

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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Edwards Bar & Grill :Fact-Finding

Retailer CN :Hearing

License No. 1341 :

:

(License in Safekeeping) :

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September 11, 2013

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

PRESENT:

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD BROOKS, Member

HERMAN JONES, Member

MIKE SILVERSTEIN, Member

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

(10:35 a.m.)

CHAIRPERSON MILLER: All right. I think we are going to move to the Fact-Finding Hearing that we have scheduled next on the calendar, as Mr. Rivero is not quite ready yet with that other case.

So the case of Edwards Bar & Grill located at -- I'm sorry, I don't have the address here. It has a License No. 1341, which is in safekeeping.

Good morning. Would you introduce yourselves for the record, please.

MR. GRANDIS: Good morning. My name is Ed Grandis. I'm an attorney. I'm here on behalf of the applicant, the licensee, Edwards Bar. With me today is a commercial realtor whose name is Ken Johnson. I'll let him introduce himself.

MR. JOHNSON: Ken Johnson, Associate Broker with and Blake Dickson Real Estate Services.

1 MR. GRANDIS: And Mr. Edwards,
2 himself, is here, but he had to go feed the
3 meter and I had advised him about 10 minutes
4 ago that he needed to do that, because it was
5 going to run out at 10:45. So he will be
6 walking in. I left a place for him there. If
7 you would like him to be up here, that's fine
8 as well.

9 CHAIRPERSON MILLER: Okay. Yes,
10 he could probably join you at the table in
11 case there are any questions when he comes.
12 But are you prepared to go forward and give us
13 an update as to what has been happening with
14 this license?

15 MR. GRANDIS: Yes.

16 CHAIRPERSON MILLER: Okay.

17 MR. GRANDIS: And I want to thank
18 you all for the opportunity to be here today
19 to give you an update. As I just noted, we
20 have Mr. Johnson here. He is a commercial
21 realtor. He has been -- his firm has been
22 retained as an exclusive realtor in assisting

1 us in two matters.

2 One, assisting in interviewing
3 appropriate applicants for transfer as we had
4 talked about previously. And also to work
5 with commercial property owners and their
6 property management to find the appropriate
7 location, because as we know, this type of
8 endorsement has very limited geographic areas
9 where it can be and that has sort of been --
10 or that has been a major source of the concern
11 in the last year of us trying to find the
12 appropriate location.

13 And I would like to allow Mr.
14 Johnson to perhaps give an update on what he
15 has been able to do and perhaps be available
16 to answer any questions of the Board. Again,
17 thank you for letting us be here today.

18 CHAIRPERSON MILLER: Okay.

19 MR. JOHNSON: Since being engaged,
20 it has been our responsibility, as stated, to
21 help identify a potential purchaser of the
22 license that would be suitable to the Board to

1 take over the license as well as identifying
2 property that would also be suitable.

3 In doing so, we have met with,
4 spoken with all of the current CN licensees
5 with special endorsements about their
6 willingness to purchase a license as well as
7 other CN licensees, regular CN licensees
8 without endorsement to find their willingness
9 to purchase the license.

10 It has been our experience to date
11 that there is a fair to strong amount of
12 interest in purchasing such a license.
13 However, the challenge that we found is that
14 no one is willing to purchase without a
15 specific location in mind and without some
16 assurance from the Board that, in fact, they
17 will have the opportunity to have the license
18 reinstated at that location.

19 So we have been spending most of
20 our efforts trying to identify a pretty good
21 property. As we see that the property -- the
22 challenge in identifying a property is really

1 fourfold. We have to find something with
2 vacancy that is immediate or in the near term.
3 We have to find something that meets the
4 geographical restrictions of this type of
5 license.

6 We have to find something that
7 meets the technical requirements of this type
8 of endorsement. And we have to find something
9 that is -- the owner is willing -- in which
10 the owner is willing to lease to this type of
11 applicant. And those have been -- that has
12 been a fair challenge, I would say.

13 CHAIRPERSON MILLER: I'm sorry,
14 could you repeat the last one?

15 MR. JOHNSON: Finding an owner of
16 the building that is willing to lease, sign a
17 lease --

18 CHAIRPERSON MILLER: Okay.

19 MR. JOHNSON: -- to this type of
20 applicant.

21 CHAIRPERSON MILLER: Okay.

22 MR. JOHNSON: It has been our

1 experience today that we have contacted
2 everyone in the commercial community and the
3 retail brokerage community to try to ascertain
4 where such a license could go. So far we have
5 not had any success. We are now contacting
6 any appropriate locations' building owners to
7 try to find individual building owners to find
8 a space that would accommodate the license.

