



District of Columbia Government
Advisory Neighborhood Commission 6A
P. O. Box 75115
Washington, DC 20013



October 28, 2013

Ms. Ruthanne Miller, Chairperson
Alcoholic Beverage Control Board
2000 14th Street, NW, Suite 400S
Washington, DC 20009

Dear Ms. Miller,

I am writing in reference to a request on the Board's agenda for Wednesday, October 30th, 2013 by Sahra Hooka Lounge (1200 H Street NE) (the "establishment" or "Sahra"), to terminate its Settlement Agreement. Assuming this is a reference to a request to terminate this establishment's Settlement Agreement with ANC 6A, I write on behalf of ANC 6A (the "ANC") in response.

As you are no doubt aware, DC Code § 25-446 sets forth the requirements for when an application for termination of a Settlement Agreement ("SA") can be considered. Specifically:

(d) (1) Unless a shorter term is agreed upon by the parties, a voluntary agreement shall run for the term of a license, including renewal periods, unless it is terminated or amended in writing by the parties and the termination or amendment is approved by the Board.

(2) The Board may accept an application to amend or terminate a voluntary agreement by fewer than all parties in the following circumstances:

(A) During the license's renewal period; and

(B) After 4 years from the date of the Board's decision initially approving the voluntary agreement.

(3) Notice of an application to amend or terminate a voluntary agreement shall be given both to the parties of the agreement and to the public at the time of the applicant's renewal application according to the renewal procedures required under §§ 25-421 through 25-423.

(4) The Board may approve a request by fewer than all parties to amend or terminate a voluntary agreement for good cause shown if it makes each of the following findings based upon sworn evidence:

(A) (i) The applicant seeking the amendment has made a diligent effort to locate all other parties to the voluntary agreement; or

(ii) If non-applicant parties are located, the applicant has made a good-faith attempt to negotiate a mutually acceptable amendment to the voluntary agreement;

(B) The need for an amendment is either caused by circumstances beyond the control of the applicant or is due to a change in the

neighborhood where the applicant's establishment is located; and

(C) The amendment or termination will not have an adverse impact on the neighborhood where the establishment is located as determined under § 25-313 or § 25-314, if applicable.

(5) To fulfill the good faith attempt criteria of paragraph (4)(A)(ii) of this subsection, a sworn affidavit from the applicant shall be filed with the Board at the time that an application to amend a voluntary agreement by fewer than all parties is filed stating that either:

(A) A meeting occurred between the parties which did not result in agreement; or

(B) The non-applicant parties refused to meet with the applicant.

As an initial matter, Sahra's SA was signed by the parties and approved by the Board in 2012, and thus the SA has not been in place for the minimum four years, and therefore Sahra cannot submit a request to amend or terminate its Settlement Agreement without agreement from the ANC. DC Code § 25-446(d)(2)(B).

ANC 6A has not consented to the termination of this establishment's Settlement Agreement. At a publicly announced¹ special meeting on October 24, 2013, ANC 6A voted (5-1) to reject a request by Sahra to make a number of changes to its Settlement Agreement (Commissioner Alberti neither voted nor participated in the discussion). Despite sending two representatives to the October ABL Committee meeting, at no point did Sahra notify the ANC that the establishment was requesting a complete termination of its SA. Rather, Sahra's representatives stated that they had requested some limited amendments. Nevertheless, as noted above, the ANC voted to reject the requested amendments.

Regardless of whether Sahra's request to the Board is to terminate or amend its Settlement Agreement, the ANC has not joined (and will not join) such a request. Because the SA is less than four years old, Sahra's *ex parte* request does not meet the statutory minimum requirements for consideration by this Board and should be rejected outright.

Please do not hesitate to contact me if you have any questions or would like additional information.

On behalf of the Commission,



Jay Williams
Commissioner, ANC 6A05
Chair, ANC 6A ABL Committee

¹ ANC 6A meetings are advertised electronically on the anc6a-announce@yahoo.com and the ANC-6a@yahoogroups.com (not controlled by the ANC) email groups, on its website ANC6A.org, and through print advertisements in the *Hill Rag*.