

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF: :
 :
1819 14th Ventures, LLC :
t/a El Centro D.F. :
1819 14th Street NW :
Retailer CR - ANC 1B :
License No. 84847 :
Case #18-251-00096 :
 :
(Fight Inside of the :
Establishment) :

Wednesday
May 16, 2018

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 Donovan W. Anderson, presiding.

PRESENT:

DONOVAN W. ANDERSON, Chairperson

NICK ALBERTI, Member

BOBBY CATO, JR., Member

MIKE SILVERSTEIN, Member

JAMES SHORT, Member

ALSO PRESENT:

ANDREW KLINE, Licensee's Counsel

AYYAZ RASHID, Licensee

BRAD BERNARDO, Licensee

SHAWN TOWNSEND, ABRA Investigator

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

2 3:30 p.m.

3 CHAIRPERSON ANDERSON: I now call Case
4 No. 18-251-00096, El Centro D.F., License No.
5 84847.

6 Would the parties, please, approach
7 and identify themselves for the record, please?

8 MR. KLINE: Good afternoon, Andrew
9 Kline on behalf of the licensee.

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

12 MR. KLINE: Good afternoon.

13 MR. RASHID: My name is Ayyaz Rashid.
14 I'm one of the managing partners.

15 CHAIRPERSON ANDERSON: Mr. Rashid.

16 MR. BERNARDO: Hi, Brad Bernardo,
17 Director.

18 CHAIRPERSON ANDERSON: Mr., I'm sorry,
19 your last name?

20 MR. BERNARDO: Bernardo.

21 CHAIRPERSON ANDERSON: Mr. Bernardo.
22 There is a sign-in sheet, could you also sign-in

1 on the sign-in sheet, too, please?

2 INVESTIGATOR TOWNSEND: ABRA

3 Investigator Shawn Townsend.

4 CHAIRPERSON ANDERSON: Good afternoon,
5 Mr. Townsend.

6 INVESTIGATOR TOWNSEND: Good
7 afternoon.

8 CHAIRPERSON ANDERSON: I want the
9 record to reflect that this hearing was scheduled
10 for -- to start at 3:30, because we had a 1:30
11 Protest Hearing, and it's 3:33 and we are
12 starting our afternoon on time, because our
13 Protest Hearing took exactly the amount of time
14 that was scheduled for it. Okay.

15 MEMBER SILVERSTEIN: Mr. Kline, our
16 Chairman is taking a well-deserved victory lap.

17 CHAIRPERSON ANDERSON: Hint, hint.

18 MEMBER ALBERTI: Mr. Kline, I will
19 offer this as a challenge to you.

20 CHAIRPERSON ANDERSON: No, no, no.

21 MEMBER ALBERTI: For the next time you
22 represent a client.

1 CHAIRPERSON ANDERSON: Hint, hint, Mr.
2 Kline, for we had a Protest Hearing that was
3 scheduled. The Protest Hearing was scheduled for
4 1:30 to run until 3:30 and we were on time.

5 Okay. All right. All right. Keeping
6 in the spirit, it's -- we have -- this is a Fact-
7 Finding Hearing. And one of -- the reason we are
8 having this Fact-Finding Hearing is that the
9 Agency is concerned that this is a restaurant and
10 it appears that it is morphing into something
11 that it's not a restaurant in the nighttime.

12 And I said it appears, I didn't say it
13 is. And so we will have our Investigator go
14 through the report and I would like then for you
15 to respond what is going on and is there anything
16 that the Board needs to do to ensure that this
17 establishment operates within the confines of its
18 license.

19 And if it's going to morph into
20 something other than a restaurant in the night
21 because it appears that there is an active
22 nightlife or night and what are the measures do

1 we need to put in place to ensure that it
2 operates the way it is supposed to operate?

3 So Mr. Townsend, maybe you can share
4 with us the report, please.

5 INVESTIGATOR TOWNSEND: Yes. I was
6 assigned the 251 incident report based on an
7 altercation that occurred in the basement of El
8 Centro on, it would have been, Friday night/
9 Saturday morning.

10 And basically, the 251 states that a
11 patron who was -- he was visiting El Centro, he
12 went to the police station after he was a patron
13 at El Centro and reported that he was involved in
14 an altercation at the establishment and he had
15 suffered injuries as a result.

