

Minutes
Alcoholic Beverage Licensing (ABL) Committee
Advisory Neighborhood Commission (ANC) 6A
December 20, 2016

Pursuant to notice duly given, a meeting of the Alcoholic Beverage Licensing Committee (“Committee”) of ANC 6A was held commencing at 7:00 pm on December 20, 2016 at Sherwood Recreation Center, 640 Tenth (10th) Street NE, Washington, DC 20002.

Committee Members Present: Jay Williams (Co-Chair), Christopher Seagle (Co-Chair), Roger Caruth, and Justin Rzepka.

Committee Members Absent: Mark Samburg, Michael Herman, and David Oberting.

Commissioners Present: Phil Toomajian

Community Members Present: Jayne Price (Naomi’s Ladder II), David Wiseman (Hill Prince), Matt Minora (Hill Prince), Tim Hurley, Larry Janezich (Capitol Hill Corner), Claude Labbe, Jason Martin (Naomi’s Ladder II), Cami Mazard (Naomi’s Ladder II), Dan Cronih, Kathryn Paniagua, Luis Paniagua, Denise Corte.

I. Call to Order

Mr. Williams called the meeting to order at 7:10pm. The meeting proceeded with a quorum present.

II. Community Comment

None.

III. Old Business

None.

IV. New Business

A. Discussion of request for new CT license filed by Bespoke 1337 LLC (1337 H Street NE).

- Mr. Williams preceded the discussion by noting that because of placard timing, the ANC had already approved a stipulated license, with the understanding that it was reserving its rights for a full protest should the ABL Committee recommend one was necessary (and the ANC approved such a vote).
- Mr. Wiseman and Mr. Minora presented on behalf of the owners. He stated that they own other establishments in DC, including DGS Deli and Whaley’s on the Southwest Waterfront. The establishment’s name will be Hill Prince.
- Mr. Wiseman stated that their vision is a casual, neighborhood cocktail bar where all cocktails are \$10.00. There will be a carriage house in the back serving craft beers and other drinks. They hope to have DJs on the weekend on occasion, and also ambient, soul, and funk music.
- The owners plan to host patio parties, activate the neighborhood, and be a neighborhood destination.
- Mr. Seagle asked if the patio space is surrounded by walls on all four sides. Mr. Wiseman stated that it is, and compared the space to the outdoor space of Maketto.
- Mr. Minora noted that the establishment was only seeking an entertainment endorsement for the interior of the location, not the outdoor space.

- Mr. Wiseman stated that they are hoping to open by January 15, but that could push back due to the holidays and other factors. The hope is that the front bar will open by January 15, 2017, and the back bar will open later in March 2017.
- Mr. Seagle asked if there would be food served. Mr. Wiseman said they plan to provide bar snacks, and they hope to bring in third party vendors for pop-up events and the like.

Mr. Williams moved/seconded by Mr. Seagle, to recommend that the ANC protest the license for Bespoke 1337 LLC unless a signed settlement agreement is submitted to the ANC prior to the protest date. The motion passed 3-0 (Mr. Caruth was not present for the vote).

B. Presentation by new ownership group at 1123 H Street NE (formerly Touché, formerly XII Restaurant & Lounge)

- Ms. Mazard, Ms. Price, and Ms. Gibson presented on behalf of the new owners (Naomi's Ladder II).
- Ms. Mazard stated that the former license holder at this location had the license canceled; she stated that the "bad actor" had been weeded out, and they were hoping to move forward with new owners. The owners recently received a grant from H Street Main Street.
- The theme for the new establishment is tapas, and they plan to provide small bites throughout the restaurant. They also plan to renovate the rooftop in order to take advantage of the views from the room. They also plan to do more soundproofing in the future.
- Ms. Price stated that she was excited about the plans, the new entity, and the new partnership. She stated that she has a better understanding of what the community is looking for. She also stated that she is excited about the catering piece of the new business, and that the grant they received would help with catering and operations. She also stated that they were hoping to partner with Jason Martin on their rooftop plans.
- Mr. Martin stated that he is in negotiations to take over the rooftop at this location. He wants to discuss issues relating to sound, music, and operations.
- Mr. Williams inquired what it meant for Mr. Martin to "take over" the rooftop.
- Mr. Martin clarified that he would sublease the space and be in control over all rooftop operations. He stated that he was interested in receiving the same concessions that Rock and Roll Hotel and H Street Country Club received.
- Mr. Seagle asked for clarification about the grant; Ms. Mazard stated that the grant was from the Great Street program and was for the catering portion of the business.
- Ms. Price stated that she has plans to renovate the ceiling of the second level to help mitigate noise.
- Ms. Mazard stated that the establishment was applying for a catering license concurrently.
- Mr. Williams asked for clarification from Ms. Mazard regarding weeding out "bad actors." Ms. Price stated that she is under a confidentiality agreement and cannot divulge much information. She stated that when she was assisting with Touché, she was the person people saw on a day-to-day basis, but she did not have the ability to make changes that would have allowed the business to comply with settlement agreement issues.

