

421(a) and (g), ABRA provided the public with notice of Application. *ABRA Protest File Case No. 16-PRO-00089, Notice of Public Hearing*. Advisory Neighborhood Commission (ANC) 6C filed a timely protest to the Toscana Café's Application. *ABRA Protest File, ANC 6C's Protest Letter, dated July 18, 2016*.

On August 22, 2016, Applicant filed a Motion to Dismiss ANC 6C's Protest, arguing that the ANC failed to comply with D.C. Official Code § 1-309.11(c) by failing to provide notice by two methods to the community of the meeting in which it was discussed the substantial change application. *ABRA Protest File, Applicant's Motion to Dismiss the Protest of ANC 6C, dated August 22, 2016* [Motion to Dismiss]. Additionally, the Applicant argued that ANC 6C's protest should be dismissed due to its failure to provide it with actual notice of the meeting in violation of D.C. Official Code § 1-309.1(c). *Id.*

ANC 6C filed a timely opposition to the Applicant's motion to dismiss. *ABRA Protest File, ANC 6C's Memorandum of Law in Opposition to Applicant's Motion to Dismiss Protest* [Opposition]. In opposition to the Applicant's motion, ANC 6C argued that it did comply with a Commission's statutory notice requirements as delineated in D.C. Official Code § 1-309.11(c). *Id.* Specifically, ANC 6C stated it is the Commission's practice to, one, post its yearlong calendar of monthly meetings and a separate meeting notice, with draft agenda, on its website, and two, publish its monthly meeting notice in *Hill Rag*, a monthly publication located in the District. *Id.*

The Advisory Neighborhood Councils Act of 1975, effective October 10, 1975 (D.C. Law 1-21; D.C. Official Code §§ 1-309.11, *et seq.*) established the Advisory Neighborhood Commissions and how they operate. D.C. Official Code § 1-309.11(c) sets forth the notice requirements Advisory Neighborhood Commissions must following for hosting meetings and convocations.

In pertinent part, D.C. Official Code Cod § 1-309.11(c) provides that “[e]ach Commission shall give notice of all meetings or convocations to each Commissioner, individuals within official business before the Commission, and residents of the Commission are no less than 7 days prior to the date of such meeting.” D.C. Official Code § 1-309.11(c) further provides:

Notice of regular and emergency meetings must include, but is not limited to, at least two of the following:

- (1) Posting written notices in at least 4 conspicuous places in each single-member district within the Commission area;
- (2) Publication in a city or community newspaper;
- (3) Transmitting or distributing notice of a list of residents and other stakeholders in the community; and

January 13, 2016); *see also In the Matter of Gobind, LLC, t/a Toscana Café*, 15-PRO-00109, Board Order No. 2015-049 (D.C.A.B.C.B. January 13, 2016)(denying the Applicant's Motion for Reconsideration of the dismissal of the substantial change application).

- (4) In any other manner approved by the Commission.

In the present case, the Board finds that ANC 6C did comply with D.C. Official Code § 1-309.11(c). D.C. Official Code § 1-309.11(c) does not mandate which means of notice Commissions must use. The statute provides that Commissions must use at least two of the four stated means of providing notice. *See* D.C. Official Code § 1-309.11(c). The fourth means of providing notice, however, is a catchall provision (i.e., “In any other manner approved by the Commission.”). *Id.*

ANC 6C provided notice of the meeting in which it addressed Toscana Café’s Application. First, ANC 6C published a notice of the July meeting on its website. *Opposition*, at 2. Along with the meeting notice was a draft agenda which included Toscana Café’s substantial change application. *Id.* The notice included the date, time, and location of the meeting. Anyone seeing the notice, including the Applicant, would have known that the Commission was going to discuss the Application. Thus, the Board finds this is a satisfactory means of providing the public with notice of its July meeting in accordance with D.C. Official Code § 1-309.11(c).

Secondly, and in accordance with D.C. Official Code § 1-309.11(c)(2), ANC 6C published notice of its July 13, 2016, meeting in the *Hill Rag*, a community newspaper. Providing notice of its monthly meetings in the *Hill Rag* is a method regularly used by the ANC to provide notice to the public. ANC 6C adequately complied with the statutory notice requirements by providing notice in the community newspaper.

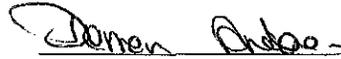
The Applicant argued that D.C. Official Code § 1-309.11(c) required ANC 6C to provide him with actual notice of the meeting. *Motion to Dismiss*, at 4-5. The statute, however, does not require Commissions to provide actual notice at all. D.C. Official Code § 1-309.11(c) is very clear as to the methods which the Council deemed are acceptable forms of providing notice. If the Council wanted Advisory Neighborhood Commissions to provide license applicants, such as Toscana Café, with actual notice of meetings in which their application is going to be addressed, it could have made that a requirement in the statute. This Board lacks the authority to make such declarations, and therefore, refuses to do so in this case.

For all of the aforementioned reasons, the Applicant’s Motion to Dismiss the Protest of ANC 6C is denied.

ORDER

Therefore, the Board, on this 14th day of September 2016, **DENIES** the Applicant’s Motion to Dismiss the Protest of ANC 6C. Copies of this Order shall be sent to the Applicant and ANC 6C

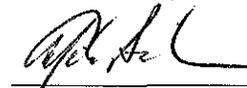
District of Columbia
Alcoholic Beverage Control Board



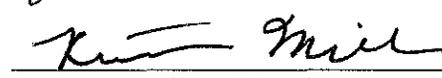
Donovan Anderson, Chairperson



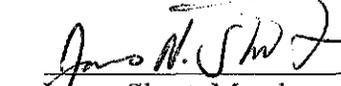
Nick Alberti, Member



Mike Silverstein, Member



Ruthanne Miller, Member



James Short, Member

Pursuant to D.C. Official Code § 25-433(d)(1), any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., Suite 400S, Washington, DC 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code §2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR §1719.1 (2008) stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. See D.C. App. Rule 15(b) (2004).