

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

IN THE MATTER OF:

Ferrol, Inc.,
t/a Todito Grocery

1813 Columbia Road N.W.
Retailer B
License No. 60011
ANC 1C

Fact
Finding
Hearing

June 3, 2015

The Alcoholic Beverage Control Board
met in Alcoholic Beverage Control Hearing Room,
Reeves Building, 2000 14th Street N.W.,
Washington, D.C., Chairperson Ruthanne Miller
presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
DONALD BROOKS, Member
MICHAEL SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member

ALSO PRESENT:

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

2 10:19 a.m.

3 CHAIR MILLER: All right. Our next
4 case is not until 11:00 so the Board is going to
5 recess now and do some other business. And we'll
6 return at 11:00.

7 (Whereupon, the above-entitled matter
8 went off the record at 10:19 a.m. and resumed at
9 11:03 a.m.)

10 CHAIR MILLER: Okay. The Board is
11 back on the record for a Fact Finding Hearing
12 concerning Todito Grocery located at 1813
13 Columbia Road N.W., License No. 60011.

14 Okay, I understand we have an
15 interpreter here. That correct? Mr. Gonzales is
16 your name?

17 MR. GONZALES: Good morning, ma'am.
18 Julian Gonzales, Spanish interpreter.

19 CHAIR MILLER: Okay. I'm going to
20 just swear you in as an interpreter. We have
21 that.

22 "Do you solemnly affirm that you will

1 faithfully and accurately interpret the
2 proceedings in this matter from Spanish into
3 English, and from English into Spanish to the
4 best of your ability?"

5 MR. GONZALES: I do.

6 CHAIR MILLER: All right, thank you.

7 And who do we have here on behalf of Todito?

8 MS. ROYALA: Blanca Royala.

9 MR. GONZALES: Blanca Royala.

10 CHAIR MILLER: Okay, and she is holder
11 of the license?

12 MS. ROYALA: Si.

13 MR. GONZALES: Yes.

14 CHAIR MILLER: Okay, so this is a Fact
15 Finding Hearing about this license that is being
16 held in Safekeeping. According to my notes since
17 2009.

18 The last time she was before the Board
19 with respect to this license was May 1st, 2014.
20 We were scheduled to have a hearing six months
21 later for check-in with respect to her making
22 plans to use the license or sell it. And that

1 did not occur.

2 But the Board notified her at the Fact
3 Finding Hearing a year ago, that she needed to
4 have the license operational or sold. Or else
5 she was at risk of the Board cancelling the
6 license within a year. And that year was May
7 2015. And it's now June 3rd, 2015.

8 So at this point, this is her
9 opportunity to tell us the status and plans for
10 the license, knowing that the Board may take
11 action to cancel the license.

12 (Foreign language spoken)

13 MR. GONZALES: The plans are that I
14 have brought some addresses but they have not
15 qualified for the license.

16 CHAIR MILLER: Okay. I'm sorry, I
17 need to put one more thing in writing. I mean
18 put one more thing on the record. We did say
19 that 10 days prior to this hearing, that she
20 should submit in writing information about her
21 plans to use or sell the license. And we have
22 not received anything in writing.

1 (Foreign language spoken)

2 MR. GONZALES: Because I have always

3 --

4 MEMBER SILVERSTEIN: Please speak into
5 the microphone and a little louder, sir.

6 MR. GONZALES: I have always come here
7 to ABC.

8 (Foreign language spoken)

9 MR. GONZALES: I have come here but
10 they always told me that the person in charge was
11 not present at the time.

12 (Foreign language spoken)

13 MR. GONZALES: But at the end I spoke
14 to the person that was going to be taking over
15 the license, but the person advised me too late.
16 And when I requested here, they told me that it
17 was too late to make that request.

18 MEMBER SILVERSTEIN: Who?

19 MS. ROYALA: Michael Green.

20 (Foreign language spoken)

21 MR. GONZALES: Michael --

22 MEMBER SILVERSTEIN: Who was the

1 person and who told you?

