

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

9:36 a.m.

CHAIRPERSON MILLER: Good morning, everyone. I would like to welcome you to the regularly scheduled meeting of the District of Columbia's Alcoholic Beverage Control Board. Today is May 20, 2015.

My name is Ruthanne Miller. I'm the Chairperson. To my far right is Mr. Donald Brooks. Next to Mr. Brooks is Mr. Alberti. Next to Mr. Alberti is Mr. Rodriguez and next to me on my left is Mr. Mike Silverstein and Mr. James Short should be joining us shortly. Three Members are required for a quorum and we will have six shortly.

Copies of today's hearing calendar and agenda are available at the receptionist desk. Please be aware that these proceedings are being recorded by a court reporter. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room.

If you have any electronic devices,

1 pagers, cell phones or such, please, make certain
2 that they are turned off to avoid any
3 interruption of the proceedings.

4 When I call your case, please, come
5 forward and take a seat at one of the tables in
6 the front. You will note that there is a piece
7 of paper on each table for you to sign-in. This
8 is to ensure the correct spelling of your name
9 for the record.

10 The Open Meetings Act requires that
11 the public hearing on each case be open to the
12 public. The Board may, consistent with Section
13 405(b) of the Open Meetings Act, enter a closed
14 meeting during or after the public hearing on a
15 case to consult with an attorney to obtain legal
16 advice, discuss settlement agreements or
17 deliberate upon a decision in an adjudication
18 proceeding.

19 Okay. I will now turn to the cases
20 on the morning calendar. The first case is Case
21 No. 15-PRO-00019, The River Inn/Dish located at
22 924 25th Street, N.W., License No. 1782, in ANC-

1 2A.

2 MR. FONSECA: Good morning, Members of
3 the Board. Michael Fonseca on behalf of the
4 licensee. With me is the General Manager, Joe
5 Giannino. My last name is spelled F-O-N-S-E-C-A.

6 MR. GIANNINO: Last name is G-I-A-N-N-
7 I-N-O.

8 MR. FONSECA: And Conrad Cafritz, C-A-
9 F-R-I-T-Z, should be here momentarily. He is the
10 owner or the president of Alamac, Inc.

11 CHAIRPERSON MILLER: Okay. Is anybody
12 here from ANC-2A?

13 MR. FONSECA: I'm quite surprised,
14 too. We had a mediation on -- I'll just let the
15 Board know we are -- and perhaps they will walk
16 in. We had to reschedule mediation and we had it
17 on Monday and it was fruitful and moved forward,
18 both Patrick Kennedy, the chair of ANC-2A, and
19 John Williams, the Single-Member District
20 Commissioner, attended. We thought one or both
21 would be here today.

22 CHAIRPERSON MILLER: Right.

1 MR. FONSECA: And we have circulated
2 a second draft in the settlement agreement and we
3 are optimistic, but we are not at that point just
4 yet.

5 CHAIRPERSON MILLER: Okay. Okay. All
6 right. It's often the practice of this Board to
7 dismiss a protest if the protestants don't
8 appear, but given your positive report, plus the
9 fact that you are number one on the calendar, we
10 will often give them a chance to appear.

11 MR. FONSECA: In fairness, I have
12 another matter if you want to push this back?

13 CHAIRPERSON MILLER: You do? Good.
14 Okay. So why don't we, we will continue this and
15 we will see if they appear. Also, Mr. Cafritz
16 isn't here right now. Okay.

17 MR. FONSECA: Thank you.

18 CHAIRPERSON MILLER: Thank you very
19 much.

20 MR. FONSECA: Actually, if we could,
21 Mr. Cafritz is here --

22 CHAIRPERSON MILLER: Oh, he is.

1 MR. FONSECA: -- put that on the
2 record.

3 CHAIRPERSON MILLER: Okay. Good. All
4 right. Thank you. Well, why don't we still
5 continue and see if the ANC appears. Please, let
6 us know.

