

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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KYS, Inc. :
   
t/a Kovaks Liquor :
   
1237 Mount Olivet Road NE : Protest (Status)
   
: Hearing
   
Retailer A :
   
License No. 76573 :
   
ANC 5D :
   
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JULY 29, 2015

The Alcoholic Beverage Control Board met in the 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
- NICK ALBERTI, Member
- HECTOR RODRIGUEZ, Member
- MIKE SILVERSTEIN, Member
- JAMES SHORT, Member

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

9:45 a.m.

CHAIRPERSON MILLER: Next case,  
another protest hearing status case, Kovaks  
Liquors, located at 1237 Mount Olivet Road,  
Northeast, License No. 76573 in ANC 5D, and it's  
an application to renew the license.

Good, looks like we have both sides  
here, okay.

Okay, would you introduce yourselves?  
We'll start with the Applicant.

MR. KIM: Okay, my daughter is going  
to be a bit late, she's parking outside. Can we  
start today?

CHAIRPERSON MILLER: You're okay with  
us, time-wise. If you could just identify  
yourself for the record. What is your name?

MR. KIM: Kim, Yung Kim.

CHAIRPERSON MILLER: Okay, and Ms.  
Henderson?

MS. HENDERSON: Yes, good morning,  
Chairman Miller.

1 CHAIRPERSON MILLER: Okay.

2 MS. HENDERSON: And members of the  
3 Board. Kathy Henderson, Chairperson for ANC 5B,  
4 representing the Commission.

5 CHAIRPERSON MILLER: Okay, good  
6 morning.

7 MS. SHROPSHIRE: Good morning. Keisha  
8 Shropshire, ANC Commissioner of the Single Member  
9 District, where the establishment is.

10 CHAIRPERSON MILLER: Okay, great, glad  
11 you're here.

12 All right, I'm going to give you some  
13 instructions about the protest hearing and give  
14 you your date, but first, I just want to ask if  
15 there is anything else you want to bring to our  
16 attention?

17 MS. HENDERSON: Well, that I did  
18 receive -- Commissioner Shropshire was tasked by  
19 the Commission, to work with possible -- drafting  
20 possible language for a possible settlement  
21 agreement, and that seems to be proceeding.

22 I've received that actually, last

1 night. We are reviewing it preliminarily. It  
2 looks hopeful, and we look forward to spending  
3 more time to see that we can flush this out into  
4 a mutually acceptable agreement.

5 CHAIRPERSON MILLER: Great. Okay,  
6 anything else? All right, in the event -- and we  
7 do hope that you work it out between you all.

8 In the event you don't, and you do  
9 come for a protest hearing, I just want to make  
10 sure that you're aware, and you watch out for  
11 correspondence from this office, about the  
12 protest information form and an exhibit form.

13 You'll get those a few weeks in  
14 advance of the protest hearing, and they're very  
15 important, and you need to submit them to the  
16 Board and to opposing parties within seven days  
17 of the hearing.

18 Hi. Do you want to introduce  
19 yourself?

20 MS. KIM: I'm his daughter, Elina Kim.

21 CHAIRPERSON MILLER: Okay, so, Ms.  
22 Kim, I'm just now giving instructions.

1           In the event they go to a protest  
2 hearing, sounds like they're working things out -

3 -

4           MS. KIM: Yes.

5           CHAIRPERSON MILLER: -- but if they  
6 don't, they have -- they need to be aware that  
7 they'll be getting a protest information form and  
8 an exhibit form for use at the hearing, and that  
9 has to be served on the Board and opposing  
10 parties, no later than seven days ahead of the  
11 hearing.

12           The protest information form will ask  
13 for you to identify your issues and often, by the  
14 time you get to a hearing, the issues are much  
15 more narrow than they were at the outset of the  
16 protest.

17           So, this is really important to know,  
18 what's the issue and who your witnesses are going  
19 to be by name, not by category, and what your  
20 exhibits are going to be ahead of the hearing, so  
21 everybody can have a very focused, efficient  
22 hearing and be fair, be on notice, as to what the

1 issues are.

2 The exhibit form will ask you to  
3 identify and provide your exhibits. So, you'd be  
4 serving copies of your exhibits on the Board and  
5 the other party.

6 MS. KIM: Okay.

7 CHAIRPERSON MILLER: Okay, if you have  
8 any questions, if it's going to hearing up to  
9 that point, or even if it's not, if you have any  
10 questions, you could feel free to call the  
11 attorney in our office, Janae Raines, 442-4353.

