

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
 :
Poy Loung DC Group, LLC :
t/a Kurba : Protest
301 Tingey Street, SE : Hearing
Retailer CR - ANC-6D : (Status)
License No. 90630 :
Case #13-PRO-00103 :
 :
(Substantial Change :
(Sidewalk Cafe) :
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September 18, 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
MIKE SILVERSTEIN, Member

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

(9:54 a.m.)

CHAIRPERSON MILLER: Good morning, ladies and gentlemen. I would like to welcome you to the regularly scheduled meeting of the District of Columbia Alcoholic Beverage Control Board. Today is September 18, 2013.

My name is Ruthanne Miller. I'm the Chairperson. Joining me today to my far right is Mr. Donald Brooks. To my immediate right is Mr. Nick Alberti. And to my immediate left is Mr. Mike Silverstein. The Board has four Members in attendance for business this morning with three constituting 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
2 devices, pagers, cell phones or such, please,
3 make turn them off to avoid any interruption
4 of the proceedings.

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

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

20 Okay. I will now turn to this
21 morning's calendar.

22 The first case on the calendar is

1 Case No. 13-PRO-00103, Kurba, License No.
2 90630, located at 301 Tingey Street, S.E., in
3 ANC-6D.

4 Would the parties in this case,
5 please, come forward and take a seat at the
6 table and then introduce yourselves for the
7 record?

8 MS. ROLE: Good morning. My name
9 is Susan Eads Role and I'm here today
10 representing ANC-6D.

11 CHAIRPERSON MILLER: Okay. Is the
12 licensee here on the Kurba case? Okay.
13 You're Ms. Role?

14 MS. ROLE: Ms. Role.

15 CHAIRPERSON MILLER: Okay. Do you
16 have any indication whether the licensee is on
17 his or her way?

18 MS. ROLE: I do not.

19 CHAIRPERSON MILLER: Okay. It's
20 9:56. The hearing is called for 9:30. We
21 will hear a few protest cases and other cases.
22 I'm going to -- if you don't mind, we will

1 take the other protest case first and then see
2 if the licensee appears.

3 MS. ROLE: Thank you.

4 CHAIRPERSON MILLER: All right.

5 Thank you very much. Okay. So we will come
6 back to this case.

7 (Whereupon, at 9:57 a.m. a recess
8 until 10:00 a.m.)

9 CHAIRPERSON MILLER: Okay. I had
10 said that we would return to the first status
11 -- Protest (Status) Hearing after we heard the
12 second one to give the applicant a chance to
13 appear. It is now 10:01. The hearing was
14 called for 9:30.

15 It appears that the licensee has
16 not appeared. So the --

17 MS. ROLE: Madam Chairwoman?

18 CHAIRPERSON MILLER: Yes. Do you
19 have information about that?

20 MS. ROLE: I can tell you that
21 ANC-6D continues to work with this applicant
22 on an amendment to their voluntary agreement

1 to include the nature of the substantial
2 change that they have applied for.

3 There have been some difficulties
4 with the illness of our Committee Chair and a
5 heavy agenda otherwise for ANC-6D, but I
6 believe that the Commission is making progress
7 and there is a very high likelihood that we
8 could successfully enact an amendment to the
9 settlement agreement and move this case
10 forward.

11 CHAIRPERSON MILLER: Okay. That's
12 good to hear. The reason I wanted to just
13 give a little bit more time is the regulations
14 provide that if a party doesn't appear for the
15 Status Hearing, the case can be dismissed
16 against that party. And so that's where we
17 are, at this point. I guess the Board will
18 consider whether or not to dismiss the
19 application for failure of the licensee to
20 appear.

21 MEMBER SILVERSTEIN: Madam Chair?

22 CHAIRPERSON MILLER: Yes?

1 MEMBER SILVERSTEIN: It is now
2 more than 30 minutes late. It has been our
3 practice to give 30 minutes leeway. That
4 period has passed. I would respectfully move
5 that we dismiss the application.

6 CHAIRPERSON MILLER: Okay. There
7 has been a motion to dismiss the application
8 pursuant to, I believe, our Rule 1603.3,
9 failure to appear in person or through a
10 designated representative may result in denial
11 of the license application or dismissal of a
12 protest, unless, in the discretion of the
13 Board, good cause is shown for the failure to
14 appear.

15 And then a request for
16 reinstatement with the Board must be filed
17 within 10 days of the dismissal or a denial
18 date.

19 MEMBER SILVERSTEIN: Is there a
20 second?

21 CHAIRPERSON MILLER: Is there a
22 second?

1 MEMBER BROOKS: Second.

2 CHAIRPERSON MILLER: Any comments?

3 Okay. I just want to comment that we don't
4 have any indication of what the cause is for
5 failure to appear, so we don't have a good
6 cause at this point.