- Mr. Seagle asked who the day-to-day manager was at Touché, and Ms. Price stated that she was; she was the minority owner as well, but that she couldn't control what was going on and she did not book the talent on the rooftop.
- Mr. Seagle asked who booked the talent, and Ms. Price responded that this was handled by the owner, Wanda James.
- Mr. Williams asked Ms. Price what she would have done differently if she had been in control of the business. Ms. Price stated that she would have had more control over enforcing the rules, such as those related to the capacity of the roof and whether patrons could be standing or sitting.
- Mr. Williams stated that he had strong concerns about the new establishment. He stated that both Touché and XII had been the businesses that were responsible for by far the largest volume of complaints from neighbors, and he repeatedly saw a lack of concern, if not outright hostility, from ownership towards neighbors. Mr. Williams stated that when Ms. Price was running Touché, it openly violated the Settlement Agreement, and even when they went to a protest hearing over these issues, she continued to minimize neighbor concerns and ignore clear guidance in the Settlement Agreement.
- Mr. Williams stated that he had worked with Mr. Seagle and Commissioner Toomajian to draft a Settlement Agreement that was more restrictive than the ANC's standard agreement due to the past history at this location and the fact that the current ownership group had direct ties to those previous entities. Mr. Williams stated that he felt that a full protest would be justified here, and the fact that the ANC was willing to consider an agreement at all should be considered a concession. Mr. Williams stated that he did not feel comfortable agreeing to any changes to the draft SA that would loosen the restrictions on the establishment, because he felt that the owners had to prove that they truly are willing to work with the neighborhood and be good neighbors first.
- Mr. Seagle stated that he sat through the Touché protest hearing, and felt that Ms. Price fought the ANC and neighbors on every single issue they were raising. He noted that Ms. Price was the day-to-day manager and had control over Touché's operations. He stated that he agreed with Mr. Williams that the fact that the ANC was even discussing a Settlement Agreement was a major concession.
- Ms. Mazard stated that the owners are hoping to avoid a protest, and they want to work with the ANC and neighbors. She stated that they reached out to Mr. Martin to help figure out how to be good citizens.
- Ms. Price stated that she did not believe any of the complaints lodged against Touché were substantiated at the time. She stated that when Alcoholic Beverage Regulation Administration (ABRA) investigators showed up, the complaints that were being made were not, in fact, happening. She stated that when compared to XII's history, Touché had no flagrant violations, especially related to noise.
- Ms. Price stated that she is moving forward on plans for the culinary academy that she had always planned, and that she needed the funds from the grant to do so, and also that the prior owners were not financially supportive of this endeavor.
- Ms. Mazard stated that they had to go to landlord-tenant court to evict the prior owner.
- Mr. Seagle asked who owned the building. Ms. Mazard stated it's owned by an entity in Maryland called Gelbe Real Estate. The entity is based at 4200 Wisconsin Avenue, NW in DC, zip 20016.
- Ms. Price stated that the owners want to build trust with the neighborhood. When she came in with Touché, she had lofty goals and thought she had support from the

majority owner, but it turned out she did not. She believes she now has more stake in the business and her name is on the license.