12 All right, and let me give you your  
13 hearing date and time.

14 Protest hearing is scheduled for  
15 October 14th at 4:30 p.m., and I also want to  
16 advise you that if you do -- or if you're pretty  
17 sure you're going to have a settlement agreement,  
18 it's better if you file it with the Board more  
19 than a week ahead of time, so that our  
20 investigator doesn't waste time on your case.

21 MS. HENDERSON: Absolutely.

22 CHAIRPERSON MILLER: You know, and he

1 can be doing -- he or she can be doing other  
2 things in your committees, okay.

3 MS. HENDERSON: Well, I look forward  
4 to seeing if we can come to an agreement, but the  
5 Commission remains positioned that if we cannot,  
6 we will be proceeding to the hearing.

7 CHAIRPERSON MILLER: Right, and that's  
8 -- that's absolutely the way the systems works,  
9 yes.

10 Okay, so, any other questions?

11 (No audible response.)

12 CHAIRPERSON MILLER: All right, well,  
13 good luck, and thank you all for coming down.

14 MS. HENDERSON: Thank you.

15 CHAIRPERSON MILLER: Okay.

16 MS. KIM: Actually, I do have one more  
17 question.

18 CHAIRPERSON MILLER: All right.

19 MS. KIM: If we do actually get to the  
20 protest hearing, does my father need to be  
21 present, because I submitted to be the designated  
22 representative on his behalf.

1 CHAIRPERSON MILLER: Okay, if you go  
2 to a hearing, I might want to get back to you on  
3 that.

4 MS. KIM: Okay.

5 CHAIRPERSON MILLER: But I don't know  
6 that it's required by law, but if you go to a  
7 hearing, you have to think about who your  
8 witnesses are going to be.

9 MS. KIM: I understand.

10 CHAIRPERSON MILLER: Okay.

11 MS. KIM: I'm just asking just to --

12 CHAIRPERSON MILLER: Okay, all right.  
13 I'm not sure that it's certainly -- the Board  
14 would certainly prefer that he be here, but I  
15 can't say that there is a regulation that  
16 requires him to be here.

17 MS. KIM: Okay.

18 MEMBER ALBERTI: Madam Chair?

19 CHAIRPERSON MILLER: Sure.

20 MEMBER ALBERTI: Yes, so, you should  
21 understand that at a protest hearing, it is the  
22 licensee's responsibility. The onus is on the

1 licensee to show that they are appropriate for  
2 that location.

3 MS. KIM: All right.

4 MEMBER ALBERTI: So, it's your choice,  
5 who you present and what evidence you present,  
6 but if you can do that without your father  
7 present, that's up to you, but it's important  
8 that you are able to show that you are  
9 appropriate for that location, and that is the  
10 licensee's responsibility, and the onus is on  
11 them, and if they don't do that, then we just --  
12 we'll have to take the evidence that we get from  
13 the Protestants and work with that.

14 MS. KIM: I see, thank you.

15 MEMBER ALBERTI: So, just be mindful  
16 of that, okay.

17 CHAIRPERSON MILLER: Mr. Rodriguez?

18 MEMBER RODRIGUEZ: Madam Chair, I  
19 agree with my fellow Board Member on that, and it  
20 is, you know, recommended that the licensee be  
21 present to answer any questions, just in case  
22 something comes up that, you know, you might not

1 be sure of.

2 MS. KIM: I understand, thank you.

3 CHAIRPERSON MILLER: Mr. Silverstein?

4

5 MEMBER SILVERSTEIN: And I would  
6 reinforce to both sides that if you have any  
7 questions about the proceedings, about how this  
8 works, to contact our legal staff. Ms. Raines  
9 can help you to answer those questions. They  
10 won't help you prepare your case, but they will  
11 help you with the questions and how to proceed.

12 CHAIRPERSON MILLER: Or Ms. Jenkins,  
13 if you're familiar with Ms. Jenkins.

14 MS. HENDERSON: Yes, Chairman Miller,  
15 I would ask that since all parties are here, that  
16 we have another meeting. I'm not asking for  
17 another formal mediation session, but I just want  
18 to put the parties on notice, that we will need  
19 to meet again, to look at what's been submitted,  
20 to see if there is room for agreement, and I  
21 would like to get a sense, as to whether or not  
22 they'd be open to that.

1 MS. KIM: Yes.

2 CHAIRPERSON MILLER: Great. Okay,  
3 thank you. All right, if there's nothing else  
4 then --

5 MS. KIM: Do I sign in here?

6 CHAIRPERSON MILLER: Yes, please sign  
7 in. All right, okay. Have a good day then.  
8 Thank you very much.

9 (Whereupon, the above-entitled matter  
10 went off the record at 9:53 a.m.)

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