2 (Foreign language spoken)

3 MR. GONZALES: Two persons, Michael,
4 and the other lady. I don't know her name. But
5 I got her name with me.

6 She just gave me a business card that
7 says, Michael Green, Licensing Specialist.

8 (Foreign language spoken)

9 MR. GONZALES: And the other person's
10 name is Ms. Walker.

11 MEMBER SILVERSTEIN: Did she receive
12 the letter 10 days ago? And if she did, what did
13 she do about it?

14 (Foreign language spoken)

15 MR. GONZALES: I did not receive it 10
16 days ago. I received it five days ago.

17 CHAIR MILLER: What did you receive
18 five days ago?

19 (Foreign language spoken)

20 MR. GONZALES: About five or eight
21 days ago, more or less.

22 CHAIR MILLER: What did she receive

1 five days ago?

2 (Foreign language spoken)

3 MR. GONZALES: I think I have it with
4 me. May the 8th. But I spoke to them in
5 reference. And they still had the other address
6 but they had not given my any results.

7 CHAIR MILLER: Yes, Mr. Short.

8 MEMBER SHORT: Well, the question I
9 wanted to ask is, wasn't it a year ago that you
10 were told you had to do something about the
11 safekeeping of your license within six months?

12 (Foreign language spoken)

13 MR. GONZALES: Yes, that is true. I
14 remember. I wanted to sell this deli, and I was
15 not able to do it because of the economics
16 condition. And that is the reason it's taking me
17 so long. Because I have not been able to do so.

18 MEMBER SHORT: That's all I have,
19 Madam Chair.

20 CHAIR MILLER: Okay. Others? Mr.
21 Brooks.

22 MEMBER BROOKS: Thank you, Madam

1 Chair. Sir, would you ask her how long has the
2 license been in Safekeeping?

3 (Foreign language spoken)

4 MR. GONZALES: I cannot recall
5 exactly.

6 MEMBER BROOKS: You can't recall at
7 all, approximately?

8 (Foreign language spoken)

9 MR. GONZALES: On around seven, eight
10 years.

11 MEMBER BROOKS: Seven, eight years.

12 Thank you, Madam Chair.

13 CHAIR MILLER: All right. Yes, Mr.
14 Rodriguez.

15 (Foreign language spoken)

16 MR. GONZALES: I have the address with
17 me. I can show it to you. I can show you the
18 letter if you're interested in looking at it.

19 CHAIR MILLER: What letter? What is
20 it?

21 MR. GONZALES: May I approach?

22 CHAIR MILLER: Our attorney will get

1 it.

2 (Foreign language spoken)

3 MR. GONZALES: And I would like to be
4 provided more time and I would eventually use it.

5 CHAIR MILLER: Okay. What we had said
6 was, it was a year ago that -- a year was, we
7 thought an adequate, if not long amount of time,
8 after this license having sat since 2009. That
9 six months was at least a start to show us what
10 efforts were to be made to sell it or use it.
11 And no documentation has been submitted in a
12 year.

13 (Foreign language spoken)

14 MR. GONZALES: I have always come to
15 ABC to submit the new addresses. Every time I
16 come, I ask him what happened to the addresses
17 that I can do other things.

18 (Off the record comments)

19 CHAIR MILLER: Okay. So you submitted
20 a letter to us, but --

21 MEMBER SILVERSTEIN: No you didn't,
22 you did not submit a letter to us. There's

1 nothing here. It's not signed, ma'am. We have
2 no idea who this is, or what?

3 (Foreign language spoken)

4 MR. GONZALES: I submitted this about
5 three days ago, and the person that was
6 interested was supposed to sign it. But I
7 couldn't find him because apparently he left the
8 country. His wife told me that he was not
9 available.