- A neighbor representing the condo association at 1115 H Street NE stated that he has lived on this block for eighteen (18) months, and the block has been noticeably better since Touché closed. He stated there were fights, police showing up regularly, and at closing time patrons would spill out of the building causing issues. He stated that he understands that there are bars and drunk people on H Street, but this seemed like a worse problem. He stated that many neighbors are concerned this is simply "Touché Part 2."
- Another neighbor at 1115 H Street NE stated that his bedroom is adjacent to the eastern side of the second floor above Family Dollar, and when Touché was open he always heard thumping music late at night. Since Touché has been closed, he has slept much better. He stated that he always considered Touché a nuisance.
- Mr. Labbe stated that he has attended many meetings concerning Touché and XII, and was constantly told that Touché had no relation to XII, but now we are here with owners connected to both businesses. Mr. Labbe stated that he felt Ms. Price was still questioning the neighbors' complaints, but that all neighbors knew exactly where noise issues originated.
- Mr. Williams asked if the rooftop plans still included yoga, cigars, and hookah.
- Mr. Martin stated that he is interested in having a beer garden, and reiterated that he was interested in terms similar to H Street Country Club and Rock and Roll Hotel.
- Commissioner Toomajian responded that this is a non-starter. He stated that there were demonstrated patterns of problems with the operations at this property, and those problems seemed to be worse on the roof deck. Commissioner Toomajian stated that the ANC worked with Rock and Roll Hotel and H Street Country Club because they had a history of cooperation, and that the ANC must live with whatever agreement is reached even if the license is later sold. Commissioner Toomajian also stated that this is a corner property that is across the street and adjacent to residences.
- Commissioner Toomajian also stated that he received more complaints about Touché in the two years it was in business than all other businesses in ANC 6A combined.
- Ms. Mazard stated that the part of the SA they found most difficult is the ban on prerecorded music.
- Mr. Williams said he would be willing to discuss relaxing the ban on prerecorded music later, but not before the owners show a willingness to be good neighbors. He stated that any relaxation of terms would have to be voted on by the ANC. Mr. Seagle agreed.
- Mr. Caruth stated that he missed some of the past meetings related to Touché and did not attend the protest hearing, so he did not have enough information at the time. Mr. Caruth stated that he sees trash from H & Pizza all over the street, and the block also had a liquor store with loitering issues. He stated that he does not have a problem with these discussions, but he believes there needs to be equity in what neighbors are considering.
- Mr. Caruth stated that he believed benefit of the doubt was given to Touché, and that they fell short at times. He stated that he believed the ANC should not be taking a blanket approach to businesses, because each has its own physical makeup and other differing plans. Mr. Caruth stated that the businesses are here to make money, and, at the end of the day, this is an advisory committee, and ABRA is responsible for setting rules and enforcing them.

- Mr. Rzepka stated that he understands that this location has been a chronic problem. He stated that he defers to Mr. Williams and Mr. Seagle and the ANC, but he does believe this establishment has been the most significant issue faced while he has been on the Committee, and he agrees with approaching the license with a healthy dose of skepticism.
- A neighbor stated that she lives across the street with a clear view of the roof deck. She stated that there were many broken promises related to the roof deck of Touché. She stated that she contacted ABRA with noise complaints, and when she called Touché nobody picked up the phone. She stated that she knew she was purchasing a home in a neighborhood with bars and restaurants, but she believed there were too many broken promises and too much noise here. The neighbor stated that she does not want to hear music and yelling in her bedroom late at night.
- Ms. Mazard asked neighbors whether they would be comfortable with just pre-recorded music on the roof. Neighbors responded that the music they heard was never simply “background music,” and that background music may be acceptable.
- Mr. Seagle asked Ms. Mazard if the owners would be willing to sign the draft Settlement Agreement that Mr. Williams provided with no changes. Ms. Mazard stated that they would, provided that the ANC agreed to revisit the SA within at least a year.
- Mr. Williams explained the new terms of the Agreement to neighbors, primarily that if the ANC received three noise complaints within a year, the ANC could vote to restrict Touché’s roof deck hours to 8:00 pm. Also, the Agreement prohibits all music on the roof, and capacity was capped at fifty (50) patrons, all seated, for dining only.
- Mr. Martin asked if the ANC would be more amenable to a completely separate license and operator on the roof altogether. He stated his vision was to do movie nights and have a beer garden, and expressed concerns about the restrictions being discussed.
- Commissioner Toomajian stated that he believed this was a completely different situation than Mr. Martin’s other businesses, and the ANC would be unlikely to agree to more relaxed terms.
- Commissioner Toomajian asked neighbors about noise issues coming from inside the establishment. One neighbor stated that he believed the noise was coming through the walls. Ms. Mazard stated that she would be happy to host a walkthrough for this neighbor and attempt to determine what was causing the noise concerns.
- Commissioner Toomajian stated that he hoped to see tangible steps taken to better soundproof the establishment before the next ANC meeting.
- Commissioner Toomajian asked some additional clarifying questions:
 - What is the current ownership group? Ms. Gibson is 90% owner, Ms. Price is 10%. Ms. Gibson will be focused on the catering, and Ms. Price would be focused on the tavern/restaurant.
 - What does it mean to have a catering license and a liquor license? The catering license is required to serve alcohol at events off-premises being catered by the establishment.
 - Is there a new kitchen space? Not a new space, but adding more equipment.
 - What will be the day-to-day operations? Will there be comedy and other performances on the roof? Nothing on the roof; the owners agree to start with nothing and build trust with the neighborhood first.

Mr. Williams moved, seconded by Mr. Seagle, that the ANC protest the license application by 1123 H Street NE unless a signed settlement agreement containing the

terms in the version Mr. Williams had drafted was submitted prior to the protest date.
The motion passed 4-0.

V. Adjourn

The Committee adjourned at 8:10 pm .