

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
3 ALCOHOLIC BEVERAGE CONTROL BOARD
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6 IN THE MATTER OF: :
7 POW, LLC t/a Show Bar :
8 1210 H Street NE : Fact-Finding
9 License #76233 : Hearing
10 Retailer CT :
11 ANC-6A :
12 Request to Extend Safekeeping:

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15 Wednesday, October 14, 2015

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17 Whereupon, the above-referenced matter
18 came on for hearing at the Alcoholic Beverage
19 Control Board, Reeves Center, 2000 14th Street,
20 N.W., Suite 400S, Washington, D.C. 20009.

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22 CHAIRPERSON:

1 RUTHANNE MILLER, Presiding

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3 BOARD MEMBERS:

4 DONALD BROOKS

5 HECTOR RODRIGUEZ

6 MICHAEL SILVERSTEIN

7 JAMES SHORT

8

9 ALSO PRESENT:

10 ANDREW KLINE, ESQ.

11 On behalf of the Licensee

12 JEREMY POLLOK, Licensee

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

2 [1:57 p.m.]

3 CHAIRPERSON MILLER: I don't think we're
4 expecting anybody else, are we?

5 MR. KLINE: Nope.

6 CHAIRPERSON MILLER: Okay. So I'm going
7 to start at 1:57, our fact-finding hearing
8 related to Show Bar located at 1210 H Street,
9 Northeast, License No. 76233, in ANC-6A, and this
10 is a fact-finding involving a request for an
11 extension of time to keep the license in
12 safekeeping, and I believe that request is for 2
13 years.

14 So why don't we start with introductions.

15 MR. KLINE: Yes. Good afternoon. Andrew
16 Kline on behalf of the Licensee.

17 MR. POLLOK: Jeremy Pollok, the Licensee.

18 CHAIRPERSON MILLER: Okay. So we
19 periodically have fact-finding hearings, not
20 evidentiary hearings, on licenses that are in
21 safekeeping, and what we're interested in is
22 what's the status of the license, what's been

1 going on with it, and why are you asking for 2
2 years?

3 MR. KLINE: All right. So this location
4 is a little bit unusual in that Mr. Pollok and
5 his partners had a business in there and closed
6 that business, and the business next door called
7 the Red and the Black expanded into this business
8 and this operating in this building and the
9 building that they previously operated in under
10 one license. So, when that happened, the license
11 that we're talking about today was surrendered
12 for safekeeping.

13 Mr. Pollok is not only a principal in the
14 Licensee entity but also a principal in the
15 entity which owns the building, and they're very
16 interested in maintaining the license so that in
17 the event they lose this tenant, that's primarily
18 based in the building next door and it's expanded
19 in their building, they have a means to go in and
20 reopen a business at this location.

21 This is unlike many of the others that
22 we've talked about recently because most of those

1 are moratoriums, and we certainly understand the
2 Board's concern, which we share, that operators
3 have access to licenses, and that license it not
4 kept in safekeeping indefinitely in those
5 neighborhoods, so that the licenses will be
6 available. Well, there is no moratorium here, so
7 I don't think that that policy issue is a
8 concern.

9 And secondly, we have a new law that
10 requires that they pay even more money for
11 keeping the license in safekeeping. So we hope
12 the Board would indulge this situation and allow
13 this licensee and property owner to continue to
14 protect itself by continuing the license.

15 CHAIRPERSON MILLER: Okay. Let me just
16 ask you one question, and then I'll let my other
17 Board members ask.

18 What would be the problem with giving up
19 the license and then getting a new license when
20 the space became available in the building?

21 MR. KLINE: The problem is the problem
22 that always exists with getting a license, and

1 it's a problem of time.

2 As the Board knows, in the event of a
3 contested application -- well, let's start with
4 an uncontested. If it's an uncontested
5 application, we're talking about a 10-to-12-week
6 process. If it's a contested application that's
7 not resolved by way of a settlement agreement,
8 it's a 7-month process. So it's not a problem,
9 but, I mean, there's value from their standpoint
10 in maintaining the license and not being subject
11 to that potential 7-month delay in the event that
12 they had reason to reopen a business at the
13 location.

14 CHAIRPERSON MILLER: So, if I'm not
15 mistaken, I think that if a license has been in
16 safekeeping over a certain amount of time, that
17 when it comes out of safekeeping, it's placarded.

18 MR. KLINE: Yeah. My understanding, that
19 your process has been that it comes out of
20 safekeeping, and then there is immediately a
21 hearing or placarded for a hearing, so that the
22 neighborhood has an opportunity to weigh in and

1 say, "Wait. Wait a minute. What's going on?
2 There hasn't been an operation here for a long
3 period of time" --

4 CHAIRPERSON MILLER: Right.

5 MR. KLINE: -- and you need to make sure
6 that the community is identified and they have an
7 opportunity to weigh in.

8 CHAIRPERSON MILLER: So is there a
9 difference in time, though, between when that's
10 placarded and then may be contested and then may
11 be a hearing versus just getting a new license?

