

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF:

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East Dupont Circle

: Public

Hearing

Moratorium Zone

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Wednesday,
November 20, 2013

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

- RUTHANNE MILLER, Chairperson
- NICK ALBERTI, Member
- DONALD BROOKS, Member
- MIKE SILVERSTEIN, Member
- HERMAN JONES, Member

P R O C E E D I N G S

1:33 p.m.

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CHAIRPERSON MILLER: We're back on the record for our afternoon cases and my name is Ruthanne Miller. I'm the chairperson. Mr. Donald Brooks is to my right and Mr. Mike Silverstein is to my left. And Mr. Alberti, Mr. Nick Alberti will be joining us shortly, as maybe will be Mr. Herman Jones.

I'm going to begin though since we all are here for this. I'm calling the case of East Dupont Circle Moratorium Zone. This is a rulemaking by the Board and we're going to be discussing the case on that moratorium this afternoon.

So we're here to discuss and decide on proposals submitted by two groups, Advisory Neighborhood Commission 2B and the Dupont Circle Citizens Association regarding renewal of the Dupont Circle Moratorium Zone. The existing moratorium expired on September 23, 2013 and as a result the Board voted on

1 September 18, 2013 to maintain the status quo
2 for another 120 days to allow time to consider
3 the two proposals and to allow for a hearing
4 to take public comment on the proposals.

5 The first proposal was a
6 resolution to extend and modify the East
7 Dupont Circle Moratorium filed by ANC 2B. In
8 sum, the ANC seeks renewal of the existing
9 EDCMZ for a three-year period with certain
10 modifications. These modifications include
11 maintaining the cap on Retail Class CT/DT and
12 CM/DM licenses and lifting the restrictions of
13 the number of Retail Class A, Class B, Class
14 CR/DR and Class DX/DX licenses; retaining the
15 current exemption for hotels, retaining the
16 existing language pertaining to the transfer
17 of ownership, retaining the prohibition on the
18 transfer of Retailer Class CT/DT or CN/DN from
19 outside the moratorium zone to inside the
20 moratorium zone, and retaining the prohibition
21 on the change of all Retailer Class CT/DT or
22 CN/DN licenses.

1 The second proposal is submitted
2 by the Dupont Circle Citizens Association on
3 August 13, 2013. The DCCA requested a
4 temporary 120-day extension to allow time for
5 further research. Additionally, the DCCA
6 sought to collect additional data it deems
7 relevant to the undertaking of this
8 rulemaking, specifically the status of
9 inactive licenses and the analysis of the
10 potential effects of all options.
11 Furthermore, the DCCA desired to form a
12 working group on retail and arrive at a
13 collaborative agreement with other interested
14 parties.

15 The Board held a public hearing on
16 the two proposals on October 24, 2013 and
17 received testimony from ANC 2B and DCCA. The
18 Board took the views of ANC 2B and DCCA into
19 careful consideration.

20 The proposed rules that we have
21 before us reflect our conclusions that the ANC
22 proposal to continue the moratorium while

1 allowing for modifications to lift certain
2 restrictions constitutes a reasonable measure
3 and appropriate solution for the Dupont Circle
4 neighborhood. In reaching this decision,
5 which is set forth in the attached rules that
6 we'll be voting on, we give great weight to
7 the written recommendations of ANC 2B as
8 required by Section 13D3 of the Advisory
9 Neighborhood Councils Act of 1975.

10 Additionally, pursuant to 25-351,
11 we find that it is in the public interest to
12 renew the moratorium with certain
13 modifications basing this decision upon the
14 appropriateness standards set forth in D.C.
15 Official Code Sections 25-313 and 25-314.

16 Specifically, by adopting these
17 regulations, we agree with the testimony
18 provided by ANC 2B to (1) renew the existing
19 EDCMV for a three-year period; (2) maintain
20 the cap on Retailer Class BT/DT and CN/DN
21 licenses; (3) list the restrictions on the
22 number of Retailer Class A, Class B, Class

1 CR/DR, and Class CX/DX licenses; (4) retain
2 the current exemptions for hotels; (5) retain
3 the existing language pertaining to the
4 transfer of ownership; (6) retain the
5 prohibition on the transfer of Retailer Class
6 CT/DT or CN/DN licenses from outside the
7 moratorium zone to inside the moratorium zone;
8 and (7) retain to prohibition on the change of
9 all Retailer Class CT/DT or CN/DN licenses.

10 We also further modify the
11 existing moratorium by lifting the limitations
12 on the expansion of service or sale of
13 alcoholic beverages into any adjoining or
14 adjacent space, property or lot. In doing so,
15 we caution licensees to seek a lateral
16 expansion to recognize that Dupont Circle is
17 a historical neighborhood and as such, the
18 Board will give great scrutiny to any requests
19 that profoundly changes the nature and
20 character of the neighborhood.

