

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
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Dangerously Delicious DC, LLC: :
t/a Dangerously Delicious :
1339 H Street, NE :
Retailer CR : Show Cause
12-CMP-00694 : Hearing
License No. 87422 :
ANC 6A :
Violation of Settlement :
Agreement (Exceeded approved :
Number on Sidewalk Caf,) :
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JUNE 26, 2013

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th

Street, N.W., Washington, D.C., Nick Alberti, Acting Chairman, presiding.

PRESENT

- NICK ALBERTI, Acting Chairman
- DONALD BROOKS, Member
- MIKE SILVERSTEIN, Member

ALSO PRESENT

FERNANDO RIVERO, OAG

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

10:04 a.m.

ACTING CHAIRMAN ALBERTI: Okay.

It is now 10:04. We are back on the record and we are going to take up our case that was scheduled for 10:00. The next case I'm going to call is Case No. 12-CMP-00694, Dangerously Delicious DC, LLC, trading as Dangerously Delicious, License No. 87422. This is a show cause hearing.

Parties forward and introductions, please?

MR. RIVERO: Good morning, Board Members. Fernando Rivero for the District of Columbia.

ACTING CHAIRMAN ALBERTI: Good morning, Mr. Rivero.

MS. BASANTI: My name is Sandra Basanti, owner of Dangerously Delicious.

ACTING CHAIRMAN ALBERTI: Rasanti is it?

MS. BASANTI: Yes, Basanti.

1 ACTING CHAIRMAN ALBERTI: With an
2 R?

3 MS. BASANTI: B as in boy.

4 ACTING CHAIRMAN ALBERTI: Oh,
5 Basanti? Okay. I'm sorry.

6 MS. BASANTI: That's okay.

7 ACTING CHAIRMAN ALBERTI: Morning,
8 Ms. Basanti. Do you want to introduce the
9 people with you today?

10 MS. BASANTI: This is Kyle
11 Russell. He is one of our managers, as well
12 as Claire Gladbach, both managers that were on
13 duty on the day in question.

14 ACTING CHAIRMAN ALBERTI: Thank
15 you for that. As you know, this is a show
16 cause hearing. Are there any preliminary
17 matters before we begin the hearing?

18 MR. RIVERO: Yes, actually the
19 parties have an Offer in Compromise to present
20 to the Board at this time.

21 ACTING CHAIRMAN ALBERTI: Okay.
22 And that offer is a written warning. And I

1 will explain as follows:

2 ACTING CHAIRMAN ALBERTI: Okay.

3 MR. RIVERO: It took me some time
4 to look into some of the particular details of
5 this case, but it looks like there was room
6 for some more explanation in this case and
7 there were areas where some reasonable
8 confusion could have arisen.

9 For instance, the Licensee in
10 question has a voluntary agreement. The
11 voluntary agreement prevents more than 20
12 people from being on the patio. However, as
13 part of the licensing process the Licensee
14 should have gotten consent from the other VA
15 party as to that particular provision, that it
16 could be superseded.

17 That in fact should have happened
18 before the license issued. The license issued
19 without that. And so I think that there was
20 some ambiguity on the part of the license
21 people who were processing informing them.
22 And so because of that confusion, we believe

1 that a warning would be appropriate in this
2 case.

3 ACTING CHAIRMAN ALBERTI: Okay.
4 Thank you.

5 MR. RIVERO: Typically what
6 happens is, for instance in basically the
7 context of extended hours and all of that, if
8 there's a voluntary agreement in place, there
9 must be agreement by the other party.

10 ACTING CHAIRMAN ALBERTI: I
11 understand. I understand what you're talking
12 about. So I just want to take a moment to
13 read the case report along with my fellow
14 Board Members --

15 MR. RIVERO: Sure.

16 ACTING CHAIRMAN ALBERTI: -- to
17 sort of review that. So would you just give
18 us a moment, please?

19 MR. RIVERO: Sure.

20 (Whereupon, at 10:07 a.m. off the
21 record until 10:08 a.m.)

22 ACTING CHAIRMAN ALBERTI: Okay.

1 We're going to take a moment on this case to
2 consult with our legal.

3 So as the Chairperson of the
4 Alcoholic Beverage Control Board for the
5 District of Columbia and in accordance with
6 Section 405 of the Open Meetings Amendment Act
7 of 2010, I move that the ABC Board hold a
8 closed meeting for the purpose of seeking
9 legal advice from your counsel on Case No. 12-
10 CMP-00694 per Section 405(b)(4) of the Open
11 Meetings Amendment Act of 2010. Is there a
12 second?

13 MEMBER BROOKS: Second.

14 ACTING CHAIRMAN ALBERTI: Okay.

15 All those in favor, say aye?

16 (Chorus of ayes.)

17 ACTING CHAIRMAN ALBERTI: All

18 those opposed?

19 (No audible response.)

20 ACTING CHAIRMAN ALBERTI: The
21 motion carries 3-0.

22 As it appears that the motion has

1 passed, I hereby give notice that the ABC
2 Board will hold a closed meeting in the ABC
3 Board conference room today pursuant to the
4 Open Meetings Amendment Act of 2010.

5 Thank you. We'll be back shortly.
6 I promise it won't take long. Thank you.

7 (Whereupon, at 10:09 a.m. off the
8 record until 10:13 a.m.)

9 ACTING CHAIRMAN ALBERTI: Okay. I
10 am going to address the motion, but I'd ask
11 that everyone remain seated because I will
12 have some comments having to do with the
13 motion.

