

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

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IN THE MATTER OF: :
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1001 H Street, LLC t/a :
Ben's Chili Bowl/Ben's : Protest
Upstairs :
1001 H Street, NE : Hearing
Retailer CR - ANC-6A : (Status)
License No. 93103 :
Case #13-PRO-00133 :
 :
(New Application) :
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December 11, 2013

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:
RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member

DONALD BROOKS, Member
MIKE SILVERSTEIN, Member

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

2 (10:05 a.m.)

3 CHAIRPERSON MILLER: So the next
4 case is Case No. 13-PRO-00133, Ben's Upstairs
5 located at 1001 H Street, N.E., License No.
6 93103, in ANC-6A. And this is also a Protest
7 (Status) Hearing.

8 MR. KLINE: Good morning, Andrew
9 Kline on behalf of the applicant.

10 MR. BEN ALI: Kamal Ben Ali, Ben's
11 Upstairs.

12 MR. WHITE: Frank White, Ben's
13 Chili Bowl.

14 CHAIRPERSON MILLER: Okay.

15 MR. WILLIAMS: Jay Williams, ANC-
16 6A and Commission and Chair of the Alcoholic
17 Beverage Licensing Committee.

18 MR. HOLMES: I'm David Holmes
19 again, ANC-6A Chair.

20 CHAIRPERSON MILLER: Okay. Is
21 there anything any of the parties need to tell
22 the Board?

1 MR. KLINE: We have not had
2 mediation in this case. The protestant failed
3 to appear for mediation. I'll leave it to the
4 Board to --

5 MEMBER SILVERSTEIN: I'm sorry?

6 MR. KLINE: The protestant failed
7 to appear for mediation, so we have not had
8 mediation in this case.

9 MR. WILLIAMS: That's correct.
10 There was a miscommunication between myself
11 and Mr. Holmes that we can get into if you
12 want to. We are happy to reschedule. We have
13 been in contact with the licensees and, you
14 know, the applicants and have had over-the-
15 phone conversations and we are trying, I
16 believe, to schedule a meeting among the
17 parties to further discuss a possible
18 settlement agreement. And we are happy to
19 schedule a mediation as well.

20 CHAIRPERSON MILLER: Okay. You
21 could perhaps schedule after this hearing
22 perhaps, because our representative is here,

1 Ms. Fletcher. Okay. So as of now then, the
2 Protest Hearing is scheduled for January 8,
3 2014.

4 MR. KLINE: We would request that
5 there be mediation.

6 CHAIRPERSON MILLER: Um-hum.

7 MR. KLINE: I would prefer that it
8 not be left open. I know the Board's policy
9 has been that the parties mediate and that
10 there be a scheduled mediation. There has
11 been one. We are certainly agreeable to
12 having another date set, but rather than just
13 leaving it open, you know, and the parties are
14 certainly free to contact the mediator, I
15 would request that the Board order that there
16 be mediation.

17 CHAIRPERSON MILLER: I'm not sure
18 that the Board -- that the rules call for
19 requiring mediation, are you?

20 MR. KLINE: I think the Board's
21 policy has been --

22 CHAIRPERSON MILLER: We encourage

1 mediation.

2 MR. KLINE: If the parties don't
3 appear for mediation, that the protestors are
4 sometimes dismissed. We're not asking for
5 that.

6 CHAIRPERSON MILLER: I'm sorry?

7 MR. KLINE: We are only asking --
8 I said it is my understanding that it has been
9 the Board's policy when parties don't appear
10 for mediation, in some case, the protests are
11 dismissed. We are not asking for that. We
12 are merely asking that we are clear and that
13 the parties are clear that mediation is to be
14 required. We are asking that the Board
15 require it. If the Board is not inclined to
16 do that, that's of course up to the Board.
17 But I think that's what the Board's policies
18 do.