7 It's too bad because it looks like
8 this case was moving forward in settlement,
9 but the -- if we do dismiss, the applicant
10 will have a chance to file a Motion to be
11 Reinstated. So okay. There is a Motion to
12 Dismiss the applicant for failure to appear
13 that has been seconded.

14 All those in favor say aye.

15 ALL: Aye.

16 CHAIRPERSON MILLER: All those
17 opposed? All those abstaining? The motion
18 passes by a vote of 4-0-0. Okay. Thank you
19 very much.

20 MS. ROLE: Thank you very much,
21 Madam Chair.

22 CHAIRPERSON MILLER: Okay.

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(Whereupon, the Protest (Status)
Hearing in the above-entitled matter was
concluded at 10:04 a.m.)

<p style="text-align: center;">A</p> <p>above-entitled 9:2 abstaining 8:17 Act 3:11,14 actions 2:21 adjudication 3:19 advice 3:17 agenda 2:17 6:5 agreement 5:22 6:9 agreements 3:18 Alberti 1:19 2:11 Alcoholic 1:2,13,14 2:6 amendment 5:22 6:8 ANC-6D 1:8 4:3,10 5:21 6:5 appear 5:13 6:14 6:20 7:9,14 8:5,12 appeared 5:16 appears 5:2,15 applicant 5:12,21 8:9,12 application 6:19 7:5,7,11 applied 6:2 attendance 2:13 attorney 3:16 available 2:17 avoid 3:3 aware 2:18 aye 8:14,15 a.m 2:2 5:7,8 9:3</p> <hr/> <p style="text-align: center;">B</p> <p>back 5:6 bad 8:7 believe 6:6 7:8 Beverage 1:2,13,14 2:6 bit 6:13 Board 1:2,14 2:7 2:13 3:13 6:17 7:13,16 Brooks 1:21 2:10 8:1 Building 1:14</p>	<p>business 2:14</p> <hr/> <p style="text-align: center;">C</p> <p>Cafe 1:10 calendar 2:16 3:21 3:22 call 3:5 called 4:20 5:14 case 1:9 3:5,12,16 3:22 4:1,4,12 5:1 5:6 6:9,15 8:8 cases 4:21,21 cause 7:13 8:4,6 cell 3:2 Chair 6:4,21 8:21 Chairperson 1:15 1:19 2:3,9 4:11,15 4:19 5:4,9,18 6:11 6:22 7:6,21 8:2,16 8:22 Chairwoman 5:17 chance 5:12 8:10 change 1:10 6:2 closed 3:15 Columbia 1:1 2:6 come 3:6 4:5 5:5 comment 8:3 comments 8:2 Commission 6:6 Committee 6:4 concluded 9:3 consider 6:18 consistent 3:13 constituting 2:14 consult 3:16 continues 5:21 Control 1:2,13,14 2:7 Copies 2:16 correct 3:9 court 2:19 CR 1:8</p> <hr/> <p style="text-align: center;">D</p> <p>date 7:18 days 7:17 DC 1:6 decision 3:18</p>	<p>deliberate 3:18 denial 7:10,17 designated 7:10 desk 2:18 devices 3:2 difficulties 6:3 discretion 7:12 discuss 3:17 dismiss 6:18 7:5,7 8:9,12 dismissal 7:11,17 dismissed 6:15 disruptive 2:21 District 1:1 2:6 Donald 1:21 2:10 D.C 1:15</p> <hr/> <p style="text-align: center;">E</p> <p>Eads 4:9 electronic 3:1 enact 6:8 ensure 3:9 enter 3:14</p> <hr/> <p style="text-align: center;">F</p> <p>failure 6:19 7:9,13 8:5,12 far 2:9 favor 8:14 file 8:10 filed 7:16 first 3:22 5:1,10 forward 3:6 4:5 6:10 8:8 four 2:13</p> <hr/> <p style="text-align: center;">G</p> <p>gentlemen 2:4 give 5:12 6:13 7:3 going 4:22 good 2:3 4:8 6:12 7:13 8:5 Group 1:6 guess 6:17</p> <hr/> <p style="text-align: center;">H</p> <p>hear 4:21 6:12 heard 5:11</p>	<p>hearing 1:7,14 2:16 2:22 3:12,16 4:20 5:11,13 6:15 9:2 heavy 6:5 high 6:7</p> <hr/> <p style="text-align: center;">I</p> <p>illness 6:4 immediate 2:10,12 include 6:1 indication 4:16 8:4 information 5:19 interruption 3:3 introduce 4:6</p> <hr/> <p style="text-align: center;">J</p> <p>Joining 2:9</p> <hr/> <p style="text-align: center;">K</p> <p>Kurba 1:6 4:1,12</p> <hr/> <p style="text-align: center;">L</p> <p>ladies 2:4 late 7:2 leeway 7:3 left 2:12 legal 3:17 license 1:8 4:1 7:11 licensee 4:12,16 5:2 5:15 6:19 likelihood 6:7 little 6:13 LLC 1:6 located 4:2 looks 8:7 Loung 1:6</p> <hr/> <p style="text-align: center;">M</p> <p>Madam 5:17 6:21 8:21 making 6:6 matter 1:5 9:2 meeting 1:3 2:5 3:15 Meetings 3:11,14 Member 1:19,21 1:22 6:21 7:1,19 8:1</p>	<p>Members 2:13 met 1:14 Mike 1:22 2:12 Miller 1:15,19 2:3 2:8 4:11,15,19 5:4 5:9,18 6:11,22 7:6 7:21 8:2,16,22 mind 4:22 minutes 7:2,3 morning 2:3,14 4:8 morning's 3:21 motion 7:7 8:10,11 8:17 move 6:9 7:4 moving 8:8</p> <hr/> <p style="text-align: center;">N</p> <p>name 2:8 3:9 4:8 nature 6:1 Nick 1:19 2:11 noises 2:21 note 3:7 N.W 1:15</p> <hr/> <p style="text-align: center;">O</p> <p>obtain 3:17 okay 3:20 4:11,12 4:15,19 5:5,9 6:11 7:6 8:3,11,18,22 open 3:11,12,14 opposed 8:17</p> <hr/> <p style="text-align: center;">P</p> <p>paggers 3:2 paper 3:7 parties 4:4 party 6:14,16 passed 7:4 passes 8:18 period 7:4 person 7:9 phones 3:2 piece 3:7 please 2:18 3:2,5 4:5 point 6:17 8:6 Poy 1:6 practice 7:3</p>
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PRESENT 1:18
presiding 1:16
proceeding 3:19
proceedings 2:18
 3:4
progress 6:6
protest 1:6 4:21 5:1
 5:11 7:12 9:1
provide 6:14
public 3:12,13,15
pursuant 7:8
P-R-O-C-E-E-D-...
 2:1

