

May 25, 2014

An open letter to ANC 6A neighbors, Ward 6 and DC community leaders, members of the press, and all other interested parties:

The stabbing that occurred at Twelve Restaurant & Lounge (“XII”) on H Street NE this past weekend is just the latest entry in the extremely long and frustrating history with this establishment. Advisory Neighborhood Commission 6A (“ANC 6A”) and the neighbors immediately surrounding this establishment have experienced numerous instances of altercations in and around XII (many of which spill into residential streets), repeated broken promises regarding noise mitigation, chronic violations of XII’s Settlement Agreement (a contract it signed with the community regarding certain restrictions on its operations), and a complete disregard for the safety, peace, and quiet of the surrounding neighborhood.

In fact, this stabbing is the second such incident in just two months; there was also a stabbing that took place inside XII the night of March 7, 2014. After that incident, XII came before the Alcohol Beverage Control Board (“ABC Board”) and made many new promises, including making several changes to its security plan designed to prevent such an incident from happening again. Nevertheless, just two short months later, another stabbing takes place, with one victim currently reported to be in grave condition.

One would think that with such a track record, the community could expect swift (and permanent) action against an establishment that regularly flouts the rules and laws and is also host to multiple violent incidents. However, throughout the ANC and community’s long history of problems with XII, the ABC Board has been frustratingly ineffective in taking any action to rein in such a bad actor. In fact, this weekend’s stabbing was able to take place only because the ABC Board issued an order allowing XII to operate under an expired liquor license while it files a third application for renewal, after the first two were dismissed for XII’s failure to attend required hearings.

Administrative law and procedure is certainly not the most exciting of subjects (it was one of my least favorite courses in law school), but here, it is necessary to provide further detail on how the Board’s failure to apply its own rules and regulations fairly to all parties has had a direct impact on XII’s being able to continue to operate in an unsafe manner, disturbing the surrounding neighborhood and putting people’s safety at risk, despite repeatedly refusing to follow basic procedures required by the Board when applying for a license renewal.

To elaborate, the ABC Board has consistently held community members and ANCs to much stricter standards than it holds licensees in a protest process. When a new license or renewal is publicized (“placarded”), the ANC and community have a certain deadline by which they are permitted to file a protest of the license or renewal. After the protest is filed, there are essentially three required dates of attendance for both the protestants and the licensees: 1) Roll Call Hearing; 2) Status Hearing; and 3) Protest Hearing. If the parties are unable to work out their differences and settle the dispute, the protest hearing

moves forward as scheduled. However, if a protestant (typically an ANC) misses just one of the three required attendance dates without good cause shown, it is dismissed from its protest. Protestants who are dismissed typically do not receive a second chance to renew their protest.

On the other hand, the Board has shown that it will allow a licensee to repeatedly miss any of those three required hearings with no consequences. When a licensee misses a required hearing without cause, their application may be “dismissed,” but the Board simply instructs the licensee to re-file an application. One may assume that re-filing has some sort of administrative consequence, but aside from the minor headache of re-filing paperwork, there are no repercussions. In the instance of a licensee who is filing for renewal of its application, such as XII, the licensee is allowed to continue to operate and sell alcoholic beverages.

In the case of XII, ANC 6A protested the license renewal application of XII based on a long history of violations and broken promises. XII subsequently missed two required protest dates without showing good cause. These actions had absolutely no consequences to XII – the establishment has essentially been allowed three chances to renew its license without ceasing operations (the Board briefly issued a Cease and Desist order based on XII’s most recent failure to attend a required hearing, but subsequently reversed itself a couple of days later without a hearing, allowing XII to re-open). At the end of this letter is a full chronology of XII’s license renewal process.

Not only are there no consequences to the licensee for missing these dates, but the ANC is essentially punished for the licensee’s failure to attend the hearing. This is due to the fact that each time the licensee re-files its application, the protest calendar is “reset,” meaning that it will take that much longer for the ANC to ever have an actual hearing before the Board regarding its objections to XII’s liquor license. In this case, XII’s original roll call hearing took place on November 12, 2013, with a status hearing to take place on December 11, 2013. With that timeline, a protest hearing would have likely taken place in early-to-mid January, 2014. However, we are now in May 2014, and the clock is about to start again, with XII being allowed to re-file its application. A petition date likely won’t be until June or July, meaning the ANC shouldn’t expect a hearing until the fall. In other words, it is entirely possible that the Board will not hear the ANC’s various objections to XII’s license until a full year after XII filed its original renewal application.