7 MEMBER SILVERSTEIN: Good morning, Mr.
8 Cafritz.

9 MR. CAFRITZ: Excuse me, I'm Conrad
10 Cafritz.

11 CHAIRPERSON MILLER: Good morning.

12 MR. CAFRITZ: I shouldn't say excuse
13 me, because I am Conrad Cafritz.

14 CHAIRPERSON MILLER: Good morning, Mr.
15 Cafritz.

16 MR. CAFRITZ: Good morning. How are
17 you?

18 CHAIRPERSON MILLER: Okay. How are
19 you?

20 MR. CAFRITZ: I apologize for being
21 three minutes late.

22 CHAIRPERSON MILLER: So well, you are

1 not the latest and we are hoping --

2 MR. CAFRITZ: I actually parked at
3 Yes! Market, so I'm covered with cabbage, but
4 don't worry about it.

5 CHAIRPERSON MILLER: We are hoping the
6 protestants will show. So we are actually going
7 to continue this case and see, for 20 minutes or
8 so, to see if they show.

9 So would you let us know, Mr. Fonseca?

10 MR. FONSECA: Absolutely. And I think
11 Mr. Cafritz may have to leave during that time.

12 CHAIRPERSON MILLER: Oh.

13 MR. FONSECA: Since he made his
14 appearance and I've already had representation on
15 the record as to mediation status.

16 CHAIRPERSON MILLER: Is it --

17 MR. FONSECA: If it has to leave, I
18 know you will understand.

19 CHAIRPERSON MILLER: Absolutely. Do
20 you have anything you want to say?

21 MR. CAFRITZ: No. I think we have
22 reached an agreement with the ANC, I believe, and

1 I think it has been a good process and a positive
2 process. I think we have narrowed the hours and
3 alleviated all their other concerns.

4 CHAIRPERSON MILLER: Okay.

5 MR. CAFRITZ: Okay. And I think the
6 neighborhood is very much for this. We did a map
7 and it was about 90 percent for and people were
8 concerned about noise. We did a noise study and
9 the noise study suggested at 11:00 a.m. with no--
10 with just normal traffic, was no more noise than
11 when we sat 22 employees in the -- on the seats
12 if you are on the street or mostly in the area,
13 not just among them, but just outside and in the
14 neighborhood.

15 So I think they were pleased. You
16 know, they were mollified by that, let's put it
17 that way. Okay? And I think we have come to a
18 very good conclusion. I think we will be a
19 positive effect on Foggy Bottom and -- you know,
20 because that area really doesn't have any
21 sidewalk cafes once you get off Pennsylvania
22 Avenue.

1 So like the rest of D.C., it's going
2 to now join D.C. in terms of creating a kind of
3 exciting street atmosphere that you all preside
4 over and I think without any negative effects.
5 It's shaded, there is really no sound and it's an
6 innocuous situation, but a very positive
7 situation.

8 CHAIRPERSON MILLER: Well, thank you.
9 I just want to say as a personal note, I started
10 out living on that street in 950 25th Street.

11 MR. CAFRITZ: Is that right?

12 CHAIRPERSON MILLER: When I first came
13 to Washington, so I can appreciate the block that
14 you are talking about.

15 MR. CAFRITZ: That's right. And you
16 know actually Dish, the hotel we operate is
17 operated as No. 10 and 11 on TripAdvisor. This
18 is all irrelevant, but Dish is in the top 10
19 percent of Open Table, so it's a nice operation.
20 Okay.

21 CHAIRPERSON MILLER: Great.

22 MR. CAFRITZ: Which all is conducive

1 to a basic agreement. Okay.

2 CHAIRPERSON MILLER: Well, thank you
3 very much. Okay. So why don't we move on to the
4 next case for now. Okay.

5 MR. FONSECA: Thank you very much.

6 MR. CAFRITZ: Have a nice day. Again,
7 I apologize for being covered with cabbage.

8 MEMBER SILVERSTEIN: Thank you, Mr.
9 Cafritz.

10 (Whereupon, the above-entitled matter
11 went off the record at 9:43 a.m. and resumed at
12 9:56 a.m.)

13 MR. FONSECA: And if I may, I see that
14 Chairman Kennedy from the ANC Foggy Bottom has
15 arrived.

16 CHAIRPERSON MILLER: Okay.

17 MR. FONSECA: Can that matter be
18 called again now?

19 CHAIRPERSON MILLER: Sure.
20 Absolutely. I will recall Case No. 15-PRO-00019,
21 The River Inn/Dish.

22 So would the parties introduce

1 themselves for the record, please?