19 MR. WILLIAMS: The ANC has no
20 objection to setting a mediation date. I
21 mean, whether it is --

22 CHAIRPERSON MILLER: Okay.

1 MR. WILLIAMS: -- required or
2 whatever, we have every intention of attending
3 mediation with ABRA.

4 CHAIRPERSON MILLER: Well, let me
5 see if I can get you two on the record to say
6 then after this hearing, would you go and
7 schedule a mediation? Do you agree to do
8 that?

9 MR. WILLIAMS: The ANC does, yes.

10 MR. KLINE: Yes.

11 CHAIRPERSON MILLER: Okay. So
12 then, okay, there is no reason for us to make
13 you do it. You have agreed to do it on the
14 record. Okay. So I'm going to quickly just
15 read the instructions again, because I know
16 you have the other case and you have to get
17 back to work.

18 Unless there is nothing else?

19 MR. KLINE: No, we don't have
20 anything else.

21 CHAIRPERSON MILLER: Okay. All
22 right.

1 MR. WILLIAMS: I'm sorry, given
2 the event that we are scheduling mediation, I
3 mean, January seems really soon for a Protest
4 Hearing.

5 MR. KLINE: We are not agreeable
6 to continuing the date.

7 CHAIRPERSON MILLER: Right. This
8 is a new application.

9 MEMBER ALBERTI: New application.

10 CHAIRPERSON MILLER: Yeah. The
11 new application and they are under statutory
12 rules to proceed within a short period of
13 time, so I'm not convinced that it's not
14 enough time.

15 MR. WILLIAMS: Okay.

16 CHAIRPERSON MILLER: Especially if
17 you go schedule it today. All right. So I
18 just want to remind you if you do go to
19 hearing, you should have a letter explaining
20 the protest process and you should have a copy
21 of the Protest Information Form. You need to
22 complete and submit it seven days before the

1 date of the hearing to ABRA and the opposing
2 parties.

3 If we don't receive a copy of your
4 PIF, your application or protest may be
5 subject to dismissal. And it's very important
6 that you take the time to identify your
7 witnesses and your exhibits for the hearing to
8 make the hearing process focused and
9 efficient.

10 So if you have any questions
11 between now and the hearing, you can contact
12 Ms. Anderson or Ms. Jenkins. Okay. So that
13 completes this case. And I guess you will be
14 joining Mr. Kline to see Ms. Fletcher as soon
15 as finish the previous case.

16 MR. WILLIAMS: Thank you.

17 MR. KLINE: Thank you.

18 CHAIRPERSON MILLER: Okay. Thank
19 you.

20 (Whereupon, the Protest (Status)
21 Hearing in the above-entitled matter was
22 concluded at 10:11 a.m.)

