DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

IN THE MATTER OF:
Sterling/Gunston, LLC, t/a To Be Determined
1603 17th Street NW
Retailer CR - ANC 2B
License #111806

(Request to Extend Safekeeping)

Wednesday
November 3, 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
LYLE BLANCHARD, Licensee's Counsel
AUSTIN HERNDON, Licensee
LIESA MILLER, Witness
P-R-O-C-E-E-D-I-N-G-S

11:02 a.m.

CHAIRPERSON ANDERSON: Okay. The next case on our calendar is another fact finding hearing. This is, it's formerly Sterling/Gunston, LLC, t/a To Be Determined, License Number 111806.

Ms. Andrews, I'm going to wait a minute, please.

MS. ANDREWS: Sure. Let me get the last parties off.

CHAIRPERSON ANDERSON: Yes, that's why I stopped. I was waiting for them to get off before I asked you to elevate the rights of the others. But at the appropriate time, you can elevate the rights of the parties in this case, please.

MS. ANDREWS: Okay. Ms. Miller, your rights have been elevated. And, Mr. Blanchard, your rights have been elevated. And, Mr. Herndon, your rights have been elevated. That's all, Mr. Chair.

CHAIRPERSON ANDERSON: Thank you, Ms. Andrews.

MR. BLANCHARD: Good morning,
everyone.

CHAIRPERSON ANDERSON: Good morning, Mr. Blanchard. Can you please spell and state your name for the record? And then you can let me know who else is with you, and then they can identify themselves. So, Mr. Blanchard, go ahead, please.

MR. BLANCHARD: Yes. Good morning. Good morning, Chairman Anderson and members of the ABC Board. My name is Lyle Blanchard. And I'm representing the owner, Sterling/Gunston, LLC. With me this morning are, should be two witnesses, Ms. Liesa Miller and Mr. Austin Herndon.

CHAIRPERSON ANDERSON: Mr. Blanchard, good morning. Thank you. Can you just spell your name for the record, please?

MR. BLANCHARD: Oh, I'm sorry. Yes, it's first name Lyle, L-Y-L-E. Last name is Blanchard, B-L-A-N-C-H-A-R-D.

CHAIRPERSON ANDERSON: Ms. Miller, can you please spell and state your name for the record, please, and your relationship?

MS. MILLER: Good morning. It's Liesa Miller. It's L-I-E-S-A, last name Miller, M-I-L-
L-E-R. And I'm the regional property manager.

CHAIRPERSON ANDERSON: Good morning.

And, Mr. Herndon, can you please spell and state your name for the record and relationship, please? We can't hear you, Mr. Herndon.

MR. HERNDON: Sorry about that. Hi. Austin Herndon, A-U-S-T-I-N, H-E-R-N-D-O-N. And I'm the senior vice president of leasing at Bernstein Management, who is the manager of the building.

CHAIRPERSON ANDERSON: Good morning. Mr. Blanchard, this license has been in safekeeping since September 12, 2018. And we're just trying to find out where are we in bringing this restaurant license back into the fold.

So I know that you have sent requests requesting a six-month extension. But the Board is not satisfied with the response that was provided or I'm -- well, let me ask that way***. I'm not sure -- well, the Board is not satisfied with the response.

So that's one of the reasons why we're having this hearing today, and so you can let us know where it is, where is it that, what's going on with this license, and what's the timeline
that you believe the tenant would be identified
so this license can be back into production, into
productive use.

MR. BLANCHARD: Thank you. Thank you,
Mr., Chairman Anderson.

Sterling/Gunston, LLC is the owner of
the property at 1603 17th Street. It has another
address as well. But the address listed on the
license is 1603 17th Street.

Sterling/Gunston was, you are correct,
was granted permission on September 12, 2018 to
transfer the license of its former tenant,
Pansaari LLC, into the landlord's name and place
what is now a Class E restaurant license 111806
into safekeeping until such time as the landlord
could find a new tenant.

And since then the Board has granted
several six-month extensions of safekeeping until
now. The license fees are up-to-date, with the
third year annual license fee paid this past
April.

As you will hear from the witnesses,
Ms. Miller and Mr. Herndon, the tenant space is
attractive, and there have been interest from
potential tenants. Hopefully, COVID is now
waning and a new tenant will be found that is ready to commit to leasing and transferring the license into its name.

Thank you for holding this hearing. We understand the Board's purpose for this hearing is to gather more detail about that process.

So Ms. Miller will talk about the history of the space and the property owner's continued need for the license. Mr. Herndon will be talking about the marketing of the tenant space. And then we're available to answer any questions the Board may have at this time. So I'd like to turn to Ms. Miller for her comments.

MS. MILLER: Thanks, Mr. Blanchard. So, previously, the space was used as a restaurant. And then they acquired their liquor license and tried to draw more of a happy hour crowd.

