

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

2 9:53 a.m.

3 CHAIRPERSON ANDERSON: The next case on
4 our calendar is Case No. 19-PRO-00136, 1942 DC,
5 License No. 70728. Will the parties please
6 approach and identify themselves for the record,
7 please?

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

10 CHAIRPERSON ANDERSON: Good morning,
11 Mr. Kline.

12 MR. ORLASKEY: Dan Orlaskey, ANC 1B.

13 CHAIRPERSON ANDERSON: Good morning,
14 Mr. Orlaskey. This matter is scheduled for --
15 Are there preliminary matters in this case?

16 MR. KLINE: Namely that, Mr. Chairman,
17 that we will be filing a similar motion in this
18 case that we referenced in one of the earlier
19 cases, to dismiss the protest on the ground that
20 the protest letter on its face does not say why
21 it is under one or more of the appropriateness
22 grounds the application of the premises is
23 appropriate for issuance.

24 CHAIRPERSON ANDERSON: This matter then
25 is scheduled for a protest hearing on April 1st

1 at 4:30. All right, now that we have dispensed
2 with the preliminary matters, there is a
3 preliminary matter that the Board has that we
4 would like to raise with the parties. I'm well
5 aware that our general counsel has already raised
6 this issue with you in the hopes that you would
7 cooperate with the calendar need of the agents of
8 the Board.

9 Specifically, this case, Case No. 19-
10 PRO-00136, is an application to renew the license
11 and the protest hearing is scheduled for April
12 1st at 4:30. There is also another protest case
13 pending for 1942 DC, Case No. 19-PRO-00165, and
14 that concerns an application for substantial
15 change. That protest is scheduled for April 22,
16 2020 at 4:30, and the status hearing is actually
17 scheduled for April 18, 2020.

18 Given that both protests involve the
19 same parties, the Applicant and the ANC, and that
20 the protest issues are the same, the Board is
21 inclined to consolidate the two protests into one
22 hearing as we have done several times in the past
23 where more than one protest is pending against an
24 Applicant involving the same parties. To that
25 end, we will keep the protest status hearing for

1 Case No. 19-PRO-00165 on March 18th at 9:30, and
2 then I will leave on the parties whether they
3 want to schedule the consolidated protest
4 hearings for April 1, 2020 at 4:30 for Case No.
5 19-PRO-00136 or April 22nd at 4:30 for Case No.
6 19-PRO-00165. You get to choose.

7 We want to settle this matter, and we
8 prefer that the cases be consolidated, and you
9 can let us know whether or not April 1st or April
10 22nd would work for both parties.

11 MR. KLINE: Mr. Chairman, this is the
12 first I'm hearing of this. I can't say that my
13 associate, Ms. Yohannes, may not have heard about
14 this, but this is the first I'm hearing of it. I
15 would want to confer with our client before
16 making any decisions.

17 CHAIRPERSON ANDERSON: Mr. Kline, one
18 is a renewal, one is a substantial change. It's
19 the same parties. Why are we going to have two
20 hearings, one on April 1st and one on April 22nd
21 with the same parties? What harm will there be
22 to each party to consolidate the matter into one
23 hearing?

24 MR. KLINE: Mr. Chairman, I don't know
25 because I don't know what the issues are.

1 CHAIRPERSON ANDERSON: Mr. Kline.

2 MR. KLINE: I'm being quite serious.

3 CHAIRPERSON ANDERSON: I know, but
4 you're --

5 MR. KLINE: I have a protest letter
6 that says we protest on the grounds of peace,
7 order and quiet. We don't have a why, so I don't
8 know whether the issues are the same or not.

9 CHAIRPERSON ANDERSON: But one is for
10 substantial change and one is for renewal of the
11 license. That's what it is.

12 MR. KLINE: I understand.

13 CHAIRPERSON ANDERSON: A substantial
14 change and a renewal of the license. Now the
15 case that we just called, is that the renewal or
16 is that the substantial change?

17 MR. KLINE: The one before you?

18 CHAIRPERSON ANDERSON: The one that's
19 for renewal of the application.

20 MR. KLINE: Renewal.

21 CHAIRPERSON ANDERSON: So what harm is
22 there to either side not to have one hearing, one
23 consolidated hearing?

24 MR. KLINE: Mr. Chairman, if I don't
25 know what the issues are, I don't know how I even

1 make that decision. I mean, at this point, we
2 have been told nothing as to what their concerns
3 are with respect to this establishment by the
4 Protestant. So how is it I would know whether
5 the issues are the same or the issues are
6 different? I don't know. I mean, my suspicion
7 is they can probably be heard together, but I'm a
8 bit uncomfortable making the decision on the spot
9 without conferring with the party affected, which
10 is our client.

