

January 26, 2015

Alcoholic Beverage Regulation Administration
Office of the General Counsel
2000 14th Street, NW, Suite 400 South
Washington, D.C. 20009

Re: Submission of public comment regarding proposed rules that would make procedural and administrative changes to Title 23 of the DC Municipal Regulations

Dear Chairperson Miller and Board Members,

Thank you for the opportunity to provide comments to the proposed rules to Title 23 of the DC Municipal Regulations. We are pleased that the Board is considering these changes. We believe that there are a number of issues that have needed to be addressed by the Board for some time.

- **Renewal Process**

Clarification of regulations regarding the practice of allowing applicants to ignore attendance at hearings that should result in dismissal of the license are welcomed. Current practice of the Board has resulted in continuous extensions granted by the Board during the renewal process that has significant impact on residents. In practice the Board has allowed applicants to "reapply" multiple times thereby never requiring the licensee to complete the process of renewal. This problem has been partially addressed by limiting the Board's ability to grant such special treatment only one additional time.

- **Regulatory Enforcement**

The use of the word "**may**" is used throughout this document in cases where it is inappropriate and results in the option for the Board to choose to not enforce the regulations. The word should be changed to "**shall**", which should improve compliance with the regulations.

- **Protestant Rights**

Each protestant has been individually recognized by complying with the requirements for recognition. Forcing legally recognized Protestants to designate a single person to represent them all would abrogate the rights of legal Protestants. The reality is that different protestants may have different concerns and they all have earned the right to be a direct participant in the protest hearing if they so choose. Protestant groups may choose a representative but it should not be required.

Another ongoing concern for residents is the language regarding Filing of Protests (under the previous 1605.2). The Board has no authority to adopt interpretations or regulations which diminish the standing granted to correctly filed protests by restricting the grounds for a protest to a narrow "appropriateness" standard (25-313, 25-314). Any aspect of Title 25 Chapter 3 "Requirements to Qualify for a License," and Chapter 4, Subchapter 1 "Application Requirements" should be applicable as grounds for a protest.

- **Safekeeping**
The issue of licenses in “safekeeping” has long been one that has plagued residents. If a license is not being used it should be terminated. Unused licenses have negative impacts to both residents and to potential legitimate business operators. If a licensee is not using a license after 6 months it should automatically be terminated. The licensee can reapply when they are ready to proceed.
- **Noise Issues**
The issues of “Entertainment Endorsements” coupled with the use of outdoor spaces have proved problematic for residents by producing noise conditions that greatly exceed regulations. Residents must continue to spend excessive time and money in efforts to have ABRA enforce regulations, and have largely been unsuccessful. The burden should be on the District to enforce, and on the businesses to demonstrate that they have taken appropriate steps to abate noise. If this were happening, protests on noise should be rare. This would reduce the burden on the Board, residents, and the establishments themselves. We would like to see significant regulatory changes made on issues of noise.
- **Substantial Changes**
Additionally we would like to have the rules specifically state that the list of 18 Substantial Changes will always be treated as substantial changes requiring notification to all legal signatories of a Settlement Agreement, and proper accessible posting of placards. The current practice of the Board making subjective decisions as to the list, without any formal notice to legal parties of a Settlement Agreement or placarding, has made it impossible for residents and legal parties to Settlement Agreements to have any input and rights in these issues.

We appreciate the opportunity to offer comments on this Rulemaking and request that a formal process be instituted to address the issues affecting residents in regard to the licensing of alcohol establishments in close proximity to residential areas.

Sincerely,

Sarah Peck and Abigail Nichols, Co-Chairs DC Nightlife Noise Coalition
Joan Sterling, President Shaw Dupont Citizens Alliance
Chris Young, President Meridian Hill Neighborhood Association
Robin Diener, Task Force on Noise and Legislative Working Group Representative
Jackie Blumenthal, Commissioner ANC3B-02 East Glover Park