16 So from that point, a detective was
17 assigned to the case and initiated an
18 investigation.

19 After speaking with the victim,
20 security, as well as management and reviewing
21 some video footage, my investigation showed that
22 an altercation did occur in the basement between

1 two males. And the -- both parties were escorted
2 out by security, who were posted in the basement,
3 during which time the victim admittedly stated
4 that he did not make security aware that he had
5 any injuries.

6 He was compliant when he was asked to
7 leave the establishment. Security stated that
8 they did not observe any injuries suffered by
9 either party. The police report states that as
10 well as the statement from the victim states that
11 he had a -- he suffered a broken jaw as a result
12 of the incident in the basement.

13 So during the investigation, I did
14 speak with the head of security, Mr. Vladimir
15 Popavich, who is also an ABC Manager, as well as
16 Mr. Rashid. Mr. Rashid actually met me here at
17 the office to discuss the incident. I stressed
18 to both of them that the urgency of a security
19 plan based on what I saw during the
20 investigation, they didn't have -- they only had
21 three security guards in the basement and I
22 recommended additional security, based on the

1 number of 140 patrons being in the basement, is
2 what Mr. Popavich, the manager who is responsible
3 for the security told me.

4 And I recommended that they provide us
5 with a security plan, so Mr. Rashid stated that
6 he would, you know, discuss it with management
7 and come up with a security plan. We have been
8 in communications. He stated that they were --
9 they had come up with a security plan and that
10 they were -- the attorney was taking a look at
11 it.

12 So I think overall, my -- based on my
13 experience of this establishment, it has always
14 been a restaurant. I do know that they have, you
15 know, a DJ, live music, not live music, but a DJ
16 and a salsa night in the basement, so I have seen
17 a line outside periodically on the weekends at
18 night.

19 So you know, myself and Mr. Rashid, we
20 did discuss that. You know, they give the
21 appearance that there is a nightlife element at
22 the establishment at nighttime and that was one

1 of the concerns I brought up as to why I was
2 recommending a security plan.

3 CHAIRPERSON ANDERSON: So, Mr.
4 Townsend, so how long ago did you have this
5 conversation regarding the security plan?

6 INVESTIGATOR TOWNSEND: I believe I
7 met with Mr. Rashid in March of 2018.

8 CHAIRPERSON ANDERSON: 2018?

9 INVESTIGATOR TOWNSEND: Yes, sir.

10 CHAIRPERSON ANDERSON: And so they --
11 so when is it that they told you that they would
12 provide you with a security plan?

13 INVESTIGATOR TOWNSEND: He told me
14 Friday through email that he would have it --
15 well, he said his attorney was reviewing it and
16 that he would have it to present at the hearing.

17 CHAIRPERSON ANDERSON: Well, I guess
18 what I'm trying to find out is that I want to
19 make sure that the establishment, you had
20 conversation, and the establishment agreed that
21 they are going to provide ABRA with a legally-
22 compliant security plan.

1 So that's why we are having this
2 conversation. So although, as you know, a Fact-
3 Finding Hearing, I can't order, but I just want
4 to make sure you are giving your representation
5 and when I question them, then I want to make
6 sure that I'm hearing what they are saying.

7 So it's your representation that you
8 have had this conversation with management and
9 management has assured you as a representative of
10 the Agency that they are going to provide us with
11 a security plan to add to their license. Is that
12 correct?

13 INVESTIGATOR TOWNSEND: Yes, sir.

14 CHAIRPERSON ANDERSON: Okay. Any
15 other thing you want to say?

16 INVESTIGATOR TOWNSEND: Just one other
17 thing that -- well, during my visit there, I
18 conducted a regulatory inspection. Although it's
19 not mentioned in my report, I did speak to Mr.
20 Popavich about their Certificate of Occupancy for
21 some reason states the first floor and the roof
22 deck, it doesn't list the basement as a part of

1 their C of O.

2 However, the licensee's application
3 for the ABC License does list -- it lists
4 basement and first floor on the application. So
5 I had a conversation with the ABC Manager about
6 potentially visiting DCRA to get that squared
7 away, but it is not listed on their current --
8 the basement isn't listed on their current C of
9 O. And that's it.

10 CHAIRPERSON ANDERSON: Mr. Kline, I
11 know that I'm seeing the expression on your face
12 and I know that that's not the area of this
13 hearing today.

14 MR. KLINE: Yes.

15 CHAIRPERSON ANDERSON: But you are
16 being told on behalf of your client that there is
17 some concerns that although it was not an ABRA
18 violation, at the time, that there is some
19 concerns that they probably need to look at their
20 certificate to make sure that the certificate and
21 that -- to ensure that at least whatever
22 certificate they have from DCRA and their license

1 from ABRA, that they are the same.

