

DISTRICT OF COLUMBIA  
+ + + + +  
ALCOHOLIC BEVERAGE CONTROL BOARD  
+ + + + +  
MEETING

IN THE MATTER OF:

Daci Enterprises, LLC  
t/a Dacha Beer Garden  
1600 7th Street, NW  
Retailer DT - ANC-6E  
License No. 92773  
Case #15-PRO-00071

Protest  
Hearing  
(Status)

(Substantial Change - Class  
Change from Class "D" Tavern  
to Class "C" Tavern)

September 16, 2015

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  
MIKE SILVERSTEIN, Member  
HECTOR RODRIGUEZ, Member  
JAMES SHORT, Member

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

9:47 a.m.

CHAIRPERSON MILLER: All right. Good morning, everyone. I would like to welcome you to the regularly scheduled meeting of the District of Columbia's Alcoholic Beverage Control Board. Today is September 16, 2015.

My name is Ruthanne Miller. I'm the Chairperson. Joining me today to my far right is Mr. Donald Brooks. Next to Mr. Brooks is Mr. Nick Alberti. Next to Mr. Alberti is Mr. Hector Rodriguez. To my immediate left is Mr. Mike Silverstein. And next to Mr. Silverstein is Mr. James Short. We have six Members in attendance for the conduct of business this morning and three constitutes a quorum.

Copies of today's hearing calendar and agenda are available at the receptionist desk. Please be aware that these proceedings are being recorded by a court reporter. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room.

1           If you have any electronic devices,  
2 pagers, cell phones or such, please, make certain  
3 that they are turned off to avoid any  
4 interruption of the proceedings.

5           When I call your case, please, come  
6 forward and take a seat at one of the tables.  
7 You will notice that there is a piece of paper on  
8 each table for you to sign-in. This is to ensure  
9 the correct spelling of your name for the record.

10           The Open Meetings Act requires that  
11 the public hearing on each case be open to the  
12 public. The Board may, consistent with Section  
13 405(b) of the Open Meetings Act, enter a closed  
14 meeting during or after the public hearing on a  
15 case to consult with an attorney to obtain legal  
16 advice, discuss settlement agreements or  
17 deliberate upon a decision in an adjudication  
18 proceeding.

19           There are several Show Cause Hearing  
20 (Status) cases on the morning's calendar. And I  
21 want to state the following instructions that are  
22 pertinent to all the cases dealing with Show

1 Cause Hearing (Status).

2 The first is the purpose of these  
3 status conferences is to entertain any  
4 preliminary matters of the parties and to provide  
5 the parties with the date and time of the hearing  
6 on the merits of the case, if the case proceeds  
7 to hearing.

8 Preliminary matters include any  
9 proposed agreement of the parties to settle the  
10 case for the Board's consideration, known as  
11 Offers in Compromise; and motions or questions  
12 regarding procedural matters, including schedule  
13 or dismissal of the case or a party for failure  
14 to comply with legal requirements.

15 The Board will assume that the  
16 applicant or the respondent had notice of this  
17 hearing by his or her presence or the presence of  
18 an authorized agent.

19 However, if you have any issue  
20 relating to the adequacy of your notice, you may  
21 raise that issue with the Board when your case is  
22 called.

1                   So we also have some Protest Hearing  
2 (Status) cases as well. And I'm going to read  
3 the instructions for those and the guidelines for  
4 those in the individual cases.

5                   So turning now to the first case on  
6 the morning's calendar it is a Protest Hearing  
7 (Status) case. It's Dacha Beer Garden located at  
8 1600 7th Street, N.W., License No. 92773.

9                   Would the parties in that case,  
10 please, come forward?

11                   MR. KLINE: Good morning. Andrew  
12 Kline for the applicant.

13                   CHAIRPERSON MILLER: Good morning.

14                   MR. PADRO: Good morning. Alexander  
15 Padro for ANC-6E.

16                   CHAIRPERSON MILLER: Good morning.

17                   MR. PETERS: Good morning. Brian  
18 Peters for the Central Shaw Neighborhood  
19 Association.

20                   CHAIRPERSON MILLER: Okay. So the  
21 first question I want to ask you all is whether  
22 you have any preliminary matters or anything you

1 want to report to the Board?

