

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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David Sakai :

t/a International House :

of Pong : Fact Finding

1010 Wisconsin Avenue, NW : Hearing

Retailer CR :

License No. 84905 :

ANC 2E :

New Application :

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AUGUST 7, 2013

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

PRESENT

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD BROOKS, Member

MIKE SILVERSTEIN, Member

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

10:19 a.m.

CHAIRPERSON MILLER: Okay. Next case on our calendar is a fact finding hearing for International House of Pong located at 1010 Wisconsin Avenue, N.W.

MR. KLINE: Good morning. Andrew Kline on behalf of the Applicant.

CHAIRPERSON MILLER: Okay. License No. 84905 in ANC 2E. Okay.

MR. KLINE: Madam Chairperson, Mr. Sakai is in Las Vegas, was detained on business there and apologizes to the Board that he is not with you this morning. He expected to be back in town today and he got delayed with some business there and wanted me to convey to the Board his apologies for not being here.

But I'm his representative and have been since this application was filed, so I am here to report to the Board on the issue of the license. He had thought he had located

1 another location in Georgetown to do this very  
2 interesting concept that he had originally  
3 applied for, which was the ping pong and  
4 restaurant operation, but has not been able to  
5 conclude a deal.

6 I know the Board remains concerned  
7 about licenses that stay in safekeeping for  
8 long periods of time or remain unissued.

9 Inasmuch as he has not been able to put this  
10 deal together, he is going to aggressively  
11 seek to do something with the license with the  
12 Board's permission. And we would request that  
13 we be given a short period of time, say 60  
14 days, to do that and report back to the Board.

15 CHAIRPERSON MILLER: Okay.

16 Questions?

17 Oh, are you finished?

18 MR. KLINE: Yes, I am.

19 CHAIRPERSON MILLER: Okay.

20 MR. KLINE: Unless the Board has  
21 any questions.

22 CHAIRPERSON MILLER: Are there

1 questions by Board Members?

2 MEMBER ALBERTI: Mr. Kline, and  
3 thank you for your representation of where  
4 your client was. Appreciate that.

5 Given that so much time has passed  
6 since the Applicant first applied for this  
7 license --

8 MR. KLINE: Yes?

9 MEMBER ALBERTI: -- and assuming  
10 that they had some potential venues identified  
11 when they applied --

12 MR. KLINE: absolutely.

13 MEMBER ALBERTI: -- I'm a little  
14 concerned about the prospects for him finding  
15 a place. I mean I have to assume that for the  
16 last two years now, three years he's been  
17 searching. So what comfort level can you give  
18 us that in 60 days he's going to be -- and,  
19 you know, six months ago he told us that he  
20 was searching, and now we're here today. So  
21 what comfort level do we have that, you know,  
22 he can find something in 60 days? I mean the

1 history doesn't give us any confidence.

2 MR. KLINE: Understand. And I  
3 understand your concern, which is why -- two  
4 things: One is if he doesn't find a place --  
5 and he hasn't. And I agree with you, the  
6 prospects do not look good. I mean  
7 Georgetown, as we all know, can be -- well,  
8 we'll leave that just where it is. Georgetown  
9 is Georgetown.

10 (Laughter.)

11 MR. KLINE: But if not, then he is  
12 talking to some folks about doing something  
13 else with the license. And that's why we're  
14 asking for a short period of time to come back  
15 to the Board with something concrete. We  
16 understand the Board's concerns. We're not  
17 asking them to be open-ended. We want to come  
18 back to you within that short period of time  
19 with something more concrete. This is what  
20 we're doing.

21 I mean I'm sure the Board knows  
22 he's paid the renewal fees. That money is

1       there. From our standpoint it wouldn't seem  
2       fair at this point to say, no, time's up. You  
3       can't do anything with it. So we would ask  
4       for a little more time. We'd ask for the  
5       Board's indulgence and patience to give us an  
6       opportunity to do something with it. He's  
7       obviously invested in this, you know, not only  
8       the Licensee's, but also my office's time, and  
9       we would just ask the Board's indulgence at  
10      this point.

11                   CHAIRPERSON MILLER: Other  
12      questions? Comments?

13                   (No audible response.)

14                   CHAIRPERSON MILLER: I guess my  
15      position would be I would like it if you could  
16      file something in writing within 60 days and  
17      then we not just come into a fact finding in  
18      60 days and find out where we are.

19                   MR. KLINE: Be happy to do that.

20                   CHAIRPERSON MILLER: Okay.

21                   MEMBER SILVERSTEIN: Well, once  
22      again, Madam Chair, you want something in

1 writing in 60 days or do you want --

2 CHAIRPERSON MILLER: Yes.

3 MEMBER SILVERSTEIN: Instead of a  
4 fact finding?

5 CHAIRPERSON MILLER: Well, I think  
6 it would be -- or I think what I'm suggesting  
7 is --

8 MEMBER SILVERSTEIN: Or are you  
9 saying in advance of 60 days we'd like  
10 something so that --

11 CHAIRPERSON MILLER: I'm --

12 MEMBER SILVERSTEIN: -- we have  
13 something when we go into this fact finding  
14 hearing?

15 MR. KLINE: If I may?

16 CHAIRPERSON MILLER: Yes.

17 MR. KLINE: What I would suggest  
18 is that we file something within 60 days. If  
19 the Board has further questions and wants to  
20 address it further, then bring us in on, you  
21 know, very short notice for a fact finding  
22 and, you know, we'll follow up. I think

1 that's hopefully an appropriate way to handle  
2 it.