9 CHAIRPERSON MILLER: So once you
10 find a space, you are saying there are current
11 license holders in that category who are
12 interested?

13 MR. JOHNSON: They would be
14 interested. They have expressed to us that
15 without some notion of how this Board would
16 accept their application and without a
17 location or an owner that is willing to accept
18 them, they are probably not that interested.

19 CHAIRPERSON MILLER: Board
20 questions? Yes, Mr. Brooks?

21 MEMBER BROOKS: Just a question.
22 How long have you been looking?

1 MR. JOHNSON: Since, I would have
2 to check my records, the beginning of this
3 year or something. The beginning of this year
4 or so.

5 MR. GRANDIS: During the spring.

6 MR. JOHNSON: Spring. Yes. I
7 would have to look back and see exactly.

8 MEMBER BROOKS: And any particular
9 area of the city?

10 MR. JOHNSON: We are
11 geographically constrained, so primarily in
12 warehouse districts and in the downtown. The
13 CBD.

14 MEMBER BROOKS: Thank you, Madam
15 Chair.

16 CHAIRPERSON MILLER: Yes, Mr.
17 Alberti?

18 MEMBER ALBERTI: Just for
19 clarification so we are all on the same page.
20 When you talk about geographic restrictions,
21 could you please tell me specifically what you
22 mean by that? I suspect what you are alluding

1 to are zoning restrictions?

2 MR. JOHNSON: Yes.

3 MEMBER ALBERTI: Is that correct?

4 MR. JOHNSON: That is correct.

5 MEMBER ALBERTI: So I would like
6 to know your understanding so we know that the
7 search -- I mean, I need some assurance that
8 the search is valid.

9 MR. JOHNSON: Yes.

10 MEMBER ALBERTI: So can you tell
11 me what your understanding is of what the
12 restrictions are?

13 MR. GRANDIS: May I respond?

14 MEMBER ALBERTI: Sure.

15 MR. GRANDIS: May I respond?

16 Because in engaging him we also took the
17 advice -- one of the advice you all had given
18 us at the last hearing was perhaps we should
19 talk to the Zoning Office or the Office of
20 Planning.

21 We have been working with your
22 staff and we had explained --

1 MEMBER ALBERTI: Right.

2 MR. GRANDIS: -- and we all
3 understand you are not the Zoning Office.

4 MEMBER ALBERTI: Right.

5 MR. GRANDIS: We actually had been
6 in contact with the Zoning Office. We were
7 able to -- it wasn't easy at first, but we
8 were able to honestly finally identify someone
9 who felt knowledgeable in the Zoning Office to
10 address this specific issue and that person
11 then colored a map, a Zoning Map from the
12 Zoning Office where we could look based on the
13 current zoning criteria.

14 So what we have done since we
15 retained this commercial broker, we have been
16 working off of the map from the Zoning Office.

17 MEMBER ALBERTI: Okay. Do you
18 have an understanding of how that map was --
19 came about? What the criteria were that
20 resulted from that?

21 MR. GRANDIS: What we were told in
22 the email, and I didn't bring the email today,

1 but the email from the zoning -- from the
2 person at the Zoning Office explained that he
3 used the criteria that is in the statute. He
4 went through the statute and looked at the
5 criteria in the statute and then matched it
6 with the CBD, the Central Business District.

7 MEMBER ALBERTI: Right.

8 MR. GRANDIS: And the warehouse
9 areas, the CMs or whatever that the statute
10 spoke about.

11 MEMBER ALBERTI: Okay.

12 MR. GRANDIS: And that's what he
13 then said that the colored portions of the map
14 that he attached to that email, he said
15 reflected his interpretation of the statute.

16 MEMBER ALBERTI: Can you tell me
17 who you are working with at zoning?

18 MR. GRANDIS: Stephen Cochran.

19 MEMBER ALBERTI: Stephen Cochran?

20 MR. GRANDIS: Yes.

21 MEMBER ALBERTI: Okay.

22 MR. GRANDIS: And we are not

1 working day-to-day, trust me. It was
2 basically an exchange of emails over a period
3 of time.

4 MEMBER ALBERTI: Oh, I understand.
5 I understand that. He is the one who gave you
6 this advice. Okay. Technical issues? What
7 do you mean by that?

8 MR. JOHNSON: There are -- within
9 the statute language that we have been -- that
10 was just discussed, there are certain
11 parameters that the license would have to
12 meet. For example, not within 600 feet of a
13 school. Not within 600 feet of a residence.
14 Not within 600 feet of another establishment
15 that has the same type of license.

