

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF: :
 :
Hill Country DC, LLC t/a :
Hill Country Home Stand : Protest
101 Tingey Street, SE : Hearing
Retailer CT - ANC-6D : (Status)
License No. 92452 :
Case #13-PRO-00105 :
 :
(New Application) :
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October 2, 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

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

2 (9:39 a.m.)

3 CHAIRPERSON MILLER: Good morning,
4 everyone. Welcome to the regularly scheduled
5 meeting of the District of Columbia Alcoholic
6 Beverage Control Board. Today is October 2,
7 2013.

8 My name is Ruthanne Miller. I'm
9 the Chairperson. To my far right is Mr.
10 Donald Brooks. To my immediate right is Mr.
11 Nick Alberti. And to my immediate left is Mr.
12 Mike Silverstein.

13 MEMBER SILVERSTEIN: Good morning.

14 CHAIRPERSON MILLER: The Board has
15 four Members in attendance this morning and
16 three constitute a quorum.

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

1 hearing room.

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

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

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

21 Okay. We will now move to the
22 cases on our morning calendar. The first case

1 is a Protest (Status) Hearing. It is Case No.
2 13-PRO-00105, Hill Country Home Stand, located
3 at 101 Tingey Street, S.E., License No. 92452,
4 in ANC-6D. And this is a new application.

5 Yes, okay, when you are ready, if
6 you would introduce yourselves for the record.

7 MR. MOLLOY: Good morning. I'm
8 Brian Molloy with Mallios & O'Brien.

9 MR. FOSS: Good morning. I'm
10 James G. Foss with Hill Country Barbecue.

11 CHAIRPERSON MILLER: Okay. The
12 protestant in this case, according to my
13 notes, is ANC-6D. Is anybody here from ANC-
14 6D? Okay. No one is here for ANC-6D.

15 Does the licensee have any or the
16 applicant have anything to say?

17 MR. MOLLOY: Yes.

18 CHAIRPERSON MILLER: Okay.

19 MR. MOLLOY: We are currently in
20 negotiations to develop a settlement agreement
21 with ANC-6D. Actually, we're probably one
22 clause away from having it settled. Our one

1 concern is that the ANC's next meeting is
2 October 21st and I believe the Protest Hearing
3 is scheduled for October 23rd. And we were
4 hoping to request, and we have the support of
5 the ANC on this, unfortunately there is not a
6 member here today, to have the Protest Hearing
7 rescheduled, so that there wouldn't be such a
8 tight deadline if something were to go wrong
9 with our negotiations and that we would have
10 more time to prepare for a protest.

11 CHAIRPERSON MILLER: Right. Okay.
12 You didn't have any notice that they weren't
13 going to be here, did you?

14 MR. MOLLOY: No. At our last
15 meeting with them last weekend, I was told
16 that one representative would be here to
17 affirm their support for rescheduling the
18 Protest Hearing. I'm not sure why they are
19 not here today.

20 CHAIRPERSON MILLER: Okay. Okay.
21 We have a letter in our file. I'm not sure if
22 you got a copy of this letter indicating that

1 Commissioner Ron McBee would appear on behalf
2 of ANC-6D today. And this was written
3 September 30, 2013.

4 So our practice is if the
5 protestant doesn't show up, we dismiss.
6 However, our practice is also to sometimes
7 give a little bit more time when we have an
8 indication that they plan to be here.

9 So if you can hang around a little
10 bit more this morning during these status
11 hearings, we will see if they come in. And
12 you can indicate if they come in.

13 MR. MOLLOY: Okay.

14 CHAIRPERSON MILLER: And we will
15 pick up the case then again.

16 MR. MOLLOY: I'll be happy to
17 stick around.

18 CHAIRPERSON MILLER: Okay. Thank
19 you.

20 MR. MOLLOY: And is it all right
21 if my client leaves and I just stick around,
22 because he has work.

1 CHAIRPERSON MILLER: Yes.

2 MR. MOLLOY: Okay.

3 CHAIRPERSON MILLER: Yes. Okay.

4 MR. FOSS: Thank you.

5 CHAIRPERSON MILLER: Thank you.

6 (Whereupon, at 9:44 a.m. a recess
7 until 10:18 a.m.)