Where it's situated in DuPont is very close to a lot of restaurants that sell liquor. It's Hank's Oyster Bar. It's Trio. It's Fox and the Hound. And to make this space marketable, we need this liquor license to be able to pass that on to the new tenant.
So we haven't had much traction on this space throughout COVID and, you know, just for obvious reasons. And the restaurant was to go in under just a take-out umbrella. But we have picked up as far as traffic on prospects and, which is the reason we'd like to retain this license.

MR. HERNDON: And I can probably add a little additional color if you'd like. Just for your recall*** and maybe nobody's aware of this, Pansaari signed a ten-year lease where the ownership, you know, provided funds for the tenant fit-out. Unfortunately, they went out of business after about two and a half, three years.

So we put a significant investment in the space that was specifically built out as a restaurant. And with that, a liquor license, you know, was a key component to that. Unfortunately, they went out of business.

We have hired PayLNV Retail*** to do the marketing on that space. And interestingly enough, we actually did not have much action on the space, a lot of interest in the space until just the last few months, which is interesting because, you know, retail has had a tough time
over the last 20 months or so.

But the last couple months interest has picked up significantly. And unfortunately or fortunately, all the interest is typically from restaurant users that would like to have that liquor license.

So we're, I feel like we're at a sort of cusp here of hopefully in the 6 months, maybe longer, unfortunately things do take a while, but hopefully in the next 6 to 12 months that we will have a restaurant user for the space that will open up for business and will need that liquor license.

CHAIRPERSON ANDERSON: The concern that I have is that if the Board was to grant this extension, what's the expectation, because this is through, would be through March 31, 2022. We're now in November, just a couple more months.

So why does that -- so, therefore, it appears that we're looking for another, you would be looking for another extension. So what is it that -- if the Board was to grant this extension, if you come back to us, what would be the expectation of, what would be the expectation?

MR. HERNDON: Well, unfortunately, we
can't control, you know, the demand right now.

Having said that, there will be -- with the
liquor license, there's a lot more interest in
the property.

It's a large space. It's 6,800 square
feet. It's larger than most restaurants. It's
below grade space with very little windows. So
the liquor license fortunately or unfortunately
is a key component to us leasing this space.

CHAIRPERSON ANDERSON: No, I guess the
question I'm asking, sir, it's not apparent based
on what you're saying that even, if we were to
grant this extension, that on April 1st the
license would be, there would be a use. Is that
--

MR. HERNDON: Yeah.

CHAIRPERSON ANDERSON: -- there would
be a tenant in this space utilizing the license
and utilizing the license and generating taxes
for the residents of the District of Columbia.

So that's what I'm saying to you,
asking you. If we were to grant this extension,
it's likely that you're going to come back to us
and ask for another one.

So what is it that the Board should
expect if we were to grant this extension and you're going to come back to us again asking for another six months?

MR. HERNDON: Yeah, my -- you know, I hate to, you know, make predictions. But my gut is we're going to have a tenant here in the next six months. I don't know if they will be up and running in the next six months with construction and things like that. But I think we'll have a signed lease.

Now I might have just jinxed it by saying that. But we've got a marketing team. We're willing to put in improvements. We're checking all the boxes to get a tenant here. But, you know, like I said, I don't want to make any guarantees.

CHAIRPERSON ANDERSON: All right. Any questions by any other Board members?

MEMBER GRANDIS: Mr. Chairman?

CHAIRPERSON ANDERSON: Yes, Mr. Grandis.

MEMBER GRANDIS: Mr. Blanchard, it's a pleasure to see you today and --

MR. BLANCHARD: Good to see you, too, Mr. Grandis.
MEMBER GRANDIS: I hope you and your family are well.

MR. BLANCHARD: Yes, thank you. Hope you are, too.

MEMBER GRANDIS: Thank you. Thank you very much. Yes, God willing, right?

MR. BLANCHARD: Right.

MEMBER GRANDIS: I think I know this space very well. I think you helped your -- I think your clients helped remind me that this is actually on 17th Street in a commercial building, which is somewhat surrounded by a lot of historic townhouses, and that the space itself is -- I don't think you would call it in this basement. I think it is actually a basement. So am I correct, is that this is the space that's, you walk down the concrete stairs to get into the space?

MR. BLANCHARD: That's correct. That's right. Mr. Herndon might be able to say something more about this.

MR. HERNDON: Yeah, it's -- you walk downstairs from 17th Street. But to be clear, the first two levels are retail, and then there's an apartment building above.
MEMBER GRANDIS: Above it, yes. So
I'm somewhat puzzled. There is no moratorium
against CR restaurants or CR licenses in this
area. And it's my understanding I guess by just
having this hearing that this particular licensee
has been keeping current with the annual fees,
which is not a small amount of money I would
imagine.

