DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

IN THE MATTER OF:
Bezad Corporation, t/a Lee's Liquor
2329 Pennsylvania Ave, SE:
License #95751
Retailer B - ANC 7B
Case #21-PRO-00014

(Application to Transfer
License to New Location):

Thursday
April 22, 2021

The Alcoholic Beverage Control Board
met via WebEx videoconference, Chairperson Donovan W. Anderson presiding.

PRESENT:
DONOVAN W. ANDERSON, Chairperson
RAFI ALIYA CROCKETT, Member
EDWARD S. GRANDIS, Member
JENI HANSEN, Member
JAMES SHORT, JR., Member

ALSO PRESENT:

SIMONE ANDREWS, DC ABRA Staff
TIFFANY BROWN, ANC 7B
KYUNGHWAN "KEVIN" LEE, Licensee's Counsel
CHAIRPERSON ANDERSON: Good morning, everyone. As chairperson of the Alcoholic Beverage Control Board for the District of Columbia, in accordance with DC Code Section 2576 of the Open Meetings Act, I am welcoming you to the regular scheduled meeting of the Alcoholic Beverage Control Board.

This meeting is being conducted pursuant to guidance made available by the District of Columbia's Office of Open Government regarding electronic meetings held by public bodies during the public health emergency.

Pursuant to this guidance, notice of today's meeting was provided 48 hours in advance of the meeting on ABRA's website and on the District's central meeting calendar. The notice included a time, date, agenda, and call in or login information for public participation.

This electronic meeting is being hosted by a Webex account provided by the District of Columbia government. Please address any questions or complaints to the OOG at opengovoffice@dc.gov.
My name is Donovan Anderson. I'm Chairman of the Board. I would like to introduce the other members of the ABC Board who are also participating electronically pursuant to Mayor's Order 2020-054.

Please respond when I announce your name. Mr. James Short?

MEMBER SHORT: Mr. James Short present.

CHAIRPERSON ANDERSON: Ms. Rafi Crockett?

MEMBER CROCKETT: Rafi Crockett present.

CHAIRPERSON ANDERSON: Ms. Jeni Hansen?

MEMBER HANSEN: Jeni Hansen present.

CHAIRPERSON ANDERSON: Mr. Edward Grandis?

MEMBER GRANDIS: Edward Grandis present.

CHAIRPERSON ANDERSON: The Board has five members in attendance for the conduct of business today, and that constitutes a quorum. Before we get underway with today's hearing calendar, I need to make a few instructions very
clear so that the conduct of these hearings is understood by everyone.

There are two cases on this morning's calendar. Once your case is called, I will take a moment for our IT specialist to elevate the rights for each party to enable their camera and microphone. Then and only then will you have the ability to enable your microphone.

Should you have any questions or require technical assistance during the hearing, please submit them using the question and answer feature or email simone.andrews2@dc.gov.

Our first order of business today is a protest hearing and status, Case Number 21-PRO-00014, Lee's Liquor, License Number 095751.

Ms. Andrews, can you please elevate the rights of the participants in this case, please?

MS. ANDREWS: Sure, stand by. Mr. Lee's has been elevated. Ms. Brown, your rights have been elevated. That's all, Mr. Chair.

CHAIRPERSON ANDERSON: All right. Is Mr. Thompson, is Mr. Thompson on the line? Is he --
MS. ANDREWS: No, sir.

CHAIRPERSON ANDERSON: All right.

Good morning to everyone. What I'm going to ask everyone to do, if you're not speaking, please mute your microphone so that there won't be feedback. So only open your microphone, unmute your microphone if you are speaking, please.

All right, could I have everyone identify themselves for the record starting with the Applicant.

MR. LEE: Good morning, Board members, my name is Kevin Lee, K-E-V-I-N L-E-E. I am attorney for the Lee's Liquor in the matter of protest of Lee's Liquor.

CHAIRPERSON ANDERSON: Mr. Lee, is the licensee going to be here today? Are you expecting him to participate?

MR. LEE: I am attorney on behalf of the licensee. He is not here.

CHAIRPERSON ANDERSON: Thank you.

MR. LEE: Right.

CHAIRPERSON ANDERSON: Ms. Brown?

MS. BROWN: Tiffany Brown, ANC Commissioner 7B02, Chair of ANC 7B, Protestant.

CHAIRPERSON ANDERSON: Good morning.
Oh, by the way, I just want to alert the public that I do, I am aware, I'm sorry, I do know Tiffany Brown, the ANC Commissioner for 7B. I was an ANC commissioner through 2018, I believe. And I served on the ANC as a member with Ms. Brown.

However, I do not believe that my knowledge of her and my knowledge of this ANC, and also this establishment is within the confines of ANC 7B where I live, however, I do not believe that my knowledge of this establishment or my knowledge of Ms. Brown would have any weight in swinging me one way or the other in making a decision. All right, thank you.

It was my understanding -

(Simultaneous speaking.)

CHAIRPERSON ANDERSON: Yes, Mr. Short, yes, sir?

MEMBER SHORT: I too would like to state that I live in or I reside in ANC 7B. And I do know ANC Commissioner. That would have no bearing on my decision making in this process today either. Thank you.

