

DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE CONTROL BOARD  
+ + + + +  
MEETING

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IN THE MATTER OF: :  
: :  
TBM Holdings, LLC :  
t/a TruOrleans : Show Cause  
400 H Street, NE : Hearing  
Retailer CR - ANC-6C : (Status)  
License No. 86210 :  
Case #11-CMP-00372 :  
: :  
(Violation of Settlement :  
Agreement) :  
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March 13, 2013

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
- HERMAN JONES, Member
- MIKE SILVERSTEIN, Member

ALSO PRESENT:

MICHAEL STERN, OAG

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

2 (10:05 a.m.)

3 CHAIRPERSON MILLER: The next case  
4 on our calendar is Case No. 11-CMP-00372,  
5 TruOrleans located at 400 H Street, N.E.,  
6 License No. 86210 located in ANC-6C.

7 Will the parties in that case,  
8 please, come forward?

9 MR. STERN: Michael Stern  
10 representing the District of Columbia. I  
11 would just note for the Board there are  
12 members of the public here who are interested  
13 in speaking and they tell me the Board has  
14 previously approved that. I don't have any  
15 information on that.

16 CHAIRPERSON MILLER: It depends on  
17 the circumstances. But let's just see what we  
18 have here.

19 This is a status conference, so I  
20 just want to find out, basically you know,  
21 what is at issue here, before I say who is  
22 going to speak to it.

1 But are you the licensee?

2 MR. REDDING: James T. Redding,  
3 the owner.

4 CHAIRPERSON MILLER: Okay. What  
5 is the charge here, Mr. Stern?

6 MR. STERN: The charge is failing  
7 to -- a violation of voluntary agreement by  
8 failing to provide parking services.

9 CHAIRPERSON MILLER: Valet  
10 parking, okay. Okay.

11 MR. STERN: Yes.

12 CHAIRPERSON MILLER: All right.  
13 If you want to come to the table, I can just  
14 find out what it is that you would like to  
15 speak to and then we can see. There is a seat  
16 over here. It doesn't really matter.

17 MR. PRESTWOOD: My name is David  
18 Prestwood. This is my wife Claire Prestwood.  
19 We are residents of the 800 Block of 4th  
20 Street, N.E., here representing the 700 and  
21 800 Blocks.

22 The original complaint in this

1 case that was referred to the original case on  
2 November 9, 2011 that this hearing is in  
3 response to was based on both a failure to  
4 have parking and then a violation of Section  
5 3 of the voluntary agreement, failure to  
6 enclose or reduce hours of the open second  
7 story because of noise.

8 CHAIRPERSON MILLER: Right. Okay.  
9 So we understand that. We are familiar with  
10 that situation. And as I understand, Mr.  
11 Stern is here just for the valet. And our  
12 counsel is looking into the other issue, so  
13 that's not at issue with this case. This is  
14 just the status about the valet charge.

15 MR. PRESTWOOD: That's not what we  
16 were told, both by notice and by counsel.

17 CHAIRPERSON MILLER: By which  
18 counsel?

19 MR. PRESTWOOD: Ms. Jenkins.

20 CHAIRPERSON MILLER: Oh, okay, I  
21 understand. I am familiar with what you are  
22 talking about with the noise complaints. That

1 if there are three complaints, then it affects  
2 the agreement.

3 And counsel is looking at that,  
4 our counsel is looking at that as to how the  
5 Board is going to proceed with that.

6 Mr. Stern, as I understand it, is  
7 here just proceeding on the valet. It doesn't  
8 mean that your other issue is not going to be  
9 looked at. It just means that Mr. Stern is  
10 not proceeding on that.

11 Is that correct?

12 MR. STERN: Yes.

13 CHAIRPERSON MILLER: Okay.

14 MR. STERN: I mean, it was the  
15 Government's determination that, at this time,  
16 a charge on that violation was premature.

17 CHAIRPERSON MILLER: Okay. So --

18 MR. STERN: And we have discussed  
19 this with -- the potential with the Agency,  
20 potential actions they could take --

21 CHAIRPERSON MILLER: Yes.

22 MR. STERN: -- that would bring

1 that to fruition. And if it does and if there  
2 is a reason for the Government to change its  
3 position, we will change our position at that  
4 time.

5 CHAIRPERSON MILLER: Okay.

6 MR. STERN: And adjust.

7 MR. PRESTWOOD: Let me just say  
8 that, first of all, that's not what we, as the  
9 original complainants, have been told. That's  
10 not what the ANC has been told. And we also  
11 add that it has been 16 months since this  
12 Board voted 5-0 to refer for a Show Cause  
13 Hearing, which was never scheduled.

14 So if this is something that is  
15 ongoing and the counsel is looking into, we  
16 would like date-certain for an actual hearing  
17 on that as soon as possible.

