

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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ROLL CALL HEARING

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IN THE MATTER OF: :

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Case #13-PRO-00142 :

Penthouse Navy Yards, LLC

t/a Penthouse Navy Yard :

1212 4th Street SE :

License #ABRA-090303 :

Retailer CT :

License Renewal :

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December 2, 2013

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The Alcoholic Beverage Control Board met in Alcoholic Beverage Control

Hearing Room, Reeves Building, 2000 14th Street N.W., Washington, D.C., Ms. La Verne Fletcher, Agent, presiding.

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

2 10:55 a.m.

3 AGENT FLETCHER: Okay, would the  
4 parties in the matter of Penthouse Navy Yard  
5 come forward, please? Penthouse Navy Yard.

6 This is Case No. 13-PRO-00142,  
7 Penthouse Navy Yards, LLC trading as Penthouse  
8 Navy Yard, 1212 4th Street, Southeast, License  
9 No. ABRA-090303. This is a Retailer CT New  
10 Application.

11 The protest issues are adverse  
12 impact on peace, order and quiet.

13 My name is LaVerne Fletcher. I am  
14 conducting the Roll Call Hearing as the  
15 Board's Agent, pursuant to D.C. Official Code  
16 1601.2.

17 Introduction, beginning with the  
18 Applicant, please.

19 MR. FONSECA: Michael Fonseca on  
20 behalf of the Licensee, that's F-O-N-S-E-C-A.

21 AGENT FLETCHER: Thank you.

22 MR. VON STORCH: My name is David

1 Von Storch. I'm President of the Applicant.  
2 Last name is spelled V-O-N S-T-O-R-C-H.

3 AGENT FLETCHER: Thank you, and  
4 present for ANC 6D?

5 MR. GARBER: Dave Garber,  
6 Commissioner for 6D 07.

7 AGENT FLETCHER: And David, could  
8 you spell your last name for the record,  
9 please?

10 MR. GARBER: G-A-R-B-E-R.

11 AGENT FLETCHER: Thank you, and  
12 Mr. Garber, would you put your contact  
13 information on that sheet?

14 MR. GARBER: Yes.

15 AGENT FLETCHER: Thank you. ANC  
16 6D does have standing as a Protestant.

17 We need to set a date for  
18 mediation and status hearing and a protest  
19 hearing. I'll give you the dates for the  
20 status and protest hearings first.

21 The protest hearing is set -- I  
22 mean the status hearing is set for January

1           29th at 9:30 a.m. The protest hearing is set  
2           for March 26th at 1:30 p.m.

3                   MR. FONSECA: Ms. Fletcher?

4                   AGENT FLETCHER: Yes.

5                   MR. FONSECA: I guess it's a good  
6           reason to have a file.

7                   This isn't a renewal. This is a  
8           new application.

9                   AGENT FLETCHER: Yes.

10                  MR. FONSECA: And I believe our  
11           dates were much more compacted.

12                  AGENT FLETCHER: I'm going to  
13           check, Mr. Fonseca, and see what date is on  
14           the placard notice.

15                  MR. FONSECA: Yes, what I show is  
16           the Roll Call is December 2nd. The protest  
17           hearing is January 29th.

18                  AGENT FLETCHER: Right.

19                  MR. FONSECA: Is that what --

20                  AGENT FLETCHER: Is that what you  
21           have?

22                  MR. FONSECA: -- you have for the

1 60 day roll --

2 AGENT FLETCHER: Well, let me  
3 check to see what dates were given. They may  
4 conflict with what is on the placard. Let me  
5 check that. You're right.

6 MR. FONSECA: Yes, but I'm looking  
7 at the placard, the public notice.

8 AGENT FLETCHER: And I'm looking  
9 at dates that were given to me by staff, but  
10 you're right. The protest hearing --

11 MR. FONSECA: Most everything here  
12 today has been -- is a renewal, and that's why  
13 --

14 AGENT FLETCHER: That is why --

15 MR. FONSECA: -- the flexibility.

16 AGENT FLETCHER: That is exactly  
17 right. It is actually the protest hearing  
18 that is January 29th.

19 MR. FONSECA: That's correct.

20 AGENT FLETCHER: Yes, Mr. Garber,  
21 it's the protest hearing.

22 MR. GARBER: Right.

1                   AGENT FLETCHER: Thank you. That  
2                   was an oversight by staff. Thank you very  
3                   much. Let me change that.

