

Resolution of the Cleveland Park Citizens Association
on the *Omnibus Alcoholic Beverage Regulation Amendment Act of 2012*
Bill 19-824

Whereas, the Board of the Cleveland Park Citizens Association (CPCA) reviewed the proposed *Omnibus Alcoholic Beverage Regulation Amendment Act of 2012*, introduced by Ward 1 Councilmember Jim Graham on June 26, 2012 and

Whereas, it is important to residents of Cleveland Park and other neighborhoods that they have a voice in the licensing of liquor establishments regarding peace, order, quiet, litter, parking, vehicular and pedestrian safety, and property values, as enumerated in the Appropriateness Standard under Section 25-313 of the DC Code, and

Whereas, the Board previously authorized testimony which was presented on its behalf at the July 12, 2012, hearing conducted by Councilmember Jim Graham in his capacity as chair of the Committee on Human Services, which testimony expressed grave concerns about the Bill, and

Whereas, the Bill has not been revised to address the concerns then expressed about the provisions enumerated below, and

Whereas, these provisions, if not removed or amended, would prevent most of our members and the vast majority of other affected residents from consequential involvement in the licensing process,

NOW, THEREFORE, BE IT RESOLVED that the Cleveland Park Citizens Association urges all Councilmembers to disapprove Bill 19-824 unless and until it is significantly amended in accord with the concerns enumerated below and those iterated in the attached Resolution of the Federation of Citizens Associations of the District of Columbia, which is hereby incorporated by reference and endorsed in this action.

This resolution was approved by the Board at its meeting on October 15, 2012, and submitted to the Membership at its meeting on October 18, 2012. The resolution was approved by the Membership at its meeting on November 15, 2012.

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Contested Provisions

By amending section 25-601, the Bill proposes to deny protest standing to residents living outside of a 400-foot radius of an applicant establishment. This is considerably less than the length of most city blocks. It disempowers the vast majority of residents significantly affected by restaurants and taverns in their neighborhoods. If a distance measure is incorporated (none now exists), it should be a minimum of 1800 feet.

The Bill disempowers neighborhood organizations, such as the CPCA, as well as affected individuals, in other ways. Currently civic associations and groups of individual residents joined together in petitions as protestants can be parties to a Voluntary Agreement (VA). Both are entitled to continued standing regarding an Agreement's enforcement. Yet, this Bill would amend section 25-609 to "dismiss the remaining groups" once ABRA approves a VA endorsed by the ANC. This effectively subrogates to ANCs ABRA's responsibility for approving the conditions sought in a VA by individual residents and

civic associations and denies those residents and organizations any continuing voice on matters of critical concern regarding a particular licensee.

A further erosion of residents' voice, whether expressed through individual protest groups, civic and/or citizens associations, or even an ANC, is the delimitation of conditions that might be included in a negotiated VA under section 25-446. The Bill fails to adequately anticipate and address all of the issues that might be of concern to neighboring residents. Indeed, it is impossible to do so *ex ante*.

The proposed enumeration of conditions eligible for inclusion in a VA unnecessarily restricts CPCA and others in protecting our neighborhoods and ourselves. For instance, although some forms of entertainment might be more problematic than others, a VA would not be able to address this issue, nor could it address days of the week entertainment is allowed. The Bill does not allow attention to transportation beyond parking; for instance it would not allow limitations on the use of "drunk buses" and "pub crawls" or other large group conveyances. Furthermore, it does not allow neighborhood residents to address security or even the leasing of the licensee's space to outside event promoters.

Also problematic is that the Bill extends alcohol-serving hours from 3:00 a.m. until 4:00 a.m. for all licensees without a VA or other conditions, as a matter of law. While this might not be an issue with respect to licensees in nonresidential areas, it simply increases and prolongs the problems and burdens borne by those in residential neighborhoods impacted by restaurants and taverns. Allowing alcohol service so far beyond Metro's closing hours assures that more parking and noise problems will beset DC's residents.