10 CHAIR MILLER: Okay, so that's not a
11 real prospect, is that right?

12 So in six months --

13 (Foreign language spoken)

14 MR. GONZALES: Prior to six months
15 ago, I had submitted the other addresses. And I
16 found this letter three days ago.

17 CHAIR MILLER: Okay. I don't believe
18 the Board has seen any addresses.

19 (Foreign language spoken)

20 MR. GONZALES: Because I always come
21 here to ABC, and I have always talking to Mike.

22 (Off the record comments)

1 CHAIR MILLER: Okay. Anything else
2 you want to say?

3 (Foreign language spoken)

4 MR. GONZALES: No. Only if they
5 cannot use it, I would like to use it myself in
6 the future.

7 CHAIR MILLER: Okay. I think she said
8 that probably at the last hearing. And this was
9 the hearing to show concrete plans and to put
10 them in writing ahead of time.

11 (Foreign language spoken)

12 MR. GONZALES: Yes, the problem is
13 because of the addresses that I had submitted and
14 I would ask the gentleman as to what else I could
15 do?

16 What I would like to please, if I
17 could be allowed to have an extension of another
18 six months? Just to see if I can do it.

19 CHAIR MILLER: Mr. Rodriguez.

20 MEMBER RODRIGUEZ: Yes. I can speak
21 Spanish, but I'm going to speak in English for
22 the record and for everyone to understand, since

1 you have a translator.

2 Number 1, this license has been held
3 up for over seven years, I understand from what
4 you just said. Right? Is that correct?

5 (Foreign language spoken)

6 MR. GONZALES: It's correct.

7 MEMBER RODRIGUEZ: So we have that on
8 the record. Okay. Secondly, this Board gave a
9 one year extension so that --

10 MALE PARTICIPANT: Six months.

11 (Off the record comments)

12 MALE PARTICIPANT: Six month extension
13 a year ago.

14 (Off the record comments)

15 MEMBER RODRIGUEZ: Let me clear up
16 with that -- okay, one year extension. And then
17 you came to the Board and then the Board gave you
18 six months extension. No?

19 CHAIR MILLER: No, originally we had
20 a hearing a year ago. And we said, we would have
21 a check-in within six months to see what plans
22 she had, to sell, or use. And that by one year

1 from last year. They have to be in operation.
2 It either has to be sold, or used. And we're at
3 one year.

4 MEMBER SHORT: Okay, Madam Chair.

5 CHAIR MILLER: Wait as a second, he's
6 still going.

7 MEMBER RODRIGUEZ: So the Board wants
8 to know specifically and with written evidence,
9 what actions you have taken to put this license
10 into action?

11 And the Board is looking for evidence
12 that you have in fact approached potential buyers
13 or that you have looked for ways to put this
14 license into action? That's what we're trying to
15 establish here.

16 Up to now, the Board does not see any
17 real evidence of your trying to do this. And
18 that's what we're looking for to see if you can
19 provide us with a record that we can look at that
20 you have tried.

21 Now, Madam Chair, she indicates that
22 she has talked to Michael. If you have talked to

1 Michael here in this Agency, have you? Have you
2 talked to Michael here?

3 (Foreign language spoken)

4 MS. ROYALA: Yes.

5 MEMBER RODRIGUEZ: What documents --
6 written documents -- what evidence have you
7 provided to Michael that we can look at?

8 (Foreign language spoken)

9 MEMBER RODRIGUEZ: Can you speak loud
10 so the whole Board can hear you?

11 MR. GONZALES: I have one of the
12 addresses that I have here that I provided to
13 him. But he didn't tell me what else to do.

14 CHAIR MILLER: Okay. All right. I
15 just want to -- okay, it may not be his
16 responsibility to tell you exactly what to do.
17 But Mr. Silverstein.

18 MEMBER SILVERSTEIN: I want to read
19 from the Board's calendar of May 1st, 2014. I
20 want this on the record and I want your response.