16 MEMBER ALBERTI: Okay. So that's
17 what you --

18 MR. JOHNSON: Yes.

19 MEMBER ALBERTI: Okay. I just
20 want to understand how your search is going.
21 That's all the questions I have for now. I'll
22 hand it over to someone else.

1 CHAIRPERSON MILLER: I just have a
2 follow-up on that. I know Mr. Cochran in the
3 Office of Planning actually, you know.

4 MR. JOHNSON: Yes.

5 CHAIRPERSON MILLER: You know, and
6 he has been around a long time and I'm sure
7 that he knows what he is talking about.

8 MR. JOHNSON: Yes.

9 CHAIRPERSON MILLER: I would find
10 it helpful with respect to seeing what your
11 process is and the area you are looking at.
12 If you feel inclined to submit that email and
13 maps to us, we would have a visual
14 understanding of the area.

15 So you have this area, are you
16 methodically going through places in this area
17 and then at some point either you can sell it
18 or you can't sell it? It's not just this
19 unending process?

20 MR. JOHNSON: Of course, of
21 course. Obviously, we are going through all
22 the listing services that list commercial real

1 estate properties. We are contacting every
2 broker who would deal in this kind of
3 property. We know many owners ourselves from
4 our experience and we have approached them
5 directly.

6 As well, we are simply driving the
7 streets square-by-square. We have stopped at
8 a number of vacant buildings. We have talked
9 to owners where there appear to be vacancies
10 and approached them regarding their
11 willingness to rent or sell.

12 CHAIRPERSON MILLER: So what do
13 you see as the end in sight like or when?

14 MR. GRANDIS: If I could address
15 that --

16 CHAIRPERSON MILLER: Um-hum.

17 MR. GRANDIS: -- question?

18 CHAIRPERSON MILLER: Um-hum.

19 MR. GRANDIS: In my conversations
20 with Ken and they have been ongoing, there
21 seems to be a lack of confidence on the
22 landlord's side that they don't -- when they

1 look at this issue with ABC and they are not
2 ABC specialists, they are just owners of
3 property who want to not have vacancies,
4 right?

5 They don't see a road map. And we
6 have tried to tell them that there have been
7 in this last year several matters somewhat
8 similar of relocation with this adult
9 entertainment that we believe may be a road
10 map that we can look at that this Board has
11 recently done.

12 So it is an education process. As
13 you all probably know, there has been
14 uncertainty for a number of years. There has
15 been controversy or whatever. And, therefore,
16 landlords don't like that. They like
17 certainty. And I've been working with Ken
18 saying let's look at some of the recent cases
19 that this Board has done in addressing this
20 matter in relocation.

21 And so it's an education thing for
22 Ken, as a realtor, to really get more familiar

1 with what the Board has done recently. And us
2 being -- or him being able to educate the
3 property owner. Is that fair?

4 MR. JOHNSON: I think that's fair
5 to say. There is an example of a licensee
6 that did move from Southeast into Northeast.
7 They did change their location and that would
8 provide to us essentially a road map, if we
9 could rely on that process, but it is certain
10 that that is the -- it's a problem for the
11 landlord as well as for potential purchaser.

12 They have told us candidly I don't
13 think that we could ever get approval for
14 this. You would have to show us some -- give
15 us some more confidence that the Board would
16 approve. Obviously, they anticipate some, no
17 matter where they go, local minority to oppose
18 it and they would like some reassurance that
19 it is, in fact, saleable and it's something
20 that could be opened.

21 CHAIRPERSON MILLER: Yes, Mr.
22 Brooks?

1 MEMBER BROOKS: Yes. Exactly how
2 long has this license been in safekeeping?

3 MR. GRANDIS: I believe six years.
4 I believe. I mean, I don't have -- I really
5 didn't bring that file today. I believe six
6 years.

7 MEMBER BROOKS: Thank you, Madam
8 Chair.

9 MEMBER ALBERTI: Go ahead, Mr.
10 Jones.

11 CHAIRPERSON MILLER: Mr. Jones?

12 MEMBER JONES: Thank you, Madam
13 Chair. So, Mr. Grandis, you were here last
14 time, correct?

15 MR. GRANDIS: Yes, sir.

16 MEMBER JONES: Were you clear on
17 what our expectations were for this hearing,
18 at the time that we spoke last time?

19 MR. GRANDIS: My understanding was
20 to be able to come back and show that we have
21 made some progress. I don't believe I was --
22 that was my understanding.

