

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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ROLL CALL HEARING

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IN THE MATTER OF:

Terminal Alley LLC
t/a Terminal Alley
3701 Benning Road NE
(2nd Floor)
License #ABRA-93986
Retailer CT
New Application
Case #14-PRO-00027

April 14, 2014

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The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street N.W., Washington, D.C., Ms. La Verne Fletcher, Agent, presiding.

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

(10:36 a.m.)

MS. FLETCHER: Would the parties in the matter of Terminal Alley please come forward. The parties in the matter Terminal Alley. This is case number 14-PRO-00027. Terminal Alley. No. Thank you, I'll start over. Thank you.

MS. HIRAO: Good morning, Ms. Fletcher.

MS. FLETCHER: Good morning. This is case number 14-PRO-00027, Terminal Alley, LLC t/a Terminal Alley, 3701 Benning Road, NE. It's on the second floor. The license number is ABRA-93986. This is a retailer CT New Application.

The protest issues are adverse impact on peace, order and quiet, residential parking and vehicular and pedestrian safety and real property values.

My name is Laverne Fletcher and I'm conducting the Roll Call Hearing as the

1 Board's agent, pursuant to DC Official Code
2 1601.2. Introductions beginning with the
3 applicant.

4 MS. HIRAO: Risa Hirao with the
5 Law Firm of Pascal & Weiss, attorney for the
6 applicant, and to my left are the members of
7 the LLC. I'd like to introduce them.

8 MR. CLEMENTS: Ted Clements.

9 MS. FLETCHER: Mr. excuse me,
10 one second. Mr. Clements, would you spell
11 your name for the record, please.

12 MR. CLEMENTS: C-L-E-M-E-N-T-S.

13 MS. FLETCHER: Thank you very
14 much.

15 MR. LLOYD: Peter Lloyd.

16 MS. FLETCHER: And how do you
17 spell the last name?

18 MR. LLOYD: L-L-O-Y-D.

19 MS. FLETCHER: Thank you. Ms.
20 Hirao, would you spell your name for the
21 record, please.

22 MS. HIRAO: My last name is H-I-R-

1 A-O.

2 MS. FLETCHER: And the first name?

3 MS. HIRAO: The first name is R-I-
4 S, as in Sam, A.

5 MS. FLETCHER: Thank you. And
6 Pascal & Weiss?

7 MS. HIRAO: Yes.

8 MS. FLETCHER: That's P-A-S-C-A-L?

9 MS. HIRAO: Ampersand W-E-I-S, as
10 in Sam, S, as in Sam.

11 MS. FLETCHER: Thank you. And on
12 behalf of Celia Properties Limited
13 Partnership.

14 MS. FARMER: Hi, Jessica Farmer
15 with Holland & Knight and we're representing
16 Celia Partnership and to my right is David
17 Burka, the agent for Celia Properties.

18 MS. FLETCHER: Okay, thank you.
19 And Mr. Burka, how do you spell your last
20 name?

21 MR. BURKA: B U-R-K-A.

22 MS. FLETCHER: Thank you. And Ms.

1 Farmer, did you say on behalf of Holland &
2 Knight?

3 MS. FARMER: Yes.

4 MS. FLETCHER: Could you spell
5 that for the record, please?

6 MS. FARMER: Sure, H-O-L-L-A-N-D
7 ampersand K-N-I-G-H-T.

8 MS. FLETCHER: Thank you very
9 much. The Celia Properties Limited
10 Partnership filed a protest as an abutting
11 property owner and it was determined that
12 Celia Properties Limited Partnership is an
13 abutting property owner.

14 You own the real property located
15 at 3924 through 3962 Minnesota Avenue, NE.
16 Does the applicant have any opposition to that
17 finding?

18 MS. HIRAO: Yes, I do, Ms.
19 Fletcher. As noted by counsel's appearance,
20 she represented to the Board that she is
21 representing Celia Properties Limited. And
22 the motions that were -- or the protest that

1 was filed was also under that name which is
2 Celia Properties Limited Partnership.

3 This is a protest letter filed
4 March 28, 2014. It's in the Board's files.
5 We did a property assessment search on OTR and
6 we did not find that Celia Properties Limited
7 Partnership is the owner of the parcel that is
8 in question.