21 (Foreign language spoken)

22 MEMBER SILVERSTEIN: It says in the

1 Board Order, "Within one year from today's
2 hearing", that was a year ago, "the Licensee must
3 be in full operations". Are you in full
4 operations? Is the business open? Are you in
5 full operations?

6 (Foreign language spoken)

7 MEMBER SILVERSTEIN: Yes or no?

8 MR. GONZALES: Si or no? Yes, the
9 problem is because of the economy and I have not
10 been able to sell it.

11 MEMBER SILVERSTEIN: So the answer is,
12 no?

13 (Foreign language spoken)

14 MR. GONZALES: No, What?

15 (Foreign language spoken)

16 MR. GONZALES: I'm just asking her --

17 MEMBER SILVERSTEIN: Es no deface, si
18 o no?

19 MR. GONZALES: Mr. Silverstein, is it
20 si or no?

21 MEMBER RODRIGUEZ: Is the business
22 open?

1 (Foreign language spoken)

2 MR. GONZALES: Si or no?

3 MEMBER SILVERSTEIN: No?

4 MR. GONZALES: No, not yet because I
5 have not been able to.

6 MEMBER SILVERSTEIN: Okay. This is
7 the next part of that sentence, "or the license
8 must have been sold or transferred to a new
9 owner." Must have been. Has it been sold or
10 transferred to a new owner?

11 (Foreign language spoken)

12 MR. GONZALES: No, I have not been
13 able to because every time I have come here, I
14 have been delayed with the addresses.

15 MEMBER SILVERSTEIN: If the Board,
16 this is the final part of this, "If the Board is
17 not satisfied with the Licensee's progress toward
18 these milestones, the Licensee is at risk of
19 having the license cancelled."

20 (Foreign language spoken)

21 MR. GONZALES: I understand but due to
22 the situation I would like to request another

1 extension, please.

2 MEMBER SILVERSTEIN: But it is clear,
3 es claro --

4 MS. ROYALA: Si.

5 MR. GONZALES: Yes.

6 MEMBER SILVERSTEIN: -- that what we
7 said a year ago. And it is clear consequences.
8 And there is a moratorium on these licenses. So
9 they are very much in demand.

10 (Foreign language spoken)

11 MS. ROYALA: Si.

12 MR. GONZALES: Yes.

13 MEMBER SILVERSTEIN: Very well, we
14 understand. Madam Chair, move on.

15 CHAIR MILLER: Mr. Short.

16 MEMBER SHORT: Thank you, Madam Chair.
17 It's been nine years. You've been in business or
18 longer. In nine years, you've had an ABC license
19 that could have been used to gain taxes and
20 revenue for this city.

21 There's a moratorium also in your
22 area, which forbids other people from using

1 licenses that you were holding for nine years.

2 Can you give any good reason why this
3 Board should not cancel your license today?

4 (Foreign language spoken)

5 MR. GONZALES: Because I would like to
6 have six more months extension because of the
7 situation.

8 MEMBER SHORT: Well, since I still
9 have the floor I'm going to ask that the Board,
10 now either go in the back or we make our
11 decision.

12 We've been here now for 26 minutes
13 hearing about nine years, and then last year with
14 the letter that we have in front of us with the
15 information that this Board put down. And if the
16 Board doesn't stand up for it's own writing then,
17 I don't know why we are meeting here today?

18 CHAIR MILLER: I somewhat agree with
19 you. I mean I think the Order was clear and it's
20 been over a year for this individual to make
21 efforts to comply with the Board's order one way
22 or the other.

1 So let her get it into operation and
2 provide documentation of the efforts to do that.
3 And we have no documentation provided whatsoever.
4 So I have no confidence that six months is going
5 to be any different.

6 Yes, I think the 30 days --

7 (Off the record comments)

8 MR. GONZALES: I understand, but I
9 have another address that I will submit and if I
10 cannot do that, I myself will activate the
11 license.

