



GOVERNMENT OF THE DISTRICT OF COLUMBIA
Dupont Circle Advisory Neighborhood Commission 2B

November 11, 2010

Charles Brodsky, Chair
Alcoholic Beverage Control Board
1250 U Street NW, 3rd Floor
Washington, DC 20009

Re: Hank's Oyster Bar Sidewalk Café Hours

Dear Chairman Brodsky, ABC Board, and ABRA:

At the Commission's November 10, 2010 duly-noticed public meeting, the Commission considered the matter of Hank's Oyster Bar. The Commission passed the below resolution by a vote of 7-1-0, with Commissioner Silverstein not participating because of his position on the ABC Board. As a result of the Commission's action, Hank's and the Commission have opened informal discussions on the issue of sidewalk cafe hours. We are hopeful and anticipate that the issue of sidewalk cafe hours will be resolved by the parties. We expect to call a special session of the Commissioner within 10 days to review the status of the negotiations on cafe hours and on other issues that were raised as concerns. We will advise the Board of the outcome of these negotiations and of the outcome of that meeting.

Resolution on Hank's Oyster Bar Sidewalk Cafe Hours

Whereas Hank's Oyster Bar recently submitted three Alcoholic Beverage Control ("ABC") applications: (1) an application for renewal of the existing license; (2) an application to amend or terminate the Voluntary Agreement ("VA"); and (3) an application for substantial change to expand into the adjacent space with 80 additional interior seats and 20 additional exterior sidewalk cafe seats;

Whereas ANC 2B considered the first two applications at the ANC's duly-noticed public meeting of June 2010, and ANC 2B considered the third application at the ANC's duly-noticed public meeting of July 2010;

Whereas ANC 2B took no action on any of these three applications, based on representations from the applicant and assurances from the Alcoholic Beverage Regulatory Administration ("ABRA") that the sidewalk cafe hours would remain the same: closing at 11:00pm Sunday through Thursday nights and 12:00am Friday and Saturday nights ("11pm/12am");

Whereas the ANC 2B Public Space Guidelines call for sidewalk cafes near to residences to close no later than 11pm/12am;

Whereas the application for license renewal, as noticed and placarded to the community, included sidewalk cafe hours that ended at 11pm/12am;

Whereas representatives of ANC 2B conducted telephonic and face-to-face meetings with the applicant and the applicant's non-attorney representative, both of whom were also in attendance and spoke at the July 2010 ANC meeting – and at these discussions, the applicant and the applicant's non-attorney representative represented to the ANC and community members that the applicant was not seeking additional, later sidewalk cafe hours, and that the hours in the renewal placard (11pm/12am) would continue to apply to both the current and new sidewalk cafe spaces;

Whereas in response to a query, ABRA staff in July 2010 provided written assurance to the ANC that the sidewalk cafe hours would remain the same as in the renewal placard(11pm/12am) for both the current and new outdoor spaces if Hank's application for substantial change were granted by the Board;

Whereas the ABC Board's November 3, 2010 order approving the termination of the VA does not explicitly limit the hours of the sidewalk cafe;

Whereas the applicant's non-attorney representative has now stated a position before the ABC Board on November 3, 2010 that the VA termination means the license hours revert to the applicant's original ABC application of 2005, and not the renewal placard hours (11pm/12am);

Therefore be it resolved that ANC 2B requests that the ABC Board explicitly limit any sidewalk cafe hours at Hank's to be no later than 11pm/12am, the hours listed on the renewal placard;

Be it further resolved that alternatively, in light of the hours listed on the renewal placard, the representations by the applicant, and the assurance by ABRA staff – and ANC 2B's reliance thereon in taking no action – ANC 2B requests that the ABC Board now grant leave to ANC 2B to protest the Hank's substantial change application for expansion, on the basis of peace, order, and quiet, subject to the successful negotiation of a VA to incorporate 11pm/12am sidewalk cafe hours;

Be it further resolved that in accordance with ANC 2B's report and recommendations on the most recent renewal of the East Dupont Moratorium, ANC 2B would consider any new summer garden at Hank's as requiring a new substantial change application;

Be it further resolved that ANC 2B opposes any application by Hank's to the District Department of Transportation (DDOT) for use of public space past 11pm/12am and urges DDOT Public Space to deny any such request.

Victor Wexler (victor.wexler@dupontcircleanc.net) and I are the Commission's representatives on this matter.

Sincerely,
/s/ William F. Stephens

Will Stephens
ANC 2B Chairman

cc: Leeds the Way (Hank's)
Andrew Kline, Veritas
Fred Moosally, ABRA
Martha Jenkins, ABRA