

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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Case# 13-PRO-00011 :  
Lee's Mini Market, Inc. :  
t/a Lee's Mini Market :  
3853 Alabama Avenue, SE : Protest  
License #84939 : Hearing  
Retailer B :  
ANC-7B :  
Substantial Change (Change from:  
Class B (market) license to :  
Class A (liquor store) license :  
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July 10, 2013

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009. Ruthanne Miller, Chairperson, presiding.

PRESENT

- RUTHANNE MILLER, Chairperson
- NICK ALBERTI, Member
- DONALD BROOKS, Member
- MIKE SILVERSTEIN, Member
- HERMAN JONES, Member

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

2:02 p.m.

CHAIRPERSON MILLER: It's 2:02.

We can go to the next case which is Case No. 13-PRO-00011, Lee's Mini Market located at 3853 Alabama Avenue, SE, License No. 84939 in ANC-7B.

You have an interpreter? You are the interpreter. Hi. Okay, good. And your name is?

INTERPRETER: Jon Whong, W-H-O-N-G.

CHAIRPERSON MILLER: W-H-O-N?

INTERPRETER: W-H-O-N-G.

CHAIRPERSON MILLER: Okay. Do you solemnly affirm that you will faithfully and accurately interpret the proceedings in this matter from Korean to English and from English to Korean to the best of your ability?

INTERPRETER: Yes, I do.

CHAIRPERSON MILLER: Okay. And you are interpreting for whom?

1 BOL KO: My name is Bol Ko.

2 CHAIRPERSON MILLER: Okay. One  
3 minute. Who is at the table?

4 HENRY KO: I'm Henry Ko and I'm  
5 representing for Lee's Mini Market.

6 CHAIRPERSON MILLER: You're Henry  
7 Ko?

8 HENRY KO: Yes.

9 CHAIRPERSON MILLER: And what is  
10 your affiliation?

11 HENRY KO: I'm his son and  
12 representing.

13 CHAIRPERSON MILLER: Okay. And  
14 your dad is who?

15 HENRY KO: He's the owner.

16 CHAIRPERSON MILLER: What's his  
17 name?

18 HENRY KO: Bol Ko, B-O-L K-O.

19 CHAIRPERSON MILLER: Okay. All  
20 right.

21 And over here?

22 MR. RICHARDS: I'm Robert Richards

1 and I'm chairman of ANC-7B.

2 CHAIRPERSON MILLER: Are you a  
3 party in the case?

4 MR. RICHARDS: Yes.

5 CHAIRPERSON MILLER: I just said  
6 on my piece of paper actually a group of five  
7 or more. That's why I asked.

8 MR. RICHARDS: Paulette Tilghman  
9 is here and she represents --

10 CHAIRPERSON MILLER: You represent  
11 the group of five. What's your name?

12 MS. TILGHMAN: Yes. I have a  
13 paper where 16 people in the community have  
14 designated me to speak for them so you don't  
15 hear the same thing 16 times.

16 CHAIRPERSON MILLER: Right. Okay.  
17 Good. What's your name?

18 MS. TILGHMAN: My name is Paulette  
19 Tilghman.

20 CHAIRPERSON MILLER: All right. I  
21 think we have a preliminary issue. Do you  
22 have something else?

1 MS. TILGHMAN: Do you need this?  
2 This is where people have signed for me to  
3 testify in their behalf.

4 CHAIRPERSON MILLER: Oh, to  
5 testify in their behalf?

6 MS. TILGHMAN: Yes, ma'am.

7 CHAIRPERSON MILLER: Yes, but I  
8 don't know if I need it right this minute.

9 MS. TILGHMAN: Okay. Thank you.

10 CHAIRPERSON MILLER: Yes, if you  
11 want it in the record that you are actually  
12 testifying for them.

13 MS. TILGHMAN: Yes, ma'am.

14 CHAIRPERSON MILLER: So I have  
15 also in my notes that the licensee may not  
16 have filed its PIF. Can you let me know  
17 whether you have filed a PIF? A Protest  
18 Information Form.

19 HENRY KO: No, we have not.

20 CHAIRPERSON MILLER: I have also  
21 been informed by staff that there were emails  
22 to you to file the form and there weren't any

1 responses.

2 HENRY KO: I have not received any  
3 email.

4 INTERPRETER: To his knowledge he  
5 has not receive an email.

6 CHAIRPERSON MILLER: You didn't  
7 receive the email?

8 HENRY KO: No, we have not.

9 CHAIRPERSON MILLER: Okay. Do you  
10 have a recollection of the status hearing that  
11 we had where I said that you're suppose to  
12 file a Protest Information Form seven days  
13 ahead of the hearing?