21 So those are my formal remarks and
22 I also want to note that I was personally very

1 impressed with the manner in which the ANC
2 gathered information on this issue and
3 presented their analysis and proposals and I
4 thought that it was very measured in the sense
5 that they were choosing -- recommending that
6 a gradual change to make some modifications
7 now and then take another look at it in a few
8 years.

9 So that being said, I'm going to
10 let others speak to the rulemaking.

11 MEMBER SILVERSTEIN: Thank you,
12 Madam Chair. I associate myself with your
13 remarks and especially this was a pleasure.
14 This is a great neighborhood. Everyone who
15 testified agreed there have been no major
16 problems with peace, order, and quiet.
17 Excellent restaurants, a good relationship
18 between neighbors and licensed establishments,
19 many years of hard work to establish. This is
20 not a mixed use district. This is a
21 commercial strip in a very residential
22 district, just about every storefront only a

1 few feet from the nearest residential
2 apartment or house. For us, the challenge
3 here was to avoid unnecessary or burdensome
4 regulation while doing no harm. This
5 moratorium extension was thoroughly vetted by
6 ANC 2B, full neighborhood participation and
7 yet only the ANC and the DCCA, the Dupont
8 Circle Citizens Association, came before us to
9 testify. Perhaps that is an indication of
10 this era of good feeling in that neighborhood.

11
12 The ANC had a tie vote on whether
13 to scrap the moratorium entirely in which case
14 the chairman's vote prevailed, but both sides
15 of that tie vote wanted to end the cap on CRs
16 entirely. The only issues seem to be whether
17 to maintain a cap on CTs, on taverns, on CNS,
18 nightclubs and limit lateral expansion. No
19 one came before this Board testifying asking
20 that the moratorium be lifted completely.

21 On CTs and CNS, the ANC urged that
22 we allow an incremental easing of the

1 moratorium, remove the cap on CRs, on
2 restaurants, and see how that works. Given
3 the fact that no one testified urging that we
4 remove the cap on CNs and CTs and that we are
5 removing the cap on restaurants and given the
6 fact that we're required to give the ANC great
7 weight on this matter, this Board member went
8 along with the request that we maintain the
9 cap on taverns and nightclubs for now, at
10 least in this densely populated area.

11 As to the issue of lateral
12 expansion, the ANC was silent on that, but the
13 ANC chairman noted the successful expansions
14 of Komi and Hank's Oyster Bar. Some of the
15 remaining spaces might benefit from lateral
16 expansion, but this is the heart of the Dupont
17 Circle Historic District. Speaking for
18 myself, I can't imagine anyone ripping down
19 the walls of three or four storefronts and
20 trying to turn it into a super bar, but my
21 vote to allow lateral expansion is based on
22 the experience of Hank's and Komi. And the

1 Board order makes it clear we do not favor
2 anything that would damage the historic fabric
3 of this neighborhood.

4 DCCA worried about the two retail
5 vacancies in the moratorium zone and that's
6 certainly legit, but only last week we got the
7 happy news that an entrepreneur has decided to
8 open an Indian grocery store in the larger of
9 the vacancies, the one that was supposed to be
10 the most difficult to fill and that's
11 something that will hopefully draw customers
12 from all over the area to purchase curries and
13 specialty groceries and spices and other items
14 of that type.

15 I hope that this easing works as
16 well as the last one and if it does it may
17 very well be the final easing, the final
18 moratorium. This Board actually went further
19 than any of those who testified asked us to go
20 and I want to thank all of those who took part
21 in this process and I just hope that all the
22 moratoriums continue along as well as this one

1 and all the neighborhoods be as successful as
2 Dupont East.

3 Thank you, Madam Chair.

4 CHAIRPERSON MILLER: Thank you.

5 Others?

6 I just want to thank you, Mr.
7 Silverstein for your remarks and that reminded
8 me that when I complimented the ANC for the
9 way in which they handled this issue I also
10 want to recognize DCCA for bringing some
11 important ideas to the table and sharing them
12 with us as well.

13 If there are no other comments,
14 then I would move that we adopt the emergency
15 and proposed rulemaking before us that renews
16 the Dupont Circle moratorium zone with
17 modifications.

18 MEMBER BROOKS: Second.

19 CHAIRPERSON MILLER: Okay. All
20 those in favor say aye.

21 (Ayes.)

22 All those opposed?

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(No response.)

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All those abstaining?

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MEMBER JONES: Abstain.

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CHAIRPERSON MILLER: Okay, then

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the motion passes to approve these rules by a

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vote of 4 to 0 to 1.

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That concludes this matter.

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(Whereupon, at 1:44 p.m., the

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Public Hearing was concluded.)

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