CHAIRPERSON ANDERSON: All right.
Thank you, Mr. Short.

All right. It was my understanding that the transfer was being protested by ANC 8A. And conditional standing was granted to ANC 8A at the roll call hearing. I do not see our commissioner from ANC 8A here today. Does anyone know what's going on? Because I need to make a determination?

MS. BROWN: The commissioner, Brian Thompson, he is out of town at this time for his job.

CHAIRPERSON ANDERSON: Are you, Ms. Brown, are you here representing the ANC, ANC 8A or are you just representing ANC 7B?

MS. BROWN: Just 7B. But you asked if anyone knew. He mentioned, he emailed for our mediation hearing that he would not be able to appear for mediation because of the work obligation.

CHAIRPERSON ANDERSON: I'm sorry, what do you mean he emailed mediation.

MS. BROWN: We had a mediation, we met yesterday. And he indicated in that process by email that he would not be at mediation.

CHAIRPERSON ANDERSON: That he would
not?

    MS. BROWN: Be at mediation. He did not say anything about the status hearing.

    CHAIRPERSON ANDERSON: All right, fine. Mr. Lee, is there a motion that you wish to make?

    MR. LEE: First of all, I would just ask about that, Mr. Thompson from the ANC 8A didn't notify anything to the status hearing to the Board. Does it affect his standing or -

    CHAIRPERSON ANDERSON: I'm sorry, what did you say, Mr. Lee?

    MR. LEE: He didn't notify his absence to the status hearing to the Board. Does it affect his standing for the protest? Because he notify to only mediation session.

    CHAIRPERSON ANDERSON: Mr. Lee?

    MR. LEE: Yes, ha, ha, ha.

    CHAIRPERSON ANDERSON: The question I asked you, sir, is there a motion that you want to raise?

    MR. LEE: I want to.

    CHAIRPERSON ANDERSON: What is the motion to raise, sir?

    MR. LEE: Actually, this Mr. ANC 8A
from the protest, standing –

CHAIRPERSON ANDERSON: Thank you. It is clear to all parties that you are supposed to appear at the status hearing. It was my understanding that conditional standing was provided to ANC 8A at the roll call hearing.

Initially, Counsel, it's my understanding Counsel had objected to standing being granted to ANC 8A. However, pursuant to 25601(a)4, an affected ANC is afforded standing in a protest hearing. And so the determination, at least at the roll call hearing, was that ANC 8A could have participated in this protest, pursuant to 25601(a)4, as an affected ANC.

The ANC 8A has not informed the Board that they would be unable to participate at this hearing today. So therefore, I will make a motion, a motion was made by the Applicant to dismiss ANC 8A. And so therefore I will then make a motion to the Board for the Board to approve the motion and dismiss ANC 8A. Is there a second?

MEMBER GRANDIS: Ed Grandis.

CHAIRPERSON ANDERSON: Mr. Grandis has seconded the motion. I will now take a roll call
vote on the motion that's been properly seconded
by Mr. Grandis.

Mr. Short?

MEMBER SHORT: Mr. Short, I agree.

CHAIRPERSON ANDERSON: Ms. Crockett?

MEMBER CROCKETT: Rafi Crockett, I agree.

CHAIRPERSON ANDERSON: Ms. Hansen?

MEMBER HANSEN: Jeni Hansen, I agree.

CHAIRPERSON ANDERSON: Mr. Grandis?

MEMBER GRANDIS: Edward Grandis agrees.

CHAIRPERSON ANDERSON: And Mr. Anderson, I agree. The matter passed five, zero, zero. The Board has therefore dismissed ANC 8A from the protest.

By operation of law ANC 8A has ten days, once the decision is issued, they have ten days to give good notice or cause to the Board why they were not available to attend this hearing today. And if they were not available to attend this hearing today, why did they not ask someone to represent their interest today.

All right. Are there any other preliminary issues that need to be brought to the
attention of the Board?

MR. LEE: I just really -

CHAIRPERSON ANDERSON: Yes, Mr. --

MR. LEE: Can I, yes. I just report
to the Board, yesterday we met at the mediation
with the ANC 7B. And we decided to continue the
negotiation for the settlement agreement with ANC
7B.

CHAIRPERSON ANDERSON: All right,
thank you. Any preliminary issues, Ms. Brown?

MS. BROWN: I was going to also add it
appears that the Applicant has about three
different settlement agreements. And so we were
going to look to have a joint one with 8A and 7B,
and have the other one to be cancelled,
superseded, the new agreement be superseded. But
if 8A no longer has standing, then I'm not sure
how that goes, if they no longer have standing
about entering into a settlement agreement

CHAIRPERSON ANDERSON: Well, 8A no
longer has standing to participate in the protest
matter. Whatever is done as far as a settlement
agreement, that's between the parties. The Board
is not involved in those procedures. But I'm

just saying all that was done today was that they
did not have standing to participate in this protest proceeding.

