

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF: :

:

Jang & Lee, Inc. :

t/a Chesapeake Big Market : Fact Finding

601 Chesapeake Street, SE : Hearing

License No. 91126 :

Retailer A :

ANC 8D :

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June 19, 2013

The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Washington, D.C., Interim Chair Nick Alberti presiding.

PRESENT:

NICK ALBERTI, Interim Chair

DONALD BROOKS, Member

HERMAN JONES, Member

MICHAEL SILVERSTEIN, Member

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

(2:42 p.m.)

1
2
3 CHAIRMAN ALBERTI: The next case
4 I'm going to call is, this is a fact-finding
5 hearing for Jang & Lee, Incorporated, and I
6 probably mispronounced that and I apologize,
7 trading as Chesapeake Big Market, 601
8 Chesapeake Street, Southeast, License Number
9 91126.

10 I see the parties are seated at
11 the table. If you would sign the sign-in
12 sheet, that would be helpful to us.

13 MALE PARTICIPANT: He did already.
14 Thanks.

15 CHAIRMAN ALBERTI: Great, and do
16 we have an interpreter for this?

17 MR. WHONG: Yes, here.

18 CHAIRMAN ALBERTI: Mr. Whong?

19 MR. WHONG: Yes.

20 CHAIRMAN ALBERTI: Okay. Would
21 you introduce yourself for the record, Mr.
22 Whong?

1 MR. WHONG: Korean interpreter Jon
2 Whong.

3 CHAIRMAN ALBERTI: Okay. Mr.
4 Whong, I'm going to swear you in before I
5 continue.

6 MR. WHONG: Yes.

7 CHAIRMAN ALBERTI: Mr. Whong, do
8 you solemnly affirm that you will faithfully
9 and accurately interpret the proceedings in
10 this matter from Korean into English and from
11 English into Korean to the best of your
12 ability?

13 MR. WHONG: Yes I do, Your Honor.

14 CHAIRMAN ALBERTI: Great. Thank
15 you, Mr. Whong.

16 MR. WHONG: Thank you.

17 CHAIRMAN ALBERTI: And seated at
18 the table with you, sir, would you please
19 introduce yourself?

20 MR. JANG: My name is Pyong Hyun
21 Jang. I am Jang and Lee, Incorporation.
22 Trade name is Chesapeake Big Market, President

1 Pyong Hyun Jang.

2 CHAIRMAN ALBERTI: All right,
3 thank you for coming, Mr. Jang. Is it Jang?

4 MR. WHONG: Jang, Jang.

5 CHAIRMAN ALBERTI: Jang.

6 MR. WHONG: Jang.

7 CHAIRMAN ALBERTI: Jang.

8 MR. WHONG: J-A-N-G.

9 CHAIRMAN ALBERTI: Jang.

10 MR. WHONG: Jang.

11 CHAIRMAN ALBERTI: Jang. I'm not
12 sure I'm going to get any closer than that but
13 I'll try and I apologize.

14 Mr. Jang, the reason we brought
15 you here is that ABRA staff appears to have
16 made an administrative error when we issued
17 you a Class A license.

18 Your Class A license was issued to
19 you on April 11th, 2013. Prior to that you
20 had a Class B license with the same license
21 number at this same location.

22 MR. WHONG: Your Honor, he says it

1 was different number.

2 CHAIRMAN ALBERTI: The license
3 number was different?

4 MR. WHONG: Yes, license number
5 was different.

6 CHAIRMAN ALBERTI: Okay, I stand
7 corrected on that. Okay, let me read that
8 into the record. Okay, so previous to this
9 you had a Class B license which was License
10 Number 060677.

11 MR. WHONG: He has 60677 on this.

12 CHAIRMAN ALBERTI: 60677, yes.

13 MR. WHONG: Yes.

14 CHAIRMAN ALBERTI: That's correct.
15 Yes, that's correct. And on April 13th you
16 were issued a Class A license for the same
17 establishment, for the same address, for the
18 601 Chesapeake Street, Southeast.

19 MR. WHONG: Is 091126.

20 CHAIRMAN ALBERTI: Yes, that's the
21 license number. The error that was made was
22 the staff neglected to see if there was a

1 school within 400 feet of your establishment.

2 The District alcohol beverage law
3 does not allow us to issue a Class A license,
4 a new Class A license, within 400 feet of a
5 school unless there is a currently existing,
6 another Class A license within 400 feet of the
7 school. The statute I refer to is Title 25-
8 314, Paragraph B.

9 MR. WHONG: Paragraph B?

10 CHAIRMAN ALBERTI: Paragraph B,
11 yes. Well, we want to hear from you before we
12 make our final decision but preliminarily the
13 Board has concluded that we need to rescind
14 our approval of your Class A license and
15 convert you back to a Class B license.

16 In our discussion the Board has
17 contemplated making that official in
18 approximately three months, in three months
19 from the date of the order, so that you would
20 have sufficient time to sell off your
21 inventory. Okay, I'd like now to allow you to
22 ask questions, Mr. Jang.

