DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

ROLL CALL HEARING

IN THE MATTER OF:  
       FountainInn, LLC,
       t/a Fountain Inn
       1659 Wisconsin Ave, NW
       License #ABRA-116996
       Retailer Class CR
       ANC 2E
       Case #20-PRO-00042
       (New Application)

   Tuesday
   October 13, 2020

The Alcoholic Beverage Control Board met via Videoconference, LaVerne Fletcher, Board's Agent, presiding.

PRESENT:
LAVERNE FLETCHER, ABRA Board's Agent

ALSO PRESENT:
MATTHEW MINORA, Applicant's Counsel
VIYAS SUNDARAM, Applicant
JOE GIBBONS, ANC 2E
KAREN CRUSE, Georgetown Citizens Association
JAQUELIN DUNN, Protestant
BARTOW FARR, Protestant
ABIGAIL GILLIS, Protestant
TOVE ROBERTS, Protestant
MS. FLETCHER: Next case is Fountain Inn. Fountain Inn, LLC, Case Number 20-PRO-00042, 1659 Wisconsin Avenue, Northwest, License Number ABRA 116996. This is a Retailer Class CR New Application.

The protest issues are adverse impact on peace, order, and quiet; residential parking; and vehicular and pedestrian safety.

Is anyone present on behalf of the Applicant?

MR. MINORA: Yes, Ms. Fletcher. Matt Minora here from the law firm Mallios O'Brien. We are ABC license counsel for the Applicant, as well as the Applicant's owner, Viyas Sundaram.

MS. FLETCHER: Thank you, Mr. Minora.

Mr. Minora, would you please spell your name for the record?


MS. FLETCHER: Thank you very much. And present on behalf of ANC 2E? (No response.)

MS. FLETCHER: Is anyone present on
behalf of ANC 2E?

MR. MINORA: I see Commissioner Gibbons in the attendee list. I'm not sure if he can speak, though.

MS. FLETCHER: Oh, okay. Thank you very much. I'm going to note that Mr. Gibbons is here at this moment. If I can figure out why Mr. Gibbons can't speak, I will fix it.

So, Mr. Gibbons, if you can hear me, I've noted that you are present on behalf of ANC 2E. Don't know why I can't see you.

MR. KELTY: He needs to be promoted to a panelist. He is just an attendee right now.

(Pause.)

MS. CRUSE: I spoke with him this morning and I know he's trying to get on.

MS. FLETCHER: Yes, hi, Ms. Cruse.

MS. CRUSE: Hi, Ms. Fletcher.

MS. FLETCHER: Yes, I am trying to -- yes, I know he registered to be here. I'm just trying to -- I don't know why I can't -- one second.

(Pause.)

MS. FLETCHER: Okay, Ms. Cruse, I've noted that you are here. Ms. Cruse, can you
spell your name for the record, please?

MS. CRUSE: Yes, it's Karen, K-A-R-E-N, Cruse, C-R-U-S-E. And I represent the
Citizen's Association of Georgetown.

MS. FLETCHER: I'm going to go ahead
and spell Mr. Gibbons name. I know he is here.
It's J-O-E. The last name is Gibbons, G-I-B-B-O-N-S.

Mr. Gibbons, if you can hear me I'm
very sorry I can't see your name right now, but I
don't know why.

ANC 2E does have standing as a
protestant, and so does the Citizen's Association
of Georgetown.

Ms. Dunn, Jacquelin Dunn, are you
present?

MS. DUNN: Yes, I am. Can you hear
me?

MS. FLETCHER: Yes, I can hear you.
Thank you.

What about -- is it Tove Roberts?

(No response.)

MS. FLETCHER: Ms. Dunn, do you know
the pronunciation of Ms. Robert's name?

MS. DUNN: Yes, it's Tove.
MS. FLETCHER: It's Tove. Okay, thank you.

MS. DUNN: Thank you.

MS. FLETCHER: Are you there, Mr. Roberts?

(No response.)

MR. KELTY: Tove is also an attendee, but is not able to speak because she -

MS. FLETCHER: What was that?

(Off-microphone comments.)

MS. FLETCHER: Okay, thank you.

(Off-microphone comments.)

MS. FLETCHER: Who is speaking?

(Pause.)

MS. FLETCHER: Just a second.

(Pause.)

MS. FLETCHER: Okay, so if anyone can see me or hear me but you can't speak or be seen, I'm aware that you need to be elevated to a panelist. But at this moment I am not seeing your name. I don't know why. But I'm noting that you are here.

Ms. Roberts, I have noted that you are here and I'll spell your name for the record. It is T-O-V-E, R-O-B-E-R-T-S.
And Ms. Dunn, would you please spell your name for the record?