1 MEMBER JONES: Okay.

2 MR. GRANDIS: And what we
3 attempted to was -- and if you remember at the
4 last hearing, that was right after the statute
5 had been amended that had actually been signed
6 by the Mayor. And we discussed that. And I
7 said now that we have certainty of what the
8 statute is regarding adult entertainment,
9 because there was a provision put into -- that
10 was added as an amendment from the fall from
11 the statute into the bill, and at that point
12 I said now that we have certainty, I'm going
13 to go back out and try to find a commercial
14 realtor that has had experience with helping
15 to deal with helping to locate not only
16 nightclubs, but those with adult
17 entertainment.

18 I will be very clear. It took me
19 a while to meet Ken Johnson from that hearing.
20 It didn't -- it took a couple of months for me
21 to finally find a realtor that I felt was --
22 that I was comfortable with that could do

1 this.

2 If you remember in the fall
3 hearing we had another commercial realtor
4 involved, but that person was more familiar
5 with Ward 5, as I had expressed to the Board,
6 but he was not really as conversant in ABC
7 licenses as this firm is. And I feel very
8 confident based on the history that this firm
9 has been working with ABCs particularly, that
10 they are going to be the right firm to get
11 this thing moved.

12 Our desire is to get this moved.
13 My client does not have an interest in seeing
14 it stay in safekeeping any more than the Board
15 does. And we are making, I think, a very fair
16 effort and I think we have made very
17 reasonable progress to identify this firm and
18 the work that they have done in the short time
19 that we have had for them to work on it.

20 And we would appreciate just a --
21 MEMBER JONES: So let me be
22 candid.

1 MR. GRANDIS: -- little bit of
2 understanding.

3 MEMBER JONES: I'm not impressed
4 with the progress that you have made and what
5 you have shown me, as an individual Board
6 Member, today. My expectation was that you
7 would have a plan, not just oh, we tried this
8 or we did that, we called these people, we've
9 got a map. That's not impressive to me.

10 So from April 3rd was when we were
11 here last, it took you two months to find this
12 gentleman here. And so let's give that a good
13 number, let's say June 3rd. So between June
14 3rd and now, September 11, that's
15 approximately what six, seven, eight, nine, so
16 three months?

17 And you don't have a tangible lead
18 on how to bring this to closure. You can't
19 even address the Chairperson's questions.
20 Outside of putting the burden or the blame on
21 the Board as to why it is you don't have a
22 good lead in place.

1 Oh, well, these landlords they are
2 reluctant because they don't know what the
3 Board's process is. They don't know how long
4 it is going to take. We don't have a road
5 map. That doesn't really close for me. So I
6 need you to demonstrate to me, as an
7 individual Board Member, and I want to
8 emphasize that. I am just one person.
9 Everyone else may be totally blown away by
10 your presentation here today, but I'm not.

11 MR. GRANDIS: May I say -- I'm
12 sorry.

13 MEMBER JONES: I'm very
14 disappointed in what it is I'm hearing from
15 you. Did I think -- if no one else, I think
16 I was pretty clear with you, Mr. Grandis, that
17 what you had demonstrated on the 3rd, lip
18 service, wasn't going to cut it for me.

19 And what I'm getting from you
20 right now is lip service. You didn't come
21 here with your file for that. You didn't come
22 here with the -- do you have the drawing? Do

1 you have the map?

2 MR. GRANDIS: We have --

3 MEMBER JONES: Do you have it now
4 to present to the Board?

5 MR. GRANDIS: -- a blow-up of the
6 map, but it's not -- this isn't the blow-up of
7 the map that we got. I mean, I don't feel
8 comfortable responding to the Chairperson
9 handing in this map, because it's a blow-up
10 for us. It doesn't show the map. I would
11 rather send the exact map with the email that
12 came from Mr. Cochran. Okay?

13 But we do have an enlargement of
14 that. But this is not the one he sent. Okay?
15 It covers part of the area of what he sent.
16 So I have heard the Chairperson say would you,
17 please, forward us the email that had the
18 attachment and we will do that.

19 I also think there may be some
20 proprietary things that this realtor has
21 discussed with me and the property owner that
22 we don't feel comfortable sharing with the

1 Board today.

2 MEMBER JONES: And that's
3 perfectly fine.

4 MR. GRANDIS: Okay.

5 MEMBER JONES: But realize I can't
6 evaluate what I don't know.

7 MR. GRANDIS: I understand that.

8 MEMBER JONES: So your
9 challenge, --

10 MR. GRANDIS: Um-hum.

11 MEMBER JONES: -- as far as I am
12 concerned as an individual Board Member, is to
13 sway me that you have a plan that closes.
14 Right now, there is nothing that you have told
15 me, in what I'm hearing from either of you
16 today, that definitizes a plan that closes,
17 i.e., we expect to be able to have this
18 addressed. Whatever you call addressing in
19 the next nine months.

