

ALSO PRESENT:

CHANG CHOY, Licensee

RONNIE EDWARDS, ANC 5A

KEVIN LEE, Licensee's Counsel

GRACE LEWIS, ANC 5A

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

2 9:38 a.m.

3 CHAIRPERSON ANDERSON: Good morning,
4 everyone. I would like to welcome you to the
5 regularly scheduled meeting of the District of
6 Columbia Alcoholic Beverage Control Board.
7 Please know that today's hearings will be
8 conducted in accordance with D.C. Official Code
9 Section 2-574 of the Open Meetings Act.

10 Today is October 31, 2018. I would
11 like to introduce Members of the Board with us
12 today. To my far right is Mr. Donald Isaac, Sr.,
13 and to his left is Mr. Bobby Cato. To my
14 immediate right is Mr. Nick Alberti. To my far
15 left is Ms. Rema Wahabzadah. To her right is Mr.
16 Mike Silverstein and to my immediate left is Mr.
17 James Short. My name is Donovan Anderson. I'm
18 Chairman of the Board. We have all seven Members
19 in attendance today, so we do have a quorum.

20 I would like to mention two things
21 before we get started. First of all, if you have
22 any electronic devices, pagers, cell phones or

1 such, please, make certain that they are turned
2 off to avoid any interruption of the proceedings.

3 Secondly, there is a piece of paper on
4 the table. When you come forward as your case is
5 called, please, take a seat at the table and,
6 please, sign-in. This is to ensure the correct
7 spelling of your name for the record.

8 Additionally, when you introduce
9 yourself for the record, please, spell your name
10 aloud for the court reporter.

11 I will note that the approximate time
12 is 9:40 a.m.

13 The first case on our Protest Hearing
14 (Status) Calendar is Case No. 18-PRO-00071, Pax
15 Spirits, License No. 110690.

16 Would the parties, please, approach
17 and identify themselves for the record, please?
18 We can start with -- we will start with the ANC.

19 MR. EDWARDS: Good morning, Mr.
20 Chairman. My name is Ronnie Edwards and I'm the
21 Chair of ANC-5A.

22 CHAIRPERSON ANDERSON: Good morning,

1 Mr. Edwards.

2 MS. LEWIS: Good morning. My name is
3 Grace Lewis, ANC-5A02.

4 CHAIRPERSON ANDERSON: Good morning,
5 Ms. Lewis. There is a sign-in sheet, please,
6 both of you, please, sign-in, please. Yes?

7 MR. LEE: Good morning, Board Members.
8 My name is Kevin Lee. I'm attorney for the Pax
9 Liquors, Inc. and then next to me is the owner of
10 the Pax Liquor, Inc.

11 MR. CHOY: My name is Chang Choy,
12 business owner of Pax Liquor, Incorporated.

13 CHAIRPERSON ANDERSON: Good morning,
14 Mr. Lee. Good morning, Mr. Choy.

15 All right. Are there any preliminary
16 matters in this case?

17 MR. EDWARDS: Mr. Chair, I would kind
18 of like to emphasize that we have been in
19 communication with the applicant and we believe
20 that we are on a path to reach an agreement
21 somewhat. However, we do have some unfinished
22 business.

1 One is some verifications on existing
2 operations. We are waiting to hear back on that.
3 And then we also have before you a question on a
4 Group of Five. We would still, as though we are
5 moving forward positively perhaps towards
6 settlement, like to see about the status of that
7 Group of Five.

8 CHAIRPERSON ANDERSON: What do you
9 mean a Group of Five? What happened? What
10 happened at the Roll Call Hearing?

11 MR. EDWARDS: At the Roll Call
12 Hearing, included with our submission, was a
13 number of individuals who signed as protestants
14 and we submitted a statement on that day that
15 included about 8 or 9 individuals who had signed
16 and were present at the hearing representing
17 themselves as members of the Group of Five.

18 It was our understanding that that
19 application should have been submitted as a
20 separate protest, so it wasn't part of our
21 submission. We indicated that we did want to
22 pull in the Group of Five.

1 And so we were thinking, based on that
2 and the discussions at the meeting, that it was a
3 topic for discussion today.

4 CHAIRPERSON ANDERSON: So at the
5 hearing, did Ms. Fletcher give standing to the
6 Group of Five? Did she state that five members
7 were present and the Group of Five has its own
8 standing? I see on -- I see that it says that
9 you are the designated representative. So are
10 you the designated representative for the ANC or
11 for the Group of Five?

12 Who are you here representing today?

13 MR. EDWARDS: I'm representing the
14 ANC.

15 CHAIRPERSON ANDERSON: So who was
16 representing the Group of Five or More?

17 MR. EDWARDS: Well, we have Mr. Smith
18 who is a part of the Group of Five. He is here
19 today. He was here at the Roll Call Hearing and
20 he was a part of our mediation or I think he was
21 a part of mediation that we had, but -- and so it
22 was not a firm ruling on anything.