1 MR. WHONG: Dear Board Members,
2 please listen to me. The reason I applied
3 initially for a Class A license was because it
4 was a reflection of popular demand.

5 The customers coming to my
6 establishment complained that to go to the
7 next available store would require travel by
8 car and they all desired sort of one-stop
9 shopping and so they, you know, appealed to me
10 to make it available for them.

11 Your Honor, the customers are
12 saying to me that to go to another available
13 store you must travel some distance into the
14 state of Maryland but now that is available at
15 my establishment they are saying they're very
16 happy.

17 Yes, Your Honor, and there's
18 another aspect to this. If they go to a store
19 in state of Maryland, the state of Maryland
20 gets the benefit from collecting taxes. So if
21 they spend money in our establishment, it will
22 go toward the D.C. government.

1 Yes, and as you might be well
2 aware of, the mainstay of our income from my
3 establishment is from, you know, groceries,
4 food items, and revenue from alcohol, liquor
5 sales, is only incidental to that, so.

6 And so far the customers have been
7 happy so it makes me happy and it makes my
8 time worthwhile. Thank you.

9 No one has complained about that
10 so far.

11 So Dear Honorable Board Members,
12 please take into account to rescind the Class
13 A license and revert everything back to Class
14 B would result in a tremendous loss of, you
15 know, property for me and cause, you know, a
16 great deal of inconvenience for customers who
17 frequent my establishment. Thank you.

18 CHAIRMAN ALBERTI: Thank you for
19 your remarks, Mr. Jang, and I understand
20 everything you've told us.

21 The Board must operate within the
22 law and we see that Hendley Elementary School

1 is, I think, within less than 150 feet from
2 your store. Is that correct?

3 MR. WHONG: Yes.

4 CHAIRMAN ALBERTI: Yes. So the
5 Board has little choice except to operate
6 within the law.

7 MR. WHONG: And under the
8 preexisting B license I was also selling
9 alcohol. You aware of that, sir?

10 CHAIRMAN ALBERTI: I was aware of
11 that.

12 MR. WHONG: Yes.

13 CHAIRMAN ALBERTI: I don't know
14 the history so I don't know how that came into
15 being but it's there and the Board -- how do
16 I say it? The law allows it to be there since
17 it's already established there. Under a past
18 decision it's been established.

19 MR. WHONG: So, Your Honor, so
20 transforming Class B licensing to Class A is
21 tantamount to new issuance, is that what
22 you're referring to, sir?

1 CHAIRMAN ALBERTI: Yes, that's
2 correct.

3 MR. WHONG: Is there any course
4 that Honorable Board Members can suggest to
5 me? I mean, what road should I go? Just give
6 it up?

7 CHAIRMAN ALBERTI: We will make a
8 decision today and in approximately a week's
9 time we will issue an order.

10 Once you receive that order, you
11 will have ten days in which to appeal and in
12 that appeal you can make an argument for why
13 we shouldn't.

14 And I know this comes to you kind
15 of suddenly and you may not have been prepared
16 for this as well as you would have liked for
17 this hearing.

18 So the ten days from the date of
19 the order will allow you time to make
20 arguments about what you think the decision
21 should be, why you think the Board's decision
22 is right or wrong.

1 MR. WHONG: Yes, I am still at a
2 loss as to how I could accept your decision to
3 rescind Class A license when you have issued
4 what appears to be, you know, very bona fide -
5 -

6 CHAIRMAN ALBERTI: I understand
7 your confusion but the Board believes that the
8 law allows us to do this, well, allows us to
9 rescind it and also requires us because of the
10 proximity of the school.

11 Mr. Jang, I want to tell you that
12 I understand that this has caused you a great
13 inconvenience.

14 ABRA, the agency, made a mistake
15 and I want to apologize on behalf of the
16 agency, ABRA, and I want to apologize on
17 behalf of the Board, but we have to follow the
18 law.

19 MR. WHONG: Do you honestly
20 believe that had I obtained the professional
21 assistance of a counsel, would I have any
22 opportunity to reverse your decision?

1 CHAIRMAN ALBERTI: Sir, I am
2 confident in the Board's point of view at this
3 point. I will tell you that you are free to
4 seek legal professional help during the ten
5 days in which you have to appeal.

6 So, Mr. Jang, recommendation I'm
7 going to make to the Board is that we reverse
8 our decision, we rescind the Class A license,
9 we reinstate the Class B license and that
10 would go into effect three months from when we
11 issue the order.

12 The order would come out in about
13 a week so we would do that in three months
14 from when the order is issued, and I'm
15 allowing three months because this is not your
16 fault and I want to give you time to be able
17 to sell your inventory that you have on hand.

18 MR. WHONG: If you could share
19 with me, Honorable Board Members, has there
20 been any case similar to this where decision
21 have been reversed due to the assistance of a
22 professional counsel?

1 CHAIRMAN ALBERTI: That is not
2 important to this case and I'm not sure I
3 understand the question so I'm not going to
4 even address that question.

