

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

District Falafel 1, LLC
t/a Amsterdam Falafelshop Protest
1830 14th Street, NW Hearing
Retailer DR - ANC-2B (Status)
License No. 93449
Case #14-PRO-00009
(New Application)

March 26, 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

(9:37 a.m.)

CHAIRPERSON MILLER: Good morning, ladies and gentlemen. I would like to welcome you to the regularly scheduled meeting of the District of Columbia Alcoholic Beverage Control Board. Today is March 26, 2014.

My name is Ruthanne Miller. I'm the Chairperson. Joining me to my far right is Mr. Donald Brooks. Mr. Nick Alberti will be joining us shortly. To my immediate right is Mr. Hector Rodriguez.

Begin again?

COURT REPORTER: Yes.

CHAIRPERSON MILLER: I'm sorry. Okay. Are you ready?

COURT REPORTER: Yes.

CHAIRPERSON MILLER: All right. Good morning, everyone. Welcome to the regularly scheduled meeting of the District of Columbia Alcoholic Beverage Control Board. Today is March 26, 2014.

1 My name is Ruthanne Miller. I'm
2 the Chairperson. Joining me today to my far
3 right is Mr. Donald Brooks. Going to be
4 joining us is Mr. Nick Alberti and to my
5 immediate right is Mr. Hector Rodriguez. To
6 my immediate left is Mr. Mike Silverstein and
7 next to Mr. Silverstein is Mr. James Short.

8 The Board has six Members in
9 attendance this morning and three constitute
10 a quorum.

11 Copies of today's hearing calendar
12 and agenda are available at the receptionist
13 desk. Please be aware that these proceedings
14 are being recorded by a court reporter. If
15 you have any electronic devices such as cell
16 phones, pagers or such, please, make certain
17 they are turned off so as not to interfere
18 with the proceedings.

19 When I call your name, please,
20 come forward and take a seat at the table.
21 You will note that there is a piece of paper
22 on each table, that's for you to sign-in and

1 it's to ensure the correct spelling of your
2 name for the record.

3 The Open Meetings Act requires
4 that the public hearing on each case be open
5 to the public. The Board may, consistent with
6 Section 405(b) of the Open Meetings Act, enter
7 a closed meeting during or after the public
8 hearing on a case to consult with an attorney
9 to obtain legal advice, discuss settlement
10 agreements or deliberate upon a decision in an
11 adjudication proceeding.

12 So that concludes my introductory
13 remarks. I will now turn to today's calendar.

14 MR. NIXON: All right. Ma'am, my
15 name is James Nixon.

16 CHAIRPERSON MILLER: Excuse me.

17 MR. NIXON: I, with my neighbors,
18 we live in an apartment surrounding NY NY Diva
19 Nightclub at 2406-2408 18th Street.

20 CHAIRPERSON MILLER: Sir?

21 MR. NIXON: We are here today
22 because we -- I have worked through ABRA. Mr.

1 Moosally, his investigators and there are no
2 case -- well, there is one case on file out of
3 dozens of complaints that we have made. The
4 conditions there are deplorable and dangerous.
5 And we are here demanding to get some sort of
6 address to our grievances.

7 CHAIRPERSON MILLER: Okay. I hear
8 you and could you take a seat? We have an
9 order of the cases that we are calling and
10 that's out of order, number one.

11 MR. NIXON: Yes, ma'am.

12 CHAIRPERSON MILLER: So --

13 MR. NIXON: You will hear us when
14 the case is called?

15 CHAIRPERSON MILLER: I will
16 address your concerns when I get to your case.

17 MR. NIXON: Thank you.

18 CHAIRPERSON MILLER: Okay. The
19 first case on our calendar is Amsterdam
20 Falafelshop located at 1830 14th Street, N.W.
21 It's Case No. 14-PRO-00009. This is a Protest
22 case status for a new application. Good

1 morning.