9 And Applicant disputes Celia
10 Properties' status as an abutting owner. I do
11 have a printout of OTR and this is for Square
12 Lot 5044. Lot is 0812 and the owner's name
13 for this parcel is listed as Celia Properties
14 Limited Partnership, Delbe Real Estate.

15 MS. FLETCHER: Yes. Okay.

16 MS. RAI0: So I dispute the Celia
17 Properties standing as a proper protestant in
18 this case.

19 MS. FLETCHER: Yes.

20 MS. HIRAO: If they are not an
21 abutting property owner, and clearly they are
22 not listed in OTR's database, I think that

1 their appearance should be stricken and this
2 matter should be considered not protested.

3 MS. FLETCHER: I have a question
4 for you Ms. Hirao. The information that you
5 received from OTR, was that -- were those maps
6 and measurements? What information exactly
7 did you receive from OTR?

8 MS. HIRAO: We went to the Web
9 site and there is a real estate assessment
10 property database. We entered the Square and
11 Lot number and there is a printout which is on
12 OTR's Web site. I can present those findings
13 to you right now.

14 MS. FLETCHER: What you can do
15 I'm going to hear both sides and then I'll let
16 you know whether or not I need that
17 information that you have. But the
18 information that you received from OTR, it's
19 information. It's not an actual map?

20 MS. HIRAO: It is not a map.

21 MS. FLETCHER: It is not an actual
22 map.

1 MS. HIRAO: However, it is based
2 on the Square Lot number that movant. Well,
3 not movant, Celia Properties provided.

4 MS. FLETCHER: Yes.

5 MS. HIRAO: And based on that
6 representation, we entered the lot and square
7 number and from there on OTR's Web site, the
8 ownership information was disclosed.

9 MS. FLETCHER: And so on the OTR
10 Web site you looked up the property using the
11 Square Lot?

12 MS. HIRAO: Correct.

13 MS. FLETCHER: And so what did you
14 compare in determining that the properties
15 don't abut. Square Lot to Square Lot? And
16 what were you able to determine?

17 MS. HIRAO: Actually, this is
18 information provided by Celia Properties
19 themselves. They're claiming that their
20 property, as an abutting owner, they're the
21 ones that provided this information.

22 MS. FLETCHER: So the information

1 that you're referring to is the --

2 MS. HIRAO: But I confirmed the
3 information they have.

4 MS. FLETCHER: Well, just so that
5 you know, this agency uses the District of
6 Columbia Geographic Information System in
7 determining whether or not properties abut.
8 So I was trying to get some idea of what you
9 used in coming to the conclusion that the
10 properties do not abut.

11 But what I'm going to do, first of
12 all, thank you, and I'm going to allow Celia
13 Properties to respond to that and then I'll
14 respond to your concerns.

15 MS. HIRAO: Thank you very much.

16 MS. FARMER: I would like to just
17 make sure I understand correctly. Is your
18 concern that the property does not abut, or
19 that Celia Properties Limited Partnership is
20 not the owner of the abutting property?

21 MS. HIRAO: Celia Properties is
22 not the owner of the abutting property and

1 also Celia Properties Limited Partnership does
2 not have standing to proceed in this protest.

3 MS. FARMER: Our protest letter
4 represents that it's Celia Properties Limited
5 Partnership, care of Delbe Real Estate.

6 That's what the letterhead says.

7 It's signed by Celia Limited
8 Properties Limited Partnership, as David
9 Burka, as their agent and indicates that the
10 property is located at 3924 through 3962
11 Minnesota Avenue, NE, Washington, DC, Lot 812,
12 Square 5044.

13 My understanding of what the
14 applicant just said is that the land record
15 actually does say Celia Properties Limited
16 Partnership, but also includes the Delbe Real
17 Estate and that's exactly what's on our
18 protest form, so I guess there's some
19 confusion on behalf of the protestant as to
20 where the dispute is in ownership of the
21 property.

22 And I can, you know, maybe, I

1 don't know if you have anything further to add
2 in terms of ownership of the property, but the
3 name is under Celia Properties Limited
4 Partnership.