Is the purpose of trying to market it
with this CR license to somewhat avoid having a
packeting or a public comment period? Is that
part of the equation here, because if this did
not have a current license it would be my
understanding that someone could come in and
request a CR license in that area?

MR. BLANCHARD: Mr. Grandis, the
license that was granted to Pansaari before has
the hours of 9:00 a.m. to 11:00 p.m. Monday
through Sunday. So that's, you know, that's kind
of the typical, actually it's a little bit less.
You know, it ends earlier than a lot of
restaurants' licenses these days that the Board
may grant.

So a transfer to a new tenant without
a substantial change would, you know, speed up
the process, make them able to start operating sooner. That's true.

And, you know, if the tenant decides to do something beyond that, then that tenant would have to come back to the Board for a substantial change.

So there's really nothing. It's just a plain vanilla license. So it's not -- I don't see it as a, any kind of a going around the process really because of that.

MEMBER GRANDIS: Right. It's my recollection that at one time the licensee was an acclaimed chef actually in the D.C. area and that there was a lot of interest in going there for meals.

But I believe that the last number of years that this license, this location was open it really turned more into a nightclub type of or happy hour with long lines of people trying to go in.

I'm somewhat concerned that -- I understand the intent, and I respect the intent. But I just thought that there's a history here where you could, where there was too much ground level and second floor competition to, and this
space is 6,000 square feet, that it just was not conducive to a fine dining experience with the competition on those two blocks around there.

MR. HERNDON: I think -- so the previous tenant, Pansaari, I can assure you they did not have lines out the door because otherwise they'd still be there. I think you might be referring to a tenant that was there ten-plus years ago, actually maybe even longer. And I can't recall their name.

MS. MILLER: Chaos.

MR. HERNDON: Chaos. But I don't think they had an acclaimed chef, but I could be wrong.

MEMBER GRANDIS: Before that.

MR. HERNDON: Yeah.

MS. MILLER: So, Mr. Grandis, when Pansaari was there, Rono*** was the owner. And she was a chef. And she held cooking classes.

MEMBER GRANDIS: Yes.

MS. MILLER: And then she pivoted to more of like a -- she added the liquor license, and she had to add a bathroom. And her goal was to do cooking schools. And she added a market for spices and small retail.
And then when that wasn't generating enough income, she thought she could pull in a happy hour crowd. So she added a chai bar and, you know, some alcoholic cocktails and happy hour specials, but never lines out the door, never really got a lot of traction on it.

And then, unfortunately, she did end up closing. So she never had lines out the door, didn't have much of a crowd either for lunch or dinner, which is why she tried to pivot to the cooking classes.

So I think maybe you might be confusing with the previous Club Chaos, which was a nightclub that predates my time here at Bernstein. But from my understanding, they did have crowds, and it was a much busier place, but, you know, unfortunately, never since Pansaari was in the space.

MEMBER GRANDIS: Thank you. Thank you. And thank you all for, you know, the updates. Mr. Chairman, thank you so much.

CHAIRPERSON ANDERSON: Thank you, Mr. Grandis. Any other questions by any other Board members? Mr. Blanchard, any final comments you want to make?
MR. BLANCHARD: Yes, Mr. Anderson. So you've heard from Ms. Miller and Mr. Herndon. The owner is willing to do a fair amount to attract a new tenant, a new viable tenant, offering tenant improvements and other concessions. So, and Mr. Herndon kind of stuck his neck out and hopefully won't jinx getting a new tenant.

But restaurants are slowly coming back now. And I think that momentum is growing in D.C. now that the COVID numbers are down for things to happy between now and March. So the expectation is that we will have a new tenant and be able to transfer the license to that new tenant by March.

CHAIRPERSON ANDERSON: Thank you for the presentation, Mr. Blanchard. The Board will take this matter under advisement.

Just as an FYI, though, there is a specific statute that requires that once, if you requested an extension, that you need to provide the Board with sufficient information.

So what we're asking is that for this case, and for any other case, if you request the extension off the safekeeping status, is to
provide us with sufficient information that the Board can make an educated decision whether or not, for us to make a determination whether or not we believe that progress has been made.

We might not necessarily agree with the level of progress, but reasonable minds can agree that reasonable progress has been made, and in light of the location and the circumstances that this is what's considered progress.

So the Board will take this matter under advisement. And we will issue a decision. Thank you very much for your presentation this morning.

MR. BLANCHARD: Thank you.

CHAIRPERSON ANDERSON: All right.

Thank you.

(Whereupon, the above-entitled matter went off the record at 11:21 a.m.)
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In the matter of: Sterling

Before: Dcabra

Date: 11-03-21

Place: teleconference

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Court Reporter

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