2 MR. FONSECA: Michael Fonseca on
3 behalf of the licensee. Again with me is Joe
4 Giannino, the general manager of the hotel.

5 MR. KENNEDY: Patrick Kennedy,
6 Chairman of ANC-2A, Foggy Bottom/West End.

7 CHAIRPERSON MILLER: Thank you. I
8 have a note that you were stuck in traffic?

9 MR. KENNEDY: I was.

10 CHAIRPERSON MILLER: Okay. Well, that
11 was good that you called, you know, and let us
12 know. Okay.

13 So Mr. Fonseca briefly made a few
14 words about how well the mediation is going, but
15 you are not there yet, but it looks promising.
16 Basically, that's how I understood it. Do you
17 want to --

18 MR. KENNEDY: Sure. I can concur in
19 that judgment. I think we have had productive
20 discussions. We have exchanged a couple of
21 versions of a settlement agreement. I think the
22 complicating factor in this case is a parallel

1 zoning case and so there is a constituency in our
2 neighborhood that is very concerned about the
3 existential impacts of the cafe and that has been
4 a little difficult to work through, but I think
5 with the cooperation and good faith gestures of
6 the applicant, that we have been able to make
7 progress and hopefully we will be able to bring
8 this in for some kind of settlement.

9 CHAIRPERSON MILLER: Is the zoning
10 case going to be resolved prior to the --

11 MR. KENNEDY: I don't believe so.

12 CHAIRPERSON MILLER: -- Protest
13 Hearing? No.

14 MR. KENNEDY: I don't believe so.

15 CHAIRPERSON MILLER: Okay. Okay.

16 MR. KENNEDY: If that went to a trial,
17 it would not be resolved.

18 CHAIRPERSON MILLER: Yes, yes, okay.

19 MR. FONSECA: Now, obviously, we are
20 not waiving or asking for a further continuance--

21 CHAIRPERSON MILLER: Right.

22 MR. FONSECA: -- until there is a

1 resolution there.

2 CHAIRPERSON MILLER: Right. Okay.
3 Okay. So you think you may be able to resolve it
4 despite the other one not being resolved?

5 MR. KENNEDY: Potentially. We have a
6 meeting tonight of our full ANC and we intend to
7 brief the commission at that time. We are
8 seeking a parallel opinion from legal counsel
9 that we will be able to present to our
10 commission, at that time, and we will seek
11 further resident feedback.

12 So I think after the meeting tonight,
13 we will have a good roadmap of where this stands
14 moving forward, but I'm optimistic we will be
15 able to achieve some kind of resolution amicably.

16 CHAIRPERSON MILLER: Great. Okay.
17 Well, just in case, your Protest Hearing date is
18 July 1, 2015 at 4:30 p.m.

19 And I just want to tell you in the
20 event that you do go to trial, I mean, not to
21 trial, to hearing in this case, a Protest Hearing
22 that we have some procedures that I want to bring

1 to your attention.

2 Most importantly a Protest Information
3 Form and an Exhibit Form that need to be filed
4 with the Board and served on opposing parties
5 seven days prior to the hearing. And you are
6 required to submit these forms and also
7 accompanying exhibits with the Exhibit Form that
8 identifies them.

9 And if we don't receive a copy of
10 these documents, your case may be subject to
11 dismissal or exhibits might be excluded from the
12 record upon a finding that the other side has
13 been prejudiced and there wasn't good reason for
14 you to not file them in a timely fashion.

15 These documents really are important.
16 They are not just proforma. We really rely on
17 them. It helps us in narrowing the protest
18 issues and keeping the parties on point during
19 the hearing.

20 So if you have any questions before
21 the protest hearing, you should contact Janea
22 Raines at 442-4353. If you have any questions

1 right now, feel free to ask.

2 MR. KENNEDY: None for me.

3 CHAIRPERSON MILLER: Okay. Well,
4 thank you very much.

5 MR. FONSECA: Thank you very much,
6 Madam Chair.

7 CHAIRPERSON MILLER: All right.

8 (Whereupon, the Protest (Status)
9 Hearing in the above-entitled matter was
10 concluded at 10:01 a.m.)

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405(b) 3:13
442-4353 14:22

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9:36 2:2
9:43 10:11
9:56 10:12
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924 1:7 3:22
950 9:10