20 And these are the milestones that
21 we need to hit in order to achieve that. Sign
22 up to something. Right now, you are telling

1 me we are going to keep trying.

2 MR. GRANDIS: Well --

3 MEMBER JONES: And that's not
4 going to cut it for me.

5 MR. GRANDIS: I apologize.

6 MEMBER JONES: So I don't know if
7 I can be any more candid than that.

8 MR. GRANDIS: I apologize.

9 MEMBER JONES: The Chairperson
10 will look at me funny and say I'm being too
11 harsh, but I think I need to be clear. I
12 think I need to be clear what it is that I'm
13 expecting. And I will be honest, I don't
14 think that I'm too far off. I'm probably a
15 little bit more aggressive in my statements
16 than the rest of the Board, but I don't think
17 I'm too far off, because we have canceled,
18 closed, terminated a license before that was
19 in safekeeping --

20 MR. GRANDIS: Yes.

21 MEMBER JONES: -- when we receive
22 lip service.

1 MR. GRANDIS: All right.

2 MEMBER JONES: So this is no
3 passing fancy for us. We take -- I take this
4 very seriously. And I think the Board's
5 actions have demonstrated that the Board takes
6 it very seriously.

7 MR. GRANDIS: Well, I apologize if
8 I'm not responding to your concern or the
9 Board's concern adequately. I will say that
10 with Mr. Johnson and his team, that we are
11 much closer than we were in April.

12 Back in April, as I said, the
13 statute had just been signed at the end of
14 last year. And that -- there was an amendment
15 in that process that addressed adult
16 entertainment. And I believe it is only fair
17 upon us that have to follow the law to be with
18 certainty in what the law was.

19 So I believe up until the
20 beginning of 2013, that had not been signed.
21 Now that that was signed, we then had
22 certainty that we can move forward. And it

1 took me a while. And I will agree maybe it
2 took me longer than you would like to see, but
3 I wanted to find the right commercial realtor
4 this time.

5 MEMBER JONES: I don't think I'm
6 communicating effectively. That's history.
7 That's all fine and good. Today, what is your
8 plan to close your action? What do you want
9 to do? You set your own schedule. I'm just
10 looking for you to give me a plan. Give me
11 something.

12 MR. GRANDIS: Well --

13 MEMBER JONES: This we will keep
14 working, doesn't work. That doesn't close.
15 That doesn't work in the real world.

16 MR. GRANDIS: What Mr. Johnson
17 said was that he has identified property
18 owners that own warehouse-type facilities that
19 meet those technical criteria and he is in
20 communication with those people. Some of
21 those people, and may I say this correctly,
22 have shown an interest --

1 MR. JOHNSON: Correct.

2 MR. GRANDIS: -- to continue
3 discussion because they do have vacant
4 property that meet the criteria. Okay. So he
5 has identified properties that -- where this
6 license can legally go, if the community and
7 the Board agree to that.

8 I think we are much farther along
9 than we were in April. I truly do.

10 MEMBER JONES: I can't take your
11 beliefs.

12 CHAIRPERSON MILLER: Okay.

13 MEMBER JONES: I need something
14 here myself. Do you have anything in writing
15 that says we, this company, this owner, would
16 have an interest in this if these conditions
17 were met?

18 MR. JOHNSON: No. There's
19 certainly no owner that wants to put anything
20 like that in writing. If they were to put in
21 writing, it would be in a Letter of Intent.

22 MEMBER JONES: Do you have a

1 Letter of Intent?

2 MR. JOHNSON: No. We --

3 MEMBER JONES: I'm very familiar
4 with Letters of Intent.

5 MR. JOHNSON: -- can't get to that
6 stage until we identify a property. And
7 everyone we spoke to --

8 MEMBER JONES: So you haven't
9 identified a property?

10 MR. JOHNSON: We have identified
11 many properties, but trying to find a property
12 that meet the criteria are -- so far that meet
13 all the criteria, there are none existing.

14 MEMBER JONES: So you don't --
15 there is no property that meets all the
16 criteria? Therefore, you can't have a Letter
17 of Intent from someone, because you don't have
18 a person identified that could give you a
19 Letter of Intent.

20 MR. JOHNSON: There are potential
21 properties that could meet, but what we need
22 to do is talk with the owners, which we have

1 been engaged with, to see that they do have
2 the level of interest that they would lease to
3 a CN use of this nature with this endorsement.

4 I think that has been our
5 challenge. So we are going through the
6 properties individually. This is something
7 that we are doing on a daily basis.