8 CHAIRPERSON MILLER: So then I
9 think that we need to go back to the Protest
10 Hearing. Which case was that?

11 MEMBER ALBERTI: The second case.
12 Oh, no, it wasn't the second. It was the
13 first.

14 CHAIRPERSON MILLER: The first
15 case, Hill Country. Okay. Hill Country Home
16 Stand, okay. So I mean, it was very
17 encouraging to hear that -- wait a second.

18 I'm going to recall the case of
19 Hill Country Home Stand because the ANC rep
20 was not here and it's now 10:19 and the ANC
21 rep is still not here.

22 So it looks as if the parties are

1 moving forward on mediation and settlement,
2 but our rules require, I believe, or at least
3 it's in the practice of the Board that if the
4 party doesn't appear at the status, then the
5 protest is dismissed and they will need to
6 file a request for reinstatement within 10
7 days of a Board order.

8 So I am going to move to dismiss
9 the party pursuant to that practice, the ANC
10 for failure to appear.

11 Do I have a second?

12 MEMBER BROOKS: Second.

13 CHAIRPERSON MILLER: Any comments
14 by Board Members? Okay.

15 Then all those in favor of the
16 Motion to Dismiss the ANC for failure to
17 appear say aye.

18 ALL: Aye.

19 CHAIRPERSON MILLER: All those
20 opposed? All those abstaining? The motion
21 passes 4-0-0.

22 So we will be issuing a written

1 order and they will have 10 days to request
2 reinstatement.

3 MR. MOLLOY: Okay.

4 CHAIRPERSON MILLER: All right.
5 So as of now, let me just say that there is a
6 Protest Hearing date of October 23, 2013 at
7 1:30 p.m. I'm going to hold taking that off
8 of the calendar to wait and see if they file
9 a Motion for Reinstatement and what happens
10 with that.

11 MR. MOLLOY: Okay.

12 CHAIRPERSON MILLER: Okay.

13 MR. MOLLOY: Thank you very much.

14 CHAIRPERSON MILLER: Thank you.

15 (Whereupon, the Protest (Status)
16 Hearing in the above-entitled matter was
17 concluded at 10:20 a.m.)