Q

quorum 2:15

R

reason 6:12
receptionist 2:17
recess 5:7
record 3:10 4:7
recorded 2:19
Reeves 1:14
refrain 2:20
regularly 2:5
regulations 6:13
Reinstated 8:11
reinstatement 7:16
reporter 2:19
representative 7:10
representing 4:10
request 7:15
requires 3:11
respectfully 7:4
result 7:10
Retailer 1:8
return 5:10
right 2:10,11 5:4
Role 4:8,9,13,14,14
 4:18 5:3,17,20
 8:20
room 1:14 2:22
Rule 7:8
Ruthanne 1:15,19
 2:8

S

scheduled 2:5
SE 1:7
seat 3:6 4:5
second 5:12 7:20
 7:22 8:1
seconded 8:13
see 5:1
September 1:12
 2:7
settlement 3:17 6:9
 8:8
shown 7:13
Sidewalk 1:10
sign 3:8
Silverstein 1:22
 2:12 6:21 7:1,19
spelling 3:9
status 1:8 5:10,11
 6:15 9:1
Street 1:7,15 4:2
substantial 1:10
 6:1
successfully 6:8
Suite 1:15
Susan 4:9
S.E 4:2

T

table 3:6,8 4:6
take 3:6 4:5 5:1
tell 5:20
Thank 5:3,5 8:18
 8:20
three 2:14
time 6:13
Tingey 1:7 4:2
today 2:7,9 4:9
today's 2:16
turn 3:3,20
t/a 1:6

U

U 3:14

V

voluntary 5:22
vote 8:18

W

want 8:3
wanted 6:12
Washington 1:15
way 4:17
welcome 2:4
work 5:21

P

p 1:4,11

#

#13-PRO-00103
 1:9

1

10 7:17
10:00 5:8
10:01 5:13
10:04 9:3
13-PRO-00103 4:1
14th 1:14
1603.3 7:8
18 1:12 2:7

2

2000 1:14
20009 1:15
2013 1:12 2:7

3

30 7:2,3
301 1:7 4:2

4

4-0-0 8:18
400S 1:15
405(b) 3:14

9

9:30 4:20 5:14
9:54 2:2
9:56 4:20
9:57 5:7
90630 1:8 4:2