12 MR. KLINE: Yes, because two things. One
13 is my understanding is the policy has been that
14 the license can immediately come out of
15 safekeeping, subject to the hearing.

16 CHAIRPERSON MILLER: Mm-hmm.

17 MR. KLINE: So we don't have a potential
18 7-month delay, and that's really the concern. I
19 mean, time is money, and the concern is, all of a
20 sudden, this tenant fails, and this gentleman is
21 in business. He's operated as many as four
22 restaurants in Washington at a time. Right now,

1 I think it's just Tonic at Quigley's in West End,
2 but if their tenant were to leave, he's in a
3 position to roll up his sleeves and go in and
4 reopen a restaurant probably within 30 days. And
5 that's really what the landlord desires, is to be
6 in a position to take advantage of that.

7 And as I said before, the Board is always
8 balancing policies. The policy against allowing
9 licenses to remain in safekeeping exists in
10 moratorium events because of the limitation of
11 licenses.

12 Here, it's gravy money to the District of
13 Columbia because they continue to pay their
14 annual license fees, and now they have the
15 privilege of paying an additional fee to maintain
16 the license in safekeeping. So this is to us --
17 it's a win, win, win.

18 CHAIRPERSON MILLER: Okay, thank you.

19 Yes, Mr. Short.

20 MR. SHORT: Good afternoon again.

21 MR. KLINE: Good afternoon.

22 MR. SHORT: I'm looking at the Section

1 25-791, which I know you're familiar with, about
2 safekeeping.

3 MR. KLINE: Yeah.

4 MR. SHORT: If you look at section C, it
5 says licenses in safe keeping beyond 60 days as
6 extended by the Board shall be reviewed by the
7 Board every 6 months to ensure that the Licensee
8 is making reasonable progress on returning to
9 operation.

10 And I guess you pretty much know our
11 procedures better than a lot of us here know
12 them. Every 6 month sis not only written in the
13 book, but it's a Board policy that I've come to
14 be familiar with.

15 So you're asking for 2 years? Why 2
16 years rather than 6 months?

17 MR. KLINE: I mean, if the Board's
18 position is 6 months, then we'll come back and
19 visit with you in 6 months. That's up to the
20 Board.

21 MR. SHORT: Okay.

22 MR. KLINE: We asked. That doesn't mean

1 you have to say yes.

2 MR. SHORT: I understand.

3 [Laughter.]

4 MR. KLINE: You always have the right to
5 say no, but we asked.

6 MR. SHORT: I'm just giving grounds for
7 my vote should I be inclined to agree with the
8 other Board members.

9 MR. KLINE: I understand. I understand.
10 Thank you.

11 MR. SHORT: Thank you.

12 CHAIRPERSON MILLER: Others?

13 MR. BROOKS: I'm okay.

14 CHAIRPERSON MILLER: Okay. Anything else
15 you want to add?

16 MR. KLINE: No, I don't think so, unless
17 the Board has any other questions. We
18 respectfully request that it be allowed to be in
19 safekeeping.

20 Just so you know not to put their
21 business out there, but they have -- landlords
22 have some difficulty with this tenant in recent

1 months in terms of paying rent and what have you,
2 so this concern may be more real than
3 theoretical, which is why we're anxious to keep
4 it in safekeeping.

5 CHAIRPERSON MILLER: Okay.

6 So what I would suggest -- and I'll hear
7 what other Board members want to say -- we had
8 been recently renewing until March 31st, 2016,
9 and probably getting a lot of these licenses on
10 the same schedule, and it's about 6 months. So
11 that's what I would suggest that we do with this
12 case, and if things remain the same at that point
13 in time, then we can decide whether or not we
14 want to extend another 6 months. I think that
15 the law does right now, for the most part, speak
16 in terms of 6 months.

17 But do others have a different view on
18 this?

19 MR. BROOKS: Oh, I would second that, if
20 that's a motion.

21 CHAIRPERSON MILLER: Okay. Others?

22 [No audible response.]

1 CHAIRPERSON MILLER: Okay. So then it's
2 a motion to extend the license in safekeeping for
3 6 months or so until March 31st, 2016. That's
4 been seconded.

5 All those in favor say "aye."

6 [Chorus of ayes.]

7 CHAIRPERSON MILLER: All those opposed?

8 [No audible response.]

9 CHAIRPERSON MILLER: All those
10 abstaining?

11 [No audible response.]

12 CHAIRPERSON MILLER: Motion passes,
13 5-zero-zero.

14 Okeydoke. Thank you very much.

15 MR. KLINE: Thank you. Have a good
16 afternoon.

17 [Whereupon, at 2:06 p.m., the
18 above-entitled matter concluded.]

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