2 MR. KLINE: We will do that. And I'm
3 hearing that for the first time, but we will look
4 into that and follow-up on that.

5 CHAIRPERSON ANDERSON: All right.

6 MR. KLINE: We were involved in the
7 original licensure of this establishment and I
8 know that it was all done, but I'll make sure
9 that what is on-site matches the license and that
10 your office or ABRA's office has what is
11 consistent with what is there.

12 CHAIRPERSON ANDERSON: All right. So
13 what do you want to say about the security plan
14 and this report, please, sir?

15 MR. KLINE: A couple of things. One
16 is -- yes, we will file a security plan. My
17 office will be doing it. If we could have 10
18 days to file it, we will file it. Not an issue.

19 I note the report says that the
20 Investigator advised -- the report says
21 management said that they would take it under
22 advisement. I met with the client last week. We

1 agreed we are going to file a plan. We will have
2 it to you within 10 days. My office has that.
3 We are looking at it. It will probably be before
4 -- to you before 10 days, but in an over
5 abundance of caution, I would say 10 days we will
6 probably have it to you by the end of the week.

7 In terms of the comments about -- I
8 always get nervous about comments about morphing,
9 because that's not a legal term. That's a term
10 that I hear communities use.

11 And in here, I like to talk about what
12 the law is, rather than the vernacular in terms
13 of what people may think or may say. This is a
14 CR licensee, which means that -- with an
15 entertainment endorsement, which means that it
16 has authority to operate as a restaurant and yes,
17 one of the profit centers is nighttime activity.
18 We don't apologize for that. I don't think that
19 is a bad thing.

20 The fact that it has nighttime
21 activity doesn't mean that it's any more not a
22 restaurant than a place that might have

1 breakfast. And just because they have breakfast
2 doesn't mean they are not a full-scale
3 restaurant, because they might also serve lunch
4 and dinner.

5 This place is a restaurant. It has an
6 entertainment endorsement. It operates in
7 compliance with its license.

8 Now, in terms of this incident and in
9 terms of what we know, here is what we know.
10 Here is what we think we could right. Here is
11 what we think we can improve.

12 The response time was 17 seconds,
13 according to the Investigator's report. Security
14 was there within 17 seconds. You will note that
15 the establishment has security personnel. Those
16 security personnel are identified by a uniform or
17 shirt. What is it?

18 MR. RASHID: Uniform.

19 MR. KLINE: By uniform. They have a
20 couple different ways of communicating. They
21 communicate with two-way radios, that always
22 isn't effective, so they also use flashlights.

1 And indeed, you will note from the report that's
2 exactly what was done here and it was done very,
3 very effectively.

4 In terms of security personnel, that
5 was an issue that was raised by the Investigator
6 directly with the establishment. They have
7 already added security personnel. Previously
8 there were seven on nights when there is this
9 activity. They have moved that number to nine,
10 at this point.

11 The other issues in terms of what they
12 did right, it seems that they fully-cooperated
13 with Investigators. They fully-cooperated with
14 MPD. They asked the parties that were involved
15 whether they were injured. And there was, you
16 know, the person with the broken jaw indicated he
17 didn't think he was injured, apparently, at
18 first.

19 And there was another woman who said
20 she had been bumped and they asked whether she
21 needed medical attention. They also had cameras.
22 Those cameras worked. The footage was available.

1 So all in all, they did, from my
2 experience, a pretty good job of reacting to this
3 incident.

4 We agree with you that perhaps laying
5 it all out in a meeting every night, which is
6 what the report says that they do, and that's
7 what they do, might benefit from a written plan
8 to be filed with the Board. And we will do that.

9 But I think for the most part, if you
10 look at this, we are happy to react and have the
11 Board's questions or concerns. I think they did
12 a pretty good job in terms of reacting and
13 dealing with this incident.

14 CHAIRPERSON ANDERSON: That's it, Mr.
15 Kline?

16 MR. KLINE: Other than questions.

17 CHAIRPERSON ANDERSON: Any other
18 statements before --

19 MR. KLINE: Not at this time. I mean,
20 obviously, it's good to hear the Board's concerns
21 and we're happy to try to address those.