5 Mr. Jang, again, once the order is
6 issued you will have ten days in which to
7 appeal. You can engage legal counsel to make
8 that appeal for you if you wish.

9 MR. WHONG: Okay.

10 CHAIRMAN ALBERTI: Okay?

11 MR. WHONG: Thank you.

12 CHAIRMAN ALBERTI: Okay, thank
13 you. So just I'm going to move that the Board
14 -- just one moment, please. Mr. Jones and Mr.
15 Silverstein have something to say. Mr. Jones.

16 MEMBER JONES: Thank you, Mr.
17 Chairman. Just for clarification purposes and
18 this is purely based on the fact that the
19 situation is what it is so I won't go into
20 further detail regarding that.

21 I am not clear that the licensee
22 is clear on the rationale for the number of

1 days.

2 Can you confirm with the licensee
3 that he's clear on the number of days and the
4 intent behind that and get confirmation or
5 feedback from him as to whether or not he
6 feels that time period is sufficient to
7 address the concern of selling off his
8 inventory?

9 CHAIRMAN ALBERTI: This is the
10 thirty days.

11 MEMBER SILVERSTEIN: Ninety days.

12 MEMBER JONES: Ninety.

13 CHAIRMAN ALBERTI: Ninety days.
14 I'm sorry, 90 days, three months. Is 90 days
15 sufficient for him to sell off his current
16 inventory?

17 MR. WHONG: Well, he's not 100
18 percent sure but --

19 CHAIRMAN ALBERTI: How much time
20 does he think he -- continue, Mr. Jang. Mr.
21 Jang, please continue.

22 MEMBER JONES: You read my mind.

1 CHAIRMAN ALBERTI: Yes, I know.

2 MR. WHONG: Yes, so you're saying,
3 Honorable Board Member, that after 90 days of
4 taking care of reducing the inventory you
5 would still reinstate my Class B license?

6 CHAIRMAN ALBERTI: Oh, yes.
7 There's no question. The Class B license will
8 be reinstated.

9 MR. JANG: Thank you.

10 MR. WHONG: Thank you, Your Honor.
11 Thank you.

12 CHAIRMAN ALBERTI: Okay.

13 MR. JANG: Thank you.

14 MR. WHONG: Understood.

15 CHAIRMAN ALBERTI: Okay. Mr.
16 Silverstein, you want to --

17 MEMBER SILVERSTEIN: Yes. Mr.
18 Jang, I don't want to belabor this but I do
19 want to reassure you. This is not your doing
20 and we apologize for the inconvenience that
21 we're causing you.

22 You asked if perhaps getting

1 counsel might get us to change and it would be
2 improper for me to answer that, but I can tell
3 you that what is happening here is not an
4 arguable case.

5 This isn't like you're having your
6 license taken away because of bad behavior and
7 a good lawyer could convince us otherwise.
8 This is because where you are located and its
9 proximity to a school. This is geography,
10 this is mathematics and we can't argue it.

11 And so I think you should take
12 that into account before you go and spend
13 money. We have to obey the law, and I thank
14 you.

15 CHAIRMAN ALBERTI: Okay. I'm
16 going to make a motion to the Board. I move
17 that the Board rescind this decision to
18 approve the Class A License Number 91126 that
19 was issued to Jang & Lee, Incorporated,
20 trading as Chesapeake Big Market, and that the
21 effect of the reversal of our order would go
22 into effect 90 days from the date in which the

1 order was issued.

2 And I also further move that we
3 reinstate the Class B license, this Class B
4 License 60677, that was held by Jang & Lee,
5 Incorporated, trading as Chesapeake Big
6 Market.

7 MEMBER SILVERSTEIN: Second.

8 CHAIRMAN ALBERTI: Mr. Silverstein
9 seconds. All of those in favor say aye.

10 (Multiple aye)

11 CHAIRMAN ALBERTI: All those
12 opposed? The motion carries four to one. So,
13 Mr. Jang, we will be issuing an order to you.
14 It'll be about a week, less than two weeks,
15 and you'll have a chance to read that order
16 and, as I said, you'll then have ten days to
17 ask for an appeal.

18 Again, I understand the
19 inconvenience, Mr. Jang, and you have my
20 sincerest apologies. Thank you for coming.

21 MR. JANG: Thank you.

22 MR. WHONG: Thank you.

1 CHAIRMAN ALBERTI: All right,
2 thank you, Mr. Jang.

3 MEMBER SILVERSTEIN: And, Mr.
4 Jang, if you have any questions, our Director,
5 Mr. Moosally, is back there. He'll be happy
6 to answer them. This is not as bad as you
7 think. It is not bad at all.

8 MR. WHONG: Thank you.

9 CHAIRMAN ALBERTI: Thank you for
10 coming, Mr. Jang.

11 MR. JANG: Thank you.

12 CHAIRMAN ALBERTI: Thank you, Mr.
13 Whong. Very helpful, thank you.

14 MR. WHONG: Thank you.

15 (Whereupon, the hearing in the
16 above-entitled matter was concluded at 3:12
17 p.m.)

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