

**Alcoholic Beverage Licensing Committee
ANC 6A
November 19, 2013**

Pursuant to notice duly given, a meeting of the Alcoholic Beverage Licensing Committee (“Committee”) of ANC6A was held commencing at 7:00 pm EST on November 19, 2013 at the Sherwood Recreation Center, 640 10th Street, NE Washington, DC 20002.

Committee Members Present: Jay Williams (Chair), Adam Healy, Mary Cary Bradley, Christopher Seagle, Michael Herman, Roger Caruth, David Oberting, and Ann Marie Koshuta

Committee Members Absent: Katy Thomas

Commissioners Present: David Holmes

Community Members Present: Michael Hoenig, Sarah Polk, Pia Cacioppo, Avery O’Leake (Avery’s Bar and Lounge), Anne Kennedy, Claude Labbe, Dennis Crayon, Sara M. Lord, Robert P. Storch, Victor McKoy, Jermaine Matthews (Sahra Hooka Lounge), Cynthia Simms (Sahra Hooka Lounge), Driss Oadhiri (Sahra Hooka Lounge), Cassandra Monga, Phil Toomajian, Erik Bruner-Yang (Toki Underground), Jason Martin (Rock N Roll Hotel and others), Joe Englert (Vendetta, H Street Country Club, and others), Mark Menard (Star and Shamrock), and other community members.

I. Call to Order

Jay Williams called the meeting to order at 7:05 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

None

IV. New Business

A. Announcement of community meeting regarding patio and rooftop deck hours in ANC 6A – Tuesday, December 17, 2013, 7pm, at Sherwood Recreation Center (10th and G Streets NE).

- Mr. Williams announced that due to heightened interest from both establishments along H Street and neighbors in ANC 6A, the next ABL meeting would be a community meeting to discuss the ANC’s stance on patio and rooftop deck hours. He noted that the current approach by the ANC is for all Settlement

Agreements to restrict public space patios and rooftop decks to closing at 11pm on weeknights and 12am on weekends. Patios on private space (excluding rooftops) begin with this limitation, but after three warm-weather months with no noise complaints, the ANC may support an application for later hours.

- Mr. Williams noted that the ANC prefers to take a consistent approach to all establishments, and therefore any recommendations that it implements would likely be pushed for all establishments.
- Mr. Williams encouraged all community members and establishments to attend the meeting, as it was important to hear as many opinions as possible.

B. Discussion of requests by Little Miss Whiskey's Golden Dollar, Vendetta, H Street Country Club, Rock N Roll Hotel, and Sahra to terminate their Settlement Agreements with ANC 6A.

- Mr. Williams introduced the issue, stating that these establishments had submitted requests to the ABC Board to terminate their current Settlement Agreements with ANC 6A. He stated that he is generally opposed to this, even for the establishments that meet the minimum requirements, because the SAs are important documents that give a voice to the surrounding community, and have not been onerous on any of the businesses in the ANC.
- Mr. Oberting asked if all ANCs utilize Settlement Agreements. Mr. Williams said that not all did, but many do; however, each ANC has its own approach to Settlement Agreements.
- Ms. Simms noted that many businesses throughout the city are going through the process of amending or terminating their Settlement Agreements.
- Mr. Oberting asked whether SAs are legally enforceable. Mr. Williams stated that they are contemplated in the DC liquor laws, and that the ABC Board, an administrative body, does enforce them. Should their validity ever be questioned in court, they would likely be upheld.
- Ms. Koshuta asked who would represent the ANC's interests before the Board. Mr. Holmes stated that ANC Commissioners will attend, but the most effective approach at hearings is to bring a group of neighbors who are all impacted by the request.
- Mr. Bruner-Yang said that a standard Settlement Agreement doesn't work in the ANC anymore, as the neighborhood has changed, and a one-size-fits-all approach is no longer effective.
- Mr. McKoy stated that he was a party to the drafting of many Settlement Agreements and negotiations at ABRA, and that the terms were reached with establishments through consensus. The ANC attempted to create a balance between quality of life for residents and allowing businesses to thrive.

- Mr. Hoenig states that he lives behind the Atlas Theater, and that he believes the current relationship between the establishments and the ANC has worked well, and that terminating the Settlement Agreements would not be in the best interests of the neighborhood.
- Mr. Oberting asked Mr. Bruner-Yang if there were compliance costs for Settlement Agreements. Mr. Bruner-Yang replied that everyone uses attorneys for placards, Settlement Agreements, and other issues. He noted that a big issue with Settlement Agreements is that a business and the ANC will agree on the definition of a term at the time of signing, but ABRA investigators will have a different interpretation later.
- Ms. Koshuta stated that businesses always seem to have attorneys when negotiating the Settlement Agreements, and Settlement Agreements could be expensive and time-consuming for community members to fight for. She believes that Settlement Agreements are a public good.
- Mr. Toomajian stated that SAs are important documents, and raised concerns that the businesses were not asking for modifications to the SAs, but to terminate them outright. He stated that SAs give the community a voice and are important to maintain.
- Mr. Williams stated that it was possible for establishments to request amendment, rather than termination, but these requests were all for termination.
- Ms. Koshuta asked if these establishments had approached the ANC about modifying or terminating their SAs. Mr. Williams stated that he had had conversations with Joe Englert regarding Vendetta, H Street Country Club, and Rock N Roll Hotel, each regarding their rooftop deck hours. Further, Sahra representatives had come to a previous ABL meeting to discuss requests to amend their SA. Mr. Williams stated that nobody from Little Miss Whiskey's had contacted him or anyone else on the Committee or ANC.
- Mr. Oberting asked what about the SAs was so onerous for businesses.
- Mr. Englert responded that a one-size-fits all approach is not workable, and that long-standing businesses or business owners who have been operating for a long time are not the same as new businesses. He also stated that it is unfair to ask establishments to agree to anything beyond what is already required by law, and also that the ABC Board does not do a good job of enforcing and interpreting the law, and that it is like dealing with any other DC bureaucracy.
- Mr. Hoenig responded that there have been issues with some establishments making too much noise after the hours they agreed to close their outdoor spaces.
- Mr. Storch also responded to Mr. Englert, stating that the arguments he heard pertain more to amending a SA, not terminating it outright. He disagreed with the perceived inequity involved in agreeing to a SA, because in doing so a business is able to get its liquor license more quickly. He argued that if there are particular

issues with a SA, they should be dealt with individually, not through a request to terminate the entire agreement.