8 CHAIRPERSON MILLER: Okay. I
9 think -- I'm sorry. I think all of the Board
10 Members are probably a little restless up
11 here. I don't know what -- how specifically
12 we were the last time. I'm sorry, I don't
13 know that. But I know in most of these cases
14 that when we ask the parties to return the
15 next time, they are to have met certain
16 criteria, have a specific plan, etcetera, and
17 you all do sound very vague.

18 Like oh, you have made some
19 progress, but I don't think that Mr. Jones was
20 too harsh in this case. I think that, you
21 know, great you've got a map, but I don't
22 think that -- we didn't give you six months to

1 get a map to find out what area you are
2 allowed to, you know, have this kind of
3 license in.

4 So maybe we need to be more
5 specific as to expectations, because I don't
6 think that this Board has in mind an open-
7 ended let's check-in every six months and see
8 how you are doing.

9 I think the Board has been pretty
10 firm with respect to, at least lately,
11 licenses in safekeeping, that they have a
12 term. They are not there forever. It is over
13 six years. So therefore, you know, if you
14 have properties to identify, that's what I'm
15 saying, there are specific area.

16 Okay. How much more time do you
17 need to find a property? Because that's it,
18 if you don't find a property, you can't
19 transfer your license. Is that the case? I
20 mean --

21 MR. JOHNSON: That's correct.

22 CHAIRPERSON MILLER: All right.

1 And so is there not a finite period of time to
2 find a property? Is it two months? Is it --

3 MR. JOHNSON: I think honestly two
4 months is unreasonable. I mean, we have
5 worked with --

6 CHAIRPERSON MILLER: I'm just
7 asking.

8 MEMBER JONES: What you're
9 prepared to present.

10 CHAIRPERSON MILLER: Yes.

11 MEMBER JONES: This is your
12 opportunity. You set your milestones and you
13 hit your milestones. But it is not acceptable
14 to say we will keep trying.

15 MR. JOHNSON: By way of
16 clarification, I would like to say we
17 represent theaters, restaurants, nightclubs on
18 a regular basis. They come to us and we will
19 say we would like to find something in the
20 next 30 days, 60 days. We need a suitable
21 location. They have very few restrictions.
22 They just need a good location to operate.

1 CHAIRPERSON MILLER: Okay.

2 MR. JOHNSON: We are sometimes
3 working with them for two months, sometimes a
4 year, up to 18 months to find and we have much
5 broader spectrum of places that we can look
6 at. It is very difficult. The Downtown
7 District has less than 5 percent vacancy rate
8 for retail spaces right now.

9 It is very hard to find -- office
10 buildings will not accept a use like this. We
11 need a very --

12 CHAIRPERSON MILLER: Okay.

13 MR. JOHNSON: -- specific type of
14 building.

15 CHAIRPERSON MILLER: We hear you.
16 It's very difficult. We hear it is very
17 difficult. Can you tell us, so that we are
18 just not strung along here, how much time do
19 you need to accomplish this purpose? Even
20 though you don't have a crystal ball when you
21 are going to find it, it sounds like you are
22 going methodically through a certain specific

1 area is -- two months is not reasonable?

2 Is four months reasonable? Let's
3 just -- I think you just need a plan.

4 MEMBER JONES: Or what is
5 reasonable?

6 MR. JOHNSON: I mean from what?

7 MR. GRANDIS: You are the expert
8 here.

9 MR. JOHNSON: Yes, I would like to
10 think six to nine months would be reasonable.
11 By that time, we should have at least a sense
12 that there is a possibility. If there's not
13 a possibility, we will identify -- we will
14 have identified all of the buildings in that
15 period that are at least open to a lease.

16 MR. GRANDIS: I will say my client
17 probably is not interested in going beyond a
18 year, because, as you know, licenses are paid
19 for a year. I can just say from my
20 conversations with my client, he wants this
21 resolved as well.

22 So I would say that he is prepared

1 to make the first year payment and hope -- I
2 have to rely upon their expertise on their
3 strategy. I'm not the one doing the strategy
4 or the retail side of this. But from our
5 conversations, it looks like they are having
6 conversations with real possible interests,
7 but I agree with him. He needs the time he
8 needs. That's really his call.

9 I cannot do that. We're telling
10 the Board, you know, today six to nine months.
11 Is that -- in that time we will know -- we
12 would know if this is not going to be
13 potential.

14 MR. JOHNSON: I think it is a
15 goal. I mean, it's a goal that within which
16 we can -- a time frame within which we can
17 work.

18 MEMBER ALBERTI: Mr. Grandis, I
19 don't know how to express this, but a lot of
20 your -- maybe I'm just missing something. A
21 lot of your explanation just seems to be what
22 services Mr. Johnson said.

