the Board has reviewed that.

13 MS. THOMAS-WILLIFORD: Well, my
14 understanding is that they have submitted the
15 protest -- it's withdrawn. It's no longer
16 before the Board. It's different than the
17 Board having to agree to a settlement
18 agreement or voluntary agreement, which is not
19 the case here.

20 CHAIRPERSON MILLER: I understand
21 that.

22 MS. THOMAS-WILLIFORD: The parties

1 actually worked together and are continuing to
2 work together to make sure that they can live
3 in the same community in an amicable way which
4 is admirable and our clients have appreciated
5 worked with them. And because of that, they
6 submitted a Community Involvement Agreement
7 that they are working through all of these
8 things.

9 And in return, the parties have
10 agreed to actually withdraw. Once it is
11 withdrawn, I believe it's no longer before the
12 Board. And so there wouldn't be a decision
13 that needs to be reached. And so there
14 shouldn't be a Protest Hearing going forward.

15 CHAIRPERSON MILLER: Okay. Thank
16 you. Okay. All right. We did receive a
17 letter from Ms. Butler dated February 12, 2014
18 with an attached, what she characterizes as,
19 agreement dated February 4, 2014. And the
20 Board considered that agreement on its agenda,
21 I don't remember the exact date, and we
22 referred it to legal counsel for their review.

1 And the letter that Ms. Butler
2 submitted with that agreement says "Upon
3 review and approval of this agreement by the
4 Board, ANC-5C and its residents withdraw its
5 protest in this matter."

6 So the Board hasn't approved the
7 agreement and so, therefore, based on that
8 sentence, we don't -- haven't considered this
9 case, this protest withdrawn at this point.

10 So what I want to do is go ahead
11 and read the instructions for the --

12 MS. THOMAS-WILLIFORD: Okay.

13 CHAIRPERSON MILLER: -- hearing.

14 MS. THOMAS-WILLIFORD: Madam
15 Chair, if I may? Would it be possible to set
16 this for another Status Hearing as opposed to
17 a protest, just because gearing up for a
18 protest when the parties have, I think, pretty
19 much reached an understanding and are working
20 together, I think it behooves -- it would be
21 beneficial for all involved for the energy to
22 go towards the parties working together as

1 opposed to preparing for a protest based on a
2 date.

3 So my recommendation, my request
4 would be if you can -- if you would be able to
5 set it for a subsequent status as opposed to
6 a protest, so that we can work through this --

7 CHAIRPERSON MILLER: Okay.

8 MS. THOMAS-WILLIFORD: -- and
9 focus on what we thought was an amicable
10 resolution as opposed to gearing up for a
11 protest, which --

12 CHAIRPERSON MILLER: Okay. Now,
13 the Protest Hearing date is April 30, 2014.
14 You can before that date submit -- file a
15 request for a status if you have -- if you
16 think there is a need to do that to resolve
17 the case amicably.

18 MS. THOMAS-WILLIFORD: Okay.

19 CHAIRPERSON MILLER: We don't need
20 to take it off the calendar. No, so that --

21 MS. PHILLIPS: Our time is
22 precious.

1 CHAIRPERSON MILLER: That's right.
2 It's very hard to calendar these things. So
3 we could take it off at any time, but it's a
4 lot harder to put it on.

5 MS. THOMAS-WILLIFORD: I
6 understand. I just --

7 CHAIRPERSON MILLER: Okay. If you
8 want us to get you calendared for a Status
9 Hearing earlier without taking this Protest
10 Hearing date off, we can do that.

11 MS. THOMAS-WILLIFORD: I guess the
12 concern here is the parties reached an
13 agreement and it seems like the Board may not
14 be -- has not made a determination regarding
15 that agreement. We would like to --

16 MEMBER SILVERSTEIN: I'm sorry?

17 MS. THOMAS-WILLIFORD: The Board--
18 it says upon review and approval of this
19 agreement and because of that, you are saying
20 that the Board has to approve it. Would there
21 be any way for the licensee to weigh in on
22 whether or not the Board should approve this

1 agreement?

2 MEMBER ALBERTI: Madam Chair, may
3 I just say something? This is Mr. Alberti.
4 I don't know if I were recognized, but, Ms.
5 Williford, how do I say this? The Board has
6 looked at the letter. All right. And I think
7 the remedies are very simple from what I have
8 seen.