5 MR. BURKA: I concur with that,
6 Miss.

7 MS. FLETCHER: Okay. Thank you,
8 Mr. Burka. The --

9 MS. HIRAO: May I respond to that?

10 MS. FLETCHER: Yes.

11 MS. HIRAO: As far as an entity name,
12 or ownership name, it has to be exact, or else
13 the public does not have notice. So if
14 there's, the OTR record says, Celia Properties
15 Limited Partnership, Delbe -- hold on, Delbe
16 Real Estate, that is a unique name.

17 And the public is on notice when
18 they access the OTR Web site to figure out who
19 is the true owner. I think that it's a far
20 stretch to -- for Celia Properties to say,
21 oh, no, this name even though it's distinct
22 from us, we're the same.

1 They haven't showed any proof it
2 and also when I show you this document, it
3 doesn't say, you know, that Delbe Properties
4 is considered an agent. The field here says
5 ownership of the property.

6 It's plain and simple. So what
7 we're here for today is who is the owner of
8 the abutting property. Celia Properties is
9 claiming they are the sole owner. I'm looking
10 at the records from the District of Columbia,
11 it says something quite different.

12 MS. FLETCHER: Ms. Farmer?

13 MS. FARMER: I would just a quick
14 chance to respond to that. You're looking at
15 what was provided by an online database, not
16 the actual land records.

17 And I think that if we're going to
18 have this come out, then maybe we need to have
19 deeds and have this come out at a later
20 hearing where people can actually show the
21 ownership, show the documentation, show the
22 plat, show exactly who's owning this property

1 because I don't think putting a name into a
2 database and getting a printout is going to be
3 sufficient at this point to show that they're
4 not the abutting landowner.

5 MS. HIRAO: Ms. Fletcher --

6 MS. FLETCHER: Yes.

7 MS. HIRAO: -- If I can also
8 respond to this.

9 MS. FLETCHER: Yes.

10 MS. HIRAO: The protestant has the
11 responsibility to show that they are the true
12 owner. Just by preparing a letter on a mere
13 letterhead with Celia Properties Limited and
14 saying, I am the abutting owner, it's not --

15 Here we have a Web site from the
16 District of Columbia and we're entering data
17 provided by Celia Properties. It shows the
18 ownership is completely different. If you
19 want to put weight on which carries more
20 weight and maybe credibility, I would put more
21 credibility on the Web site rather than a
22 letter which is not under oath.

1 MS. FLETCHER: Yes.

2 MS. HIRAO: It's just signed.

3 It's not under oath. Here it's from the
4 District of Columbia, and based on the OTR's
5 database.

6 MS. FLETCHER: For the purpose of
7 the Roll Call Hearing, I'm going to grant
8 standing to Celia Properties Limited
9 Partnership. And Ms. Hirao, you, as you know,
10 have the option to seek reconsideration of
11 that decision from the ABC Board. Just let me
12 state a couple of things for the record.

13 When a protest is filed, a
14 protestant, at that stage, is not required to
15 provide us proof of ownership. The protest
16 was filed. It was filed timely. A
17 measurement was taken using the District of
18 Columbia Geographic Information System, and
19 that measurement is taken by me on behalf of
20 the ABC Board.

21 I generated a map of the property
22 at 3924 and 3962. And in the map I was able

1 to see that, that property appeared to abut
2 the property at 3701 Benning Road, NE.

3 I'm just stating that for this for
4 the record, so just, if you want to petition
5 the Board for reconsideration, this
6 information will be on the record for the
7 Board's review.

8 And so any information that you
9 want to submit to the Board for consideration
10 related to, I should say challenging the
11 ownership or the measurement that I have
12 taken, please feel free to do that. And the
13 Board will review the document that you have
14 there, which you can submit if you're going to
15 petition the board to reconsider my
16 determination.

17 You can submit that document and
18 they will use the measurement that I provided,
19 that I generated for, on behalf, for the Board
20 in this matter. And so they will review any
21 documentation that you submit and any
22 documentation that's in the record.