14 Mr. Silverstein, would like to
15 make a motion?

16 I think that while the Offer in
17 Compromise that I understand is a warning for
18 this offense --

19 MR. RIVERO: It's a written
20 warning.

21 ACTING CHAIRMAN ALBERTI: A
22 written warning. A written warning. Ms.

1 Basanti, you've heard the Offer in Compromise.

2 Do you understand it?

3 MS. BASANTI: Yes.

4 ACTING CHAIRMAN ALBERTI: And do
5 you accept it?

6 MS. BASANTI: Yes.

7 ACTING CHAIRMAN ALBERTI: All
8 right. And you waive your right to a hearing
9 based on that?

10 MS. BASANTI: Yes.

11 ACTING CHAIRMAN ALBERTI: All
12 right. Thank you. Mr. Silverstein, would you
13 like to make a motion?

14 MEMBER SILVERSTEIN: Mr. Chairman,
15 this is a difficult and troubling case, and
16 although I'm going to associate myself with
17 your words and your feelings, I'm going to
18 move that we accept the Offer in Compromise.

19 ACTING CHAIRMAN ALBERTI: That is
20 the motion. Is there a second?

21 MEMBER BROOKS: Second.

22 ACTING CHAIRMAN ALBERTI: All

1 those in favor, say aye?

2 MEMBER BROOKS: Aye.

3 MEMBER SILVERSTEIN: Aye.

4 ACTING CHAIRMAN ALBERTI: All
5 those opposed? Opposed.

6 The motion carries 2-1. So there
7 is a written warning.

8 Now, I will tell you that I was
9 very troubled, Ms. Basanti. The report that
10 I read here also mentions the use of a
11 separate disjoint barricaded area in the
12 middle of H Street that day. I will tell you
13 actually I was present there. I saw many of
14 these barricaded areas and I commend the
15 licensees for not abusing them to the extent
16 that people were confined and weren't drinking
17 outside of those areas. All right?

18 But I find out, which I didn't
19 know that day, that those areas were not
20 licensed. Yours was not properly licensed
21 according to the report that I have. That's
22 the allegation. All right?

1 MS. BASANTI: Correct.

2 ACTING CHAIRMAN ALBERTI: That's
3 the allegation. The report I have lists an
4 allegation of a violation of Code 25-
5 726(b)(5), which is a substantial change.

6 MS. BASANTI: Correct.

7 ACTING CHAIRMAN ALBERTI: All
8 right? So if these allegations are true, it's
9 troubling. All right?

10 I will tell you that just based on
11 this report you can tell the Licensee that it
12 will be my recommendation that if you apply
13 for a temporary license for the next year's H
14 Street Festival, you will have to come before
15 us, all right, to talk about your application
16 and review your application. You didn't last
17 year.

18 MS. BASANTI: No.

19 ACTING CHAIRMAN ALBERTI: But you
20 will this year, if my recommendation holds.
21 I don't know what my other Board Members will
22 do, but that's going to be my recommendation.

1 I'm very troubled by what I read here.

2 MS. BASANTI: I would actually
3 prefer that. I mean I would like to say on
4 record that I would prefer to come and speak
5 with someone from ABC or ABRA --

6 ACTING CHAIRMAN ALBERTI: Okay.

7 MS. BASANTI: -- to explain
8 exactly what needs to happen. We're by no
9 means trying to go around anyone's back or
10 break any rules here. The way that the
11 application process was for this festival was
12 incredibly confusing. We thought we had all
13 of our bases covered. We've always been, you
14 know, law-abiding. We had seven managers on
15 duty that day that were all ABRA-licensed.
16 There was -- you know, we made sure that -- we
17 tried to make sure that we were not going
18 above capacity. No one was leaving the
19 premises with alcohol. Everyone was being
20 ID'd.

21 ACTING CHAIRMAN ALBERTI: Yes.

22 MS. BASANTI: We were really --

1 just wanted to have a good day. And like I
2 said, the application process, there's a ton
3 of gray area. And so if we could speak with
4 somebody directly before we send in our
5 application and we can get our one-day
6 substantial changes properly, I would be over
7 the moon to have help with that just so that
8 all of our bases really are covered instead of
9 me just thinking they are and then here we are
10 today.

11 ACTING CHAIRMAN ALBERTI: Although
12 I'm troubled by this, I will tell you that I
13 remember the application process. I remember
14 how it kind of evolved and I can recognize
15 that there was probably room for a lot of
16 misunderstanding and that quite possibly there
17 was a lack of communication to the Licensee as
18 to what they were permitted to do.

19 MS. BASANTI: Absolutely.

20 ACTING CHAIRMAN ALBERTI: Not by
21 this Agency.

22 MS. BASANTI: No. No.

1 ACTING CHAIRMAN ALBERTI: But
2 those handling the application process.

3 MS. BASANTI: Yes.

4 ACTING CHAIRMAN ALBERTI: But that
5 being said, we agree, we don't want that to
6 happen next year.

7 MS. BASANTI: No, absolutely not.

8 ACTING CHAIRMAN ALBERTI: So
9 hopefully we can run the event and --

10 MS. BASANTI: We will definitely
11 be incredibly thorough --

12 ACTING CHAIRMAN ALBERTI: Great.

13 MS. BASANTI: -- this year.

14 ACTING CHAIRMAN ALBERTI: Great.

15 And have your report. But thank you for that,
16 Ms. Basanti.

17 Thank you, Mr. Rivero.

18 That concludes this case.

19 MS. BASANTI: Thank you.

20 ACTING CHAIRMAN ALBERTI: Oh, I
21 think you need to wait and I think there is a
22 form you need to sign.

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MS. BASANTI: Oh, right now?

ACTING CHAIRMAN ALBERTI: All
right?

MS. BASANTI: Okay.

ACTING CHAIRMAN ALBERTI: Okay.
Just have a seat back there.

(Whereupon, the hearing was
concluded at 11:18 a.m.)

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