14 HENRY KO: I thought that was only  
15 for the protestant.

16 CHAIRPERSON MILLER: Okay. You  
17 misunderstood.

18 INTERPRETER: He has no  
19 recollection of the PIF.

20 CHAIRPERSON MILLER: He has a  
21 recollection?

22 INTERPRETER: He has no

1 recollection.

2 CHAIRPERSON MILLER: No  
3 recollection. I thought he just said he  
4 thought it applied to the protestant and not  
5 to the licensee.

6 HENRY KO: What is really like the  
7 information? I thought the information they  
8 had to send in and there would be a copy for  
9 us and we didn't have to send any information.

10 CHAIRPERSON MILLER: Did you  
11 receive a letter that the agency sent to you?

12 HENRY KO: Of the protest  
13 information?

14 CHAIRPERSON MILLER: Yes.

15 HENRY KO: Yes, we have.

16 CHAIRPERSON MILLER: And that  
17 letter told you you needed to file the form?

18 INTERPRETER: He has communication  
19 from you but he's afraid he has probably  
20 missed the portion where this PIF information.

21 CHAIRPERSON MILLER: All right.

22 Okay.

1                   Mr. Ko -- there are two Mr. Kos  
2 but do you read English? Does Mr. Ko Senior  
3 read English?

4                   INTERPRETER: Not enough to  
5 understand the full context.

6                   CHAIRPERSON MILLER: Right. Okay.  
7 Henry Ko, did you read that  
8 letter?

9                   HENRY KO: I read this letter  
10 about just information about my dad, the date  
11 and that's about it. Like the information of  
12 the date of the status hearing and the date of  
13 the protest. That's the only one I read.

14                  CHAIRPERSON MILLER: You didn't  
15 really pay attention to what was in it?

16                  HENRY KO: The only information  
17 like why they are protesting. That's about  
18 it.

19                  CHAIRPERSON MILLER: Okay. Let me  
20 ask the protestants.

21                               Do you have an opinion whether --  
22 you know, do you feel prejudiced by the fact

1 that you didn't get the information that you  
2 normally would get in a PIF?

3 MR. RICHARDS: When Mr. Ko filed  
4 the request for the change of liquor license  
5 status, he called me on the telephone and told  
6 me that he was doing that. I sat down with  
7 him and we've had numerous conversations and  
8 meetings since that time.

9 I understood from my meetings with  
10 him that he had difficulty with the nuances of  
11 the English language. I had encouraged him to  
12 seek the assistance of either the Korean  
13 Business Association or an interpreter to help  
14 him with this. Your specific question is do  
15 I feel prejudiced by this.

16 CHAIRPERSON MILLER: Prejudiced to  
17 go forward with the hearing because we often  
18 say -- we do say in our instructions that we  
19 can dismiss a case for failure to file a PIF  
20 and the reason is that the other parties  
21 wouldn't be on notice as to how they were  
22 going to conduct their case at the hearing.

1 MR. RICHARDS: I would not as a  
2 matter of -- I'm a retired attorney.  
3 Ethically if I were trying a case is how I'm  
4 going to act before you. Ethically for me I  
5 would not move to dismiss their action because  
6 of this because of two things. One, the fact  
7 that he did contact me immediately upon his  
8 having filed this.

9 CHAIRPERSON MILLER: Immediately  
10 upon what, filing?

11 MR. RICHARDS: His filing this  
12 request. While we cannot come to an agreement  
13 because the community is opposed to this  
14 change and so the ANC is not going to be in a  
15 position to make any agreement with this mini  
16 market with regard to this because any  
17 agreement would allow the change to a liquor  
18 license and the community is opposed. After  
19 holding a public hearing and having public  
20 debate on this, the ANC voted to oppose it so  
21 we would not be --

22 CHAIRPERSON MILLER: I don't want

1 to get too far into it. I believe, again,  
2 this is an unusual situation that Board  
3 Members may want to discuss in closed session  
4 but I want to make sure I get each of your --

5 MR. RICHARDS: Ethically in this  
6 circumstance, in this case with this owner, I  
7 would not move to dismiss. I don't know what  
8 the five protestants would do but I would not  
9 do it but I wanted to give you the reason why  
10 I would not do it because in many cases I  
11 would.

12 CHAIRPERSON MILLER: Okay. Thank  
13 you.

14 What is your name again? I'm  
15 sorry.

16 MS. TILGHMAN: My name is Paulette  
17 Tilghman. Okay.

18 Just before the Board goes into  
19 closed session on this, I wanted to make sure  
20 if you had any comment whether you felt  
21 prejudiced or anything to going forward  
22 without that PIF.

