

Capital Reporting Company  
In the Matter of: Ventura, LLC t/a Albert's Liquors 08-15-2012

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DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE CONTROL BOARD

MEETING

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IN THE MATTER OF: :  
 :  
Ventura, LLC :  
t/a Albert's Liquors :  
328 Kentucky Avenue, SE :  
Retailer A : Motion  
License No. 77335 : Hearing  
ANC 6B :  
Case No. 12-PRO-00043 :  
Motion to Dismiss Protest of :  
ANC 6B :  
-----x

August 15, 2012

The Alcoholic Beverage Control

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

PRESENT

RUTHANNE MILLER, Chairperson  
NICK ALBERTI, Member  
DONALD BROOKS, Member  
HERMAN JONES, Member  
CALVIN NOPHLIN, Member  
MIKE SILVERSTEIN, Member

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

2 11:55 a.m.

3 CHAIRPERSON MILLER: All right. Okay. The  
4 next case on our calendar is Case No. 12-PRO-00043,  
5 Albert's Liquors, located at 328 Kentucky Avenue, S.E.,  
6 License No. 77335. We have a motion here.

7 And when you're ready, if you would be so  
8 kind as to introduce yourself for the record?

9 MS. GREEN: Carol Green, ANC 6B, commissioner  
10 and chair of ABC Committee.

11 CHAIRPERSON MILLER: Okay.

12 MS. MCKENZIE: Monica McKenzie with DCI  
13 Interpretation.

14 MR. VENTURA: Jorge Ventura, Albert's  
15 Liquors, as the owner.

16 CHAIRPERSON MILLER: Okay. I just want to  
17 swear you in as an interpreter. Spanish, correct?

18 MS. MCKENZIE: Correct.

19 CHAIRPERSON MILLER: Okay. Would you raise  
20 your right hand, please? Okay. Do you solemnly affirm  
21 that you will faithfully and accurately interpret the  
22 proceedings in this matter from Spanish into English

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1 and from English into Spanish to the best of your  
2 ability?

3 MS. MCKENZIE: I do.

4 CHAIRPERSON MILLER: Okay. Thank you very  
5 much. Okay. So we're here to hear a motion, as I  
6 understand it, from a Licensee to dismiss ANC 6B's  
7 protest. That's how -- I believe it came in the form  
8 of a letter initially asked the Board to do that. The  
9 letter was received by ABRA June 19th, 2012. And the  
10 last line of this says, "I would like to request the  
11 ABC Board to dismiss the protest of ANC 6B."

12 MR. VENTURA: Yes.

13 CHAIRPERSON MILLER: So I'm going to first  
14 ask Mr. Ventura to -- if he wants to speak to that  
15 request. You -- and we're considering it as motion to  
16 dismiss the ANC's protest.

17 MR. VENTURA: Well, it's in the letter. I  
18 can say anything. The reason for the letter is because  
19 I feel that it's -- the protest is unnecessary because  
20 the establishment is peaceful and clean compared to two  
21 to three years ago. The clients have -- the clients  
22 have also seen the changes in the location and they are

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1 satisfied. That's why I believe in this establishment  
2 that is not necessary.

3 CHAIRPERSON MILLER: Okay. Ms. Green, do you  
4 want to respond to the motion to dismiss ANC 6B?

5 MS. GREEN: Yes. We have some areas in our  
6 ANC that are problematic in terms of quality of life  
7 issues. And we decided -- whether it was right or  
8 wrong, we decided the best way to implement change was  
9 to pass a resolution to eliminate the sale of two packs  
10 and three packs of beer and malt liquor and ale  
11 throughout the ANC area, not to pick on any one  
12 particular establishment or -- to make sure that  
13 everybody understood we were trying to be fair.

14 And either you applied for and were approved  
15 for a single sales exemption so that you could sell  
16 twos and threes and singles or -- excuse me -- or we  
17 would not support your license renewal. And so we  
18 started that last March when we passed our resolution.  
19 We shared our resolution with all the Class A and Class  
20 B establishments in our geographic area. And since  
21 then, we've protested if the Licensee does not have a  
22 single sales exemption but sells two packs or three

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1 packs.

2           So, you know, there may have been a better  
3 way to approach this. I'm not sure. But that's the  
4 way we decided to do it.

5           CHAIRPERSON MILLER: Okay. When I read Mr.  
6 Ventura's letter, it says that, you know, you -- well,  
7 "That the protest is an effort to pressure me into  
8 signing the voluntary agreement." And is it your  
9 understanding that if he doesn't sign the voluntary  
10 agreement, you'll go to protest for peace, order and  
11 quiet, and if he were to sign it, then there would be  
12 no protest?

