

Alcoholic Beverage Licensing Committee
ANC 6A
June 18, 2013

Pursuant to notice duly given, a meeting of the Alcoholic Beverage Licensing Committee (“Committee”) of ANC6A was held commencing at 7pm EST on June 18, 2013 at the Sherwood Recreation Center, 640 10th Street, NE Washington, DC 20002.

Committee Members Present: Jay Williams (Chair), Michael Herman, Roger Caruth, Adam Healy, Ann Marie Koshuta, David Oberting

Committee Members Absent: Mary Cary Bradley, Christopher Seagle, Katy Thomas

Commissioners Present: David Holmes

Community Members Present: Sarosh Hussain (Cusbah), Antonio Roberson (Langston Bar and Grille), Gladys Mack, Kirsten Stone, Erin Martin, and Hallie Groff (Clark Realty Capital), Mallory Gladding (Flats at Atlas)

I. Call to Order

Jay Williams called the meeting to order at 7pm. 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

- Mr. Hussain addressed the Committee regarding the ANC’s recent decision to protest Cusbah’s license renewal. He stated that Cusbah is currently the only establishment with patrons allowed to be on its sidewalk patio until 3am. He said that he understands that there are noise complaints in the area, but that he wants a compromise rather than to limit his hours to 11pm and midnight. He acknowledged that 3am is not a necessary closing time, but that midnight limits his time to do business. He argued that there have been no noise complaints or police complaints regarding Cusbah. He argued that he has made efforts to reach out to neighbors and the ANC, and that the fact that there have been no noise complaints is evidence of this outreach. Mr. Hussain stated that he was in the process of placing a canopy over the patio, and that if he received any noise complaints he would shut down the patio immediately.
- Mr. Hussain said that he is interested in bringing together all establishments with public space patios to work out a compromise with the ANC, noting that the H Street neighborhood is competing with U Street and Adams Morgan.
- Mr. Oberting requested a clarification of the current standard settlement agreement restrictions on public space. Mr. Williams explained that all other establishments with public space patios have settlement agreements with provisions stating that they have to close the patios at 11pm on weeknights and midnight on weekends.
- Mr. Hussain stated that the noise violations in his area are coming from Twelve, not Khan’s or Cusbah, and asked to see evidence of noise complaints to ABRA or MPD.

- Mr. Oberting asked if Mr. Hussain agreed that it's not fair for Cusbah to be the only establishment open late. Mr. Hussain stated that other owners with public space patios support him and don't believe that the limitation should be in place for anyone. He stated that the limitation was suffocating business.
- Ms. Koshuta stated that there appears to be no longer a competitive disadvantage with Khan's, and it sounded like there may not have been a competitive disadvantage to begin with. Mr. Hussain stated that when he first started the business, he believed he was at a disadvantage, but later realized his business was more successful than Khan's.
- Mr. Caruth stated that he specifically remembered when Mr. Hussain was before the Committee previously, he presented plans for the enclosure of the patio, and asked what the timeline was for completion. He also asked what Mr. Hussain proposed for patio closing times. Mr. Hussain responded that he would be comfortable with closing sometime between 1:30 and 2am.
- Ms. Koshuta stated that there was a lot of discussion regarding public space patios at the previous Committee meeting, and she did not recall any business owners or managers present complaining about the sidewalk patio restrictions. She specifically noted that the general manager of Argonaut stated that the restriction was good for neighbors, and that if one establishment got later hours, all would want it. She argued that any change in sidewalk patio hours should be holistic, rather than on an individual basis.
- Mr. Oberting noted that he was in favor of businesses having patios open later, but that it appeared most of the Committee was not.
- Mr. Caruth stated he was in favor of uniformity in the ANC.
- Mr. Hussain stated he may be the only establishment left to not agree to the limited hours, but that the other establishments backed him in his refusal to agree to the change. He stated that the problem is that this meeting is on the record, and many business owners preferred to meet informally. Ms. Koshuta stated that all issues between businesses and their neighbors should be dealt with in a public meeting.
- Ms. Mack said that she has been in the neighborhood for ten years (and part as an ANC Commissioner), and that other businesses should voice their own opinions. She stated that any noise complaints should be addressed during an establishment's renewal period. She also noted that Twelve has soundproofed windows.
- Mr. Hussain stated that the fundamental issue here is regarding noise. Mr. Herman stated that the issue is more the potential for noise, and Mr. Oberting stated the issue was uniformity.
- Mr. Hussain thanked the Committee for providing him with the opportunity to speak at the meeting.

III. Old Business

None.

IV. New Business

A. Discussion of request by Langston Bar and Grille at 1831 Benning Road, NE (License Number ABRA-076260) for a class change from a Retailer's "C" Restaurant to a Retailer's "C" Tavern.

Mr. Roberson, owner of Langston Bar and Grille, came before the Committee to discuss his request to change his establishment from a CR to a CT license.

