

**Alcoholic Beverage Licensing (ABL) Committee
Advisory Neighborhood Commission (ANC) 6A
May 20, 2014**

Pursuant to notice duly given, a meeting of the Alcoholic Beverage Licensing Committee (“Committee”) of ANC6A was held commencing at 7:00 pm on May 20, 2014 at Sherwood Recreation Center, 640 Tenth (10th) Street NE, Washington, DC 20002.

Committee Members Present: Jay Williams (Chair), Michael Herman, David Oberting, Roger Caruth, Christopher Seagle, and Adam Healy.

Committee Members Absent: Ann Marie Koshuta.

Commissioners Present: None.

Community Members Present: Margaret Holwill, Claude Labbe, Blair Zervos (H Street Country Club), Mark Thorp (Little Miss Whiskey’s Golden Dollar), Todd Luongo (Mythology & Lore), Steve Hessler (Gallery O on H), Rafael Marshall, Coralie Farlee (ANC 6D ABL Committee) and others.

I. Call to Order

Chairman Jay Williams called the meeting to order at 7:00 pm. The meeting having been duly convened, was ready to proceed with business with a quorum. Mr. Williams reviewed the agenda and asked if there were any additions or edits. There were none.

II. Community Comment

- None

III. Old Business

A. Update on status of XII and Cusbah protest hearings.

- Mr. Williams reported on the various delays associated with the ANC’s protest of XII’s liquor license renewal. He expects there to eventually be a protest hearing after XII files for renewal a third time.
- Mr. Williams reported that the Cusbah protest hearing had been continued to August.

B. Update on requests by Little Miss Whiskey’s, H Street Country Club, Rock N Roll Hotel, and Vendetta to terminate their Settlement Agreements (SAs) with ANC 6A.

- Mr. Williams reported that negotiations with H Street Country Club and Rock N Roll Hotel were ongoing, and he hoped a resolution could be reached without a protest hearing. Mr. Blair Zervos was in attendance on behalf of these two entities. There was a discussion regarding whether the ANC would continue to have “blanket” rules for outdoor space hours.
- Mr. Williams reported that mediation with Little Miss Whiskey’s was unsuccessful and that he expected that the establishment’s request will go to a protest hearing.
- Finally, Mr. Williams noted that Vendetta’s request was on a different timeline than the others, so mediation and other discussions had not occurred yet.

IV. New Business

A. A. Discussion of new license application for Mythology & Lore at 816 H Street NE (Class "C" Tavern) (License Number ABRA-095033).

- Mr. Todd Luongo, one of the primary partners in the endeavor, spoke to the Committee about his plans.
- Mr. Luongo reported that the general manager of the establishment will be Mr. Mark Medley, who is the former general manager of the Atlas Room.
- The location is the previous location of HR-57 and is in the midst of a total rebuild, including digging out the basement. The façade of the building will be maintained.
- The goal is to have a main restaurant (Mythology), which will be a "modern chophouse" taking up the entire first floor. Mr. Luongo distributed draft sample menus, and noted the feel of the restaurant would be "white tablecloth."
- The second floor (Lore) will be a restaurant/lounge. There will be a full kitchen on the second floor, and Lore will have access to the Mythology menu until a certain point every night, when it will switch to a lounge menu. Lore will serve food up until an hour before closing.
- The third floor is a combination indoor/outdoor space. The interior space will be a lounge concept. There will be large sliding doors to allow the space to open up to a deck area. On the H Street and alley side, there is a fourth floor loft space that blocks off the deck from the alley/street.
- Mr. Luongo stated that the goal is to be a quiet, neighborhood-friendly environment. The third floor will have approximately twenty (20) seats. A small fourth floor deck may have space for six to seven (6-7) people, but that space may not be open at all times (could be reserved for special events).
- Mr. Luongo stated that the business will be high-end and food-centric. There is a twenty (20) year option in the lease, and his partners see this as a long-term investment.
- Mr. Luongo says he plans to reach out to neighbors across the alley to address any concerns they may have. He already plans to have an interior trash room to prevent any noise related to trash pickup.
- The partners hope to open the location by the beginning of 2015, but much depends on the DCRA permitting process.
- When asked about the rooftop deck, Mr. Luongo explained that there may be a "weird angle" for line of sight/sound from the back, but that the majority of the space is blocked off by the loft structure.
- Mr. Williams referenced the fact that the placard says the deck capacity would be thirty-two (32). Mr. Luongo said that 32 would be the maximum seating, and also noted that the third floor space could be rolled out after the first two floors are open.
- Committee member Christopher Seagle asked if there would be two kitchens. Mr. Luongo stated that there would be kitchens on the first and second floors. The basement would be used for prep areas, storage, and operations.
- When asked about his reasons for applying for a Tavern license (as opposed to a Restaurant license), Mr. Luongo explained that it was to provide greater flexibility. There may be warmer months where the style of food served will not sell as much, and alcohol sales will significantly outweigh food sales. He