- Another neighbor compared SAs to Homeowners Association agreements – if a business wants to operate on H Street, it should agree to abide by the rules that other businesses have agreed to.
- Mr. Englert stated that he's willing to discuss issues individually. Mr. Williams noted that next month's meeting would directly address the main points of contention Mr. Englert has with his SAs.
- Ms. Simms argued that many pieces of the SA are simply restatements of the law, which could lead to a double fine if a violation is found. Mr. Williams disagreed, stating that he believed the recent liquor law rewrite prevented the "double fine" issue, and Mr. Storch said that businesses simply shouldn't violate the law.
- Mr. Englert said that there is a problem with overzealous ABRA inspectors.
- Mr. McKoy argued that SAs are not complicated or lengthy documents, and that they were developed as a means to have mutual terms of operation.
- Mr. Holmes stated that ABRA inspectors are going to be overzealous regardless of what is in a Settlement Agreement, and that many of the specific complaints he had heard had nothing to do with SA language.

Mr. Seagle moved/Mr. Williams seconded that the Committee recommend that the ANC not agree to the requests by Little Miss Whiskey's Golden Dollar, Vendetta, H Street Country Club, Rock N Roll Hotel, and Sahara to terminate their Settlement Agreements with ANC 6A. Motion carried 8-0.

C. Discussion of license renewal for The Atlas Room at 1015 H Street NE (Class "C" Tavern) (License Number ABRA-084689).

- Mr. Williams stated that he is unaware of any complaints regarding the establishment.
- There were no additional comments.

D. Discussion of license renewal for Biergarten Haus at 1355 H Street NE (Class "C" Tavern) (License Number ABRA-083695).

- Mr. Williams stated that he is unaware of any complaints regarding the establishment.
- There were no additional comments.

E. Discussion of license renewal for The Elroy at 1423 H Street NE (Class "C" Tavern) (License Number ABRA-091452).

- Mr. Williams stated that he is unaware of any complaints regarding the establishment.

- There were no additional comments.

F. Discussion of license renewal for Little Miss Whiskey's Golden Dollar at 1104 H Street NE (Class "C" Tavern) (License Number ABRA-079090).

- Mr. Williams stated that he is unaware of any complaints regarding the establishment.
- There were no additional comments.

G. Discussion of license renewal for The Star and The Shamrock at 1341 H Street NE (Class "C" Tavern) (License Number ABRA-081804).

- Mr. Williams stated that he is unaware of any complaints regarding the establishment.
- There were no additional comments.

H. Discussion of license renewal for Vendetta at 1210-1212 H Street NE (Class "C" Tavern) (License Number ABRA-072734).

- Mr. Williams stated that he is unaware of any complaints regarding the establishment.
- There were no additional comments.

I. Discussion of license renewal for HR-57 at 1007 H Street NE (Class "C" Tavern) (License Number ABRA-088592).

- Mr. Williams stated that he is unaware of any complaints regarding the establishment.
- There were no additional comments.

J. Discussion of license renewal for Avery's Bar and Lounge at 1370 H Street NE (Class "C" Tavern) (License Number ABRA-090527).

- Mr. Williams stated that he is unaware of any complaints regarding the establishment.
- There were no additional comments.

K. Discussion of license renewal for The Pug/Toki Underground at 1234 H Street NE (Class "C" Tavern) (License Number ABRA-073166).

- Mr. Williams stated that he is unaware of any complaints regarding the establishment.
- A neighbor stated that there were some individuals coming out from the parking lot across from the establishment to smoke, and noise was echoing into the alleyway. Mr. Bruner-Yang stated that he would work with management to work with security and ask smokers to be quieter.
- There were no additional comments.

L. Discussion of new license for Andy Lee Liquor, Inc. (Trade Name TBD) at 914 H Street NE (Class “A” Retailer) (License Number ABRA-093550).

- Mr. Matthews was present to represent the owner, who he said had planned on attending but was not present.
- Mr. Matthews stated that the plan was for the store to be more open with shelves and displays, and not have plexiglass windows. The store will be clean, and management will pick up trash regularly. The focus will be on higher-end products, and mostly on beer and wine, with less focus on liquor.
- The storefront is currently vacant.
- Mr. Matthews stated that the store will not sell single beverages or malt beverages.
- Mr. Toomajian asked if the store would sell two-packs to avoid the single-sales ban. Mr. Matthews responded that the law allows this, but the owner is willing to discuss the issue with the ANC.
- Mr. Williams asked if the owner was willing to sign a Settlement Agreement with the ANC. Mr. Matthews stated that they were willing to discuss an agreement.

Mr. Williams moved/Mr. Seagle seconded that the Committee recommend that the ANC protest the license application of Andy Lee Liquor absent a signed Settlement Agreement. Motion carried 8-0.

V. Adjourn

The Committee adjourned at 8:10 pm.