2 MR. FERRIS: Good morning.

3 CHAIRPERSON MILLER: When you are
4 ready, you can introduce yourselves for the
5 record starting with the applicant.

6 MR. MOLLOY: Okay. Good morning,
7 Board Members. Brian Molloy on behalf of the
8 applicant.

9 CHAIRPERSON MILLER: Good morning.

10 MR. CHERRY: Dean Cherry, owner of
11 Amsterdam Falafelshop.

12 CHAIRPERSON MILLER: Okay.

13 MR. FERRIS: Elwyn Ferris
14 representing Shaw Dupont Citizens Alliance.

15 CHAIRPERSON MILLER: Okay. Are
16 there any preliminary issues you need to bring
17 to my attention? Otherwise, I'll be setting
18 a date for the hearing and reading the
19 instructions for that hearing.

20 MR. MOLLOY: No preliminary
21 issues.

22 CHAIRPERSON MILLER: Okay.

1 MR. FERRIS: I think I might just
2 offer to the Board some guidance here. We
3 have submitted a -- we just last night
4 submitted a voluntary agreement that actually
5 is all of the terms and conditions that the
6 applicant asked for.

7 And my understanding is that he is
8 reluctant to sign that.

9 CHAIRPERSON MILLER: Okay.

10 MR. MOLLOY: Well --

11 CHAIRPERSON MILLER: I'm going to
12 stop you right there really, I think, because
13 we don't get into hearing about negotiations,
14 if that's where you are going.

15 MR. FERRIS: Well, I was asking if
16 there was another procedure available to us
17 outside of a protest. For instance, could
18 another mediation session be ordered?

19 MR. CHERRY: There's really no
20 reason for that. They have asked me to sign
21 a voluntary agreement. I'm not willing to
22 sign the voluntary agreement.

1 CHAIRPERSON MILLER: Okay.

2 MR. CHERRY: I have agreed to do
3 so --

4 CHAIRPERSON MILLER: I think we
5 don't really want to get into this territory.

6 MR. MOLLOY: At this time, at
7 least.

8 CHAIRPERSON MILLER: You know, I
9 don't think the Board is going to order any
10 other mediation. Whatever you all want to do
11 on your own voluntarily, you can do. But we
12 don't get involved any more than we have the
13 Roll Call and the mediator.

14 So I'm going to set your hearing
15 date, in the event that you don't work it out
16 beforehand. Your Protest Hearing date is
17 April 9, 2014 at 1:30 p.m.

18 And I want to bring to your
19 attention, though I know that you all are
20 probably familiar the proceedings, but a week
21 ahead of the Protest Hearing, you need to
22 submit a Protest Information Form that you

1 should have gotten in the mail. If you don't
2 have that, you should see Tesha Anderson.

3 You should have a copy of a
4 Protest Information Form and a copy of an
5 Exhibit Form, which you will need to file
6 seven days before the hearing with the Board
7 and all the parties in the case.

8 If we do not have a copy of your
9 Protest Information Form, sometimes known as
10 a PIF, your application or your protest may be
11 subject to dismissal. Likewise, if we don't
12 receive a copy of the Exhibit Form and the
13 exhibits themselves, your exhibits may be
14 excluded from the record upon a finding that
15 the opposing party has been prejudiced or no
16 good cause for the failure to submit has been
17 shown.

18 Likewise, on the PIF it asks you
19 to identify witnesses. And if you don't
20 identify a witness, other than a party, that
21 witness may also be subject to exclusion.

22 So the Protest Information Form

1 and Exhibit Form are very important to the
2 hearing and actually they greatly assist
3 keeping the case on focus and focused on the
4 issues that really are at issue.

5 So pay attention to those
6 deadlines. We don't like to dismiss on a
7 technicality, but those are important rules
8 for fairness to all parties.

9 Okay. So that concludes my
10 instructions. If there are no other
11 questions, good luck and if you don't work it
12 out, we'll see you in April, I believe I said.
13 Yes, April 9th.

14 MR. MOLLOY: Okay. Thank you.

15 MR. FERRIS: Thank you.

16 CHAIRPERSON MILLER: Okay. Thank
17 you.

18 (Whereupon, the Protest (Status)
19 Hearing in the above-entitled matter was
20 concluded at 9:45 a.m.)

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