22 CHAIRPERSON ANDERSON: Questions by

1 Board Members? Mr. Short?

2 MEMBER SHORT: Good afternoon.

3 MR. KLINE: Good afternoon.

4 MEMBER SHORT: I guess the question I
5 would ask in looking at a copy of the C of O,
6 Certificate of Occupancy, and the Inspector was
7 correct, it says first floor and roof deck. So,
8 Mr. Kline, I know you would know this probably
9 better than a lot of other people would know, if
10 there were an incident in that basement, God
11 forbid, and someone were to get injured, since
12 basically knowing that Certificate of Occupancy,
13 it would cause some major problems for the
14 owners.

15 MR. KLINE: Agreed.

16 MEMBER SHORT: Can I ask this
17 question? How many entrances and exits are there
18 from the basement?

19 MR. KLINE: I believe there are two.
20 Two.

21 MR. RASHID: Correct.

22 MEMBER SHORT: In the basement.

1 MR. RASHID: Entrances, there are two
2 entrances. We have one as an entrance and the
3 other one we use it for emergency exit.

4 MR. KLINE: In the rear.

5 MEMBER SHORT: So okay, you are saying
6 there are two that lead outside?

7 MR. RASHID: Yes, sir.

8 MR. KLINE: One is out the front door
9 and the other is to the back alley.

10 MEMBER SHORT: Okay. I was just
11 asking because I know sometimes DCRA inspectors
12 or fire inspector might have questioned the
13 basement with 100 and some people. You would
14 need two exits. An egress clearly to go to the--
15 directly to the outside of the building.

16 MR. KLINE: Yes, sir.

17 MEMBER SHORT: Not back through the
18 building.

19 MR. KLINE: Yes, sir. Mr. Short, I
20 share your concerns. This was not a basement
21 that was added later, because I was involved with
22 the project from the beginning, so I suspect that

1 there is some sort of error.

2 Hearing about this today as an issue
3 for the first time, I'm not prepared to address
4 it, otherwise I would have walked in here and had
5 the paperwork for you, but we will follow-up on
6 that and we will report back.

7 MEMBER SHORT: I would hope so,
8 because the onus would be up a very steep hill if
9 they were -- if the -- I mean, if something
10 happens there.

11 MR. KLINE: Understood.

12 MEMBER SHORT: Thank you. That's all
13 I have for right now, Mr. Chair.

14 CHAIRPERSON ANDERSON: Any other
15 questions by any of the Board Members? Mr.
16 Townsend, anything else you want to say?

17 INVESTIGATOR TOWNSEND: No, that's it,
18 sir.

19 CHAIRPERSON ANDERSON: Mr. Kline,
20 anything else you want to say?

21 MR. KLINE: I don't think so. I think
22 we have covered it. As I said, we commit to

1 filing a plan. We will have it to you filed
2 within 10 days, probably long before that.

3 And I think this establishment is --
4 these things happen, as the Board knows, and as
5 Board Members you've been sitting for some time,
6 so you have seen incidents. It seems that they
7 did what they were supposed to do in terms of
8 dealing with this incident and that's what is to
9 be expected.

10 I'm not even saying they should be
11 commended for that, because that's what should be
12 expected and it seems that they did it.

13 CHAIRPERSON ANDERSON: All right. All
14 right. I'll leave this in the sense that since
15 you are involved, as far as the security plan is,
16 I am assuming, which you shouldn't assume, but,
17 that we will be -- that ABRA will be provided a
18 legally sufficient security plan within the next
19 10 days. And so that will become a part of the
20 record.

21 And I, basically, make a
22 recommendation to the Board that this is an NFA.

1 Is there a second?

2 MEMBER SILVERSTEIN: Second.

3 CHAIRPERSON ANDERSON: All those in
4 favor?

5 ALL: Aye.

6 CHAIRPERSON ANDERSON: Thank you. So
7 there is an NFA and thank you for being here
8 today.

9 MR. RASHID: Thank you, sir.

10 CHAIRPERSON ANDERSON: And thank you
11 for voluntarily agreeing to do a security plan,
12 even before the Board requested one. So I
13 appreciate that. And as I always say to folks, I
14 never like seeing folks, if I never see you
15 again, that tells me that you are doing what you
16 need to do.

17 So have a good day. Thank you.

18 MR. KLINE: Okay. Thank you.

19 MR. RASHID: Thank you.

20 (Whereupon, the Fact-Finding Hearing
21 was concluded at 3:50 p.m.)

22

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In the matter of: 1819 14th Ventures, LLC

Before: DC ABRA

Date: 05-16-2018

Place: Washington, DC

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