DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD
MEETING

IN THE MATTER OF:
Fikre Market, Inc.,
t/a Capitol View Market
4920 Central Ave, N.E.
License #76250
Retailer A - ANC 7C
Case #21-PRO-00030
(Application for License: Renewal)

Wednesday
June 30, 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
ANTAWAN HOLMES, ANC 7C
KYUNG LEE, Applicant's Counsel
DEAVIE LEWIS, Capitol View Civic Association
FIKREMARIAM MENGESHA, Applicant
P-R-O-C-E-E-D-I-N-G-S

11:17 a.m.

CHAIRPERSON ANDERSON: The next case is Case number 21PRO00030, Capitol View Market, License No. 076250. Ms. Andrews, can you elevate the rights of the parties in this case, please?

MS. ANDREWS: Sure. Stand by. Mr. or Ms. Mengesha, your rights have been elevated.

MR. MENGESHA: Yes. My name is Fikremariam Mengesha.

CHAIRPERSON ANDERSON: Yes. Hold on one minute, please. I'm glad that you're here. Hold on. So, we have ANC 7C, and we have the Capitol View Civic Association. Myron Smith is the representative.

MS. ANDREWS: Commissioner Holmes, your rights have been elevated. And the representative doesn't seem to be online, Mr. Chair.

MR. HOLMES: I'm right here.

CHAIRPERSON ANDERSON: Mr. Myron Smith, are you on the line? No, not Mr. Holmes. I'm talking about Myron Smith. Is there anyone online from --

If you're here for the Capitol View
Civic Association, please identify yourself for the record, please. Is there anyone online for the Capitol View Civic Association? If you're here for the Capitol View Civic Association, please identify yourself, so Ms. Andrews can elevate your rights.

MR. HOLMES: I see Ms. Deavie Lewis on the attendee list.

CHAIRPERSON ANDERSON: How is Ms. Deavie Lewis? Who's she?

MR. HOLMES: One of the executives of the Capitol View Civic Association.

CHAIRPERSON ANDERSON: So, Ms. Deavie Lewis, can you identify yourself? And, Ms. Andrews will --

MS. ANDREWS: I didn't see a Deavie Lewis. I'm going to elevate your rights.

MS. LEWIS: Good morning. This is Deavie Lewis.

CHAIRPERSON ANDERSON: All right.

MS. LEWIS: And I'm representing the Capitol View Civic Association. I'm the Second Vice President.

CHAIRPERSON ANDERSON: All right.

Thank you. All right. Okay. Good morning
again, everyone. So, let me have everyone
introduce themself for the record.

And let me start with Mr. Lee, who's
the attorney representing the establishment. Mr.
Lee, can you please state and, spell and state
your name for the record, please?

MR. LEE: Mr. Chair. I represent the
union, but not this one, this case.

CHAIRPERSON ANDERSON: I'm sorry. You
do not represent Capitol View? You're not the
counsel for Capitol View? So, you're not the
counsel for Capitol View Market, sir?

MR. LEE: Yes. I'm not.

CHAIRPERSON ANDERSON: My information
says that you are still -- then Ms. Andrews, can
you then -- all right. All right. So, let's,
Ms. Andrews, can you --

MS. ANDREWS: Yes.

MS. LEWIS: Mr. D --

MS. ANDREWS: I will make him an
attendee.

CHAIRPERSON ANDERSON: All right. Mr.
Mengesha, can you please spell and state your
name for the record, please?

MR. MENGESHA: My first name is

CHAIRPERSON ANDERSON: And what's your relationship with this establishment, sir?

MR. MENGESHA: Owner.

CHAIRPERSON ANDERSON: All right. Thank you, sir.

MR. MENGESHA: And my attorney is Mr. Dietz, Bernard Dietz.

CHAIRPERSON ANDERSON: And Mr. Dietz, it's my understanding he will not be attending the hearing today. All right. So, All right. So let's have the ANC representing themself.

And, Mr. Holmes, please -- and Mr. Dietz had informed the Board that based on a medical, some medical -- he has a medical procedure, and said he would not be appearing today.

All right, fine. Mr. Holmes, can you spell and speak your name for the record, please?


CHAIRPERSON ANDERSON: And what's your relationship to this case, sir?

MR. HOLMES: I am the Chair of ANC 7C.
CHAIRPERSON ANDERSON: All right.

Good morning, sir. Capitol View Civic Association? Who do we have here?

MS. LEWIS: My name is Deavie Lewis.

CHAIRPERSON ANDERSON: And who are you? Please spell and state your name for the record, please.

MS. LEWIS: My first name is D-E-A-V, as in Victor, I-E. Last name, L-E-W-I-S. I am the Second Vice President of the Capitol View Civic Association.

CHAIRPERSON ANDERSON: All right.

Thank you, ma'am. All right. Ms. Lewis, it's my understanding that at roll call the representative for the Capitol View Civic Association, only conditional granted with, conditional standing was granted to your organization.

It is my understanding that the Board Agent informed your representative that they must provide the, provide us with notice that, seven days, that pursuant to the 25 DCMR 601(3)(d), that the civic association must provide, must prove that they have provided the licensee with seven days' notice of their meeting in which they
were going to discuss the license renewal application.

