

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
3 ALCOHOLIC BEVERAGE CONTROL BOARD
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6 IN THE MATTER OF: :
7 Spo-dee-o-dee, LLC: Case: #16-PRO-00038
8 t/a The Showtime :
9 113 Rhode Island Ave Northwest:
10 License #89186 :
11 Retailer CT :
12 ANC 5E :
13 Substantial Change :

14 - - - - -X

15 Wednesday, July 13,
16 2016

17
18 Whereupon, the above-referenced matter
19 came on for hearing at the Alcoholic Beverage
20 Control Board, Reeves Center, 2000 14th Street,
21 N.W., Suite 400S, Washington, D.C. 20009.

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BOARD MEMBERS PRESENT

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NICK ALBERTI, BOARD MEMBER

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RUTHANNE MILLER, BOARD MEMBER

6

JAMES SHORT, BOARD MEMBER

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MIKE SILVERSTEIN, BOARD MEMBER

8

9

ALSO PRESENT:

10

PAUL VIVARI

11

DAVID DRYER

12

FARID BOSAK-BARANI

13

PAUL COLLINS

14

15

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

2 PROTEST HEARING (STATUS)

3 CHAIRPERSON ANDERSON: The next hearing
4 on our protest hearing status schedule is case
5 #16-PRO-00038, The Showtime, license #89186.
6 Will the parties please approach and identify
7 themselves for the record?

8 MR. VIVARI: Paul Vivari, owner of Showtime.

9 CHAIRPERSON ANDERSON: Good morning, sir.

10 MR. DRYER: Good morning, David Dryer, one of
11 eight signatories to a protesting group of five
12 or more individuals, spelled D-R-Y-E-R, like a
13 clothes dryer.

14 MR. BARANI: Farid Bosak-Barani,
15 representative of protestants. Last name is
16 spelled B-O-S-A-K--B-A-R-A-N-I.

17 DR. COLLINS: Dr. Paul Collins, one of the
18 protestants. My name Paul, P-A-U-L, last name C-
19 O-L-L-I-N-S.

20 CHAIRPERSON ANDERSON: There's a sign-in
21 sheet in front of you, I would like you to make
22 sure that prior to leaving you sign the sheet,

1 please. This matter is scheduled for a protest
2 hearing on August 10th at 4:30. So, August 10th
3 is going to be a busy day for us with protest
4 hearings. And we'll read the statement that I
5 read before. The purpose of the protest hearing
6 is to determine the appropriateness of the
7 establishment in the section of the district
8 where the establishment is located.

9 Now that we've scheduled this matter for a
10 protest hearing there are a few things that I
11 would like to instruct the applicant and the
12 protestants about so that the protest hearing is
13 focused and addresses only those issues that are
14 being protested. The Board does not intend to
15 hear testimony in matters that are not relevant
16 to this case. You should have received by
17 electronic or regular mail, a letter explaining
18 the protest process, a copy of the protest
19 information form, and a copy of an exhibit form.
20 If you do not have these documents, please
21 contact our assistant general counsel, Ms. April
22 Randall, following this hearing. It is

1 imperative that you review the rules closely and
2 adhere to them before and during the protest
3 hearing. You are also required to complete and
4 submit the protest information form, PIP, and the
5 exhibit form seven days before the date of the
6 hearing. These two forms and accompanying
7 documents need to be submitted to ABRA's legal
8 division and to all opposing parties in this
9 matter.

10 If we do not receive a copy of your PIP, your
11 application or your protest, whichever side
12 you're representing, may be subject to dismissal.
13 Likewise, if we do not receive a copy of the
14 exhibit form and the exhibits themselves, your
15 exhibits may be excluded from the record upon a
16 finding that the opposing party has been
17 prejudiced or no good cause for the failure to
18 submit has been shown. Likewise, witnesses other
19 than the party may also be subject to exclusion
20 if not identified in the PIP. Accordingly, these
21 forms are very important, they greatly assist the
22 Board in narrowing the protest issues,

1 facilitating the process and keeping the parties
2 on point during the hearing. They likewise
3 provide notice to the opposing parties enabling
4 them to better prepare for the hearing. We thank
5 you greatly for your cooperation. Again, if you
6 have any questions today or at any time leading
7 up to the hearing please do not hesitate to
8 contact Ms. Randall at 202-442-4353. Does anyone
9 have any questions for us today?

10 MR. DRYER: Mr. Anderson, one question.

11 CHAIRPERSON ANDERSON: Yes.

12 MR. DRYER: Our group of five signatories or
13 more was granted conditional standing at the roll
14 call hearing as four members of the group
15 attended. I'm the fifth member, so is it
16 possible to confirm this morning that we now have
17 not conditional, but rather full, standing with
18 five members having attended.

19 CHAIRPERSON ANDERSON: So you're saying --
20 what's your name again, sir?

21 MR. DRYER: David Dryer, sir.

22 CHAIRPERSON ANDERSON: So, you were not at

1 the roll call hearing?

2 MR. DRYER: That's correct, sir. Four other
3 attendees, including Mr. Collins -- Dr. Collins I
4 should say -- and Mr. Bosak-Barani were here for
5 the roll call hearing as well as two other
6 signatories, so I would be the fifth signatory to
7 the group.