18 CHAIRPERSON MILLER: Okay. I  
19 understand. I think I understand what you are  
20 saying. And, you know, our counsel will get  
21 back to you. I'm saying is it's on our radar  
22 screen and so -- as to how to proceed with

1 that separately.

2 So you are concerned about the  
3 noise issue. Okay. We hear you.

4 MR. PRESTWOOD: Remember when we  
5 were here --

6 CHAIRPERSON MILLER: And that's --

7 MR. PRESTWOOD: -- the last time,  
8 which I understand if you wouldn't, because it  
9 was November of 2011.

10 CHAIRPERSON MILLER: Right. I  
11 wasn't here.

12 MR. PRESTWOOD: Okay.

13 CHAIRPERSON MILLER: Okay.

14 MR. PRESTWOOD: You weren't here,  
15 but some of the other Board Members where  
16 here.

17 CHAIRPERSON MILLER: Okay.

18 MR. PRESTWOOD: This was a  
19 particular issue in which, like I said, the  
20 Board voted unanimously to refer for a Show  
21 Cause Hearing which hasn't happened. The  
22 neighborhood has been through a pretty

1 difficult 16 months since that time.

2 My wife, at that time, was nine  
3 months pregnant, had a baby two days later.  
4 We have a 16 month --

5 CHAIRPERSON MILLER: Okay.

6 MR. PRESTWOOD: -- old --

7 MEMBER SILVERSTEIN: All right.

8 Sir?

9 MR. PRESTWOOD: -- and no  
10 resolution.

11 MEMBER SILVERSTEIN: Sir?

12 CHAIRPERSON MILLER: Okay.

13 MR. PRESTWOOD: So you understand  
14 the frustration.

15 CHAIRPERSON MILLER: Okay. I do.

16 MR. PRESTWOOD: I just want to be  
17 clear.

18 CHAIRPERSON MILLER: I do. And I  
19 say okay, we have heard you and --

20 MR. PRESTWOOD: Thanks.

21 CHAIRPERSON MILLER: -- we really  
22 have heard you and it is on our radar screen.

1 And we will get back to you on that. And this  
2 is the forum right now for the charge dealing  
3 with the valet. But we have heard you and we  
4 will get back to you on that.

5 MS. PRESTWOOD: Can I ask a  
6 clarifying question?

7 CHAIRPERSON MILLER: Well, you  
8 will have to come to the table in order to be  
9 picked up and introduce yourself for the  
10 record.

11 MS. PRESTWOOD: Sure. I'm Claire  
12 Prestwood. I live at 808 4th Street in  
13 southeast. Just to clarify, when you said we  
14 are looking into it, what does that mean?  
15 Does it mean we are determining whether or not  
16 it is enforceable or I just would like to  
17 know.

18 CHAIRPERSON MILLER: We know that  
19 that's an issue that has been raised and that  
20 it's in your settlement agreement and that,  
21 you know, there have been three complaints or  
22 whatever. And our counsel is looking into the

1 best way to deal with that there. That's all  
2 I can say. There are different options of  
3 dealing with it.

4 But we are looking at it and we  
5 may be discussing it today even. So I'm just  
6 saying, it hasn't been forgotten. But this is  
7 not the -- the Attorney General is not -- has  
8 decided not to pursue that today in this case.  
9 So that's -- just in this case, we're going to  
10 be dealing with the valet question. It's just  
11 a status. It's not even a hearing.

12 But, yes, we are looking at that  
13 issue. I understand that it's an important  
14 issue. We are looking at it. It's not  
15 getting lost in the shuffle.

16 MS. PRESTWOOD: Thank you.

17 MEMBER ALBERTI: Madam Chair, may  
18 I --

19 CHAIRPERSON MILLER: Yes.

20 MEMBER ALBERTI: -- speak just  
21 briefly?

22 CHAIRPERSON MILLER: Okay.

1                   MEMBER ALBERTI: I want to  
2 apologize as an individual Board Member for  
3 the delay. I know it has been a long time and  
4 I understand your frustration, so accept my  
5 apology as a Board Member. And I will tell  
6 you that it is on my radar screen. And you  
7 have my guarantee that it will be my goal to  
8 get a resolution one way or another on how  
9 this VA is to be interpreted. And I promise  
10 you that today.

11                   MS. PRESTWOOD: Thank you.

12                   MEMBER ALBERTI: Thank you.

13                   CHAIRPERSON MILLER: Mr.  
14 Silverstein?

15                   MEMBER SILVERSTEIN: I would also  
16 like to apologize to the neighbors in this  
17 case for the delay. We have a backlog. It is  
18 a serious problem. And allowing events to go  
19 beyond and giving everybody their right to  
20 speak has its cost. And we see that right  
21 now.