stated that the past two establishments in this building (Fever and HR-57) had CT licenses.

- Mr. Seagle noted that the ANC asked Chupacabra to switch to a CR license, which they did. Mr. Luongo said that he did not believe he could execute his business plan with a CR license.
- Committee member Adam Healy asked whether there would be live entertainment on the outdoor spaces. Mr. Luongo said that they wanted to allow for entertainment at private events, and the entertainment would likely be something along the lines of acoustic guitars, not full bands.
- Mr. Healy noted that the standard ANC Settlement Agreement (SA) states that there cannot be any amplified music on any outdoor space, and that while Mr. Luongo's intentions may be good, if the ANC allowed amplified music on the outdoor space, there would be little recourse for neighbors. Mr. Luongo responded that he is cognizant of this issue, which is why they designed the outdoor space to limit acoustics and line-of-sight to neighbors.
- Ms. Margaret Holwill pointed out that while there are currently no residences across the street, the Rappaport development should begin construction soon. She raised concerns that noise could bounce off of the north side of the building and go across to the Rappaport development. Mr. Luongo stated that his understanding is that the development would be set back from the street, and that no noise from their establishment would ever be louder than noise coming off of the street itself.
- Mr. Zervos stated that the ANC needs to deal with these issues on a case-by-case basis because there are already establishments with later outdoor space hours.
- Ms. Holwill raised concerns that although this establishment may keep its promises, the license could transfer down the road and a less scrupulous owner could take over.
- Committee member Michael Herman asked whether this was an instance where the ANC could put in a "sunset provision" into the SA that is tied to a license transfer. Mr. Luongo said he would be open to that.
- Ms. Coralie Farlee from ANC 6D stated that their standard SA has a paragraph that states if the surrounding residential area redevelops, the agreement can be renegotiated. Mr. Williams noted that typically renegotiations would be to relax the language, not tighten it.
- Committee member Roger Caruth compared Mythology's plans for outdoor space to that of Maketto, which technically has outdoor space, but it is completely surrounded by interior space. He noted that the ANC drafted additional language to allow more flexibility in the hours there, and suggested using such an approach here.
- Mr. Williams asked Mr. Luongo if he was willing to enter into a SA with ANC 6A. Mr. Luongo stated that he would need to discuss a SA with his attorney and management team, but that he believed the neighborhood is trending away from SAs.
- Mr. Williams responded that, with one exception, all establishments in 6A have SAs in place. He noted that these documents are very important to the neighborhood because they reflect what is important to the surrounding community and put promises by establishments in writing.
- Mr. Luongo said that his biggest concern with a SA is the enforcement mechanism, and that he was reluctant to add another layer of

restrictions/rules on top of the variety of rules/regulations he already has to follow as a licensee.

- Mr. Seagle noted other recent instances where the CT issue had come up, including The Elroy and Halftime Sports Bar. He noted that The Elroy did not have a kitchen, so it could not meet the CR requirements. Mr. Williams stated that these establishments were not close to residences.
- Mr. Rafael Marshall argued that, in the area where this establishment will be located, all other SAs have restrictions on live/prerecorded music on the outdoor space, and that there should be a standard approach to all licenses on H Street with no exceptions.
- Mr. Luongo stated that if his establishment cannot get a CT license, it likely would not open. Although the operation is food-centric, there is a lounge operation and the summer months could create issues with higher percentages of alcohol sales.
- Mr. Healy noted that in terms of history, Fever had a CT license because at the time the landlord would not allow renovations to put in a kitchen.
- Committee members discussed their thoughts on whether a CR license should be required. After further discussion, no motion was offered regarding Mythology's CT license.
- Mr. Luongo stated that he would not agree to any SA language that forbade music on the outdoor space, because that was necessary for his business.