1 CHAIRPERSON ANDERSON: What was the
2 ruling? What --

3 MR. EDWARDS: It was not a ruling and
4 it was she did --

5 MS. LEWIS: No final decision was
6 made.

7 MR. EDWARDS: Yes, no final decision
8 was made and it was like up in the air. And so--

9 CHAIRPERSON ANDERSON: But I'm not
10 aware of this, so but tell me what you mean.

11 What happened? I mean, I am --

12 MEMBER ALBERTI: Can I ask a question
13 just to clarify?

14 CHAIRPERSON ANDERSON: Yes, Mr.
15 Alberti.

16 MEMBER ALBERTI: So I think what you
17 are telling us is that the Group of Five came to
18 the Roll Call Hearing. Is that right?

19 MR. EDWARDS: That's right.

20 MEMBER ALBERTI: But they had not
21 previously submitted a Protest Letter.

22 MR. EDWARDS: Not separately, but that

1 was a group of signatures, about 300, between 300
2 and 400 signatures. Each of them signed and the
3 protest clearly indicated -- the signatures
4 indicated that they were protestants.

5 MEMBER ALBERTI: Right. But they had
6 not submitted that prior to the Roll Call?

7 MR. EDWARDS: Yes, it was a part of --
8 well, it was a part of our submission.

9 MEMBER ALBERTI: It was a part of
10 ANC's submission?

11 MR. EDWARDS: Right.

12 MEMBER ALBERTI: Right. So --

13 MR. EDWARDS: And our submission
14 indicated --

15 MEMBER ALBERTI: Right. So it wasn't
16 submitted separately from the ANC's submission?

17 MR. EDWARDS: No, it was not.

18 MEMBER ALBERTI: All right.

19 MR. EDWARDS: It wasn't.

20 MEMBER ALBERTI: So the question is do
21 we consider that a timely filing of a protest,
22 since they were not -- since it wasn't submitted

1 to the Agency as a separate document protesting
2 this license? So that's the question.

3 Thank you. I appreciate -- I think
4 no.

5 CHAIRPERSON ANDERSON: All right.
6 There was a letter that was submitted to ABRA.
7 It was received on October 1, 2018. It lists a
8 Group of Five or More and it has Commissioner
9 Grace Lewis, Commissioner Gordon Flet, well,
10 Commissioner Grace Lewis, Virginia Edwards, Susan
11 Leafner, Charles Lockett, Carmen Williams,
12 William Smith, Frank Fields, Enrique Gobram.

13 MEMBER ALBERTI: What was the date of
14 submission?

15 CHAIRPERSON ANDERSON: This is -- it
16 says it is received October 1, 2018.

17 MEMBER ALBERTI: That was the date of
18 the Roll Call. So it would not have been
19 submitted timely, because protest submissions
20 should have been -- I don't know the date, but it
21 was weeks before the Roll Call, at the end of the
22 placarding period. So this would not have been a

1 timely submission, if that's when we got that
2 letter with those signatures from --

3 MR. EDWARDS: The instructions was
4 kind of misleading.

5 CHAIRPERSON ANDERSON: All right.

6 MEMBER ALBERTI: I understand, but,
7 you know, we have two parties here and we have
8 got to go by what the statutes say. And we kind
9 of have to -- we can't play loose with it. So
10 but I will point out, since I am talking to you,
11 that everyone can participate in the protest if
12 the ANC allows.

13 Whoever the ANC wants to participate
14 in the protest covers witnesses --

15 MR. EDWARDS: We understand. We
16 understand. And we also understand that it is
17 probably very likely that we will result in a
18 settlement based on our discussions, but we just
19 wanted to have that --

20 MEMBER ALBERTI: Um-hum.

21 MR. EDWARDS: -- you know, included as
22 part of our application going forward in case

1 something comes up and we don't --

2 MEMBER ALBERTI: Okay.

3 CHAIRPERSON ANDERSON: All right. Mr.
4 Lee, in going through the file, I saw that you
5 got a letter from the Agency dated September 20,
6 2018 that basically says that the protest that
7 the ANC has filed was properly filed. So I see
8 that and that's why the ANC has standing.

9 And as -- going through the file, I
10 see that the Group of Five or More that was
11 received -- the Protest Letter was received on
12 October 1, 2018, which was the date of the Roll
13 Call. And so what the Group of Five or More had
14 to have done was to have submitted that protest
15 when the ANC did. And so that's one of the
16 reasons why the Group of Five or More was not
17 given its own standing, because it was not timely
18 filed.