13           MS. GREEN: Well, not just a voluntary  
14 agreement. By one agreeing not to sell two packs or  
15 three packs -- or the alternative is to apply for a  
16 single sales exemption. And --

17           CHAIRPERSON MILLER: Oh, I see.

18           MS. GREEN: And that's what we have done  
19 since we passed our resolution in March. In fact, we  
20 tried earlier than that. And we got two of our  
21 establishments to sign voluntary agreements not selling  
22 two packs. One of them also does not sell three packs.

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1 So that's how we thought it was best to eliminate the  
2 problems that were associated with -- originally with  
3 singles. When the law changed banning singles, then we  
4 started seeing improvements.

5 But then, when manufacturers started  
6 packaging two packs, we saw an increase in people  
7 buying a two pack, standing outside the establishment  
8 and drinking one, throwing the container over the fence  
9 into somebody's yard, urinating on the side of the  
10 building, and opening the second one.

11 CHAIRPERSON MILLER: Okay.

12 MS. GREEN: So --

13 CHAIRPERSON MILLER: Let me see. Mr.  
14 Ventura, the -- your motion says you don't think that -  
15 - you said just now that you don't think -- you think  
16 they should be dismissed because you are clean and  
17 quiet, right? But isn't that the subject of a protest  
18 hearing, to prove that?

19 MR. VENTURA: It's good to apply that in  
20 another -- in other locations. But why would I have to  
21 pay the price for others who aren't keeping their  
22 establishments when I have mine well kept?

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1 CHAIRPERSON MILLER: It looks good. I just  
2 want to ask one more question. Then I'll let the other  
3 Board -- other Board members ask questions. How is  
4 this motion to dismiss related to your protest? I  
5 mean, it sounds like it's related to their not wanting  
6 to come to agreements outside the protest. Do you have  
7 -- you have issues of order and quiet and peace in your  
8 protest?

9 MR. GREEN: We do.

10 CHAIRPERSON MILLER: And -- okay. I'm going  
11 to let others ask questions.

12 MR. ALBERTI: Ms. Green, my question's going  
13 to be simple. But before I ask it, I will say that  
14 your suggestion that the Licensee sign a voluntary  
15 agreement that bans the sale of two and three packs of  
16 alcohol is a remedy and it's not a protest issue.  
17 Would you agree to that?

18 MS. GREEN: Well, in the smaller issue, yes.  
19 In the larger issue, I would not agree to that because  
20 we think that the sale of two packs are related to  
21 peace, order and quiet issues.

22 MR. ALBERTI: Okay. But you would -- okay.

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1 MS. GREEN: Which is, you know --

2 MR. ALBERTI: But my -- what I'm saying is  
3 that I believe -- I understand that it's related to the  
4 sale of two and three packs. It's related in your --  
5 in your eyes to peace, order and quiet. But would you  
6 -- is it fair to categorize that as a remedy?

7 MS. GREEN: Oh, sure.

8 MR. ALBERTI: Okay.

9 MS. GREEN: Yeah, well, but there's an  
10 alternative.

11 MR. ALBERTI: No, I understand. I  
12 understand.

13 MS. GREEN: Yeah, okay.

14 MR. ALBERTI: But that's --

15 MS. GREEN: I mean, it's not just sign a  
16 voluntary agreement saying you won't sell twos and  
17 threes.

18 MR. ALBERTI: But as an example?

19 MS. GREEN: You could also apply for a single  
20 sales exemption.

21 MR. ALBERTI: And both of those are -- both  
22 of those are remedies?

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1 MS. GREEN: Two remedies, yes.

2 MR. ALBERTI: Both of those could be fairly  
3 categorized as remedies?

4 MS. GREEN: Yes.

5 MR. ALBERTI: Is that right? Okay.

6 MS. GREEN: Yes.

7 MR. ALBERTI: So I think the real question --  
8 I think the Board asked -- the Chair asked this. If  
9 the -- if we had a protest hearing -- we were to  
10 proceed to a protest hearing, would you -- would your  
11 intent -- would it be your intent to provide evidence  
12 of negative impact on quality of life due to peace,  
13 order and quiet issues?

14 MS. GREEN: You mean, related to Albert's?

15 MR. ALBERTI: Yes.

16 MS. GREEN: No. The straight answer is,  
17 "No." It's --

18 MR. ALBERTI: That's okay. Well, that leaves  
19 me in a -- in a quandary here because your letter says  
20 that you're protesting on peace, order and quiet.

21 MS. GREEN: Right.

22 MR. ALBERTI: And now, you're telling me you

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1 have no protestable issues.