This disparate treatment of opposing parties in a protest is very troubling, and reflects a Board that is either unwilling or unable to act in fairness to the communities and ANCs who are directly affected by these licensees. It has created a system that licensees appear to be actively exploiting in their favor, essentially allowing them to postpone any hearings on their activities with little to no consequence. If protestants are to be held to strict standards, so should licensees. If this is a weakness in the laws/regulations, I hope that the Council and/or Mayor’s office will investigate and determine what fixes are necessary. If this is merely a weakness on the part of the Board to act in fairness, then I

hope that with enough public pressure, the Board will become aware of this disparity and take steps to prevent it from happening moving forward.

I am certain XII is not the only establishment who has used this unfairness to its advantage. It is time for this process to change, and while very little good has come out of XII's operations in the past few years, I hope that this situation can at least be the catalyst for real change at the ABC Board.

Of course, not only do I hope to see change on a city-wide level in how the ABC Board treats licensees and protestants, but I also hope that the two recent stabbing incidents at XII, combined with XII's utter refusal to work with the community or even follow the most basic of laws and regulations, leads to the permanent revocation of XII's liquor license. I have seen statements from multiple leaders in our community that they believe it is time for XII to lose its license, and I hope for the community's sake that they follow those words with actions, and we can finally see this establishment shut down.

Thank you for your time.

Sincerely,

Jay Williams  
Commissioner, ANC 6A05  
Chair, ANC 6A Alcohol Beverage Licensing Committee  
[williamsanc6a05@gmail.com](mailto:williamsanc6a05@gmail.com)

### **Chronology of Twelve Restaurant & Lounge's License Renewal Process**

September 13, 2013 – XII's first renewal application is placarded.

[October 19, 2013](#) – ANC 6A notifies the ABC Board that it is protesting XII's license renewal.

[December 11, 2013](#) – ANC 6A attends required Status Hearing. Representatives from XII fail to appear. ABC Board dismisses XII's first renewal application for failure to attend required Status Hearing.

December 17, 2013 - XII requests reinstatement of its renewal application.

[January 15, 2014](#) – ABC Board denies XII's request because it did not demonstrate good cause for its failure to appear.

January 15, 2014 through February 5, 2014 – Despite its renewal application being dismissed and its previous application expiring, XII continues to operate without any intervention by the ABC Board.

[February 5, 2014](#) – ABC Board issues Cease and Desist Order to XII because it failed to file a new renewal application.

February 7, 2014 – XII submits its second renewal application.

[February 12, 2014](#) – ABC Board vacates its previous order and allows XII to re-open. The order is issued with an effective date of February 7.

February 21, 2014 – XII's second renewal application is placarded.

March 7, 2014 – An individual is stabbed on the premises of XII.

March 8, 2014 – MPD Chief Lanier exercises her power under D.C. Code § 25-827 and summarily suspends XII's liquor license.

[March 19, 2014](#) – ABC Board conducts summary suspension hearing regarding the stabbing incident. XII presents plans to, among other things, train its employees on preserving a crime scene, use metal detector “wands” at its entrance when offering entertainment, and implement a new security plan.

[March 20, 2014](#) – ABC Board permits XII to re-open.

[April 6, 2014](#) – ANC 6A again notifies the ABC Board that it is protesting XII's license renewal

[April 21, 2014](#) – ANC 6A attends required Roll Call Hearing. Representatives from XII fail to appear. ABC Board dismisses XII's second renewal application for failure to attend required Roll Call Hearing. XII does not request reinstatement.

April 21, 2014 through May 7, 2014 – Despite its second renewal application being dismissed and its previous application having long since expired, XII continues to operate without any intervention by the ABC Board.

May 7, 2014 – XII submits its third renewal application.

[May 14, 2014](#) – ABC Board issues order stating that because XII's previous license has expired and its renewal application has been dismissed, it must cease and desist operations immediately.

[May 21, 2014](#) – ABC Board reverses its May 14 decision without a hearing (and without prior notice to the ANC that it would be deliberating this issue), vacating its cease and desist order, and allowing XII to re-open and operate indefinitely while its third renewal application is pending.

May 24, 2014 – While operating under an expired license and with its third renewal application pending, XII is host to its second stabbing in as many months. Chief Lanier

again invokes her authority under D.C. Code § 25-827 and summarily suspends XII's liquor license. A hearing is expected before the ABC Board on Tuesday.