4                   MR. FONSECA: Do you have a time  
5                   on that?

6                   AGENT FLETCHER: Yes, the time,  
7                   let's see here, 1:30 p.m., January 29th at  
8                   1:30 p.m. is the protest hearing.

9                   MR. FONSECA: Thank you.

10                  AGENT FLETCHER: Which means that  
11                  you will get a date for the status hearing  
12                  beyond today, because as you know, I don't set  
13                  those hearing dates.

14                  So, for today, I'm going to give  
15                  you the protest hearing of January 29th at  
16                  1:30 p.m. and I'll check -- send you an email,  
17                  with respect to what the status hearing will  
18                  be.

19                  MR. FONSECA: Right.

20                  AGENT FLETCHER: But I'll just set  
21                  the mediation as soon as possible.

22                  MR. FONSECA: All right, so, we

1 won't schedule that?

2 AGENT FLETCHER: We won't schedule  
3 the status hearing today.

4 MR. FONSECA: Or the mediation?

5 AGENT FLETCHER: We'll go ahead  
6 and schedule the mediation. I'm just going to  
7 make it as soon -- we'll -- the schedule --  
8 the status hearing, I'll make sure it's after  
9 the mediation.

10 So, we'll set the mediation as  
11 soon as possible, and the status hearing will  
12 come after that, but before the 29th.

13 MR. FONSECA: Realistically, the  
14 Board, at the last two Wednesday's in  
15 December, it's seems the status isn't going to  
16 happen before January.

17 AGENT FLETCHER: The status  
18 probably will not happen until their return.

19  
20 So, this one may be added with the  
21 others on their first Wednesday from the  
22 recess, but I don't know that, because I don't

1 manage that calendar.

2 But my guess is that it will be  
3 upon the return of the Board from recess,  
4 which I believe is the first week in January.

5 But you'll receive a notice about  
6 the status date. So, I'm just going to give  
7 you a date for mediation.

8 MR. FONSECA: I mean, while --  
9 unless it's going to be very soon, which I'm  
10 not sure if the ANC is ready for that yet,  
11 because we've yet to fully draft an agreement.

12 I did an initial one just on --

13 AGENT FLETCHER: Well --

14 MR. FONSECA: -- Friday, so, I'm  
15 concerned because of the holiday that -- it  
16 may be better if we get a status later in  
17 January, obviously before the 29th, and maybe  
18 mediation after the New Year or early January.

19 AGENT FLETCHER: Well, we are into  
20 the New Year for mediation.

21 Would you -- if -- since the  
22 protest hearing is going to be January 29th,

1 do you want to set a date for mediation the  
2 week prior?

3 MR. FONSECA: I think the Board --  
4 that would work, but I thought the Board  
5 normally wants the mediation complete prior to  
6 their status.

7 So, we may end up doing --

8 AGENT FLETCHER: Yes, I'm looking  
9 at --

10 MR. FONSECA: -- like the second  
11 week of January.

12 AGENT FLETCHER: What I'm looking  
13 at is -- well, we could do that, as well.

14 But what I'm looking at is --  
15 well, actually the 20th is a holiday.

16 Disregard that, because the only  
17 day left before the 22nd would be the 21st,  
18 which we could do January 21st, which is a  
19 Tuesday, but it would have to be at one  
20 o'clock in the afternoon.

21 But if you prefer to do it the  
22 week before, the week of January 13th, would

1           that work better?

2                       MR. FONSECA:   That would be fine.

3           I mean, since there's a possibility the status  
4           may be on the 15th, then probably -- the 13th -  
5           - Monday or Tuesday --

6                       AGENT FLETCHER:   The status will  
7           not be scheduled -- whatever we set the  
8           mediation date for, the status hearing will be  
9           the following Wednesday.