11 CHAIRPERSON ANDERSON: Well, if --

12 MR. KLINE: I mean, I don't mean to be
13 difficult, but I mean, I think that, you know,
14 had I had some advance warning that this was
15 going to be an issue, then I would have conferred
16 with the client and been prepared to address it
17 with you today.

18 CHAIRPERSON ANDERSON: I can only go
19 with what our general counsel has informed us,
20 that they have been in contact with your office
21 regarding these two cases.

22 MR. ORLASKEY: I was notified of that.

23 CHAIRPERSON ANDERSON: So I'm not sure
24 how is it that your office has not been aware
25 that this has been an issue for the Board.

1 MR. KLINE: I'm not saying that we're
2 not. As I said at the outset, I wasn't aware of
3 it.

4 CHAIRPERSON ANDERSON: The Board is
5 inclined to consolidate both matters.

6 MR. KLINE: Understood. And all other
7 things being equal, I think that makes sense, but
8 as I said, I'm not sure that I have complete
9 information to make the decision.

10 CHAIRPERSON ANDERSON: When is it that
11 you believe that you can get back to the Board
12 whether or not you will agree to consolidate both
13 matters?

14 MR. KLINE: By the end of the day.

15 CHAIRPERSON ANDERSON: By the end of
16 the day, and then we can -- And if the matters
17 are consolidated, would it be preferable to have
18 it on April 1st or April 22nd?

19 MR. KLINE: I would like to get back,
20 with all due respect, to the Board on that issue,
21 as well, because I'm not sure whether the
22 witnesses would be the same, given that one is a
23 renewal. I mean, I think the issues are slightly
24 different on a substantial change than a renewal.
25 We don't see the issues as being identical,

1 because obviously if we've applied for a
2 substantial change, we want to make a change. We
3 want to do something different, and we think
4 that's a different level of proof than if we want
5 to just continue what we've been doing and have
6 the license renewed. So, you know, I want to
7 look at those issues, but we'll do it quickly. I
8 mean, I'm not here to be an obstacle or to delay
9 the Board's calendar. We'll respond quickly, but
10 we just need to ask to be given until the end of
11 the day. Given that both dates should be open at
12 this point, I would suspect that it shouldn't be
13 an issue as to which would be preferable, you
14 know, unless the ANC has an issue with one date
15 or the other.

16 CHAIRPERSON ANDERSON: Fine. Mr.
17 Orlaskey?

18 MR. ORLASKEY: We have no issue with
19 combining the protests. We prefer the late date
20 because we already have one on the 1st.

21 CHAIRPERSON ANDERSON: All right, thank
22 you.

23 MR. KLINE: Thank you.

24 (Whereupon, the above-entitled matter
25 went off the record at 10:01:08 a.m.)

<p>A</p> <p>a.m 2:2 8:25 above-entitled 8:24 address 6:16 advance 6:14 agents 3:7 agree 7:12 Alcoholic 1:2,14,14 ALIYA 1:20 ANC 1:8,23 2:12 3:19 8:14 Anderson 1:16,18 2:3 2:10,13,24 4:17 5:1,3 5:9,13,18,21 6:11,18 6:23 7:4,10,15 8:16 8:21 Andrew 1:23 2:8 Applicant 1:23 2:9 3:19 3:24 application 1:10 2:22 3:10,14 5:19 applied 8:1 approach 2:6 appropriate 2:23 appropriateness 2:21 April 2:25 3:11,15,17 4:4,5,9,9,20,20 7:18 7:18 associate 4:13 aware 3:5 6:24 7:2</p>	<p>5:14,16 7:24 8:2,2 choose 4:6 client 4:15 6:10,16 COLUMBIA 1:1 combining 8:19 complete 7:8 concerns 3:14 6:2 confer 4:15 conferred 6:15 conferring 6:9 consolidate 3:21 4:22 7:5,12 consolidated 4:3,8 5:23 7:17 contact 6:20 continue 8:5 Control 1:2,14,14 cooperate 3:7 counsel 1:23 3:5 6:19 CROCKETT 1:20 CT 1:8 Cuisine 1:6</p>	<p>general 3:5 6:19 given 3:18 7:22 8:10,11 ground 2:19 grounds 2:22 5:6</p> <p>H</p> <p>HANSEN 1:19 harm 4:21 5:21 heard 4:13 6:7 hearing 1:8,14 2:25 3:11,16,22,25 4:12,14 4:23 5:22,23 hearings 4:4,20 hopes 3:6</p>	<p>7:23 8:8 MEETING 1:3 Member 1:19,19,20,20 1:21 met 1:14 morning 2:8,10,13 motion 2:17</p>
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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: 1942 DC

Before: DCABRA

Date: 02-26-20

Place: Washington, DC

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
true and accurate record of the proceedings.

Neal R Gross

Court Reporter

NEAL R. GROSS

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