



Government of the District of Columbia
Advisory Neighborhood Commission
Box 75115
Washington, DC 20013



October 19, 2010

Honorable Jim Graham, Chair
DC Council Committee on Public Works and Transportation
John A. Wilson Building
1350 Pennsylvania Avenue NW, Suite 105
Washington, DC 20004

Dear Councilmember Graham:

This letter comes with reference to a recent oversight hearing of ABRA, held on September 20, 2010, at which the ANC Voluntary Agreement process was discussed. At its October 14th meeting, the Commission voted unanimously to provide the following comments for your consideration as the topic of Voluntary Agreements are further discussed.

By way of background, ANC 6A has had a “standard” Voluntary Agreement for over 6 years. This means that we use a template *with the same language* for every new applicant. While we have modified language for special circumstances, and have been responsive to ABRA’s requests for clarification of the language in our agreements, we believe and have found that a “standard” agreement levels the playing field. This is important for ANC 6A because our area contains the booming entertainment corridor on H Street NE. We have had 10-12 new licenses each year for the last 3 years, and believe that it has been important that we deal with these licensees consistently.

Whenever modifications are made to the language in our VA, whether it is to provide for a special circumstance or whether it is to respond to ABRA concerns, we have a standard and transparent process to fully vet such changes. We hold a Committee hearing, discuss the proposed changes to the standard VA, and then have them voted on by the full Commission. In other words, we do not modify our VA “on the fly”...rather, it is a very deliberative process. This process has served us well for over six years, as we have established and maintained a very collaborative process with ABRA on these matters, and signed VA’s with all but one new applicant in our ANC.

However, since the appointment of Charles Brodsky as chair of the ABC Board, ANC's Voluntary Agreements are routinely and inconsistently rejected by the Board. The agreements, which have been signed by the licensee and the ANC, are sent back to the ANC with directions to rewrite the agreement in accordance with specific language dictated by ABRA legal staff. Mr. Brodsky is rejecting standard language in VA's that had been accepted by the ABC Board and prior licensees for over 5-6 years.

When ANC's began registering our concerns regarding this new process, the ABC Board promised that there would be a rulemaking to clarify and discuss the new standards. Though promised last spring, no such public hearing or rulemaking has occurred, yet the inconsistent rejections of VA's continue. In fact, there is still no clear policy about what the Board will “accept” in VAs.

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The whole purpose of voluntary agreements is to identify neighborhood/ANC needs with the liquor licensee. Mr. Brodsky's approach of rejecting these agreements, and asking that they be rewritten by an ABC Board lawyer, negates the entire purpose of the agreements. Further, since ANC recommendations are supposed to have "great weight" in Board decisions this is obviously in direct conflict with the proper relationship between the two entities.

Not only do we have concerns regarding the disruptive nature of the ABC Board's actions toward ANC's, but as importantly, we do not agree with the unilateral changes that are being made to our VA. Specifically, we do not agree with the approach of stripping all language which references DC law, which restates DC law, or which the Board deems to be unenforceable.

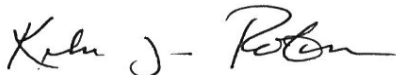
In addition, we feel strongly that since many applicants are unaware of DC law, there is benefit to stating it in the agreement, and further, there is no harm in doing so. Also, the ABC Board has asked us to strip any references to DC law. As an example, the law regarding valet parking needs to be referenced in the VA because these laws (outside the liquor law code) would not necessarily be known or understood by a liquor licensee.

Finally, there are provisions of a VA that are enforced by the ANC itself. The enforcement is public pressure, rather than the ability to levy a fine. We can cite numerous instances in which public pressure or negative attention by the ANC has created tremendous leverage in satisfying neighborhood concerns.

We, therefore, believe that if the ABC Board would like to make suggestions regarding our VA, particularly a VA that has been accepted for over six years, that it should be done in a process that does not disadvantage all of those who have signed this agreement, and through a process that includes our entire ANC.

Please be advised that Commissioner and Chair of the ANC Alcohol Beverage Licensing Committee, Mary Beatty has been designated to represent the Commission regarding this matter. Commissioner Beatty can be reached at (202) 546-4196 or MBBeatty@aol.com.

On behalf of the Commission,

A handwritten signature in black ink that reads "Kelvin J. Robinson". The signature is written in a cursive style with a horizontal line under the name.

Kelvin J. Robinson
Chair, Advisory Neighborhood Commission 6A

Cc: Honorable Tommy Wells, Ward 6 Councilmember
Ward 6 ANC Chairs