MS. DUNN: Yes, it's Jaquelin, J-A-Q-U-E-L-I-N, last name Dunn, D-U-N-N.

MS. FLETCHER: Okay, thank you. And I'd like to apologize to anybody that I can't see or hear. The system is pretty new and I've got a lot of names here, but I see that some names didn't show up. And thank you to anyone who is letting me know that someone is on the line but can't be heard or seen.

Ms. Dunn, your protest was filed based on the fact that you are an abutting property owner, and your property does abut the establishment. According to the D.C. Geographic Information System, your property is abutting.

MS. DUNN: Yes.

MS. FLETCHER: So you are granted standing as an abutting property owner.

Ms. Roberts's property does not appear to abut the establishment. Her property touches --

MS. DUNN: Actually -

MS. FLETCHER: Pardon me?

MS. DUNN: No, no, actually, I'm at 16
-- she's directly on the other side. I'm at
1657, the Fountain Inn is 1659, and Tove is next
doors as abutting on the other side.

  MS. FLETCHER: That is exactly right,
but so she abuts you, but not the establishment.

  MS. DUNN: No, no. We both abut the
establishment, not each other. It's in between
us.

  MS. FLETCHER: Okay, so -

  MS. DUNN: I'm 1657 - okay, sorry --

  MS. FLETCHER: I understand. I
understand. You are saying that the
establishment is -- you are on one side of the

  MS. DUNN: Yes.

  MS. FLETCHER: I'm looking at the map.

Just a second.

  (Pause.)

  MS. FLETCHER: Okay, so, Mr. Minora,
do you have any comment at all about the location
of -

  (Simultaneous speaking.)

  MR. MINORA: We believe that both Ms.
Dunn's and Ms. Roberts' properties abut the
Applicant's premises.
MS. FLETCHER: Okay, thank you.

(Pause.)

MS. FLETCHER: Thank you. I'm going to give standing to Ms. Roberts as an abutting property owner, as well.

So we have ANC 2E, the Citizen's Association of Georgetown, Jaquelin Dunn, and Tove Roberts as protestants in this matter.

Pardon?

MS. GILLIS: Sorry. Also, my name is Abigail Gillis and I filed a protest letter as an abutting residential neighbor.

MS. FLETCHER: And so, Ms. Gillis, I'm glad -- thank you for saying that and for speaking up. I actually have you on my list and I was going to ask you about your protest. So, you filed a protest as an abutting property owner?

MS. GILLIS: No, as an abutting neighbor.

MS. FLETCHER: So did you file -

MS. GILLIS: Residential neighbor.

MS. FLETCHER: Did you file as a member of a group?

MS. GILLIS: No. Just on my own.
MS. FLETCHER: Just -- you just filed the protest, but you weren't a part of a group? I'm just trying to figure out your status. So, you sent in a protest letter, just on your own, not as part of a group?

MS. GILLIS: Correct. I am a renter.

MS. FLETCHER: Did you file as -

MS. GILLIS: I filed as myself.

MS. FLETCHER: Okay, thank you.

MS. GILLIS: Yes. Thank you.

MS. FLETCHER: Okay, so just that I'm clear, Ms. Gillis. You filed as an individual. Not as a part of a group and not as abutting -- as a resident?

MS. GILLIS: I'm an abutting residential neighbor, so, I'm with -

MS. FLETCHER: Your property touches the property of the establishment as well?

MS. GILLIS: Yes. I live -- I'm a renter, so I live at the property.

MS. FLETCHER: What is your address?

MS. GILLIS: 1661 Wisconsin Avenue.

MS. FLETCHER: And so you are a renter at that location?

MS. GILLIS: Yes.
MS. FLETCHER: And you filed a protest as an individual?

MS. GILLIS: Yes.

MS. FLETCHER: Okay. Just a second.

MS. GILLIS: Thank you.

(Pause.)

MS. FLETCHER: Ms. Gillis, because you're not an abutting property owner and you're not a part of the group of at least five or more -- or three or more, this is a Georgetown Moratorium Zone, and that doesn't seem to be an issue at this stage, but you would have to be either an abutting property owner or a member of a group.

MS. GILLIS: Okay, then I will talk with Tove about that.

MS. FLETCHER: Okay, and so what I'm -

(Simultaneous speaking.)

MS. FLETCHER: So, just a second. I am hearing somebody talk. Are you talking to me?

(Off-microphone comments.)

MS. GILLIS: I think someone is listening to the confirmation hearings and doesn't have themselves muted.
MS. FLETCHER: So, all right. Okay.

So I know what I am going to have to do next go around. I am hearing a lot of people. They are not talking to me. But, Ms. Gillis -

MS. GILLIS: Yes.