10                      MR. FONSECA:   Okay.

11                      AGENT FLETCHER:   So, then we can  
12           make it for -- we can do Tuesday, January 14th  
13           at 11:30 a.m.

14                      MR. GARBER:   Fine for me.

15                      MR. FONSECA:   That's fine.

16                      AGENT FLETCHER:   That works for  
17           you, Mr. Garber?

18                      MR. GARBER:   Yes.

19                      AGENT FLETCHER:   Okay, so, then  
20           mediation is set for Tuesday, January 14th at  
21           11:30 a.m.

22                      MR. GARBER:   Our ANC meeting

1           actually is that day, I believe, in January.

2           Would that have any conflict?

3                       I mean, ideally, we'd have the  
4           agreement worked about before then anyway.

5                       MR. FONSECA: That's the only way  
6           it's going to work.

7                       MR. GARBER: I don't see why we  
8           wouldn't have it figured out this month  
9           anyway.

10                      MR. FONSECA: Okay.

11                      MR. GARBER: So?

12                      MR. FONSECA: Yes, I think  
13           mediation will just be as a back-stop.

14                      MR. GARBER: Yes.

15                      MR. FONSECA: So, if we don't have  
16           it -- if we don't have it by mediation, then  
17           I think realistically --

18                      MR. GARBER: I think we're good.

19                      MR. FONSECA: -- we're good, okay.

20                      AGENT FLETCHER: Okay, anything  
21           else?

22                      MR. FONSECA: No.

1 MR. GARBER: Could you repeat the  
2 time of the mediation again?

3 AGENT FLETCHER: Yes, it's 11:30  
4 a.m.

5 MR. GARBER: On the 14th?

6 AGENT FLETCHER: On January 14th,  
7 yes.

8 MR. FONSECA: Thank you.

9 AGENT FLETCHER: You're welcome.  
10 Thank you.

11 MR. GARBER: Thank you.

12 AGENT FLETCHER: The Roll Call  
13 Hearing is concluded.

14 (Whereupon, the Roll Call Hearing  
15 was concluded at 11:05 a.m.)

