DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

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IN THE MATTER OF:        :
:
Stemless DC, LLC,        :
t/a Barkada Wine Bar     :
1939 12th Street NW      :
Retailer CR - ANC 1B     : Protest Status
License #115719          : Hearing
Case #21-PRO-00070       :
:
(Substantial Change     :
[Entertainment
Endorsement])           :
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Wednesday
October 27, 2021

The Alcoholic Beverage Control Board
met via WebEx videoconference, Chairperson
Donovan W. Anderson presiding.

PRESENT:

DONOVAN W. ANDERSON, Chairperson
BOBBY CATO, JR., Member
RAFI ALIYA CROCKETT, Member
EDWARD S. GRANDIS, Member
JENI HANSEN, Member
JAMES SHORT, JR., Member
ALSO PRESENT:

SIMONE ANDREWS, DC ABRA Staff
ALLEN CANNON, Designated Representative for Protestants
ALAN COHAN, Protestant
NATHAN FISHER, Applicant
RYAN HEILING, Protestant
KATHI HIGHFIELD, Protestant
CERI LAWLEY, Protestant
NICHOLAS MAHON, Protestant
DAN ORLASKEY, ANC 1B
LINDSEY THAKER, Protestant
P-R-O-C-E-E-D-I-N-G-S

10:36 a.m.

CHAIRPERSON ANDERSON: We're on the record. As Chairperson of the Alcoholic Beverage Control Board for the District of Columbia, and in accordance with DC Code Section 2576 of the Open Meeting's Act, I am welcoming you to the regularly scheduled meeting of the Alcoholic Beverage Control Board.

This meeting is being conducted pursuant to guidance made available by the District of Columbia's Office of Open Government regarding electronic meetings held by public bodies during the public health emergency. Pursuant to this guidance, notice of today's meeting was provided 48 hours in advance of the meeting on ABRA's website and on the District's central meeting calendar.

The notice includes the time, date, agenda, and call-in or log-in information for public participation. This electronic meeting is being hosted by a Webex account provided by the District of Columbia government. Please address any questions or complaints to the OOG at Opengovoffice@dc.gov.
My name is Donovan Anderson and I'm Chairman of the Board. I would like to introduce the other members of the ABC Board who are also participating electronically pursuant to Mayor's order 2020-119. Please respond when I announce your name.

Mr. James Short.

MEMBER SHORT: Mr. James Short, present.

CHAIRPERSON ANDERSON: Mr. Bobby Cato.

MEMBER CATO: Bobby Cato, present.

CHAIRPERSON ANDERSON: Ms. Rafi Crockett.

MEMBER CROCKETT: Rafi Crockett, present.

CHAIRPERSON ANDERSON: Ms. Jeni Hansen.

MEMBER HANSEN: Jeni Hansen, present.

CHAIRPERSON ANDERSON: Mr. Edward Grandis.

MEMBER GRANDIS: Edward Grandis, present.

CHAIRPERSON ANDERSON: The Board has six members in attendance for the conduct of business today and that constitutes a quorum.
Before we get underway with today's hearing calendar, I need to make a few instructions very clear so that the conduct of these hearings is understood by everyone.

There are five cases scheduled for today. Once your case is called, I will take a moment for our IT specialist to elevate the rights for each party to enable their camera and microphone. Then, and only then, will you have the ability to enable your equipment.

If your case has not been heard, you will remain mute and your camera will be disabled. At the conclusion of each case, the parties will have the option to leave. If the parties wish to stay, all cameras and microphones for the concluded case will be disabled.

Should you have any questions or require technical assistance during the hearing, please submit them using the question and answer feature or email simone.andrews2@dc.gov.

Our first order of business today is a Protest Hearing Status Case No. 21-PRO-00070, Barkada Wine Bar, License No. 115719.

Ms. Andrews, can you please elevate the rights of the parties in this case, please.
MS. ANDREWS:  Sure.  Stand by.

Mr. Fisher, your rights have been elevated.

Mr. Orlaskey, your rights have been elevated.

Mr. Cohan, your rights have been elevated.

MR. COHAN:  Okay, good.

MS. ANDREWS:  Ms. Lawley, your rights have been elevated.

Would all parties please mute their microphone until called upon.

Ms. Thaker, your rights have been elevated.

Mr. or Ms. Heiling, your right have been elevated.

Ms. Highfield, your rights have been elevated.

That's all I have for now.  If anyone else belongs to this case, please acknowledge yourself in the chat.

Thank you, Mr. Chair.

CHAIRPERSON ANDERSON:  I'm sorry.

Hold on.  I just did something and I have to
figure out what I just did. I apologize. Okay, I'm back. All right.

I'm sorry. I would like if you're not speaking please mute your line. Everyone should mute their microphone. When you are speaking, then you can unmute your microphone because we'll have feedback if we're not.

MR. CANNON: One moment, please.

CHAIRPERSON ANDERSON: Someone said one moment but unless I -- I'm sorry. Mr. Cannon, are you speaking, sir?

MR. CANNON: I am, sir. I didn't hear that my rights were elevated.