22                   That said, this is a disciplinary

1 hearing. This is again -- people can't just  
2 walk in off the street and take part. There  
3 is a defense and there is prosecution. And as  
4 such, unfortunately, we cannot hear you now.  
5 But we promise you that this issue will be  
6 addressed by our investigators and will be  
7 looked into.

8 And if there is something found in  
9 the way of substance, there will be action.  
10 If not, sorry.

11 MR. PRESTWOOD: That's our  
12 apology. Let me just say that the Board had  
13 promised us a right to speak fully here in the  
14 case at the next hearing. We, obviously,  
15 assumed this was that hearing, given that this  
16 is the only thing that has been scheduled over  
17 that 16 month period.

18 MEMBER SILVERSTEIN: Understood.

19 CHAIRPERSON MILLER: Okay. And  
20 this actually is a Status Hearing, so it is  
21 okay to hear what you are concerned about with  
22 respect to status, you know, what -- about the

1 status of that issue, that's okay.

2 So we just can't go too much  
3 further into it, because we are not dealing  
4 with the merits. We are not even dealing with  
5 the merits of the valet question. Okay.

6 MEMBER JONES: Madam Chair?

7 CHAIRPERSON MILLER: Yes. Mr.  
8 Jones?

9 MEMBER JONES: Just to clarify the  
10 record, it is -- I am of the opinion, as an  
11 individual Board Member, that we do not  
12 necessarily have a backlog and that is not  
13 really the only reason why there has been a  
14 delay.

15 There is no official -- there is  
16 officially no backlog in our cases, but we are  
17 not going to make excuses for the fact that it  
18 has been delayed.

19 The point of the matter is it has  
20 been too long, regardless of what the reasons  
21 are. It is not acceptable and it needs to be  
22 addressed. And we are not going to make

1       excuses by putting it on backlog or putting it  
2       on something else.

3                   We failed in this instance and we  
4       are going to rectify it.

5                   CHAIRPERSON MILLER:   Okay.   All  
6       right.   Then we can get to the one charge that  
7       is at issue here.

8                   Did I ask you if you got notice of  
9       this hearing, sir?

10                  MR. REDDING:   No, you did not.

11                  CHAIRPERSON MILLER:   All right.  
12       There we go.   All right.   Did you get notice?

13                  MR. REDDING:   I got notice of this  
14       hearing.

15                  CHAIRPERSON MILLER:   This hearing.

16                  MR. REDDING:   Not the other  
17       hearing we have been discussing for the last  
18       15 minutes.

19                  CHAIRPERSON MILLER:   Okay.   This  
20       hearing.   Okay.   And did you read it and  
21       understand the notice for this hearing?

22                  MR. REDDING:   Yes, ma'am.

1                   CHAIRPERSON MILLER: Okay. All  
2 right. Then I'm going to enter that notice  
3 into the record, if there aren't any  
4 objections.

5                   Do we have any preliminary matters  
6 in this case?

7                   MR. STERN: There is a preliminary  
8 matter. The parties have agreed that as to  
9 charge for failing to provide parking  
10 services, the respondent would pay a fine of  
11 \$500 within 30 days.

12                   CHAIRPERSON MILLER: Okay. Mr.  
13 Redding, do you agree to that offer in  
14 compromise if payment of \$500 within 30 days  
15 for the violation of the valet issue? Is that  
16 the issue?

17                   MR. REDDING: I do.

18                   CHAIRPERSON MILLER: Okay. I'm  
19 looking for the charge. It's a violation of  
20 the settlement agreement. Okay. And do you  
21 under -- within 30 days? Okay. And do you  
22 understand this waives your right to a

1 hearing?

2 MR. REDDING: Yes, ma'am.

3 CHAIRPERSON MILLER: Okay. Do  
4 Board Members have any questions on this one?  
5 All right.

6 Then I would move that we accept  
7 this offer in compromise of \$500 to be paid  
8 within 30 days for violation of a settlement  
9 agreement dealing with the valet issue.

10 Do I have a second?

11 MEMBER BROOKS: I'll second.

12 CHAIRPERSON MILLER: Mr. Brooks  
13 has seconded the motion.

14 All those in favor say aye.

15 ALL: Aye.

16 CHAIRPERSON MILLER: All those  
17 opposed? All those abstaining? Then the vote  
18 is 5-0-0 to accept the offer in compromise.

19 MR. REDDING: Excuse me, can I  
20 have one comment, please, to what happened  
21 before this Status Hearing?

22 CHAIRPERSON MILLER: Okay. While

1 we are waiting.

2 MR. REDDING: And since they were  
3 allowed to come up off the street and make  
4 comments at this hearing, I just have one  
5 comment I want to say. Understand that it has  
6 been 16 months of pure unbelievable -- for us  
7 as a business, to run our business and deal  
8 with one individual house in that neighborhood  
9 who calls the police on us 25 times a week.