1 You just said to me that your
2 client doesn't want this to go on for more
3 than a year because well, he has got to pay
4 licensing fees.

5 Well, I'm a pretty logical person
6 here. And I look at this and I say geez, this
7 has been in safekeeping since 2006. And first
8 of all, as I think I expressed or hopefully
9 sent the message at the last meeting, I was
10 disappointed that, you know, this level of
11 effort never happened, that we weren't seeing
12 this level of effort in trying to find a place
13 up until 2013, the beginning of 2013, that's
14 seven years since this place has been in the
15 safekeeping and that's very disappointing.

16 Secondly, if the licensee was
17 willing to pay licensing fees for what now
18 almost eight years, seven years? Why wouldn't
19 he be willing to pay it for another year or
20 two? I mean, that explanation just doesn't
21 wash with me.

22 So okay. So now, I am confused

1 about your explanations. All right. You talk
2 about landlords having some uncertainty. Now,
3 if I have a warehouse and I'm going to rent it
4 to you, to the licensee, to operate this
5 establishment, I'm not operating it. I'm just
6 the landlord. What uncertainty would be --
7 would there be for that landlord? I'm missing
8 the point here.

9 MR. GRANDIS: The uncertainty is
10 that they have a vacant property.

11 MEMBER ALBERTI: Right.

12 MR. GRANDIS: They get into a
13 Letter of Intent.

14 MEMBER ALBERTI: Right.

15 MR. GRANDIS: And the Letter of
16 Intent has a kickout if we cannot get the ABC
17 approval. So that -- there is a placarding
18 period.

19 MEMBER ALBERTI: Right.

20 MR. GRANDIS: There is the regular
21 routine. Okay. The landlord doesn't want to
22 see the property being vacant and then having

1 a contract canceled. Am I saying it --

2 MR. JOHNSON: Yes.

3 MEMBER ALBERTI: So you can't find
4 anyone who would be willing to enter into a
5 Letter of Intent under those conditions? Is
6 that what you are telling me?

7 MR. GRANDIS: Well, he has
8 identified. I can't speak for Mr. Johnson,
9 but my understanding is that he has identified
10 a couple of property owners that have welcomed
11 him to come back and talk with them again
12 about this.

13 We are at a position now, we have
14 not been at. And I am confident that he is
15 going, Mr. Johnson's firm, to be able to meet
16 a deadline that we set up here or the license
17 is terminated.

18 MEMBER ALBERTI: Here is the
19 problem I'm having. I mean, you are putting
20 the whole onus on the potential landlords.
21 There is also a willingness on the owner to
22 negotiate certain terms. And sitting here and

1 I'm not -- you know, I have to wonder if your
2 inability to find a place is because the owner
3 is not willing to enter into certain terms
4 with these landlords.

5 I mean, this is -- when you rent a
6 property, it's a two-way street.

7 MR. GRANDIS: You mean the owner
8 being my client?

9 MEMBER ALBERTI: Yes.

10 MR. GRANDIS: I'm sorry.

11 MEMBER ALBERTI: Your client.

12 MR. GRANDIS: No, there -- I can--
13 we can answer that. We have not rejected
14 anyone other than people who we -- this goes
15 back before to April. We are not going to
16 bring someone to the Board that we have done
17 our own due diligence and believe they are not
18 qualified to do it. So that has been the only
19 -- that's the only limitation we have placed
20 right now is that whoever we look for as the
21 transferee is going to be able to meet the
22 test that you all would put on them.

1 So we haven't put any other
2 restrictions.

3 MEMBER ALBERTI: So how long have
4 you, Mr. Johnson, been in discussion with some
5 of these people? You said you have identified
6 a few people. How long have you been in
7 discussion with them?

8 MR. JOHNSON: With individuals?

9 MEMBER ALBERTI: Yes.

10 MR. JOHNSON: I would say our
11 first challenge was to try to identify a
12 building. So we are going building-to-
13 building.

14 MEMBER ALBERTI: Right, right.
15 Now you have said to me that you have
16 identified -- how many did you say, Mr.
17 Grandis?

18 MR. GRANDIS: I didn't give a
19 number of how many buildings. I mean, that
20 would be --

21 MR. JOHNSON: No, I think
22 initially we were on -- we have been unable to

1 find anyone, until recently, any owner that we
2 thought had the potential to house this kind
3 of establishment and that would be willing to
4 do so.

5 Recently we have identified a few
6 individuals who have said let's -- we would be
7 willing to engage in a discussion about this.
8 There is no offer from them.