MS. FLETCHER: I am going to dismiss your protest because you are not filing as an abutting property owner and not as a member of a group. You'll have the opportunity to seek reinstatement of your protest with the ABC Board. But for the purpose of the roll call hearing, I'll need to dismiss the protest for those two reasons.

MS. GILLIS: Okay.

MS. FLETCHER: Did someone mention Mr. Farr is on the line?

MR. FARR: Yes, I am.

MR. MINORA: Yes, he is.

MS. FLETCHER: Well, hi, Mr. Farr.

MR. FARR: How are you?

MS. FLETCHER: I'm fine, thank you.

Mr. Farr?

MR. FARR: Yes.

MS. FLETCHER: Did you file as an abutting property owner?
MR. FARR: Yes.

MS. FLETCHER: And does your property touch the property of the establishment?

MR. FARR: Yes. It is right behind the establishment.

MS. FLETCHER: But the properties do touch?

MR. FARR: Yes. I submitted a protest with Mr. Loy, Frank Loy, and our two properties are the properties behind the 1659 property.

MS. FLETCHER: And Mr. Loy's property touches that of the establishment also?

MR. FARR: Yes.

MS. FLETCHER: Does it actually touch the building?

MR. FARR: No, no. There is a rear yard and it touches, essentially, the fence in the back of the rear yard.

MS. FLETCHER: And so, based on that description, Mr. Farr, it does not appear that your property actually abuts that of the establishment because the properties themselves don't actually touch.

Do you think otherwise?

MR. FARR: Ms. Fletcher, I do think
otherwise, yes. I mean, if I walk out and look
over my fence I look at the backyard of the
property that we are talking about.

MS. FLETCHER: The same thing applies
to Mr. Loy?

MR. FARR: Right.

MS. FLETCHER: Is Mr. Loy on the line?
(No response.)

MS. FLETCHER: I don't see him, but
I'm not seeing everybody, so -

MR. FARR: I saw his name earlier, Ms.
Fletcher, so I think he is on the line.

MS. FLETCHER: Okay, well, actually,
I did see -- I actually saw it earlier, as well.
I just don't know where it went. But I noted
that he is present.

So, Mr. Loy, if you can hear me?
(No response.)

MS. FLETCHER: Although I can't see or
hear you right now, I've noted the fact that
you're present.

MR. FARR: You know, I'm looking at
the list of people on the watcher and it appears
to be that Mr. Loy is one of them, but is muted.

MS. FLETCHER: Oh, he's muted. Let me
see, I think I can unmute Mr. Loy.

Let's see, one second.

(Pause.)

MS. FLETCHER: Mr. Loy, can you hear me? Mr. Loy?

(No response.)

MR. FARR: Yes, I'm showing him unmuted now, but -

MS. FLETCHER: Yes, I see -- yes.

Well, in any event, I see that he is here and I've noted his presence.

Oh, there is Mr. Loy. Hi, Mr. Loy.

Okay.

MR. FARR: That is indeed Mr. Loy.

But I've rarely seen him not speaking, so -

(Laughter.)

MS. FLETCHER: Okay, so, let's see.

Oh, so I've unmuted Mr. Loy on my end. So, Mr. Loy would need to unmute himself on his end.

Mr. Loy, can you hear me?

(No response.)

MS. FLETCHER: Okay. It looks like you can hear me, Mr. Loy. What I'm trying to understand from what Mr. Farr was explaining is whether or not your property and his property
actually abut the establishment. And he said
that you can also see the establishment from your
yard. And he said -- is that -- that's correct?

(No audible response.)

MS. FLETCHER: Okay, thank you.

And, Mr. Farr, can you just give me
the number of your building?

MR. FARR: Yes, my address is 1602
Caton Place.

MS. FLETCHER: 1602 -

MR. FARR: Caton, C-A-T-O-N, Place,
Northwest.

MS. FLETCHER: C-A-T-O-N?

MR. FARR: Yes.

MS. FLETCHER: And 1602. Mr. Loy,
what about your address? Or --

(No response.)

MS. FLETCHER: Mr. Farr, do you know
Mr. Loy's address?

MR. FARR: I'm pretty sure, if I'm not
under oath, I'm pretty sure it's --

MS. FLETCHER: You are not under oath.

MR. FARR: -- it's 3230 Reservoir
Road.

MS. FLETCHER: Okay, because -- just
a second, please.

MR. LOY: Does this work better? This is -- I switched microphones now.

MS. FLETCHER: Okay.

MR. LOY: Can you hear me now?

MS. FLETCHER: Yes.

MR. LOY: All right. My name is Frank Loy. My mail address is 3230 Reservoir Road. In fact, however, my house is on Caton Place immediately next to Mr. Farr's.