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<p style="text-align: center;"><b>A</b></p> <p><b>a.m</b> 2:2 4:1 10:13 10:21 12:4,15 <b>ABRA-090303</b> 1:12 2:9 <b>added</b> 7:20 <b>adverse</b> 2:11 <b>afternoon</b> 9:20 <b>Agent</b> 1:22 2:3,15 2:21 3:3,7,11,15 4:4,9,12,18,20 5:2 5:8,14,16,20 6:1,6 6:10,20 7:2,5,17 8:13,19 9:8,12 10:6,11,16,19 11:20 12:3,6,9,12 <b>agreement</b> 8:11 11:4 <b>ahead</b> 7:5 <b>Alcoholic</b> 1:3,19,19 <b>ANC</b> 3:4,15 8:10 10:22 <b>anyway</b> 11:4,9 <b>Applicant</b> 2:18 3:1 <b>application</b> 2:10 4:8</p>	<p><b>check</b> 4:13 5:3,5 6:16 <b>Code</b> 2:15 <b>COLUMBIA</b> 1:1 <b>come</b> 2:5 7:12 <b>Commissioner</b> 3:6 <b>compacted</b> 4:11 <b>complete</b> 9:5 <b>concerned</b> 8:15 <b>concluded</b> 12:13,15 <b>conducting</b> 2:14 <b>conflict</b> 5:4 11:2 <b>contact</b> 3:12 <b>Control</b> 1:3,19,19 <b>correct</b> 5:19 <b>CT</b> 1:13 2:9</p>	<p>4:20 5:2,8,14,16 5:20 6:1,6,10,20 7:2,5,17 8:13,19 9:8,12 10:6,11,16 10:19 11:20 12:3 12:6,9,12 <b>flexibility</b> 5:15 <b>following</b> 10:9 <b>Fonseca</b> 2:19,19 4:3,5,10,13,15,19 4:22 5:6,11,15,19 6:4,9,19,22 7:4,13 8:8,14 9:3,10 10:2 10:10,15 11:5,10 11:12,15,19,22 12:8 <b>forward</b> 2:5 <b>Friday</b> 8:14 <b>fully</b> 8:11</p>	<p><b>impact</b> 2:12 <b>information</b> 3:13 <b>initial</b> 8:12 <b>Introduction</b> 2:17 <b>issues</b> 2:11</p> <p style="text-align: center;"><b>J</b></p> <p><b>January</b> 3:22 4:17 5:18 6:7,15 7:16 8:4,17,18,22 9:11 9:18,22 10:12,20 11:1 12:6</p> <p style="text-align: center;"><b>K</b></p> <p><b>know</b> 6:12 7:22</p>	<p><b>Navy</b> 1:10,11 2:4,5 2:7,8 <b>need</b> 3:17 <b>new</b> 2:9 4:8 8:18,20 <b>normally</b> 9:5 <b>notice</b> 4:14 5:7 8:5</p> <p style="text-align: center;"><b>O</b></p> <p><b>o'clock</b> 9:20 <b>obviously</b> 8:17 <b>Official</b> 2:15 <b>okay</b> 2:3 10:10,19 11:10,19,20 <b>order</b> 2:12 <b>oversight</b> 6:2</p>
<p style="text-align: center;"><b>B</b></p> <p><b>back-stop</b> 11:13 <b>beginning</b> 2:17 <b>behalf</b> 2:20 <b>believe</b> 4:10 8:4 11:1 <b>better</b> 8:16 10:1 <b>Beverage</b> 1:3,19,19 <b>beyond</b> 6:12 <b>Board</b> 1:3,19 7:14 8:3 9:3,4 <b>Board's</b> 2:15 <b>Building</b> 1:20</p>	<p style="text-align: center;"><b>D</b></p> <p><b>D.C</b> 1:21 2:15 <b>date</b> 3:17 4:13 6:11 8:6,7 9:1 10:8 <b>dates</b> 3:19 4:11 5:3 5:9 6:13 <b>Dave</b> 3:5 <b>David</b> 2:22 3:7 <b>day</b> 5:1 9:17 11:1 <b>December</b> 1:15 4:16 7:15 <b>Disregard</b> 9:16 <b>DISTRICT</b> 