2 MR. KLINE: We do not, at this time,  
3 although the parties are continuing to engage in  
4 meaningful dialogue and shall continue to do so.

5 CHAIRPERSON MILLER: Okay.

6 MR. PADRO: And if we are able to  
7 reach a consensus in a settlement agreement, we  
8 certainly will submit it to the Board as quickly  
9 as possible.

10 CHAIRPERSON MILLER: Okay. That would  
11 be good. And I also just would remind you all  
12 that if you do it a little further in advance, it  
13 saves our Investigators from doing some  
14 unnecessary work and focusing their energies, you  
15 know, on the community, where they might be, you  
16 know, more worthwhile.

17 MR. PADRO: Okay.

18 CHAIRPERSON MILLER: Okay. Thank you.  
19 All right. So what I'm going to do then though,  
20 in the event that you are going to hearing, is  
21 just to remind you of a few things about the  
22 hearing.

1           The purpose of a Protest Hearing is to  
2 determine the appropriateness of the  
3 establishment in the section of the District  
4 where the establishment is located.

5           More than a week ahead of time, you  
6 should be receiving Protest Information Forms,  
7 PIFs) and Exhibit Forms and these are critical to  
8 that process and the Board takes them very  
9 seriously. And if they are not submitted,  
10 exhibits can be not accepted because they may be  
11 determined to be prejudicial to the other side,  
12 because they don't have enough time or a witness  
13 that is identified on a PIF the same thing, it  
14 could be a surprise.

15           We are not looking for any surprises.  
16 So be sure that you file those forms and also the  
17 exhibits themselves in a timely fashion with the  
18 Board and serve on the other parties. That's the  
19 most important thing really about the Protest  
20 Hearing, at least the requirements.

21           If you have any questions you have for  
22 us, feel free to ask us now or you can ask Martha

1 Jenkins or Janea Raines in the interim. Yes?

2 MR. PETERS: I have a question.

3 CHAIRPERSON MILLER: Okay.

4 MR. PETERS: I think as the Board is  
5 probably aware, the Central Shaw Neighborhood  
6 Association has been or is, I think, kind of  
7 tentatively a party to the, I guess, now  
8 postponed Protest Hearing with another applicant,  
9 Trinity, wherein the association's standing was  
10 dismissed by the Board last week.

11 CHAIRPERSON MILLER: Okay.

12 MR. PETERS: I would like to ask in  
13 this case with respect to this applicant, it is  
14 my assumption that the applicant will also  
15 petition for a motion for our dismissal from that  
16 application or from that process.

17 CHAIRPERSON MILLER: Yes.

18 MR. PETERS: So I think my question to  
19 the Board would be how do you anticipate dealing  
20 with that? Is there a manner in which the  
21 association can regain standing or when would  
22 that matter be taken up or do we wait for the

1 applicant to motion?

2 CHAIRPERSON MILLER: Are you asking me  
3 about another case?

4 MR. PETERS: No. I'm asking you about  
5 this case.

6 CHAIRPERSON MILLER: This case, okay.  
7 So --

8 MR. PETERS: The standing of the  
9 association was questioned and we were dismissed  
10 on that basis. I think it would be helpful for  
11 us to know whether that is going to happen in  
12 this case.

13 CHAIRPERSON MILLER: Okay. Without  
14 being speculative, which I'm saying that if the  
15 applicant were to file a Motion to Dismiss on the  
16 same basis, I think it would be likely that the  
17 Board would grant the motion on the same basis  
18 that it did in the other case, if the issue is  
19 the same, unless the other party filed some new  
20 argument that, you know, convinced the Board  
21 otherwise.

22 So it would be a similar thing, except

1 I think in this case there is more time and it  
2 should be probably handled more in advance and  
3 would be, you know, better. But it's basically  
4 the same, unless you have something different.