<p style="text-align: center;">A</p> <p>a.m 2:2 8:22 above-entitled 8:21 ABRA 6:3 8:1 agree 6:7 agreeable 4:11 7:5 agreed 6:13 agreement 3:18 ALBERTI 1:19 7:9 Alcoholic 1:2,13,14 2:16 Ali 2:10,10 ANC 2:15 5:19 6:9 ANC-6A 1:8 2:6,19 Anderson 8:12 Andrew 2:8 appear 3:3,7 5:3,9 applicant 2:9 applicants 3:14 application 1:10 7:8,9,11 8:4 asking 5:4,7,11,12 5:14 attending 6:2</p>	<p>certainly 4:11,14 Chair 2:16,19 Chairperson 1:15 1:19 2:3,14,20 3:20 4:6,17,22 5:6 5:22 6:4,11,21 7:7 7:10,16 8:18 Chili 1:6 2:13 clear 5:12,13 COLUMBIA 1:1 Commission 2:16 Committee 2:17 complete 7:22 completes 8:13 concluded 8:22 contact 3:13 4:14 8:11 continuing 7:6 Control 1:2,13,14 conversations 3:15 convinced 7:13 copy 7:20 8:3 correct 3:9 course 5:16 CR 1:8</p>	<p>failed 3:2,6 finish 8:15 Fletcher 4:1 8:14 focused 8:8 Form 7:21 Frank 2:12 free 4:14 further 3:17</p> <p style="text-align: center;">G</p> <p>given 7:1 go 6:6 7:17,18 going 6:14 Good 2:8 guess 8:13</p> <p style="text-align: center;">H</p> <p>H 1:6,8 2:5 happy 3:12,18 hearing 1:8,14 2:7 3:21 4:2 6:6 7:4 7:19 8:1,7,8,11,21 Holmes 2:18,18 3:11</p>	<p style="text-align: center;">L</p> <p>leave 3:3 leaving 4:13 left 4:8 letter 7:19 License 1:9 2:5 licensees 3:13 Licensing 2:17 LLC 1:6 located 2:5</p> <p style="text-align: center;">M</p> <p>matter 1:5 8:21 mean 5:21 7:3 mediate 4:9 mediation 3:2,3,7,8 3:19 4:5,10,16,19 5:1,3,10,13,20 6:3 6:7 7:2 mediator 4:14 meeting 1:3 3:16 Member 1:19,21,22 3:5 7:9 merely 5:12 met 1:14 MIKE 1:22 Miller 1:15,19 2:3 2:14,20 3:20 4:6 4:17,22 5:6,22 6:4 6:11,21 7:7,10,16 8:18 miscommunication 3:10 morning 2:8</p>	<p>6:14,21 7:15 8:12 8:18 open 4:8,13 opposing 8:1 order 4:15 over-the 3:14</p> <p style="text-align: center;">P</p> <p>P-R-O-C-E-E-D-... 2:1 parties 2:21 3:17 4:9,13 5:2,9,13 8:2 period 7:12 phone 3:15 PIF 8:4 policies 5:17 policy 4:8,21 5:9 possible 3:17 prefer 4:7 PRESENT 1:18 presiding 1:16 previous 8:15 proceed 7:12 process 7:20 8:8 protest 1:6 2:6 4:2 7:3,20,21 8:4,20 protestant 3:2,6 protestors 5:3 protests 5:10</p>
<p style="text-align: center;">B</p> <p>back 6:17 behalf 2:9 believe 3:16 Ben 2:10,10 Ben's 1:6 2:4,10,12 Beverage 1:2,13,14 2:17 Board 1:2,14 2:22 3:4 4:15,18 5:14 5:15,16 Board's 4:8,20 5:9 5:17 Bowl 2:13 Bowl/Ben's 1:6 BROOKS 1:21 Building 1:14</p>	<p style="text-align: center;">D</p> <p>D.C 1:15 date 4:12 5:20 7:6 8:1 David 2:18 days 7:22 December 1:12 discuss 3:17 dismissal 8:5 dismissed 5:4,11 DISTRICT 1:1 DONALD 1:21</p>	<p style="text-align: center;">I</p> <p>identify 8:6 important 8:5 inclined 5:15 Information 7:21 instructions 6:15 intention 6:2</p> <p style="text-align: center;">J</p> <p>January 4:2 7:3 Jay 2:15 Jenkins 8:12 joining 8:14</p>	<p style="text-align: center;">N</p> <p>N.E 2:5 N.W 1:15 NE 1:8 need 2:21 7:21 new 1:10 7:8,9,11 NICK 1:19</p>	<p style="text-align: center;">R</p> <p>read 6:15 really 7:3 reason 6:12 receive 8:3 record 6:5,14 Reeves 1:14 remind 7:18 representative 3:22 request 4:4,15 require 5:15 required 5:14 6:1 requiring 4:19</p>
<p style="text-align: center;">C</p> <p>call 4:18 case 1:9 2:4,4 3:2,8 5:10 6:16 8:13,15</p>	<p style="text-align: center;">E</p> <p>efficient 8:9 encourage 4:22 Especially 7:16 event 7:2 exhibits 8:7 explaining 7:19</p> <p style="text-align: center;">F</p>	<p style="text-align: center;">K</p> <p>Kamal 2:10 Kline 2:8,9 3:1,6 4:4,7,20 5:2,7 6:10,19 7:5 8:14 8:17 know 3:14 4:8,13 6:15</p>	<p style="text-align: center;">O</p> <p>objection 5:20 okay 2:14,20 3:20 4:1 5:22 6:11,12</p>	

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