2 MS. GREEN: Well, I don't see it that way. I  
3 can understand how you see it that way but like I said,  
4 we start -- we started this whole thing talking about  
5 our geographic area, our -- the entire ANC. And so we  
6 wanted to make a uniform policy and that's what we did  
7 when we passed our resolution. And so since we think  
8 that the sale of two packs and three packs is related  
9 to peace, order and quiet, then if you don't have a  
10 single sales exemption and you won't agree not to sell  
11 twos and threes, we decided ANC-wide we would protest  
12 on peace, order and quiet.

13 So that's the way we see it. Like I said, we  
14 may have approached it wrong. There may have been a  
15 better way to do this but that's what we've done.  
16 That's why we're here today.

17 MR. ALBERTI: Okay. Ms. Green, I -- as a  
18 fellow licensee commissioner in the -- in the District,  
19 I appreciate the intent to have a universal policy  
20 throughout your ANC. That's laudable. But as a Board  
21 member, I have to look at each case as it comes to us.  
22 And I have to look at this case in isolation to other

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1 establishments in your ANC.

2 I mean, I -- the -- if we have a motion  
3 before us that says -- basically the motion is to  
4 dismiss because it's been revealed to Mr. -- sorry --  
5 Ventura that there are no -- the ANC has no protestable  
6 issues -- will present no protestable issues and you're  
7 telling me that today. But --

8 MS. GREEN: Well, he didn't know that before  
9 today.

10 MR. ALBERTI: Well, he's surmised that. I  
11 mean, he seemed to surmise that because --

12 MS. GREEN: Yeah.

13 MR. ALBERTI: -- says that --

14 MS. GREEN: Right.

15 MR. ALBERTI: -- that he was told that there  
16 are no -- he says in his letter he was told that there  
17 were no littering, loitering and trash issues.

18 MS. GREEN: Which is true. I have to say  
19 that he's done a fabulous job of cleaning up. We  
20 protested the last renewal and he has done a great job  
21 cleaning up. We -- I still am baffled because it seems  
22 simple to go apply for a single sales exemption. And

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1 he -- when I suggested that to him, he said, "Well, I  
2 don't want to sell singles." And I said, "But you  
3 don't have to. You could -- you could do that for the  
4 community because this is what our community wants.  
5 And you could sell two packs still. And then you would  
6 be complying with our policy."

7 So I'm baffled. I guess we all are on the  
8 ANC but here we are today.

9 MR. ALBERTI: I --

10 CHAIRPERSON MILLER: I'm really baffled.

11 MR. ALBERTI: I empathize with your dilemma.

12 MS. GREEN: Thank you.

13 MR. ALBERTI: I understand perfectly.

14 MS. GREEN: I feel better now.

15 MR. ALBERTI: And I really do appreciate your  
16 candor here.

17 MS. GREEN: Thank you.

18 MR. ALBERTI: Thank you.

19 CHAIRPERSON MILLER: I just want to make sure  
20 I understand this. Doesn't -- Mr. Ventura does not  
21 want to sell singles sales?

22 MS. GREEN: He does not.

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1 CHAIRPERSON MILLER: Yeah? He does not.

2 MS. GREEN: So our policy says if you don't  
3 have a single sales exemption, you can't sell twos or  
4 threes and he does sell twos.

5 CHAIRPERSON MILLER: He does sell twos?

6 MS. GREEN: Yes.

7 CHAIRPERSON MILLER: Okay.

8 MS. GREEN: And so when I suggested he get a  
9 single sales exemption, he said he doesn't want to sell  
10 singles. I'm not sure that he understands me. I think  
11 we have a little language barrier, although, we get  
12 along very well, I think.

13 MR. VENTURA: Yeah.

14 CHAIRPERSON MILLER: Does he sell twos now?

15 MS. GREEN: He does.

16 CHAIRPERSON MILLER: Now, does that have a --

17 MS. GREEN: Which is why we're here today.

18 CHAIRPERSON MILLER: Now, are you -- would  
19 you be protesting that that's having an effect on  
20 peace, order and quiet or no?

21 MS. GREEN: Not for his establishment, no.

22 CHAIRPERSON MILLER: Oh, so it doesn't? You

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1 just want it for consistency in the --

2 MS. GREEN: Yeah. Can you suggest a better  
3 way or should I ask that after you rule?

4 CHAIRPERSON MILLER: Okay.

5 MS. GREEN: We put it in our rebuttal letter.  
6 I'm sure you --

7 CHAIRPERSON MILLER: Okay.

8 MS. GREEN: -- you've seen it, that we said  
9 that applying our resolution to some but not all  
10 licensees could negatively impact the enforceability  
11 and effectiveness of the commission's policy. And  
12 that's why we did it this way. So --

13 CHAIRPERSON MILLER: Okay. And any other  
14 questions?

15 (No audible response.)