5 MR. PETERS: I think the question  
6 would be if the association were to -- so the  
7 association lost its standing because, on its  
8 face, its Articles of Incorporation could be  
9 deemed to theoretically allow the association to  
10 become not open per the requirements of the  
11 statute.

12 If the association were able to change  
13 its Articles of Incorporation to be in  
14 compliance, would the association have standing?

15 CHAIRPERSON MILLER: So I would say  
16 that would be a new argument that you could raise  
17 in this application. If the applicant files a  
18 Motion to Dismiss and you have a new argument,  
19 you should file it and the Board will consider  
20 it.

21 MEMBER ALBERTI: Ms. Miller?

22 CHAIRPERSON MILLER: What? It's a

1 different case.

2 MEMBER ALBERTI: I just -- I'm -- we  
3 have the -- in a similar case, we -- a motion was  
4 made by the applicant to dismiss this  
5 organization. And then that's -- I think that's  
6 what you are referring to a similar case, a  
7 similar situation. Correct?

8 CHAIRPERSON MILLER: Yes, that's what  
9 he said.

10 MEMBER ALBERTI: The attorney for that  
11 case, that applicant, is the same attorney, Mr.  
12 Kline, for this case. So I believe that Mr.  
13 Kline is well-versed in the particulars of this  
14 organization's status.

15 MR. KLINE: Correct.

16 MEMBER ALBERTI: So I'm wondering if  
17 the -- Mr. Kline, since he is here, can speak to  
18 whether or not this applicant has any problem  
19 with standing for this organization.

20 MR. KLINE: I think we will be filing  
21 a motion.

22 MEMBER ALBERTI: It's a fair question.

1 MR. KLINE: We will be filing a  
2 motion.

3 MEMBER ALBERTI: A motion to?

4 MR. KLINE: To dismiss this protestant  
5 for lack of standing.

6 MEMBER ALBERTI: All right. Mr.  
7 Kline, I will tell you that that motion came in  
8 very late last time and it caused some heartburn  
9 for this organization because of the timing. I  
10 would as you, respectfully, to move forward as  
11 soon as possible with that motion.

12 MR. KLINE: If I may, it will be filed  
13 quickly. Last time, I was engaged as the parties  
14 continued negotiations and the client brought me  
15 in very shortly before the scheduled hearing and  
16 we got up to speed and, I mean, we moved as  
17 quickly as we could. But I assure you this one  
18 will be filed, if not by the end of this week,  
19 certainly by the beginning of next week.

20 MEMBER ALBERTI: Okay. Thank you. We  
21 appreciate that.

22 MR. KLINE: Absolutely.

1 MEMBER ALBERTI: Thank you.

2 CHAIRPERSON MILLER: Yes?

3 MR. PETERS: The association would  
4 actually appreciate that as well.

5 CHAIRPERSON MILLER: Yes.

6 MR. PETERS: Our ability to hire  
7 counsel or any other experts that would help us  
8 in any eventual protest is severely limited, so  
9 devoting any resources to that would be an  
10 enormous waste on our part and so I think it  
11 would be very helpful.

12 MR. KLINE: We will do as we  
13 represented.

14 MEMBER ALBERTI: Okay. Thank you.

15 CHAIRPERSON MILLER: I'm sorry, Mr.  
16 Kline, what did you just say would file it by?

17 MR. KLINE: We will file it by the end  
18 of this week or the beginning of next week.

19 CHAIRPERSON MILLER: Oh, okay.

20 MR. KLINE: Certainly by the end of  
21 next week at the latest --

22 CHAIRPERSON MILLER: Okay.

1 MR. KLINE: -- it will be filed.

2 CHAIRPERSON MILLER: Thank you. All  
3 right. And then you all can file an opposition  
4 for raising whatever arguments you may have.  
5 Okay. Anything else?

6 All right. Your Protest Hearing is  
7 scheduled for November 4, 2015 at 4:30 p.m.

8 Okay. Thank you.

9 MR. KLINE: Thank you.

10 CHAIRPERSON MILLER: Okay.

11 (Whereupon, the Protest (Status)  
12 Hearing in the above-entitled matter was  
13 concluded at 9:57 a.m.)

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