9 And I think if you talk to our
10 General Counsel, you will see that our
11 expectation is that you will be able to work
12 this out with the parties very easily. I
13 think it is more administrative than it is
14 substantive.

15 MS. THOMAS-WILLIFORD: Okay.

16 MEMBER ALBERTI: My thoughts on
17 that. I'm only one Board Member, so I suggest
18 that you talk to our General Counsel and then
19 get together with the other parties and, I
20 think, I'm optimistic that you will be able to
21 remedy it very quickly.

22 MS. THOMAS-WILLIFORD: Okay. I

1 appreciate that.

2 CHAIRPERSON MILLER: Okay. Good.
3 Thank you, Mr. Alberti. All right. All right
4 then, we hope that, you know, this will
5 settle, but if not, your hearing date is set
6 for April 30, 2014 at 1:30 p.m.

7 I'm going to reiterate some of the
8 instructions that I said in previous cases.
9 Number one, to keep in mind that the purpose
10 of the Protest Hearing is to determine the
11 appropriateness of the establishment in the
12 section of the District where the
13 establishment is located.

14 The Board is not going to go
15 beyond that basic point. However, we want you
16 to or you are required to file a Protest
17 Information Form and an exhibit form seven
18 days ahead of the hearing. If you don't have
19 a copy of those forms, see Tesha Anderson.
20 It's important that you follow the rules
21 closely. That form and exhibit form must be
22 submitted seven days ahead of the hearing,

1 submitted to the Board and submitted to
2 opposing parties.

3 If we don't receive a copy of your
4 Protest Information Form, your application or
5 your protest may be subject to dismissal and
6 that has been a pretty strict rule. So you
7 don't want to miss your deadline there.

8 Likewise, if we don't receive a
9 copy of the exhibit form and the exhibits
10 themselves, your exhibits may be excluded from
11 the record upon a finding that the opposing
12 party has been prejudiced or no good cause for
13 the failure to submit has been shown.

14 Likewise, witnesses, other than a
15 party, may also be subject to exclusion if not
16 identified on the PIF. These forms are very
17 important in narrowing the protest issues and
18 focusing the parties at the hearing and the
19 Board on what is really at issue in the case.

20 So those are the instructions. If
21 you have any questions, you can call Ms.
22 Anderson at 442-6492 and certainly Ms. Jenkins

1 if you have questions about working out the
2 settlement agreement or anything related to
3 the hearing.

4 Okay. Yes, Mr. Silverstein?

5 MEMBER SILVERSTEIN: Madam Chair,
6 I would urge both sides to follow the
7 suggestion of the great legal mind, Daniel
8 Lawrence Whitney, git'er done. We do have --
9 we are going to be off on the 16th of April
10 because it is Compensated Emancipation Day in
11 the District.

12 If you have something to us, we
13 need to approve it in order that we can avoid
14 this. So the sooner it is done, please, do
15 not push this to the last minute, because you
16 will be inconvenienced as well as we will. It
17 appears as though this is going to be in good
18 faith, but even though that seems like a long
19 way off, so is spring. It's coming.

20 Thank you for working together and
21 good luck.

22 MS. THOMAS-WILLIFORD: Thank you.

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CHAIRPERSON MILLER: Thank you.

(Whereupon, the Protest (Status)
Hearing in the above-entitled matter was
concluded at 10:05 a.m.)