12 CHAIR MILLER: Okay, could I just have
13 a clarification? What she means by "submitting
14 addresses"?

15 (Foreign language spoken)

16 MR. GONZALES: To see if they can
17 qualify so they can use the license there?

18 CHAIR MILLER: Okay. Thank you.

19 Comments?

20 CHAIR MILLER: Okay, I -- Yes, Mr.
21 Rodriguez.

22 MEMBER RODRIGUEZ: My question is, the

1 addresses you have and others you say that you're
2 giving them to Michael of our staff?

3 MEMBER SILVERSTEIN: Does Michael have
4 a last name?

5 CHAIR MILLER: Green.

6 MEMBER SILVERSTEIN: Green, okay.

7 MEMBER RODRIGUEZ: And do you have his
8 last name?

9 MR. GONZALES: Yes. I have his
10 business card.

11 CHAIR MILLER: I think you said, Green
12 earlier. Is that correct?

13 MS. ROYALA: I have it here.

14 MEMBER RODRIGUEZ: Okay. And
15 secondly, my next question is what are the dates
16 that you have submitted this information to
17 Michael?

18 (Foreign language spoken)

19 MR. GONZALES: I cannot recall exactly
20 because I have come here five, six times.

21 MEMBER RODRIGUEZ: Did Michael receive
22 documents from you?

1 MR. GONZALES: I brought him these
2 addresses.

3 MEMBER RODRIGUEZ: On what date?

4 (Foreign language spoken)

5 MR. GONZALES: I also brought them to
6 the other lady that left, her name was -- they
7 say that she -- they say that she quit. And then
8 they provide, they gave me Michael's information.
9 And that happened last year.

10 CHAIR MILLER: Yes, Mr. Short.

11 MEMBER RODRIGUEZ: That's all the
12 questions I had, Madam Chair.

13 MEMBER SHORT: We've been 30 minutes
14 into this hearing, and I've heard nothing new.
15 Are we going to make a decision about this today,
16 or are we going to --

17 CHAIR MILLER: No. I think we should
18 make a decision now. Yes.

19 MEMBER SILVERSTEIN: Madam Chair, do
20 have you a suggestion on how we move forward?

21 CHAIR MILLER: I think because it has
22 been such a long period of time, and we gave her

1 a year basically to do all this. And we've
2 really seen nothing except references to some
3 addresses being submitted to the agency.

4 I would move to cancel within 30 days.
5 And if, in 30 days the license would need to be
6 either sold, or under a contract to be sold, or
7 put into use.

8 MEMBER SHORT: Madam Chair, might I
9 ask?

10 CHAIR MILLER: Yes, go ahead.

11 MEMBER SHORT: What's the difference
12 between that and this last sentence we had, we
13 did a year ago? What's the difference? Are we
14 going to do this time next year, say another 30
15 years, I mean, forgive me, 30 days? When does
16 this nine year period end? Nine years?

17 CHAIR MILLER: I think 30 days is
18 reasonable, but for her to understand the urgency
19 right here and now. But we could cancel it today
20 given this Order. I agree with you. It's just
21 being --

22 MEMBER SILVERSTEIN: Madam Chair,

1 we've been sitting here for minutes.

2 CHAIR MILLER: Well, it's a hearing,
3 yes.

4 MEMBER SILVERSTEIN: I think the
5 question that he asked was a very good one. And
6 I think that you answered that question when you
7 said that we would deem the license cancelled in
8 30 days, unless. And the unless is that there is
9 a signed contract, or pending sale, or that the
10 license is being put into use at that time.

11 (Foreign language spoken)

12 MR. GONZALES: Yes, that's fine.

13 CHAIR MILLER: Okay, is there -- I'm
14 going to move that as a motion that the license
15 be cancelled within 30 days, unless within that
16 time we receive a signed contract of sales, or
17 evidence that it's put into use, convincing
18 evidence.