That information was not provided at roll call. It was, they were informed that that information must be provided today. So, do you have that information to provide to us, ma'am?

MS. LEWIS: I do not have that information to provide. When we checked our records we did not personally send an invitation to Mr. Mengesha, because we invited the ANC and the Single Member District, our Commissioners. So we felt that that was going to be handled at that level.

CHAIRPERSON ANDERSON: All right. Well, thank you for the representation that you made, Ms. Lewis. So, pursuant to 25 DCMR 601 (3)(b) standing cannot be provided to your group, because you did not provide, your group did not provide seven days' notice.

So therefore, I'm going to make a motion that standing will not be provided to the civic association.

MS. LEWIS: We understand.

CHAIRPERSON ANDERSON: Thank you, Ms. Lewis. Is there a second?
MEMBER CROCKETT: Ms. Crockett

seconds.

CHAIRPERSON ANDERSON: Ms. Crockett

has second the motion. We'll now have a roll
call vote on the motion. 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. I

agree.

CHAIRPERSON ANDERSON: And Mr.

Anderson. I agree. The measure passed five,
zero, zero. I want to thank you for your
honesty, Ms. Lewis.

You can, if your group, civic
association, still wants to participate in this
protest hearing you can, you would have to work
with the ANC to, you would have to work with the
ANC to work on this issue.

It is, as I said before, for future
reference it's 25 DCMR 601 (3)(b), that as a
civic association if you plan to protest the
scheduled, a renewal, your group must
specifically seven days before the hearing invite
the owner, and let the owner know that what will
be discussed at that meeting is their license
renewal process.

And I want to thank you for being very
honest, and letting the Board know that your
group did not comply with the organization. I've
had many groups who have appeared in front of us.
And they make excuses. And they've told us, and
we've asked for proof. And they have failed to
provide the proof.

But I appreciate your honesty, ma'am.
And I look forward to working with your group,
based on your honesty, in other matters. But if
you want, but if your group wishes to protest
this liquor license application you have to work
through the ANC. Okay, ma'am?

MS. LEWIS: We understand. They have
our support. And thank you.

CHAIRPERSON ANDERSON: Thank you, Ms.
Lewis. Thank you very much. All right. Are
there any other preliminary matters that need to
be raised at this hearing by the ANC or by the
owner?

MR. HOLMES: Okay. So, at this point, with them not having standing, ANC 7C still has issues. As well as we will be working with Capitol View. And we can move forward working with Capitol View still to address the complaint. And we still have to move forward with discussion of a settlement agreement.

CHAIRPERSON ANDERSON: The ANC has full standing to continue to move forward. And they can work with whoever it is that they want to work with. They can work with the civic association.

The only difference is that the civic association doesn't have, in this its own standing. And one of the difference in this type of case, is if the civic association had standing, and if the ANC had, this ANC signs a settlement agreement, and if the civic association did not agree with the settlement agreement, the civic association could move forward with a protest hearing. Although there was a settlement agreement with the ANC. So, that's (audio interference) difference.

MR. HOLMES: So just for clarity, for
folks that are listening out here, if you do have
a citizen or civic association, and you do have --
well, we know on the BZA, we call it party
status. If you have party status with every one
of these cases, then that does allow them to be
able to move independently of the ANC, correct?

CHAIRPERSON ANDERSON: Yes. That is
what -- and that's -- it's -- and -- but that's
only if -- that's only (audio interference)
abutting property member and also a civic
association.

If it's a group of five or more, and
if the ANC has a settlement agreement, and if a
group of five or more decide that they don't want
to go along with it, they lose their standing.
Because the ANC represents their interests.

However, if you are an abutting
property owner, or if you are a civic
association, you will have your standing
independent of the ANC.

MR. HOLMES: And that's why I want to
be here. I'm going to make sure we get that
information out to the, all of the standing
citizens and civic associations in 7C. All
right.
CHAIRPERSON ANDERSON: All right.

MEMBER GRANDIS: Mr. Chairman?

CHAIRPERSON ANDERSON: Yes, Mr. Grandis.

MEMBER GRANDIS: And thank you. I don't mean to interrupt you. But, Mr. Holmes, I want to make sure that you have complete understanding that the ANC is still able to move forward with this protest, and may have a protest hearing, or it may have a settlement.

And I wasn't, I want to make sure. Because when you spoke I may have missed, because of the communication situation, I may have missed what you said completely. But I just want to be comfortable, and know that you all know the ANC is still a full party. And they have (audio interference) protest for them.

MR. HOLMES: Thank you, Commissioner Grandis. We thank you.

MR. MENGESHA: Can I say something, Mr. Chairman?

CHAIRPERSON ANDERSON: I'm sorry, who's that? Who's speaking? I don't know who's that?

MR. MENGESHA: This is Fikremariam
Mengesha from Capitol View.

CHAIRPERSON ANDERSON: I'm sorry.

Yes, sir. Go ahead.

MR. MENGESHA: Yes. Let me say, we do respect, let me say this. Mr. Antawan Holmes is the Chairman of the Capitol View Civic Association. So, I don't see anybody representing the ANC 7 here.