Mr. Healy moved/seconded by Mr. Seagle that the ANC formally protest the CT license application for Mythology & Lore at 816 H Street NE (License Number ABRA-095033) unless a signed Settlement Agreement is submitted to the ANC prior to the protest date. Motion carried 5-1, with Committee member David Oberting in opposition.

B. Discussion of new license application for Gallery O on H at 1354-1356 H Street, NE (Class "C" Multipurpose) (License Number ABRA-094849).

- Mr. Steve Hessler, owner of Gallery O, presented his plans.
- The gallery is located at 1354-1356 H Street NE; the 1356 space is outdoors, and the 1354 space is indoors (used to be a used car lot and sales office).
- Gallery O is a traditional art gallery and they recently won a Mayor's grant.
- The ABRA application is part of a larger plan to further arts on H Street. In the past, the gallery has obtained single-day licenses for beer and wine, but wants to have a more permanent license to be able to more easily plan events.
- Mr. Hessler noted that Gallery O has been obtaining day licenses over the past six years, and there has never been an incident or complaint.
- The plan is for music performances, art shows, etc., and not to be a bar or restaurant.
- The events will not occur daily, and on the days that there are events, hours will necessarily be shorter than traditional bar/restaurant hours. The latest they would ever close is 11:00 pm on weeknights and 12:00 am on weekends, but Mr. Hessler again stressed that events would not be occurring every day.
- Mr. Hessler said he has never had any noise complaints. Occasionally, he will have live music outside. Mr. Hessler stated that he has litigated noise cases in the District, and knows the noise regulations very well. He stated that behind the gallery space, there is an extended open area where two alleys come

together. He has had no complaints from neighbors, and many sit out back and watch events across the alley.

- Mr. Williams asked about the types of beverages that would be sold at events. Mr. Hessler said that, in the past, beverages have been limited to beer and wine. In future, from time to time, there will be a liquor component to fit with the theme of an event, but it will never be something like “shots on Sunday.”
- Mr. Caruth, Mr. Thorp, Mr. Luongo, Ms. Holwill, Mr. Zervos, and Mr. Marshall all attested to Mr. Hessler’s responsiveness and involvement in the community, and talked about how supportive he has been of all businesses and residents on H Street.
- When asked about a possible SA, Mr. Hessler stated that he reviewed the Atlas Theater SA, but believed there were several sections that were outdated. He said he was willing to reach an agreement, but did not want to limit his license too much.

Mr. Williams moved/Mr. Herman seconded that the ANC formally protest the Class C Multipurpose license application for Gallery O on H at 1354-1356 H Street, NE (License Number ABRA-094849) unless a signed Settlement Agreement is submitted to the ANC prior to the protest date. Motion carried 6-0.

C. Discussion of application for later Summer Garden hours by Little Miss Whiskey’s Golden Dollar at 1104 H Street NE (License Number ABRA-079090).

- Mr. Williams explained that Little Miss Whiskey’s has requested later summer garden hours to line up with its hours of operations. Their SA has language that states that the hours can be extended if there are no noise complaints in the first three months of operation. ABRA counsel recently determined (after inquiry by the ANC) that this meant that the establishment did not need to obtain approval from the ANC to extend its hours.
- Mr. Mark Thorp noted that he was simply requesting hours that were allowed in his SA, and he had an email from Mary Beatty (who negotiated the agreement at the time) confirming his understanding (as well as that of the ABRA counsel).
- Mr. Thorp stated that he has had a good track record with the neighborhood, and no noise complaints.
- Mr. Williams asked Mr. Thorp to describe the outdoor space. According to Mr. Thorp, there are two patios - the second level is entirely enclosed, but does not have a roof. There are glass windows, and the floors are hardwood. The lower level is open on the sides, but there is a fountain and dense vegetation to mitigate the noise.
- Mr. Healy stated that, as a former Commissioner covering this area, his experience has been that Mr. Thorp is always responsive to neighbors and there have been few problems.
- Mr. Caruth stated that Mr. Thorp is very responsive to any emails/calls.
- Mr. Claude Labbe noted that he would be concerned that other establishments (that were not as responsive) would begin to ask for similar relaxations.
- After further discussion, no motion was offered concerning this application.

V. Adjourn

The Committee adjourned at 8:00 pm.