MS. FLETCHER: And so, Mr. Loy, does your building touch the building of the establishment.

MR. LOY: It abuts the property of the establishment at the rear garden.

MS. FLETCHER: But the buildings don't actually touch?

MR. LOY: No. The buildings do not touch. The properties do touch.

(Pause.)

MS. FLETCHER: What I am going to do in your case, Mr. Loy, and in your case, Mr. Farr, I am going to grant conditional standing to you both, because according to the GIS system your properties won't actually touch the property
-- touch the buildings, but you will have an 
opportunity to show the Board that the properties 
actually touch.

They don't appear to touch. And so I 
have to base my determination today on the D.C. 
Geographic Information System, which does not 
show that the properties actually touch. I'm not 
going to dismiss the protest, I'm just going to 
grant conditional standing to give you an 
opportunity to show that they do.

MR. FARR: Okay.

MR. LOY: Thank you.

MR. FARR: And just to clarify, Ms. 
Fletcher, am I right that what we eventually 
would have to show, if our protest continues, is 
that the buildings actually touch, or is it just 
that the properties touch?

MS. FLETCHER: The properties touch.

MR. FARR: Okay. Thank you.

MS. FLETCHER: And we have a new 
definition of what an abutting property owner is. 
I'll also send you that definition so that you 
know what the definition is -- what definition we 
use. Thank you.

(Pause.)
MS. FLETCHER: Mr. or Ms. Sundaram?
Are you present?
MR. SUNDARAM: Ms. Fletcher, Mr. Sundaram here.
(Off-microphone comments.)
MS. FLETCHER: Excuse me. Excuse me.
Someone is talking right now, and you keep
talking to your kids right now.
(Off-microphone comments.)
MS. FLETCHER: Can you mute your
system so that we can't hear the conversation?
Thank you.
MR. SUNDARAM: Yes, Ms. Fletcher. Mr. Sundaram is here.
MS. FLETCHER: Thank you very much.
Okay, and you are here on behalf of?
MR. SUNDARAM: I am the owner of the
Fountain Inn.
MS. FLETCHER: You're the owner.
Thank you.
MR. SUNDARAM: Thank you.
MS. FLETCHER: One second.
(Pause.)
MS. FLETCHER: Is there anyone here in
the matter of Fountain Inn that I have not spoken
with, or whose name I didn't call, or hasn't spoken?

(No response.)

MS. FLETCHER: So I'm going to go back over the list of who we have as protestants now. We have ANC 2E, Citizen's Association of Georgetown, Jaquelin Dunn, Tove Roberts granted standing as protestants.

We have Mr. Barry Farr and Frank Loy, granted conditional standing as protestants. I am going to send you the Board definition of what an abutting property owner is and then you will provide the Board with the evidence that you have that your properties actually do abut, because the buildings don't appear to touch -- well, they don't touch, but you are going to provide the Board with evidence that the properties actually do abut.

Any questions from anybody?

(No response.)

MS. FLETCHER: We are going to set a date for mediation now. I'll give you the next available day.

MR. MINORA: Ms. Fletcher?

MS. FLETCHER: Yes.
MR. MINORA: We are very close to a settlement agreement. If you could push the mediation and the status hearing dates out far, because I think we will have this wrapped up, hopefully before the end of the week, if not sooner.

MS. FLETCHER: Oh, okay, thank you, Mr. Minora. I'll push it way out. What about, let's see, how about -- one second -- what about November the 17th? Is that out far enough?

MR. MINORA: Yes. I think that is plenty of time. Thank you.

MS. FLETCHER: You are very welcome. I am going to schedule mediation for November 17. One o'clock in the afternoon? Ten in the morning?

MR. MINORA: I'm okay with either of those times. I will base it on the needs of the others.

MS. FLETCHER: Okay. Will ten o'clock be okay for everyone? On November 17?

PARTICIPANT: Yes.

MS. FLETCHER: Okay.

PARTICIPANT: Yes.

MS. FLETCHER: Well, then I will
schedule mediation for ten o'clock on Tuesday, November 17.

And of course, you know, once you submit the settlement agreement the mediation will be cancelled. The Board has not yet set a status hearing and a protest hearing date for this case, so you may settle it even before they give us those dates.

Any questions, anybody?

(No response.)

MS. FLETCHER: Well, I'd like to thank everyone for participating. Sorry for any confusion. I think I've noted everybody who is present whether I can see you or not. So, thank you.

PARTICIPANT: Thank you.

MS. FLETCHER: You may sign off whenever you are ready. I'm going to call the next case. Thank you.

(Whereupon, the above-entitled matter went off the record at 10:47 a.m.)
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CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Fountain Inn

Before: DCABRA

Date: 10-13-20

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

[Signature]

Court Reporter