8 MR. ALBERTI: Can he tell us who they are
9 just for the record?

10 MR. DRYER: The other signatories were
11 Richard Dazino and Sarah Arneson, so thos two as
12 well as Dr. Collins and Mr. Bosak-Barani attended
13 previously so the confirmed conditional standing
14 full standing and as well if we can just
15 acknowledge for the record that we have two
16 separate protests at this point, one is the group
17 of eight individuals comprising a group of five
18 or more and there's a separate protest that Dr.
19 Collins has filed as an abutting property owner
20 so he has stand-alone standing.

21 MR. ALBERTI: May I ask a quick question?

22 CHAIRPERSON ANDERSON: Go ahead, Mr. Alberti.

1 MR. ALBERTI: So, I can check with staff, but
2 since you seem to be knowledgeable, so Dr.
3 Collins, were you granted standing as an abutting
4 property owner at the roll call hearing?

5 DR. COLLINS: Yes sir.

6 MR. ALBERTI: Okay. Okay, I'll confirm that
7 with staff, so I just wanted the record to be
8 straight, because it can matter later on, so I
9 just wanted to make sure we had that straight,
10 thank you.

11 CHAIRPERSON ANDERSON: Any other questions by
12 any other Board members? Go ahead, Ms. Miller.

13 MS. MILLER: Could you just -- I'm sorry --
14 could you just repeat the names of the five
15 individuals?

16 MR. DRYER: Yes, ma'am. So, the total
17 signatories are actually eight but the five so
18 far are Farid Bosak-Barani, Reverend Dr. Paul
19 Collins, Mr. Richard Dazino, Ms. Sarah Arneson
20 and now I'm the fifth, David Dryer.

21 MS. MILLER: Okay, so my question is: Dr.
22 Collins is both an abutting property owner and a

1 party of five?

2 MR. DRYER: Yes.

3 MR. ALBERTI: Yeah, that's allowable.

4 MS. MILLER: That seems odd to me.

5 UNKNOWN SPEAKER: I wasn't aware there were
6 two protests going on

7 CHAIRPERSON ANDERSON: I'm sorry, hold on,
8 there are too many people speaking.

9 UNKNOWN SPEAKER: I'm sorry.

10 CHAIRPERSON ANDERSON: So, you can respond in
11 a couple of minutes, sir. Go ahead.

12 MR. ALBERTI: It doesn't -- we can double
13 check with our staff, it's right here, yeah, but
14 it doesn't -- to my knowledge it doesn't violate
15 the statute to have someone be part of two
16 groups. General counsel --

17 MR. DRYER: So I question as well, I believe
18 that it's not necessarily two protests, but just
19 standing of that it's different standings, so
20 that Dr. Collins would have standing as an
21 individual as well as standing in the group, so
22 not necessarily a separate protest. I don't know

1 how that would be.

2 MR. ALBERTI: Yeah, right, I don't want to
3 get into semantics but it is allowed for someone
4 to be part of two groups within the same protest.

5 MS. MILLER: But I don't know if you -- I
6 just the first time I've seen it, I think that I
7 realize it, but when you get to the protest, if
8 you get to the protest, there's just going to be
9 one protest or two protests?

10 MR. DRYER: I'm not sure that we've
11 determined the exact way forward at this time --

12 MS. MILLER: Okay --

13 MR. DRYER: -- we're actually -- we've been
14 in a constructive and positive dialogue with Mr.
15 Vivari about a settlement agreement so we think
16 right now we're anticipating to be able to
17 resolve the matter before it goes to a protest
18 hearing.

19 MS. MILLER: Okay, fair enough.

20 MR. DRYER: We will be able to provide
21 further information on [inaudible 20:35]. The
22 protest hearing to provide information before

1 submitting the PIP to clarify what they're going
2 to want.

3 MS. MILLER: Thank you. Okay.

4 CHAIRPERSON ANDERSON: Yes, sir, go ahead.

5 DR. COLLINS: I'd like to say that this is a
6 confusing situation considering the fact that the
7 licensee or the owner is currently under orders
8 which he has not -- he has not enforced from this
9 body.

10 MR. SILVERSTEIN: We're not going to argue
11 the case, sir.

12 CHAIRPERSON ANDERSON: Well, I guess it's an
13 argument, but I don't understand. You're saying
14 under orders, I don't know what you're talking
15 about, sir.

16 DR. COLLINS: The Board in March gave orders
17 to the applicant, the licensee, to not have
18 smoking within 25 feet of the -- his
19 establishment. He was also told as he came back
20 to the Board for clarification in May, he was
21 told that he was not to have smoking within 25
22 feet nor in the sidewalk café that he was

1 operating illegally, and so this -- he has not --
2 he has not complied with those orders.

3 CHAIRPERSON ANDERSON: Well, I know -- we
4 don't take testimony here, so you're making that
5 statement, an allegation that the Board is not
6 going to follow up on but if that's your view, I
7 mean that's in your negotiation, my assumption is
8 that you would discuss that in your negotiation
9 to make sure that if there is something that you
10 believe that he's not doing that you'll put some
11 -- whatever negotiation that you have, that
12 you'll put -- it'll be part of your negotiation,
13 but that's not something that the Board is
14 prepared to respond. This is just a preliminary
15 matter just for status and we don't really do
16 anything more substantive than that, okay? All
17 right. Because the additional member has shown
18 up today, full standing has been granted to the
19 party.

20 MR. DRYER: Thank you, sir.

21 CHAIRPERSON ANDERSON: All right, thanks. If
22 there are no other -- if there are no other

1 questions, then good luck in your negotiations
2 and, if not, I will see you on August 10th at
3 4:30. Thank you. (Whereupon, the above-entitled
4 matter was concluded.)

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