Of pressing concern to citizen associations are omissions from this Bill that have been brought to the fore by recent events: placard notice should be required and protests allowed when there is a proposed action to transfer a license from one owner to another. Changes in a business model can be significant, have profound consequence for neighborhood residents, and can indeed represent a substantial change. The refusal to offer neighbors an opportunity to engage in the protest process, as they would be allowed for the issuance of a new license or a renewal, is inconsistent and denies appropriate opportunities for redress.

It is illogical that the record of a current licensee is treated by the Bill as irrelevant and beyond consideration when that same owner applies for a license for another establishment. Why should an applicant for an additional (new) or a transferred license be protected from consideration of his or her record – with the Metropolitan Police Department and with ABRA itself – of abuses, violations and incidents in determining whether or not he or she is "of good character" and "generally fit for the responsibilities of licensure." (Section 25-301)?

Finally, the Bill does not prohibit the consumption of liquor by a licensee's employees while they are working "on the clock." Drinking by on-duty staff will impair judgment and render them less able to perform in a fully professional manner to enforce ABRA regulations and Voluntary Agreement conditions if applicable, or effectively execute Training for Intervention Procedures "TIPS" training if certified. "Drinking on the clock" should be prohibited.

Federation of Citizens Associations of the District of Columbia

Organized 1910; Incorporated 1940

Resolution of the Board of Directors on the ABC Omnibus Legislation Bill 19-824 October 2, 2012

Whereas, the Board of the Federation of Citizens Associations of the District of Columbia reviewed the proposed ABC Omnibus Legislation Bill 19-824 at an open Board meeting on July 31, 2012, and

Whereas, ABC licensing and related impacts on the public affect the quality of life of DC residents, and

Whereas, residents troubled by neighborhood liquor establishments must be heard on all ABC issues, and have an active role in resolving any negative impacts, and

Whereas, provisions in Bill 19-824 (see below), if not removed or amended, would prevent residents from having meaningful involvement, and

Whereas, the recommendations of a previous ABC Board working group on noise from licensed liquor establishments were almost completely ignored by a separate working group formed by Councilmember Jim Graham, Chairman, Committee on Human Services,

Now therefore, the Federation of Citizens Associations of the District of Columbia Board endorses this Resolution on the ABC Omnibus Legislation Bill 19-824 and recommends that Assembly delegates also adopt this Resolution in full so that member associations may communicate with and commence meetings with Council members to amend Bill 19-824 to remove the provisions listed below, in order to protect the interests and quality of life of residents citywide.

RESOLUTION ADOPTED BY ASSEMBLY VOTE: OCTOBER 2, 2012

The following provisions in ABC Omnibus Legislation Bill 19-824, if not removed or amended, would prevent residents from having meaningful involvement in the licensing of DC liquor establishments:

All other protests will be dismissed by the ABC Board, if the ANC is a fellow protestant, and if the ANC settles first, regardless of the scope of the ANC's settlement or whether residents' remaining issues and concerns have yet to be adjudicated in an ABC Board public hearing.

Bill 19-824 establishes a new distance of 400 feet in all directions from a liquor establishment within which individuals must reside to be eligible to protest a license. Currently, there is no such distance, but there is pre-existing guidance in the code of three measurements that can serve as the "affected area" around an establishment for the purpose of holding a protest hearing: 600, 1200 & 1800 feet.

Citizen or Civic Associations wishing to become a party to a case by protesting a request must offer an opportunity for an applicant to address their decision-making body with 7 days notice of the meeting.

Four (4) pages of conditions have been added that limit what may be included in a Voluntary Agreement (VA). Currently, a simple provision in the existing regulations (23 DCMR 1609) aptly describes the limitation of VA subject matter. It reads: "The operations of the establishment; the sale, service and consumption of alcoholic beverages at the establishment; or a topic covered in Title 25 of the DC Official Code or this title, including the appropriateness of standards obtained in DC Official Code 25-313."

No less than 43 additional changes to ABC Law and Regulation are included, some with numerous sub-categories that contain provisions likely to be harmful to residential concerns. (For example, item number 38 is a provision that would allow a license that would otherwise have been revoked to escape revocation by paying a \$30,000 fine and facing a 30-day suspension.)

Lastly, in regard to noise, the most recent ABC working group approved a provision requiring an establishment to close its windows and doors before a government assessment be made as to whether there was a noise violation.