- Mr. Roberson stated that he is requesting the change for his business because he is not able to maintain the 40% food revenue requirement for CR licensees. Individuals come into his establishment for dinner, but they stay for drinks afterward. He is trying to improve the quality and selection of food, but he wants to keep his food prices down.
- Ms. Mack stated that a resident behind Langston Bar and Grille opposed the change because of noise. She said that when the resident calls, the manager will turn down the music, but there have been other issues (including a box of fish being thrown through her window that the manager paid to replace, and problems with noise in the parking lot and patrons urinating in the alley).
- Mr. Healy stated that the establishment was on the last meeting's agenda for its license renewal, and that that meeting would have been the appropriate place to raise any noise complaints or issues with patron behavior. He stated he didn't see any problems with this request, noting that the ANC's policy against CTs that was set in 2011 was because of the view that there was an over-concentration of establishments with CT licenses in the neighborhood.
- Ms. Mack stated that she lives on the same block, and that she was concerned this change could lead to more public drunkenness if the establishment is not selling as much food. Mr. Roberson said he had no plans to sell less food, and noted that the establishment's brand is based on food.
- Mr. Oberting stated that he believed the problems raised by Ms. Mack weren't related to the issue of CR vs. CT. Mr. Caruth stated it appears that Mr. Roberson is making a business decision, and that noise issues go more towards his relationship with the community and with the police. Mr. Roberson stated he is in regular contact with local police officers, and that the neighbor cited by Ms. Mack (Ms. Mayo) is the only resident behind his establishment, and he has worked with her.
- Ms. Koshuta asked if the anti-CT policy was meant to cover all of ANC 6A, or just H Street. She stated that if we're encouraging CRs and businesses aren't able to make their numbers, we could be facing a slippery slope of more requests like this. Mr. Roberson stated that CT licensees sell food as well.
- Mr. Herman stated that he recalled the resolution disfavoring CTs was applied to H Street, not the entire ANC, and he sees a different situation here due to Langston's location. Ms. Mack disagreed, stating that H Street should not be divided from the rest of the ANC.

Mr. Healy moved/seconded by Mr. Oberting that the Committee take no action regarding Langston Bar and Grille's request for a class change from a CR to CT license. Motion carried 5-0-1, with Ms. Koshuta abstaining.

B. Presentation by representatives from Flats at Atlas regarding H Street food and beverage tour scheduled for October 19, 2013.

Kirsten Stone, Erin Martin, and Hallie Groff, of Clark Realty Capital, presented plans for a food and beverage tour of H Street, planned for October 19, 2013.

- Ms. Groff stated that Flats at Atlas, located at 1600 Maryland Avenue, is making its last push for lease stabilization. The goals of the event are to showcase the apartment building, and promote the neighborhood and H Street as a destination during the day.
- The company organized a similar event last year (Fall for H Street), which had more of a bar crawl theme. Establishments were reluctant to participate due to the risk of fines from ABRA, and the event was planned too late to take before the ANC for review.
- Ms. Groff and Ms. Martin stated that another goal of the event was to raise funds for a local charity. Last year's event raised \$500 for H Street Main Street (which represented all of the take for the event beyond its costs).
- The event is planned for Saturday, October 19, from 1pm to 6pm. There will be brunch/food specials.
- Last year's event involved both food and drink specials.
- The representatives from Clark Realty spoke with Martha Jenkins of ABRA today, and she stated that she didn't see the event as falling within the definition of "bar crawl." She stated that with ANC support, she could send a request to the ABC Board.
- Mr. Williams stated that he believed it was relatively easy to avoid the definition of pub crawl simply by not offering drink specials. Ms. Koshuta stated that she would want to see the event skew more toward food specials.
- The Committee discussed a "Zombie Bar Crawl" that took place in 2012 that caused problems for participating establishments with ABRA.
- Mr. Healy said that he was concerned that exempting one pub crawl leads to arguments from other organizers that their event should be exempted as well. He said he had encountered problems with event organizers in the past contacting him at the last minute and then later misrepresenting what he told them. He recommended that the organizers of this event get any assurances from ABRA in writing, because the ABC Board could still disagree and side with an individual investigator not aware of Ms. Jenkins' legal opinion.
- Mr. Caruth stated that during the day, many establishments may already have their own drink specials in place, meaning there would be no need for the event to have its own drink specials and therefore not run into problems with the definition of pub crawl. Mr. Oberting agreed.
- The representatives from Clark Realty stated they felt they needed to at least acknowledge drink specials; otherwise participants would go to just one establishment and stay there for the food. Ms. Koshuta noted that a recent Frager's fundraiser involved small plates of food from different establishments, so this might be a good approach for the event to encourage participants to go to multiple locations.

- Mr. Caruth suggested that the organizers provide any written assurances from ABRA to establishments participating in the event, so that if they had issues with an investigator, they would have documentation on hand.
- Ms. Stone, Ms. Martin, and Ms. Groff thanked the Committee for their suggestions and stated they would take them all into consideration when working with ABRA to make sure the event does not run afoul of any regulations or settlement agreements. Mr. Williams thanked them for attending the meeting and working with the ANC.

V. Adjourn

Mr. Williams thanked all who attended the meeting, and the Committee for its continued service. The Committee adjourned at 8:30 pm.