1 MS. TILGHMAN: Well, the community  
2 definitely does not want them there so we are  
3 looking for our goal.

4 CHAIRPERSON MILLER: Okay.

5 MS. TILGHMAN: At the same time,  
6 we're glad -- at least I'm glad that you all  
7 are going to discuss it because I don't know  
8 it's fair. I know having a liquor store isn't  
9 fair but as far as procedures are concerned,  
10 I wouldn't want anybody to do something unjust  
11 to me.

12 MEMBER ALBERTI: Ms. Miller can I  
13 ask a question?

14 CHAIRPERSON MILLER: Yes.

15 MEMBER ALBERTI: Do the  
16 protestants understand what would happen, what  
17 we're talking about here?

18 MS. TILGHMAN: I think if we say  
19 they should have filed it, then we  
20 automatically -- they can automatically get a  
21 denial. Is that incorrect?

22 MEMBER ALBERTI: We would dismiss

1 their application. So you do understand that.

2 MS. TILGHMAN: And I would like it  
3 dismissed but I don't want to be unjust  
4 because I don't like people being unjust to  
5 me.

6 MR. RICHARDS: My feel is I would  
7 love it to be dismissed but, as a practical  
8 matter, I would prefer to have it dismissed on  
9 the merits.

10 CHAIRPERSON MILLER: Okay. My  
11 question was whether you felt that your case  
12 would be prejudiced if you did not have the  
13 benefit of the PIF?

14 MR. RICHARDS: No, our case isn't  
15 going to be prejudiced. Our case is in no  
16 matter what.

17 CHAIRPERSON MILLER: All right.

18 MS. TILGHMAN: I don't know what  
19 they had to give so I can't really comment on  
20 what they didn't give but I would like to have  
21 had whatever it was because I may have been a  
22 better presenter for my community.

1 CHAIRPERSON MILLER: Right. Okay.

2 All right.

3 MEMBER SILVERSTEIN: Madam Chair,  
4 I would like to move that we go into session  
5 to receive legal advice on this matter.

6 CHAIRPERSON MILLER: Okay. There  
7 is a motion to do so. In accordance with  
8 Section 405 of the Open Meetings Amendment Act  
9 I close the meeting for the purpose of seeking  
10 legal advice from our counsel on Case No. 13-  
11 PRO-00011, Lee's Mini Market per Section  
12 405(b)(4) of the Open Meetings Amendment Act  
13 of 2010. Is there a second?

14 MEMBER BROOKS: Second.

15 CHAIRPERSON MILLER: Okay. I'll  
16 take a roll call vote not that the motion has  
17 been seconded.

18 Mr. Brooks.

19 MEMBER BROOKS: I agree.

20 CHAIRPERSON MILLER: Mr. Alberti.

21 MEMBER ALBERTI: I agree.

22 CHAIRPERSON MILLER: Ms. Miller

1 agrees.

2 Mr. Silverstein.

3 MEMBER SILVERSTEIN: I agree.

4 CHAIRPERSON MILLER: Mr. Jones.

5 MEMBER JONES: I agree.

6 CHAIRPERSON MILLER: Okay. The  
7 vote is 5-0-0. The Board will now go into  
8 closed session to briefly consider this matter  
9 and then we will come back and let you know  
10 how we will proceed.

11 (Whereupon, at 2:18 p.m. off the  
12 record until 2:26 p.m.)

13 CHAIRPERSON MILLER: Okay. The  
14 Board is back from conferring with legal  
15 counsel on this issue. I'll just make a few  
16 comments and then the Board is going to vote.  
17 Any other members might want to make comments.

18 I found this somewhat of a  
19 difficult issue because we have this rule  
20 which is for the benefit of all the parties.  
21 As Ms. Tilghman said, so they could know what  
22 to prepare for and the Board can know what to

1 prepare for as well and have a fair and  
2 efficient hearing. That's the purpose of this  
3 rule.

4 I understand that there are some  
5 language issues here but the son in this case  
6 does speak English. Several times in the  
7 process there were communications about how  
8 this form is very important. I think it's too  
9 bad if you missed that.

10 On the other hand, I understand  
11 that the ANC said that they don't feel  
12 prejudiced by the fact that there wasn't a PIF  
13 in this case by the Applicant but the party of  
14 five is not sure. For that reason, I really  
15 vacillated on this in my mind but I'm going to  
16 move that we do dismissed the case at this  
17 juncture with the caveat that the Applicant  
18 can bring the case again.