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<p style="text-align: center;">A</p> <p>a.m 2:2 7:6,7 9:17 above-entitled 9:16 abstaining 8:20 Act 3:12,15 actions 2:22 adjudication 3:20 advice 3:18 affirm 5:17 agenda 2:18 agreement 4:20 agreements 3:19 Alberti 1:19 2:11 7:11 Alcoholic 1:2,13,13 2:5 ANC 4:13 5:5 7:19 7:20 8:9,16 ANC's 5:1 ANC-6D 1:8 4:4,13 4:14,21 6:2 anybody 4:13 appear 6:1 8:4,10 8:17 applicant 4:16 application 1:10 4:4 attendance 2:15 attorney 3:17 available 2:18 avoid 3:4 aware 2:19 aye 8:17,18</p> <hr/> <p style="text-align: center;">B</p> <p>back 7:9 Barbecue 4:10 behalf 6:1 believe 5:2 8:2 Beverage 1:2,13,13 2:6 bit 6:7,10 Board 1:2,13 2:6 2:14 3:14 8:3,7,14 Brian 4:8 Brooks 1:20 2:10 8:12</p>	<p>Building 1:14</p> <hr/> <p style="text-align: center;">C</p> <p>calendar 2:17 3:22 9:8 call 3:6 case 1:9 3:6,13,17 3:22 4:1,12 6:15 7:10,11,15,18 cases 3:22 cell 3:3 certain 3:4 Chairperson 1:15 1:18 2:3,9,14 4:11 4:18 5:11,20 6:14 6:18 7:1,3,5,8,14 8:13,19 9:4,12,14 clause 4:22 client 6:21 closed 3:16 Columbia 1:1 2:5 come 3:7 6:11,12 comments 8:13 Commissioner 6:1 concern 5:1 concluded 9:17 consistent 3:14 constitute 2:16 consult 3:17 Control 1:2,13,13 2:6 Copies 2:17 copy 5:22 correct 3:10 Country 1:6,6 4:2 4:10 7:15,15,19 court 2:20 CT 1:8 currently 4:19</p> <hr/> <p style="text-align: center;">D</p> <p>D.C 1:14 date 9:6 days 8:7 9:1 DC 1:6 deadline 5:8 decision 3:19 deliberate 3:19</p>	<p>desk 2:19 develop 4:20 devices 3:3 discuss 3:18 dismiss 6:5 8:8,16 dismissed 8:5 disruptive 2:22 District 1:1 2:5 Donald 1:20 2:10</p> <hr/> <p style="text-align: center;">E</p> <p>electronic 3:2 encouraging 7:17 ensure 3:10 enter 3:15</p> <hr/> <p style="text-align: center;">F</p> <p>failure 8:10,16 far 2:9 favor 8:15 file 5:21 8:6 9:8 first 3:22 7:13,14 forward 3:7 8:1 Foss 4:9,10 7:4 four 2:15</p> <hr/> <p style="text-align: center;">G</p> <p>G 4:10 give 6:7 go 5:8 7:9 going 5:13 7:18 8:8 9:7 Good 2:3,13 4:7,9</p> <hr/> <p style="text-align: center;">H</p> <p>hang 6:9 happens 9:9 happy 6:16 hear 7:17 hearing 1:7,14 2:17 3:1,13,17 4:1 5:2 5:6,18 7:10 9:6,16 hearings 6:11 Hill 1:6,6 4:2,10 7:15,15,19 hold 9:7 Home 1:6 4:2 7:15 7:19</p>	<p>hoping 5:4</p> <hr/> <p style="text-align: center;">I</p> <p>immediate 2:10,11 indicate 6:12 indicating 5:22 indication 6:8 interruption 3:5 introduce 4:6 issuing 8:22</p> <hr/> <p style="text-align: center;">J</p> <p>James 4:10</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p style="text-align: center;">L</p> <p>leaves 6:21 left 2:11 legal 3:18 letter 5:21,22 License 1:8 4:3 licensee 4:15 little 6:7,9 LLC 1:6 located 4:2 looks 7:22</p> <hr/> <p style="text-align: center;">M</p> <p>Mallios 4:8 matter 1:5 9:16 McBee 6:1 mean 7:16 mediation 8:1 meeting 1:3 2:5 3:12,16 5:1,15 Meetings 3:15 member 1:19,20,22 2:13 5:6 7:11 8:12 Members 2:15 8:14 met 1:13 Mike 1:22 2:12 Miller 1:15,18 2:3 2:8,14 4:11,18 5:11,20 6:14,18 7:1,3,5,8,14 8:13 8:19 9:4,12,14</p>	<p>Molloy 4:7,8,17,19 5:14 6:13,16,20 7:2 9:3,11,13 morning 2:3,13,15 3:22 4:7,9 6:10 motion 8:16,20 9:9 move 3:21 8:8 moving 8:1</p> <hr/> <p style="text-align: center;">N</p> <p>N.W 1:14 name 2:8 3:10 need 7:9 8:5 negotiations 4:20 5:9 new 1:10 4:4 Nick 1:19 2:11 noises 2:22 note 3:8 notes 4:13 notice 5:12</p> <hr/> <p style="text-align: center;">O</p> <p>O'Brien 4:8 obtain 3:18 October 1:12 2:6 5:2,3 9:6 Oh 7:12 okay 3:21 4:5,11,14 4:18 5:11,20,20 6:13,18 7:2,3,15 7:16 8:14 9:3,11 9:12 open 3:12,13,15 opposed 8:20 order 8:7 9:1</p> <hr/> <p style="text-align: center;">P</p> <p>P-R-O-C-E-E-D-... 2:1 p.m 9:7 paggers 3:3 paper 3:8 parties 7:22 party 8:4,9 passes 8:21 phones 3:3 pick 6:15</p>
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