10 And it is -- I can't do valet  
11 parking, because I have police cars in front  
12 of my establishment. I can't get customers in  
13 because they are there. And there are other  
14 parts of the voluntary agreement that says up  
15 until 10:00 and until 12:00 you can't call.  
16 There is a noise ordinance where there has to  
17 be calls from the individual's dwelling at any  
18 one time.

19 This has been such harassment and  
20 we put in money, we pay our taxes, we employ  
21 50 people in the neighborhood. We do  
22 everything possible we can possibly do and I'm

1       losing \$30,000 a month since I opened up this  
2       business because of what this one development  
3       does, when there are four other neighbors in  
4       their same two blocks work for me.

5                       We don't have issues at H Street  
6       TruOrleans. It is an 80 percent restaurant,  
7       20 percent bar. The average age crowd is 40  
8       years-old. So if we are going to have this  
9       hearing, I want the Board to understand that  
10      we are doing everything that the District of  
11      Columbia wants us to do as an establishment  
12      and a restaurant within a neighborhood.

13                      And this is actual, actual  
14      harassment --

15                      CHAIRPERSON MILLER: Okay.

16                      MR. REDDING: -- of no other.

17                      CHAIRPERSON MILLER: Okay.

18                      MR. REDDING: That's all I want to  
19      say.

20                      CHAIRPERSON MILLER: I was just  
21      going to say if you do go to hearing, that is  
22      when you would be able to really go into that.

1 MR. REDDING: They were allowed to  
2 speak, so --

3 CHAIRPERSON MILLER: No, sorry,  
4 you know.

5 MR. REDDING: -- I wanted to make  
6 one comment and that's it.

7 CHAIRPERSON MILLER: All right.

8 MR. REDDING: Thank you.

9 CHAIRPERSON MILLER: Thank you  
10 all.

11 MEMBER ALBERTI: Sir, you're going  
12 to have some things --

13 CHAIRPERSON MILLER: The order.

14 MR. REDDING: Okay.

15 CHAIRPERSON MILLER: Yes.

16 MR. REDDING: Fine.

17 (Whereupon, the Show Cause  
18 (Status) Hearing in the above-entitled matter  
19 was concluded at 10:19 a.m.)

20  
21  
22

|   |   |  |  |  |
|---|---|--|--|--|
| <b>A</b>  | <b>best</b> 10:1<br><b>Beverage</b> 1:2,14,15<br><b>beyond</b> 11:19<br><b>Block</b> 3:19<br><b>blocks</b> 3:21 18:4<br><b>Board</b> 1:2,15 2:11<br>2:13 5:5 6:12<br>7:15,20 11:2,5<br>12:12 13:11 16:4<br>18:9<br><b>briefly</b> 10:21<br><b>bring</b> 5:22<br><b>Brooks</b> 1:21 16:11<br>16:12<br><b>Building</b> 1:15<br><b>business</b> 17:7,7<br>18:2   | <b>circumstances</b> 2:17<br><b>Claire</b> 3:18 9:11<br><b>clarify</b> 9:13 13:9<br><b>clarifying</b> 9:6<br><b>clear</b> 8:17<br><b>Columbia</b> 1:1 2:10<br>18:11<br><b>come</b> 2:8 3:13 9:8<br>17:3<br><b>comment</b> 16:20<br>17:5 19:6<br><b>comments</b> 17:4<br><b>complainants</b> 6:9<br><b>complaint</b> 3:22<br><b>complaints</b> 4:22<br>5:1 9:21<br><b>compromise</b> 15:14<br>16:7,18<br><b>concerned</b> 7:2<br>12:21<br><b>concluded</b> 19:19<br><b>conference</b> 2:19<br><b>Control</b> 1:2,14,15<br><b>correct</b> 5:11<br><b>cost</b> 11:20<br><b>counsel</b> 4:12,16,18<br>5:3,4 6:15,20 9:22<br><b>CR</b> 1:8<br><b>crowd</b> 18:7<br><b>customers</b> 17:12 | <b>different</b> 10:2<br><b>difficult</b> 8:1<br><b>disciplinary</b> 11:22<br><b>discussed</b> 5:18<br><b>discussing</b> 10:5<br>14:17<br><b>District</b> 1:1 2:10<br>18:10<br><b>doing</b> 18:10<br><b>DONALD</b> 1:21<br><b>dwelling</b> 17:17<br><b>D.C</b> 1:16  | <b>General</b> 10:7<br><b>getting</b> 10:15<br><b>given</b> 12:15<br><b>giving</b> 11:19<br><b>go</b> 11:18 13:2 14:12<br>18:21,22<br><b>goal</b> 11:7<br><b>going</b> 2:22 5:5,8<br>10:9 13:17,22<br>14:4 15:2 18:8,21<br>19:11<br><b>Government</b> 6:2<br><b>Government's</b> 5:15<br><b>guarantee</b> 11:7 |
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