9 MEMBER ALBERTI: And how long has
10 that been going on?

11 MR. JOHNSON: I would say maybe
12 the past eight or nine days.

13 MEMBER ALBERTI: I have no other
14 questions.

15 CHAIRPERSON MILLER: Okay. I
16 would like to note that this request for the
17 license, because it's in safekeeping, came in
18 about a year ago. So there has already been
19 a year attention to this. And then you have
20 been on board for a while. And there is a
21 finite area where this can go and there is a
22 limited type of transferee out there for this

1 type.

2 So I would like to suggest that we
3 put a six month deadline on this and that's
4 it. Either there is a transferee or
5 termination. I think that this licensee has
6 been given a year and a half on top of six
7 years in the context of what we do with other
8 licenses, which are -- they may be a different
9 category, a moratorium or whatever and they
10 may be easier to transfer.

11 So this is actually, I think, a
12 longer period of time than we have been
13 giving. And you know, maybe there isn't a
14 market for this. Maybe it is too difficult,
15 but I just am not convinced that you won't
16 know that in six months, at this point.

17 So I don't know how other Board
18 Members feel about that proposal to bring this
19 to closure.

20 MEMBER ALBERTI: I would like to
21 take this under consideration. If I had to
22 vote right now, at this moment, I would say

1 no.

2 CHAIRPERSON MILLER: Okay.

3 MEMBER ALBERTI: But I am willing
4 to keep an open mind and discuss this further,
5 but I would -- so I would like to take this
6 matter under consideration.

7 CHAIRPERSON MILLER: Okay.

8 Others? Yes, Mr. Jones?

9 MEMBER JONES: I'll align myself
10 with Board Member Alberti's statements. I
11 would not like to make a rash decision, but as
12 it stands, my initial inclination was to put
13 forward a motion to terminate the license.

14 CHAIRPERSON MILLER: Okay.

15 MEMBER JONES: But given Mr. or
16 Board Member Alberti's statements, I agree
17 that perhaps --

18 MEMBER SILVERSTEIN: Yes.

19 MEMBER JONES: -- some additional
20 consideration would be warranted.

21 CHAIRPERSON MILLER: Okay. Mr.
22 Silverstein?

1 MEMBER SILVERSTEIN: I would
2 support the Chair on this. The difficulty,
3 the great difficulty in finding a location is
4 certainly at issue here. The other issue is,
5 basically, what have you done that is
6 concrete? Can we see any real progress?

7 And if we were to do something, I
8 would hope that or suggest to my fellow Board
9 Members that you give us a progress report in
10 90 days if, in fact, we were to extend this as
11 to exactly what have you done.

12 And we are not talking about we
13 have talked to or we have looked at. We would
14 need specifics to move forward.

15 MR. GRANDIS: We would be --

16 MEMBER SILVERSTEIN: I have no
17 illusions as to the difficulty of this.

18 MR. GRANDIS: -- delighted within
19 two weeks to give you a progress report,
20 because we want to give the Board assurances
21 and I could -- we could give Mr. Johnson's
22 firm a time to write up what they have done in

1 more clear outline.

2 We want to get this thing moved
3 and I appreciate Mr. Silverstein's statements,
4 but we would be glad to give you something
5 sooner to keep -- to give you all some
6 additional confidence that we really are
7 sincerely trying to get this thing out of
8 safekeeping.

9 Okay. So I'm just offering that.
10 If you felt something from the commercial real
11 estate firm could be helpful in your pondering
12 this situation.

13 CHAIRPERSON MILLER: Okay. I
14 think I have heard two Board Members say that
15 they would like to take this under advisement
16 before we give any more specific decisions
17 with respect to terminating or future
18 deadlines.

19 So I think I am going to leave it
20 that we will take it under advisement and be
21 in touch with you one way or another, either
22 through a Board action or our general counsel.

1 In the meantime, you are free to submit
2 anything you would like, including the map or
3 a plan or whatever.

4 But you have heard the sentiment
5 of the Board, so I would like to, you know, be
6 a little bit more definitive before you go out
7 the door, but I really can't be. I think that
8 this is where we are at right now. Okay.

9 Anything else? Any other
10 comments? So we will be in touch with you and
11 we will look and see if you submit anything
12 for our further consideration. Thank you.

13 MR. GRANDIS: Thank you all for
14 your consideration.

15 CHAIRPERSON MILLER: Okay.

16 MR. GRANDIS: You all have a good
17 day.

18 CHAIRPERSON MILLER: Okay. You
19 too.

20 (Whereupon, the Fact-Finding
21 Hearing in the above-entitled matter was
22 concluded at 11:11 a.m.)

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