CHAIRPERSON ANDERSON: You are online, sir. All I need you to do is mute your phone, sir.

MR. CANNON: Excellent. Thank you.

CHAIRPERSON ANDERSON: Good morning, everyone. This is a protest hearing status. Who is the licensee? Can the licensee please identify him or herself by spelling and stating your name for the record, please.

CHAIRPERSON ANDERSON: And what's your relationship to the establishment, sir?

MR. FISHER: I am one of the owners of Barkada Wine Bar.

CHAIRPERSON ANDERSON: Thank you. Do we have the ANC -- is the ANC-1 the protestant?

MR. ORLASKEY: Yes, this is Dan Orlaskey, Commissioner for 1B02.

CHAIRPERSON ANDERSON: Thank you, Mr. Orlaskey. Can you please spell your name, please?

MR. ORLASKEY: O-R-L-A-S-K-E-Y.

CHAIRPERSON ANDERSON: Thank you. And you are from ANC what, sir?

MR. ORLASKEY: 1B02.

CHAIRPERSON ANDERSON: All right. Who is the protestant? Do we have one or more protesters in this case? Is there a designated representative for the protestant?

MR. CANNON: Yes, there is.

CHAIRPERSON ANDERSON: Who is that? Can you please spell and state your name for the record who the designated representative is?

MR. CANNON: Yes. Allen, A-L-L-E-N,
Cannon, C-A-N-N-O-N.

CHAIRPERSON ANDERSON: And what -- and you are representing what group, sir?

MR. CANNON: I'm representing the neighborhood group of five.

CHAIRPERSON ANDERSON: Is this the only protestant or is there another protestant? Not the group of five but is there another group of protestants in this license?

MR. CANNON: Not that I know of. It's just our group of five.

CHAIRPERSON ANDERSON: All right. So you have -- who are the -- who's with us today? You can just state their name. You can call them and once you've called the names, then I would like those individuals to state and spell their name for the record, please.

MR. CANNON: Okay. You would like me to list the people who are here today?

CHAIRPERSON ANDERSON: Yes, Mr. Cannon. Just call their names one by one. Once you call the person's name, then I will ask that person to identify themselves for the record, and also spell their names, please. Yes.
MR. CANNON: Thank you, sir.

Ceri W. Lawley.

MS. LAWLEY: I shall spell my name.

CHAIRPERSON ANDERSON: Yes, ma'am.

MS. LAWLEY: The name is spelled C-E-R-I, that's Ceri. Lawley is L-A-W-L-E-Y.

CHAIRPERSON ANDERSON: Thank you, ma'am.

Who else is here, Mr. Cannon?

MR. CANNON: Yes. We have Mr. Alan Cohan.


CHAIRPERSON ANDERSON: Good morning, Mr. Cohan.

MR. COHAN: Good morning. By the way, you obviously can hear me fine. I can barely hear anybody.

CHAIRPERSON ANDERSON: Maybe you can turn up your microphone, sir.

MR. COHAN: It's all the way up but I can get by. I just wanted to let you know.

CHAIRPERSON ANDERSON: All right.

Thank you. I'll speak up, sir.

All right. Go ahead, Mr. Cannon.
MR. CANNON: Yes. We have Kathi Highfield.

MS. HIGHFIELD: Yes, Kathi --

CHAIRPERSON ANDERSON: Ma'am, Ms. Highfield, I can hardly hear you. Can you please spell and state your name for the record, please. Ms. Highfield.


CHAIRPERSON ANDERSON: Thank you. Good morning, ma'am. Thank you.

MS. HIGHFIELD: Thank you.

CHAIRPERSON ANDERSON: Go ahead, Mr. Cannon.

MR. CANNON: Yes. Mr. Nicholas Mahon.


CHAIRPERSON ANDERSON: Good morning, Mr. Mahon.

MR. MAHON: Good morning.

CHAIRPERSON ANDERSON: Who else do we have, Mr. Cannon?
MR. CANNON: Ms. Lindsey Thaker.


CHAIRPERSON ANDERSON: Good morning, Mr. Thaker.

MS. THAKER: Good morning.

CHAIRPERSON ANDERSON: Anyone else?

MR. CANNON: Mr. Ryan Heiling, I believe.


CHAIRPERSON ANDERSON: Good morning, Mr. Heiling.

All right. So everyone is represented here from the group of five or more. All right. Thank you.

All right. Let's start with the licensee. Are there any preliminary matters you want to bring to the attention of the Board?

MR. FISHER: We do have one question, just an update that we did have our initial meeting with the protestors, as well as the ANC, and are continuing to have conversations with the
ANC to schedule another meeting very soon.

The question we did have relating to the actual timing of any sort of license in relation to the renewal. I know that restaurants in Group C renewals are at the end of March.

I wanted to know if negotiations or conversations continue past the December 2nd date if any entertainment license, if approved, would happen in the renewal and not beforehand so we don't need to pay it double for -- I know that there's no -- you don't need to -- we would have to pay for this license and then have to pay again for renewal. I just want you to know the timing and can we delay anything to when our license is renewed?