1 And a copy of the map that I
2 generated is in the record. They'll review
3 both and they will, if they agree with you,
4 then they will not grant standing to Celia
5 Properties Limited Partnership.

6 They'll overturn my decision
7 today, but for the purpose of Roll Call, I'm
8 granting standing to Celia Properties Limited
9 Partnership today.

10 MS. HIRAO: Ms. Fletcher?

11 MS. FLETCHER: Yes.

12 MS. HIRAO: May I receive
13 clarification on how the Board has determined
14 the property ownership of the parcel in
15 question?

16 MS. FLETCHER: That is not a
17 process that we go through at the point of
18 Roll Call. If there's a challenge to
19 ownership of a property, it's done at a later
20 stage. So you may provide information to the
21 Board beyond today at any point that you
22 choose to challenge the ownership of the

1 protestant.

2 But at Roll Call, that's not a
3 requirement. If it's challenged, then you get
4 to challenge it via the ABC Board in writing.
5 And any writing that you submit will be
6 reviewed by the ABC Board, and they'll make a
7 determination based on whatever information
8 you provide.

9 MS. HIRAO: Very good, thank you.

10 MS. FLETCHER: You're welcome. So
11 what we need to do is to set some dates. We
12 need to set a date for mediation, a status
13 hearing and a protest hearing.

14 And, of course, if the Board makes
15 a decision to overturn the decision that was
16 made today, none of these dates will be
17 relevant. But we're going assume today that
18 we're moving forward with Celia as a
19 protestant.

20 I'll give you the date for the
21 status and protest hearings first. The date
22 for the status hearing is scheduled for May

1 14th at 9:30 a.m.

2 The date for the protest hearing
3 is set for June 4, 2014 at 1:30 p.m. We need
4 to set a date for mediation to occur prior to
5 May 14.

6 MS. FARMER: Ms. Fletcher, does
7 the Board have time available on the 5th? I
8 propose the 5th for mediation if that's
9 acceptable to counsel.

10 MS. FLETCHER: Well, I'm the
11 Board's mediator and so we'll set the date for
12 whatever date is good for all parties.

13 MS. FARMER: All right.

14 MS. FLETCHER: So I'll just
15 provide you with some dates. But the date
16 that you mentioned that you're available on is
17 May 5th?

18 MS. FARMER: Yes.

19 MS. FLETCHER: I'll give you some
20 dates that, I'll see if there's any dates
21 available before that.

22 MS. FARMER: Okay.

1 MS. FLETCHER: And we'll go from
2 there. The first available date is actually,
3 we could do it on May 5th, but it would need
4 to be at 2 o'clock in the afternoon. Beyond
5 that we have dates available where you can
6 come at 9:00, 10:00, 11:00 or 2:00. So if you
7 prefer morning then we need to keep moving.

8 MS. HIRAO: The 5th is fine for
9 us.

10 MS. FLETCHER: 2:00 is good?

11 MS. HIRAO: Yes.

12 MS. FLETCHER: So then we'll set
13 mediation for 2 o'clock, is that good?

14 MS. FARMER: Thank you very much.

15 MS. FLETCHER: You're welcome. I
16 set it for 2 o'clock on May 5th. And as you
17 know, the Board meets on Wednesdays. And so
18 that gives you time, if you want to challenge
19 the decision that was made today, to get that
20 on the Board's agenda before --

21 MS. HIRAO: Sure.

22 MS. FLETCHER: -- the mediation.

1 The Board will meet three times before the
2 protest hearing -- I mean before the
3 mediation. And, Ms. Farmer, your contact
4 information is on that sheet?

5 MS. FARMER: Yes.

6 MS. FLETCHER: Mr. Burka, I have
7 your letter in the file, so I have your
8 address. Am I going to be contacting you, Ms.
9 Farmer, by email?

10 MS. FARMER: Yes, you can contact
11 me, but his information is also on the sheet.

12 MS. FLETCHER: Okay, perfect.
13 Thank you. Okay, any questions at all? Okay,
14 the Roll Call Hearing is concluded. Thank
15 you.

16 MS. FARMER: Thank you very much.

17 (Whereupon, the hearing in the
18 above-entitled matter was concluded at 10:23
19 a.m.)

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