1:1 <b>doing</b> 9:7 <b>draft</b> 8:11</p>	<p style="text-align: center;"><b>G</b></p> <p><b>G-A-R-B-E-R</b> 3:10 <b>Garber</b> 3:5,5,10,12 3:14 5:20,22 10:14,17,18,22 11:7,11,14,18 12:1,5,11 <b>give</b> 3:19 6:14 8:6 <b>given</b> 5:3,9 <b>go</b> 7:5 <b>going</b> 4:12 6:14 7:6 7:15 8:6,9,22 11:6 <b>good</b> 4:5 11:18,19 <b>guess</b> 4:5 8:2</p>	<p style="text-align: center;"><b>L</b></p> <p><b>La</b> 1:21 <b>LaVerne</b> 2:13 <b>left</b> 9:17 <b>let's</b> 6:7 <b>License</b> 1:12,13 2:8 <b>Licensee</b> 2:20 <b>LLC</b> 1:10 2:7 <b>looking</b> 5:6,8 9:8 9:12,14</p> <p style="text-align: center;"><b>M</b></p> <p><b>manage</b> 8:1 <b>March</b> 4:2 <b>matter</b> 1:9 2:4 <b>mean</b> 3:22 8:8 10:3 11:3 <b>means</b> 6:10 <b>mediation</b> 3:18 6:21 7:4,6,9,10 8:7,18,20 9:1,5 10:8,20 11:13,16 12:2 <b>meeting</b> 10:22 <b>met</b> 1:19 <b>Michael</b> 2:19 <b>Monday</b> 10:5 <b>month</b> 11:8</p>	<p style="text-align: center;"><b>P</b></p> <p><b>P-R-O-C-E-E-D-...</b> 2:1 <b>p.m</b> 4:2 6:7,8,16 <b>parties</b> 2:4 <b>peace</b> 2:12 <b>Penthouse</b> 1:10,11 2:4,5,7,7 <b>placard</b> 4:14 5:4,7 <b>please</b> 2:5,18 3:9 <b>possibility</b> 10:3 <b>possible</b> 6:21 7:11 <b>prefer</b> 9:21 <b>present</b> 3:4 <b>President</b> 3:1 <b>presiding</b> 1:22 <b>prior</b> 9:2,5 <b>probably</b> 7:18 10:4 <b>protest</b> 2:11 3:18 3:20,21 4:1,16 5:10,17,21 6:8,15 8:22 <b>Protestant</b> 3:16 <b>public</b> 5:7 <b>pursuant</b> 2:15 <b>put</b> 3:12</p>
<p style="text-align: center;"><b>C</b></p> <p><b>calendar</b> 8:1 <b>Call</b> 1:5 2:14 4:16 12:12,14 <b>Case</b> 1:10 2:6 <b>change</b> 6:3</p>	<p style="text-align: center;"><b>E</b></p> <p><b>early</b> 8:18 <b>email</b> 6:16 <b>exactly</b> 5:16</p> <p style="text-align: center;"><b>F</b></p> <p><b>F-O-N-S-E-C-A</b> 2:20 <b>figured</b> 11:8 <b>file</b> 4:6 <b>fine</b> 10:2,14,15 <b>first</b> 3:20 7:21 8:4 <b>Fletcher</b> 1:22 2:3 2:13,21 3:3,7,11 3:15 4:3,4,9,12,18</p>	<p style="text-align: center;"><b>H</b></p> <p><b>happen</b> 7:16,18 <b>hearing</b> 1:5,20 2:14 3:18,19,21,22 4:1 4:17 5:10,17,21 6:8,11,13,15,17 7:3,8,11 8:22 10:8 12:13,14 <b>hearings</b> 3:20 <b>holiday</b> 8:15 9:15</p> <p style="text-align: center;"><b>I</b></p> <p><b>ideally</b> 11:3</p>	<p style="text-align: center;"><b>N</b></p> <p><b>N.W</b> 1:21 <b>name</b> 2:13,22 3:2,8</p>	<p style="text-align: center;"><b>Q</b></p> <p><b>quiet</b> 2:12</p> <p style="text-align: center;"><b>R</b></p> <p><b>ready</b> 8:10</p>