MR. HOLMES: That would be incorrect.

I am the Chair of ANC 7C. The Chair of the Capitol View Civic Association, well, is not on the call. And you've just had Ms. Deavie, who was the Second Vice President. But I am the Chair of ANC 7C.

CHAIRPERSON ANDERSON: Is there, Mr., I'm sorry, Mr. --

MR. MENGESHA: Mengesha.

CHAIRPERSON ANDERSON: -- Mengesha.

Mr. Mengesha, the ANC was --

MR. MENGESHA: Yes.

CHAIRPERSON ANDERSON: -- given standing at the roll call. At the roll call hearing your renewal was challenged by the civic association and by the ANC. And full standing was granted to the ANC at the roll call hearing.
So therefore, by law you have to negotiate with
the ANC.

The Civic, the, you can if you so
desire, you can negotiate with the civic
association. You can still participate with, you
can still negotiate with them, if you so desire.
However, as far as the ABC Board is concerned,
you must, must communicate with the ANC.

Because the ANC is the party that is
recognized by the ABC Board as moving forward
with a, with this protest. And unless there is a
settlement agreement with the ANC --

If the ANC wishes to move forward at
a protest hearing on August, I'm sorry, and this
protest hearing will be scheduled for August 5th
at 1:30 p.m.

So, unless there's a settlement
agreement with the ANC, if the ANC wishes to move
forward with the protest hearing, that is their
right, sir.

So, the only thing I would say to you
today, you must discuss what's going on with the
ANC. Because if you do not the ANC has a right
to move forward with the protest hearing on
August 5th.
And if you want to continue talking to the civic association, whoever you speak to, that is your prerogative. But you have to speak to the ANC. If not, we're going to have a protest hearing on August 5th. Is that correct, sir? Is that correct?

Are you, I know that Mr. Dietz is not here today. But Mr. Dietz understands the process. And so, Mr. Dietz understands the process. So, are you still there, sir? I see, I'm not sure if your connection is --

(Simultaneous speaking.)

CHAIRPERSON ANDERSON: Okay. Your attorney, Mr. Dietz, understands the process. So, you could speak to him after this hearing. And he will further explain to you what happened today. Okay, sir?

MR. MENGESHA: Okay.

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

As I said, this matter is scheduled for a protest hearing on August 5th, at 1:30 p.m. All right. Now that we've scheduled this matter
for a protest hearing there are a few things that
I would like to instruct you about, because the
Board practices on the COVID 19 restrictions have
changed.

As you know, the Board's hearings are
conducted virtually. So, it is more important
than ever that protest hearings are focused, and
addressing only those issues that are being
protested.

Following this hearing you will be
receiving an email from Assistant General Counsel
April Randall that will include a copy of the
protest information form, and a copy of the
exhibit form, as well as specific instructions
for the hearing.

You are required to complete and
submit the PIF and exhibit forms 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 and to the opposing parties.
Please provide these, please note that these
documents greatly assist the Board, and narrow
the protest issues, facilitating the process, and
keeping the parties on point during the hearing.

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    What this means, Mr. Holmes, for your
benefit. If this matter goes to a protest
hearing, seven days before August 5th you must
provide a PIP with your documents and witnesses.
Because if that's not provided --

    It must be provided to the licensee.
And it must be provided to ABRA. If this is not
provided to us seven days, if we move forward
with the protest hearing, you might not be able
to call documents, I'm sorry, to call witnesses,
and have documents introduced in the record if
the other side objects to them, sir. Okay. And
do you understand, sir?

    MR. HOLMES: Yes. So basically, not
everything, everything needs to be filed to you
all by, what you're saying, July 29th by 11:59
p.m.?
CHAIRPERSON ANDERSON: If that is seven days before August 5th, sir, yes.

MR. HOLMES: Thank you.

CHAIRPERSON ANDERSON: And I know for, as far as the licensee is concerned, they, he's represented by counsel. And my assumption, although I shouldn't assume, is that counsel is aware of the requirements. But I'm letting, putting the parties on notice that the seven day notice is very important. And it must be complied with. All right.

Then the other changes that we've made is that each side is restricted to no more than five witnesses. And you will have 60 minutes to present your case. And this includes all direct and cross examination.

The Board does not intend to hear testimony in matters that are not relevant to those issues that are being protested. Are there any questions? All right. Thank you for your cooperation.

If you have any questions that are in timely enough for the hearing, please do not hesitate to contact Assistant General Counsel, April Randall at 202-329-6354, or contact her by
email.

Thank you for your presentation this morning. I do hope the parties are able to work this matter out. If they are not able to work this matter out we will see you on August 5th at 1:30 p.m. for a protest hearing. Okay?

MR. MENGESHA: Okay.

MR. HOLMES: Thank you.

CHAIRPERSON ANDERSON: Have a great day. Thank you very much. Bye-bye.

(Whereupon, the above-entitled matter went off the record at 11:37 a.m.)
CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Capitol View Market

Before: DCABRA

Date: 06-30-21

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

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701
(202) 234-4433
www.nealrgross.com