<p style="text-align: center;">A</p> <p>a.m 2:2 15:4 able 9:4 11:11,20 above-entitled 15:3 act 6:9 address 6:7 administrative 11:13 admirable 7:4 agenda 7:20 agree 6:17 agreed 7:10 agreement 5:14 6:18,18 7:6,19,20 8:2,3,7 10:13,15 10:19 11:1 14:2 ahead 8:10 12:18 12:22 Alberti 1:17 11:2,3 11:16 12:3 Alcoholic 1:2,11,12 amicable 7:3 9:9 amicably 9:17 ANC 2:21 3:18,19 4:6,8,14 ANC-5C 1:7 2:7 5:17 8:4 ANC-5C02 2:22 Anderson 12:19 13:22 apologies 2:14,16 appears 14:17 application 1:9 2:7 13:4 appreciate 12:1 appreciated 7:4 appropriateness 12:11 approval 8:3 10:18 approve 10:20,22 14:13 approved 8:6 April 4:18 5:4 9:13 12:6 14:9 asked 4:1 Association 2:20</p>	<p>3:15,22 attached 7:18 attention 5:8,21 avoid 14:13</p> <p style="text-align: center;">B</p> <p>back 2:15 5:3 based 8:7 9:1 basic 12:15 behalf 2:13 behooves 8:20 believe 4:10 6:11 7:11 beneficial 8:21 Beverage 1:2,11,12 beyond 12:15 Board 1:2,12 4:22 6:6,9,12,16,17 7:12,20 8:4,6 10:13,17,20,22 11:5,17 12:14 13:1,19 bring 5:7,21 BROOKS 1:17 Building 1:12 Butler 2:21 5:22 7:17 8:1</p> <p style="text-align: center;">C</p> <p>calendar 9:20 10:2 calendared 10:8 call 3:14 13:21 Carla 2:21 5:22 Carlos 2:19 case 1:8 2:3,4,4 6:19 8:9 9:17 13:19 cases 12:8 cause 13:12 Central 3:14 certainly 13:22 Chair 2:19 4:20 8:15 11:2 14:5 Chairperson 1:13 1:16 2:3,17 3:4,7 3:10,12,17 4:3,9 4:16 5:1 6:5,20</p>	<p>7:15 8:13 9:7,12 9:19 10:1,7 12:2 15:1 Chapel 1:6 2:6 characterizes 7:18 client 2:14 clients 7:4 closely 12:21 CN 1:7 COLUMBIA 1:1 coming 14:19 Commissioner 3:18 3:20 community 2:20 3:15,22 7:3,6 Compensated 14:10 concern 10:12 concluded 15:4 connection 5:13,14 consider 6:10 considered 7:20 8:8 contacted 4:1,10 continuing 7:1 Control 1:2,11,12 copy 5:20,21 12:19 13:3,9 counsel 4:10 7:22 11:10,18</p> <p style="text-align: center;">D</p> <p>D.C 1:13 Daniel 14:7 date 7:21 9:2,13,14 10:10 12:5 dated 7:17,19 Davis 2:18,19 3:18 3:19 4:7,13,15 Day 14:10 days 12:18,22 deadline 13:7 decision 7:12 determination 10:14 determine 12:10 different 6:16</p>	<p>dismissal 13:5 District 1:1 12:12 14:11 DONALD 1:17</p> <p style="text-align: center;">E</p> <p>earlier 10:9 easily 11:12 Echostage 1:6 2:5 2:14 Ekho 1:5 email 4:12 Emancipation 14:10 emergency 3:21 4:11 energy 8:21 establishment 12:11,13 Events 1:5 exact 7:21 excluded 13:10 exclusion 13:15 exhibit 12:17,21 13:9 exhibits 13:9,10 expectation 11:11</p> <p style="text-align: center;">F</p> <p>failure 13:13 faith 14:18 family 3:20 February 5:10,16 5:22 7:17,19 file 9:14 12:16 finding 13:11 finish 5:2 first 3:3 five 3:2,5,6 4:4,5 5:17 focus 9:9 focusing 13:18 follow 12:20 14:6 form 12:17,17,21 12:21 13:4,9 forms 12:19 13:16 forward 4:21 5:20</p>	<p>6:4 7:14</p> <p style="text-align: center;">G</p> <p>gearing 8:17 9:10 General 4:10 11:10 11:18 git'er 14:8 go 5:3 8:10,22 12:14 going 4:17 7:14 12:7,14 14:9,17 good 2:11,18 4:16 12:2 13:12 14:17 14:21 great 14:7 group 3:5,6 4:4 guess 10:11</p> <p style="text-align: center;">H</p> <p>hard 10:2 harder 10:4 hearing 1:6,12 2:4 3:3 4:18 5:6,6 7:14 8:13,16 9:13 10:9,10 12:5,10 12:18,22 13:18 14:3 15:3 HECTOR 1:18 Holland 2:13 hope 12:4</p> <p style="text-align: center;">I</p> <p>identified 13:16 identify 2:9 important 12:20 13:17 inconvenienced 14:16 Information 12:17 13:4 instructions 5:5 8:11 12:8 13:20 involved 8:21 Involvement 7:6 issue 4:20 5:2,7 13:19 issues 5:12 13:17</p>
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