19 But one of the issues, even if the
20 Group of Five or More was granted standing and if
21 the ANC signed a settlement agreement, then --
22 and even if the Group of Five or More did not

1 agree, they would fall out, because the ANC would
2 control over the Group of Five or More if the ANC
3 signed the settlement agreement.

4 So the group is not necessarily losing
5 anything. And as Mr. Alberti stated, as the ANC,
6 all the folks if it goes to a protest, all the
7 folks who wanted to be a part of the Group of
8 Five or More, they could be witnesses that the ANC
9 could contact and they could come and testify.

10 Okay? So that's where we are with
11 that. So the only protestant that is in this
12 case is the ANC-5A. Okay. All right. Thank
13 you.

14 Now, all right, Mr. Lee, are there any
15 preliminary matters that you need to bring to
16 attention?

17 MR. LEE: No. Other than negotiating
18 the boundary of limit today.

19 CHAIRPERSON ANDERSON: All right. All
20 right.

21 MR. LEE: And then we are just waiting
22 for a draft letter from the ANC.

1 CHAIRPERSON ANDERSON: All right.

2 MR. LEE: So after that, we will
3 review. I think that's where we will have plenty
4 of time before Protest Hearing Scheduled.

5 CHAIRPERSON ANDERSON: Right. Because
6 this Protest Hearing is scheduled for November
7 28th at 1:30.

8 MR. LEE: Yes.

9 CHAIRPERSON ANDERSON: So you do have
10 time and as far as I'm concerned, I will give the
11 parties as much time as possible to do a
12 settlement agreement. I prefer if there is a
13 settlement agreement and the reason why I prefer
14 if there is a settlement agreement is this is
15 your community. You can determine, you can agree
16 what it is you want to occur in your community.

17 If it comes to the Board, I'm not sure
18 if -- how many of us there -- at least I know
19 there is one Member on the Board who lives in
20 Ward 5, but I don't know if the person
21 necessarily lives in your neighborhood.

22 So I prefer settlement agreements

1 because you can control what happens in your
2 neighborhood. So I'm open to -- I'm not telling
3 you you have to do a settlement agreement, but
4 I'm just saying that I prefer it rather than us
5 making the decision for you.

6 MR. EDWARDS: I understand.

7 CHAIRPERSON ANDERSON: You can decide
8 what is in the best interest of your community.

9 All right. All right. With that
10 said, so as I stated before, the Protest Hearing
11 is scheduled for November 28th at 1:30 p.m.

12 So now that we have scheduled this
13 matter for a Protest Hearing, there are a few
14 things that I would like to instruct the
15 applicant and the protestant about, so that the
16 Protest process is focused and addresses only
17 those issues that are being protested.

18 The Board does not intend to hear
19 testimony on matters that are not relevant to
20 this case. You should have received by
21 electronic or regular mail a letter explaining
22 the protest process, a copy of the Protest

1 Information Form and a copy of the Exhibit Form.
2 If you do not have these documents, please,
3 contact Assistant General Counsel April Randall
4 following this hearing.

5 It is imperative that you review the
6 rules closely and that you follow them before and
7 during the Protest Hearing. You are also
8 required to complete and submit the Protest
9 Information Form (PIF) and the Exhibit Form seven
10 days before the date of the hearing. These two
11 forms and accompanying documents need to be
12 submitted to ABRA's Legal Division and to all
13 opposing parties in this matter.

14 If we do not receive a copy of your
15 PIF, your application or your protest, whichever
16 side you are representing, may be subject to
17 dismissal. Likewise, if we do not receive a copy
18 of the Exhibit Form and the exhibits themselves,
19 your exhibits may be excluded from the record
20 upon a finding that the opposing party has been
21 prejudiced or no good cause for failure to submit
22 has been shown.

1 Likewise witnesses other than a party
2 may also be subject to exclusion if not
3 identified on the PIF.

4 Accordingly, these forms are very
5 important as they greatly assist the Board in
6 narrowing the protest issues, facilitating the
7 process and keeping the parties on point during
8 the hearing. They likewise provide notice to
9 opposing parties enabling them to better prepare
10 for the hearing.

11 We thank you greatly for your
12 cooperation. If you have any questions today or
13 at any time leading up to the hearing, please, do
14 not hesitate to contact AGC Randall at (202) 442-
15 4353. Again, (202) 442-4353.

16 Thank you very much. Have a good day.
17 And as -- if I don't see you on November 28th, I
18 won't take it personally, but if I do see you, we
19 will move forward with the Protest Hearing.

20 MR. EDWARDS: All right.

21 MR. LEE: All right.

22 CHAIRPERSON ANDERSON: Have a good

1 day. Thank you.

2 MR. LEE: Thank you very much.

3 (Whereupon, the Protest (Status)

4 Hearing was concluded at 9:52 a.m.)

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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: Pax Spirits

Before: DCABRA

Date: 10-31-18

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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