19 MEMBER SHORT: I second that motion.

20 MEMBER SILVERSTEIN: Well, Madam
21 Chair.

22 CHAIR MILLER: You have an amendment?

1 What?

2 MEMBER SILVERSTEIN: Within 30 days is
3 not a specific date.

4 CHAIR MILLER: Cancel. Amend.

5 MEMBER SILVERSTEIN: Let's say that
6 the license should be cancelled on July 1st.

7 CHAIR MILLER: What day of the week is
8 that, you know?

9 MEMBER SILVERSTEIN: Which is a
10 Wednesday, it's a day that we meet.

11 CHAIR MILLER: That's perfect, all
12 right for that reason. All right.

13 MEMBER BROOKS: I'll second that
14 motion, Madam Chair. That gives an extra couple
15 days as well.

16 CHAIR MILLER: Okay, all right.
17 That's nice and clean. Okay. Any other
18 comments?

19 (Foreign language spoken)

20 CHAIR MILLER: All right then.
21 There's been a motion, that's been seconded that
22 the license will be cancelled July 1st, unless we

1 receive by that time a signed contract or sale.
2 Or clear and convincing evidence that it's been
3 put into use.

4 Okay, all those in favor, say aye.

5 (Multiple ayes)

6 CHAIR MILLER: All those opposed?

7 (No audible response)

8 CHAIR MILLER: All those abstaining?

9 (No audible response)

10 CHAIR MILLER: Motion passes 5-0-0.

11 Okay, are there any questions?

12 MEMBER BROOKS: Madam Chair, I just
13 want to be sure that the Applicant understands
14 exactly what is happening here.

15 MR. GONZALES: Yes, I understand. But
16 I have a question.

17 CHAIR MILLER: Yes.

18 (Foreign language spoken)

19 MR. GONZALES: Who do I need to come
20 and speak to in order for me to submit those
21 addresses, because I would come and submit the
22 addresses and he wouldn't do anything.

1 MEMBER SILVERSTEIN: It's not a matter
2 of addresses.

3 CHAIR MILLER: All right. So you
4 should contact Mr. Gordy. He is the supervisor
5 of the division, Sean Gordy.

6 MR. GONZALES: Can you provide me with
7 his business card please?

8 CHAIR MILLER: You can go to the front
9 desk, after this hearing and they'll give you the
10 information.

11 MS. ROYALA: Okay.

12 CHAIR MILLER: I just want to say.
13 You know the reason the Board is taking this
14 action, is, at least one Board Member may have
15 tried to explain, is you have a valuable license
16 and there's a moratorium on them. And other
17 people would like to put that license to use if
18 you're not going to. And we're depriving them of
19 that opportunity if it sits in safekeeping so
20 long.

21 MEMBER SHORT: Thank you, Madam Chair.

22 MEMBER SILVERSTEIN: Thank you, Madam

1 Chair.

2 (Foreign language spoken)

3 MR. GONZALES: That's why, I know it's
4 important that's why I've been paying for it and
5 maintaining it.

6 CHAIR MILLER: Okay.

7 MR. GONZALES: But the situation is
8 that I have not been able to do so.

9 CHAIR MILLER: What?

10 MR. GONZALES: The situation is that
11 I have not been able to do so.

12 CHAIR MILLER: Okay. So you can go
13 see Mr. Gordy. All right, thank you.

14 (Off the record comments)

15 MS. ROYALA: Thank you.

16 MR. GONZALES: Thank you.

17 (Off the record comments)

18 CHAIR MILLER: All right.

19 (Off the record comments)

20 MEMBER SILVERSTEIN: Okay. They
21 dismissed you.

22 CHAIR MILLER: Okay, yes.

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MR. GONZALES: Much gratias.

CHAIR MILLER: Thank you very much and
good luck to you.

Okay, that concludes our morning
hearings. So the Board will recess until its
1:30 hearing this afternoon.

(Whereupon, the above-entitled matter
went off the record at 11:36 a.m.)

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