3 CHAIRPERSON MILLER: Yes, Mr.  
4 Alberti?

5 MEMBER ALBERTI: I'd like to sort  
6 of take this a step further. I'm willing to  
7 accept the proffer to provide us with  
8 information in 60 days. I'm not sure what  
9 that means, what that information would be,  
10 and I'm not going to ask you to tell us, but  
11 assuming that you provide us with some  
12 information in 60 days, it would be my  
13 position that within six months the Licensee  
14 be able to present to the Board a lease  
15 agreement or a memo of understanding with  
16 someone for a space, either the purchase or  
17 lease of space, that appears to have some  
18 weight to it.

19 Because after six months if I  
20 don't see anything, it's going to be my  
21 position that we cancel this license. I mean  
22 this is now two-and-a-half years. That would

1 be -- now it will be two-and-a-half years  
2 since this person applied for a license. It's  
3 been languishing. I think when we have these  
4 licenses out there that aren't being used,  
5 they're just kind of taking up space, because  
6 other entrepreneurs may -- it may discourage  
7 other entrepreneurs because it's difficult to  
8 get a license in a moratorium zone. There  
9 maybe somebody who has a space. There may be  
10 somebody who has an idea. The District's  
11 losing out on tax money from a license that  
12 could be operating.

13 So I would like to see it freed up  
14 to encourage someone else if this isn't going  
15 to be used by this Licensee.

16 MR. KLINE: And, Mr. Alberti, I  
17 don't think your position is unreasonable in  
18 terms of what you're suggesting. I mean we're  
19 not going to disagree with you on any of that.

20 MEMBER ALBERTI: You know, and I  
21 don't know how other Board Members feel about  
22 that, but I think we should find out, because

1 I mean six months from now we're going to be  
2 in the same position possibly.

3 MR. KLINE: Understood.

4 CHAIRPERSON MILLER: Yes, Mr.  
5 Silverstein?

6 MEMBER SILVERSTEIN: Yes, I think  
7 it's important that we treat all applicants  
8 and all licensees equally. And we did in fact  
9 deny a continued safekeeping request and take  
10 a license away from someone in Glover Park.  
11 And we do not have infinite patience in these  
12 matters. I think that everything that has  
13 been said on both sides of the bench has been  
14 imminently fair and reasonable, but it is  
15 important to understand that this is a public  
16 commodity, this license that's not being used.  
17 And if the current holder of that license  
18 cannot use it, it's important that it be  
19 returned to the public.

20 MR. KLINE: Understood.

21 MEMBER SILVERSTEIN: Thank you,  
22 Mr. Kline.

1 MR. KLINE: Thank you.

2 CHAIRPERSON MILLER: My  
3 understanding is this 60-day report is going  
4 to be, you know, fairly specific as to, you  
5 know, what the likelihood is, what the  
6 prospects are, you know, why this license  
7 isn't head for cancellation. So I expect that  
8 to go a long way towards what you're talking  
9 about in six months. I mean not a lease, but  
10 you know, evidence of where this is at.

11 MEMBER ALBERTI: If it's that  
12 specific, I'd be very pleased.

13 CHAIRPERSON MILLER: Yes, and I  
14 think, you know, we can either schedule a fact  
15 finding on the calendar or we can just wait.  
16 And like you said, if you're not worried about  
17 short notice, then we can add it after we read  
18 the report.

19 MR. KLINE: I'll leave that to the  
20 Board --

21 CHAIRPERSON MILLER: Okay.

22 MR. KLINE: -- in terms of the

1 Board's scheduling and calendar and  
2 management. I mean I think that we're on the  
3 same page in terms of the approach, and I'll  
4 defer to the Board.

5 CHAIRPERSON MILLER: Let me just  
6 ask you if you can articulate what you  
7 anticipate in general would be in this report  
8 in 60 days.

9 MR. KLINE: Well, I mean I think  
10 it's pretty clear. I mean Mr. Sakai either  
11 needs to have a letter of intent or a specific  
12 space, or in the alternative some arrangement  
13 to transfer the license to another party that  
14 might make use of that. And I don't speak for  
15 the Board, but I presume that that's what the  
16 Board would be looking for.

17 CHAIRPERSON MILLER: And he is  
18 considering at this point giving up, or he is  
19 giving up his concept of the ping pong  
20 restaurant thing and just looking for a  
21 restaurant?

22 MR. KLINE: Well, no, but he

1       certainly is open. You know, he's more open  
2       now to doing something else with the license  
3       given that he is appreciative of the Board's  
4       concerns as expressed by several Board Members  
5       about the license not being tied up and not  
6       languishing. So he and I have spoken about  
7       that and he certainly understands that, which  
8       causes him to be more expansive in terms of  
9       options rather than limited.

10                   CHAIRPERSON MILLER: Okay. Thank  
11       you. Anything else?

12                   (No audible response.)

13                   CHAIRPERSON MILLER: Okay. Then  
14       thank you very much.

15                   MR. KLINE: Thank you. Oh, just  
16       so I'm clear, I'm giving you a report within  
17       60 days?

18                   CHAIRPERSON MILLER: Correct.

19                   MR. KLINE: Is that what the Board  
20       has decided?

21                   CHAIRPERSON MILLER: Yes.

22                   MR. KLINE: Yes. Okay. Great

1 Thank you.

2 CHAIRPERSON MILLER: Thank you  
3 very much.

4 (Whereupon, the hearing was  
5 concluded at 10:29 a.m.)

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**2E** 1:10 2:10  
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**7** 1:12

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**84905** 1:9 2:10