16 CHAIRPERSON MILLER: Comments?

17 (No audible response.)

18 CHAIRPERSON MILLER: Okay. Does what --

19 MR. SILVERSTEIN: Madam Chair --

20 CHAIRPERSON MILLER: Yeah?

21 MR. SILVERSTEIN: -- we've -- I think we have  
22 the information that we need. And perhaps we should go

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1 back and discuss this matter and rule on it.

2 CHAIRPERSON MILLER: We can. Either that or  
3 issue an -- issue an order afterwards.

4 MR. ALBERTI: We can take it under advisement  
5 and just --

6 CHAIRPERSON MILLER: Yeah.

7 MR. ALBERTI: -- and issue an order within 90  
8 days.

9 CHAIRPERSON MILLER: Okay. Why don't we do  
10 that? Is that all right with everybody? Okay. So now  
11 that you've been heard and we understood it, I think at  
12 this point we'll just issue an order on that at a later  
13 date.

14 MS. GREEN: And did you say when?

15 CHAIRPERSON MILLER: No. But -- no. I don't  
16 think it'll be too long though.

17 MS. GREEN: Okay.

18 CHAIRPERSON MILLER: All right. Thank you  
19 very --

20 MR. ALBERTI: No. No. Wait, wait.

21 CHAIRPERSON MILLER: No?

22 MR. ALBERTI: Excuse me. Just don't leave

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1 yet, please.

2 CHAIRPERSON MILLER: Okay.

3 MR. ALBERTI: Just one more administrative

4 CHAIRPERSON MILLER: Okay. We're going to  
5 read the Open Meetings Act instructions because we will  
6 discuss this probably later today. All right. As  
7 Chairperson of the Alcoholic Beverage Control Board for  
8 the District of Columbia and in accordance with Section  
9 405 of the Open Meetings Amendment Act of 2010, I move  
10 that the ABC Board hold a closed meeting for the  
11 purpose of seeking legal advice from our counsel on  
12 Case No. 12- PRO-00043, Albert's Liquors, with respect  
13 to the motion to dismiss the protestant, per Section  
14 405(b)(4) of the Open Meetings Amendment Act of 2010  
15 and deliberating upon this case for the reasons cited  
16 in Section 405(b)(13) of the Open Meetings Amendment  
17 Act of 2010.

18 Is there a second?

19 MR. NOPHLIN: Second.

20 CHAIRPERSON MILLER: Roll call. Mr. Nophlin?

21 MR. NOPHLIN: I agree.

22 CHAIRPERSON MILLER: Mr. Brooks?

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1 MR. BROOKS: I agree.

2 CHAIRPERSON MILLER: Mr. Alberti?

3 MR. ALBERTI: I agree.

4 CHAIRPERSON MILLER: Ms. Miller agrees. Mr.  
5 Silverstein?

6 MR. SILVERSTEIN: I agree.

7 CHAIRPERSON MILLER: Mr. Jones?

8 MR. JONES: I agree.

9 CHAIRPERSON MILLER: Then it appears that the  
10 motion has passed by a vote of 6-0-0. I hereby give  
11 notice that the ABC Board will hold a closed meeting in  
12 the ABC Board conference room later today pursuant to  
13 the Open Meetings Amendment Act of 2010 and issue an  
14 order well within 90 days -- well within. Yeah, thank  
15 you.

16 MR. ALBERTI: Ms. Green, are you saying  
17 you're not running again?

18 MS. GREEN: That's right.

19 MR. ALBERTI: Well, thank you for your  
20 service.

21 MS. GREEN: Thank you.

22 CHAIRPERSON MILLER: Thank you.

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1 MR. ALBERTI: It's been a pleasure --

2 MS. GREEN: Thank you for --

3 MR. ALBERTI: -- working with you.

4 MS. GREEN: -- yours and Mr. Silverstein --

5 MR. ALBERTI: And the Board members have had  
6 the pleasure working with you.

7 MR. JONES: And I'm going --

8 MS. GREEN: Well, thank you so much.

9 MR. JONES: Uh-huh.

10 MS. GREEN: I've enjoyed it as well.

11 MR. ALBERTI: Thank you.

12 MS. GREEN: It's one of my regrets.

13 MR. SILVERSTEIN: Thank you, commissioner,  
14 and good luck.

15 MS. GREEN: Thank you.

16 MR. SILVERSTEIN: Thank you for your service.

17 MS. GREEN: Thank you.

18 (WHEREUPON, at 12:15 p.m., the hearing was  
19 concluded.)

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