However, as I've stated, once the Board order is issued, they will be given ten days to respond, why is it that they should not be dismissed for their lack of appearance today. But the Board takes no role in whatever negotiation that occurs between the parties or whoever it is that the parties decide to include or not include in a settlement agreement. So I just want that to be clear.

All right. This matter, if there are no other preliminary matters, then this matter will be scheduled for a protest hearing on June 10th at 1:30 p.m., so June 10th, at 1:30 p.m.

All right. Now that we have scheduled this matter for a protest hearing, there are a few things that I would like to instruct you about. Because the Board's practices under the COVID-19 restrictions have changed.

As you know, the Board's hearings are conducted virtually. So it is more important than ever that the protest hearings are focused and address only those issues that have been protested.
Following this hearing, you will be receiving an email from AGC April Randall that will include a copy of a Protest Information Form, PIF, and a copy of an exhibit form, as well as specific instructions for the hearing.

You are required to complete and submit the PIF and exhibit form at least seven days before the date of the hearing. If we do not receive a copy of your forms seven days before the hearing, your application or your protest may be subject to dismissal.

These documents need to be submitted to abra.legal.dc.gov and to the opposing parties. Please note that these documents greatly assist the Board in narrowing the protest issues, facilitating the process, and keeping the parties on point during the hearing.

Each side is limited to no more than five witnesses, and you will only have 60 minutes to present your case. This includes all direct and cross examination. The Board does not intend to hear testimony on matters that are not relevant to these issues that are being protested.

Are there any questions by anyone?
MR. LEE: No question, but -

MS. BROWN: No questions.

MR. LEE: Oh, sorry.

CHAIRPERSON ANDERSON: Go ahead.

MR. LEE: For the protest hearing date, it's June 10th, 1:30?

CHAIRPERSON ANDERSON: June 10th at 1:30.

MR. LEE: Thank you.

CHAIRPERSON ANDERSON: Yes. All right. We thank you for your - Yes, Mr. Short?

MEMBER SHORT: Yes, thank you. Just for the record, I'd like to ask Commissioner Tiffany Brown if she could enlighten us on the boundaries between 7B and 8A? Because this is being asked if they move within the same block. And just for the record, I would like anyone who reads the transcript to understand why we have two ANCs involved in this proceeding.

CHAIRPERSON ANDERSON: Well, Mr. Short, it's not, she doesn't have to give the boundary because by operation of law, 25601(a)4 basically is stating an affected ANC. So therefore, if any of the ANCs, the border, the boundary, that boundary is the ANC.
So the establishment doesn't have to be in 8A, because it's affected, because it's right next to 8A. So that's why, in this particular case, ANC 8A would have standing. Because it's under the law, it's what's considered an affected ANC.

MEMBER SHORT: Mr. Chair, just for the record, what you said is completely correct, and I do understand the statute. I would like actually, if there is a street boundary that separates the two, can that go on the record?

CHAIRPERSON ANDERSON: Ms. Brown, do you know?

MS. BROWN: I believe it's Minnesota Avenue which is right around the corner from where the establishment is.

MEMBER SHORT: Thank you, that's what I wanted on the record, sir. Thank you. Thank you, Ms. Tiffany Brown.

MR. LEE: Mr. Chair?

CHAIRPERSON ANDERSON: Yes?

MR. LEE: I will add that at the local hearing, I've just raised a standing issue about the ANC 8A. But after that I found that there is a previous, there was a previous boundary limit
with the ANC 8A, so two boundary limits before.

So I thought that is only the Board could discuss
about the standing issue about the ANC 8A.

That's why I didn't write a letter to the Board
to make an issue about it.

CHAIRPERSON ANDERSON: Thank you, Mr. Lee.

(Simultaneous speaking.)

MR. LEE: -- for your report. Yes.

CHAIRPERSON ANDERSON: Well, thank you, Mr. Lee. And so that's why that's stated as
pursuant to 25601(a)4, 8A is an affected, as per the statute, 8A is an affected ANC. And so therefore, although the establishment might not necessarily be within the boundaries of ANC 8A because, as per the statute, it's an affected ANC. And that's all over the city.

If there is an establishment that's in an affected ANC in the sense that, although the establishment, it's not within, that's just if the ANC, if they are an affected ANC as per the statute, then they automatically have standing to protest the renewal or any changes that are being made to the license of an establishment. All right, thank you.
All right. So we thank you greatly for your cooperation. If you have any questions at any time leading up to the hearing, please do not hesitate to contact Assistant General Counsel April Randall at 202-339-6354.

Thank you very much for your participation today. Good luck in your discussions, and I hope I don't see you June 10th at 1:30, but if the Board sees you June 10th at 1:30, we will make a decision.

But as I've always stated before, I prefer that there are settlement agreements, because the community and the establishment could amicably work out their differences, and the Board would not have to make a decision for them. So good luck in your continued negotiations. And have a great day. Thank you.

MR. LEE: Thank you very much. Thanks for your time.

CHAIRPERSON ANDERSON: All right, goodbye.

(Whereupon, the above-entitled matter went off the record at 10:34 a.m.)
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CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Lee's Liquor

Before: DCABRA

Date: 04-22-21

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

[Signature]
Court Reporter