19 There's no bar to reapplying. The  
20 fee for the application would be forwarded to  
21 the second application. There would be no  
22 additional fee. The purpose of this would be

1 that there would be a fair hearing as our  
2 rules try to provide. I'm going to move  
3 forward with dismissal for failure to file the  
4 PIF. Do I have a second?

5 MEMBER SILVERSTEIN: I second the  
6 motion.

7 CHAIRPERSON MILLER: Okay. Mr.  
8 Silverstein has seconded the motion. Are  
9 there further comments on the motion? Not  
10 hearing any.

11 Oh, I'm sorry, Mr. Silverstein.

12 MEMBER SILVERSTEIN: I first want  
13 to thank the ANC representative and also the  
14 gentlelady representing the group of five. I  
15 think you said it quite well that you did not  
16 wish to be unneighborly or try to be petty  
17 about this.

18 But, as you said, you don't know  
19 what this would have done, how this might have  
20 helped your case because you don't know what  
21 was in it. You have a right to know what the  
22 other side is going to bring forward so that

1 you can prepare and so that we can prepare to  
2 research that and understand it and address it  
3 properly.

4 For that reason and the fact that  
5 this is a requirement that we make and we  
6 always say this is not a frivolous exercise  
7 and we mean that. It's a case of where we  
8 must respect the process. We must respect the  
9 law and we must respect each other. For that  
10 reason I am going to agree with the Chair and  
11 vote to dismiss this. Thank you all.

12 CHAIRPERSON MILLER: Any comments?

13 INTERPRETER: Are we free to go?

14 CHAIRPERSON MILLER: No, not yet.

15 We haven't voted yet.

16 I would say, too, that I thank you  
17 all for coming down. If this does get passed,  
18 I'm sorry that you couldn't have the hearing  
19 today. I don't want to assume how the vote is  
20 going to go so are there any other comments?

21 Mr. Jones.

22 MEMBER JONES: With all due

1 respect, would you mind just removing your hat  
2 until we finish? I appreciate it.

3 CHAIRPERSON MILLER: Any other  
4 comments? All right. Not hearing anybody,  
5 there's a motion that's been seconded to  
6 dismiss. All those in favor say aye.

7 BOARD MEMBERS: Aye.

8 CHAIRPERSON MILLER: All those  
9 opposed? All those abstaining? Okay. The  
10 motion passes 5-0-0.

11 That concludes this hearing. If  
12 you have any questions, feel free to ask your  
13 general counsel, or you can ask us right now.

14 MS. TILGHMAN: Do we have to bring  
15 another sheet for people? I mean, the sheet  
16 I gave that designated me, do I have to bring  
17 another one or will you all just keep it?

18 CHAIRPERSON MILLER: Another one  
19 if there is another hearing? Is that what  
20 you're saying?

21 MS. TILGHMAN: Yes. Can that  
22 sheet go for the next hearing?

1                   CHAIRPERSON MILLER: Okay. We'll  
2 keep it. You might make reference to it when  
3 the time comes at the hearing.

4                   MS. TILGHMAN: That it's on file.  
5 Okay. Thank you.

6                   CHAIRPERSON MILLER: All right.  
7 Thank you. Have a good afternoon.

8                   So that concludes our hearings for  
9 this afternoon. The Board is going to recess  
10 and we'll be back to do our agenda in a little  
11 while.

12                   (Whereupon, at 2:31 p.m. the  
13 hearing was adjourned.)

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<b>A</b>	12:20,20 <b>Avenue</b> 1:10 2:6 <b>aye</b> 19:6,7	13:10,17 14:1,6 14:15,20,22 15:4 15:6,13 17:7 18:12,14 19:3,8 19:18 20:1,6	<b>denial</b> 12:21 <b>designated</b> 4:14 19:16 <b>difficult</b> 15:19 <b>difficulty</b> 9:10 <b>discuss</b> 11:3 12:7 <b>dismiss</b> 9:19 10:5 11:7 12:22 18:11 19:6 <b>dismissal</b> 17:3 <b>dismissed</b> 13:3,7,8 16:16 <b>DISTRICT</b> 1:1 <b>doing</b> 9:6 <b>DONALD</b> 1:22 <b>due</b> 18:22 <b>D.C</b> 1:18	<b>finish</b> 19:2 <b>first</b> 17:12 <b>five</b> 4:6,11 11:8 16:14 17:14 <b>form</b> 5:18,22 6:12 7:17 16:8 <b>forward</b> 9:17 11:21 17:3,22 <b>forwarded</b> 16:20 <b>found</b> 15:18 <b>free</b> 18:13 19:12 <b>frivolous</b> 18:6 <b>full</b> 8:5 <b>further</b> 17:9
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