<p><b>realistically</b> 7:13 11:17 <b>reason</b> 4:6 <b>receive</b> 8:5 <b>recess</b> 7:22 8:3 <b>record</b> 3:8 <b>Reeves</b> 1:20 <b>renewal</b> 1:13 4:7 5:12 <b>repeat</b> 12:1 <b>respect</b> 6:17 <b>Retailer</b> 1:13 2:9 <b>return</b> 7:18 8:3 <b>right</b> 4:18 5:5,10,17 5:22 6:19,22 <b>roll</b> 1:5 2:14 4:16 5:1 12:12,14 <b>Room</b> 1:20</p>	<p style="text-align: center;"><b>T</b></p> <hr/> <p><b>t/a</b> 1:11 <b>p</b> 1:8,14 <b>Thank</b> 2:21 3:3,11 3:15 6:1,2,9 12:8 12:10,11 <b>think</b> 9:3 11:12,17 11:18 <b>thought</b> 9:4 <b>time</b> 6:4,6 12:2 <b>today</b> 5:12 6:12,14 7:3 <b>trading</b> 2:7 <b>Tuesday</b> 9:19 10:5 10:12,20 <b>two</b> 7:14</p> <p style="text-align: center;"><b>U</b></p> <hr/> <p style="text-align: center;"><b>V</b></p> <hr/> <p><b>V-O-N</b> 3:2 <b>Verne</b> 1:21 <b>Von</b> 2:22 3:1</p> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>want</b> 9:1 <b>wants</b> 9:5 <b>Washington</b> 1:21 <b>way</b> 11:5 <b>we'll</b> 7:5,7,10 <b>we're</b> 11:18,19 <b>we've</b> 8:11 <b>Wednesday</b> 7:21 10:9 <b>Wednesday's</b> 7:14 <b>week</b> 8:4 9:2,11,22 9:22 <b>welcome</b> 12:9 <b>work</b> 9:4 10:1 11:6 <b>worked</b> 11:4 <b>works</b> 10:16 <b>wouldn't</b> 11:8</p> <p style="text-align: center;"><b>X</b></p> <hr/> <p style="text-align: center;"><b>Y</b></p> <hr/> <p><b>Yard</b> 1:11 2:4,5,8 <b>Yards</b> 1:10 2:7</p>	<p><b>Year</b> 8:18,20</p> <p style="text-align: center;"><b>Z</b></p> <hr/> <p style="text-align: center;"><b>0</b></p> <hr/> <p><b>07</b> 3:6</p> <p style="text-align: center;"><b>1</b></p> <hr/> <p><b>1:30</b> 4:2 6:7,8,16 <b>10:55</b> 2:2 <b>11:05</b> 12:15 <b>11:30</b> 10:13,21 12:3 <b>1212</b> 1:12 2:8 <b>13-PRO-00142</b> 1:10 2:6 <b>13th</b> 9:22 10:4 <b>14th</b> 1:20 10:12,20 12:5,6 <b>15th</b> 10:4 <b>1601.2</b> 2:16</p>	<p style="text-align: center;"><b>9</b></p> <hr/>
<p style="text-align: center;"><b>S</b></p> <hr/> <p><b>S-T-O-R-C-H</b> 3:2 <b>schedule</b> 7:1,2,6,7 <b>scheduled</b> 10:7 <b>SE</b> 1:12 <b>second</b> 9:10 <b>see</b> 4:13 5:3 6:7 11:7 <b>send</b> 6:16 <b>set</b> 3:17,21,22 4:1 6:12,20 7:10 9:1 10:7,20 <b>sheet</b> 3:13 <b>show</b> 4:15 <b>soon</b> 6:21 7:7,11 8:9 <b>Southeast</b> 2:8 <b>spell</b> 3:8 <b>spelled</b> 3:2 <b>staff</b> 5:9 6:2 <b>standing</b> 3:16 <b>status</b> 3:18,20,22 6:11,17 7:3,8,11 7:15,17 8:6,16 9:6 10:3,6,8 <b>Storch</b> 2:22 3:1 <b>Street</b> 1:12,21 2:8 <b>sure</b> 7:8 8:10</p>	<p style="text-align: center;"><b>2</b></p> <hr/> <p><b>2</b> 1:15 <b>2000</b> 1:20 <b>2013</b> 1:15 <b>20th</b> 9:15 <b>21st</b> 9:17,18 <b>22nd</b> 9:17 <b>26th</b> 4:2 <b>29th</b> 4:1,17 5:18 6:7,15 7:12 8:17 8:22 <b>2nd</b> 4:16</p> <p style="text-align: center;"><b>3</b></p> <hr/> <p style="text-align: center;"><b>4</b></p> <hr/> <p><b>4th</b> 1:12 2:8</p> <p style="text-align: center;"><b>5</b></p> <hr/> <p style="text-align: center;"><b>6</b></p> <hr/> <p><b>60</b> 5:1 <b>6D</b> 3:4,6,16</p> <p style="text-align: center;"><b>7</b></p> <hr/> <p style="text-align: center;"><b>8</b></p> <hr/>	<p style="text-align: center;"><b>2</b></p> <hr/> <p><b>2</b> 1:15 <b>2000</b> 1:20 <b>2013</b> 1:15 <b>20th</b> 9:15 <b>21st</b> 9:17,18 <b>22nd</b> 9:17 <b>26th</b> 4:2 <b>29th</b> 4:1,17 5:18 6:7,15 7:12 8:17 8:22 <b>2nd</b> 4:16</p> <p style="text-align: center;"><b>3</b></p> <hr/> <p style="text-align: center;"><b>4</b></p> <hr/> <p><b>4th</b> 1:12 2:8</p> <p style="text-align: center;"><b>5</b></p> <hr/> <p style="text-align: center;"><b>6</b></p> <hr/> <p><b>60</b> 5:1 <b>6D</b> 3:4,6,16</p> <p style="text-align: center;"><b>7</b></p> <hr/> <p style="text-align: center;"><b>8</b></p> <hr/>	<p style="text-align: center;"><b>9</b></p> <hr/>