CHAIRPERSON ANDERSON: I'm not sure. I don't have the answer. I can't answer that question right now so you probably have to contact our licensing division for that to get an answer there. When did you make the request for substantial change?

MR. FISHER: We made the request back in July.

CHAIRPERSON ANDERSON: July of this year, 2021?
MR. FISHER: Yes.

CHAIRPERSON ANDERSON: All right.

You've got to speak to licensing about the timing and the approval. I know that -- and as you state -- the reason why I ask this question is because we are still doing protest hearings from 2019 and for establishments those renewal is going to be up in '22 so we have not -- based on the pandemic we have not necessarily had hearings on licenses that are not -- we are now going to be -- I'm starting another renewal period.

That's something you'd have to talk to the licensee. But I -- our Licensing Division in the sense of if this is approved and the timing of the approval, what does that mean for payment for this period and also for the period that you are -- when your license will come up for renewal. I would just ask you to reach out to Mr. Sean Gordy who is the head of the Licensing Division and they can provide you that answer.

Okay?

MR. FISHER: Sounds good. Thank you.

CHAIRPERSON ANDERSON: All right.

Thank you.

Mr. Orlaskey, do you have any
preliminary matters that you want to raise with
the Board?

MR. ORLASKEY: No preliminary matters
from the ANC.

CHAIRPERSON ANDERSON: Mr. Cannon, do
you have any preliminary matters that you want to
raise with the Board? You're on mute, Mr.
Cannon.

MR. CANNON: No, I don't have any
matters for the Board now.

CHAIRPERSON ANDERSON: All right.
This matter is scheduled for a protest hearing on
December 1, 2021 at 10:30 a.m. I'm not sure if
the parties are discussing settlement but the
Board supports settlement of all issues if the
parties are able to -- if the parties are able to
settle the matter.

Just as an FYI, I'm letting the group
of five know that if a settlement is reached
between the ANC and the licensee that the protest
will be -- your party status will be dismissed.
Just as an FYI to the group of five or more to
say that if there is a settlement that is reached
between the ANC and whether or not you are part
of the settlement agreement, or if you're not
part of the settlement agreement that the protest will be over.

Also just as an FYI I also want to let the group of five or more know that if the ANC refuses to make you part of the settlement agreement, the Board has no authority to order the ANC or the licensee to make you part of a settlement. Just as an FYI.

I am not telling the licensee not to talk to the protestant, to the group of five or more, but since I've been Chair I've had opportunities where groups want the Board to order the licensee to negotiation with them, or if a settlement agreement is reached between the ANC and the licensee, they want the Board to move forward with the protest hearing. I just wanted to inform the licensee that by operation of law, that is how things are.

There is nothing the Board can do. We've got the statute that states that if a settlement agreement is reached between the ANC and the licensee, your protest status ends and we cannot force the parties to make you part of the settlement agreement. Okay? Just as an FYI.

All right.
Now that we've scheduled this matter for a protest hearing, there are a few things that I would like to instruct you about because the Board's practice under the public emergency has changed.

As you know, the Board's hearings are conducted virtually so it is more important than ever that protest hearings are focused and address only those issues that are being protested.

Following this hearing you will receive an email from the attorney from our office -- I'm sorry, from the Legal Office that will include a copy of a protest information form, and a copy of an exhibit form, as well as specific instructions for the hearing. You are required to complete the protest information and the exhibit form at least seven days before the date of the hearing.

If we do not receive a copy of your forms seven days before the hearing, your application or your protest may be subject to dismissal. These documents not only need to be submitted to ABRA Legal, but to the opposing parties as well. Please know that these
documents greatly assist the Board in narrowing the protest issues, facilitating the process, and keeping the parties on point during the hearing. Each side is limited to no more than five witnesses and you will only have sixty minutes to present your case. This includes all direct and cross-examination of witnesses. The Board does not intend to hear testimony on matters that are not relevant to those issues that are being protested, nor will the Board tolerate repetitive testimony. Are there any questions by anyone?

MR. CANNON: No.

CHAIRPERSON ANDERSON: All right. We thank you greatly for your cooperation. If you have any questions at anytime leading up to the hearing, please do not hesitate to contact our legal office and we will provide you either the licensee and the -- the licensee, the ANC, and the protesters.

If at any point you have any questions, you can reach out to our legal office and we will provide you with technical support that you require to move forward with this matter. The Board supports settlement. If the
parties are able to settle the matter, the Board will -- as long as the terms are legally enforceable, the Board will sign off on the terms of the settlement agreement.

I've always stated you live in this area so irrespective of what decision is made, at the end of the day both parties -- this is a substantial change that both parties. This is a substantial change that both parties -- this establishment is going to remain in your neighborhood so we support the matter if it can be settled.

Of course, if it cannot be settled, we'll have a hearing on December 1st. Please continue speaking, communicate with each other but, if the matter cannot be settled, we will see you on December 1st at 10:30. Thank you very much and have a great day.

(Whereupon, the above-entitled matter went off the record at 10:57 a.m.)
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CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Bakarda Wine Bar

Before: DCABRA

Date: 10-27-21

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