

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF:	:
	: Public
Proposed Moratorium for	: Hearing
14th & U Streets, NW	:
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October 2, 2013

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 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
- HERMAN JONES, Member
  
- MIKE SILVERSTEIN, Member

1 P-R-O-C-E-E-D-I-N-G-S

2 (1:09 p.m.)

3 CHAIRPERSON MILLER: Okay. Good  
4 afternoon, everybody. My name is Ruthanne  
5 Miller. I'm the Chair of the ABC Board and to  
6 my right is Mr. Donald Brooks, to my far  
7 right. To my immediate right is Mr. Nick  
8 Alberti. And to my immediate left is Mr. Mike  
9 Silverstein. We have a fifth Member, Herman  
10 Jones, who has been delayed. He may be  
11 joining us when he gets here.

12 So we are here today with respect  
13 to the proposal for a Moratorium Zone in the  
14 14th and U Corridor.

15 We will be discussing and deciding  
16 a request from the Shaw-Dupont Citizens  
17 Alliance, SDCA, asking the Alcoholic Beverage  
18 Control Board to impose a moratorium on the  
19 issuance of liquor licenses for an area  
20 commonly known as the 14th and U Streets  
21 Corridor.

22 To get a little history,

1 specifically, on December 10, 2012, the SDCA  
2 requested that the Board impose a 5-year  
3 moratorium on the issuance of liquor licenses  
4 that extend 1,800 feet from BCB Properties,  
5 LLC t/a Next Door, holder of a Retailer's  
6 Class CT License, ABRA License No. 077567,  
7 located at 1211 U Street, N.W., Washington,  
8 D.C.

9 As part of the proposed  
10 moratorium, the SDCA requested that the Board:

11 (1) Prohibit the transfer of licenses  
12 into the Moratorium Zone.

13 (2) Prohibit the issuance of all new  
14 licenses, except Retailer's Class B Licenses  
15 that qualify as full-service grocery stores.

16 (3) Place a cap on the number of  
17 Retailer's Class N and Retailer's Class DN  
18 Licenses at zero.

19 (4) Place a cap on the number of  
20 Retailer's Class CT and Retailer's Class DT  
21 Licenses to 10.

22 (5) And prohibit the expansion of

1 existing licenses into adjoining spaces,  
2 properties or lots.

3 On March 20, 2013, the Alcoholic  
4 Beverage Control Board found that the SDCA had  
5 filed a valid moratorium petition under  
6 District of Columbia Official Code 25-351  
7 through 25-354.

8 Therefore, on March 29th, the Board  
9 announced it would hold a public hearing on  
10 the petition, which it held on May 22, 2013.  
11 The Board had a public hearing regarding the  
12 petition where members of the public and the  
13 affected Advisory Neighborhood Commission had  
14 an opportunity to express their views on the  
15 moratorium proposed by the SDCA.

16 The Board greatly appreciates  
17 extensive testimony and written submissions  
18 that were offered by various stakeholders  
19 impacted by the proposed moratorium and fully  
20 considered them.

21 We note that the moratorium  
22 petition was opposed by all affected Advisory

1 Neighborhood Commissions who favored  
2 alternative means for addressing the problems  
3 raised by petitioners. Those means included  
4 settlement agreements, increased reimbursable  
5 police, enforcement of the ARTS Overlay, BIDs,  
6 protest enforcement actions by ABRA, and the  
7 Board has given great weight to the comments  
8 of the Advisory Neighborhood Commission as we  
9 are required to do by law.

10 The standard to determine whether  
11 or not to impose a moratorium is whether the  
12 testimony and comments show that the requested  
13 moratorium is appropriate under at least two  
14 of the appropriateness standards set forth in  
15 25-313 and 314.

16 We will be issuing an order after  
17 our vote today that will provide a detailed  
18 analysis supporting the conclusion that the  
19 requested moratorium is not appropriate under  
20 any of the appropriate standards and,  
21 therefore, should be denied.

22 I'm going to highlight some key

1 points that contributed to that conclusion and  
2 then open for comments or discussion by other  
3 Board Members.

4 In essence, while there are many  
5 licensed establishments in this area and even  
6 more on the way, the Board does not find that  
7 the neighborhood suffers from an over-  
8 concentration of licensed establishments or  
9 that additional establishments will adversely  
10 affect this area.

11 Rather, the Board recognizes that  
12 there is a revival of economic development  
13 that is attracting businesses and residents  
14 alike to the U Street Corridor. Property  
15 values are going up not down and violent crime  
16 is going down not up indicating that this area  
17 is becoming more vibrant and popular and not  
18 disruptive to the peace, order and quiet of  
19 most of the residents.

20 However, the record does show that  
21 some residents of the U Street Corridor do  
22 suffer adverse spill-over impacts from

1 licensed establishments that do affect their  
2 peace, order and quiet, but not to the extent  
3 of justifying a Moratorium Zone that extends  
4 far beyond the affected area.

5 The Board is convinced that other  
6 tools exist to address the concerns raised in  
7 the petition, such as settlement agreements,  
8 protests, increased reimbursable detail,  
9 enforcement of the Up Town/ARTS Mixed-Use  
10 Overlay District and increased enforcement by  
11 ABRA.

12 These tools are better suited to  
13 target the problems raised by the SDCA and  
14 other proponents of the moratorium without  
15 bluntly imposing a large Moratorium Zone on  
16 the neighborhood.

17 At this point, I would like to  
18 welcome, Mr. Jones, as I said who would be  
19 joining us, and open up the forum to comments  
20 from other Board Members on the order and on  
21 this issue. And as I did say, a full order  
22 will be issued after this deliberation.

1                   Any Board Members wish to comment?  
2                   Mr. Silverstein?

3                   MEMBER SILVERSTEIN: Thank you,  
4                   Madam Chair. I concur in the opinion and  
5                   agree with all that you said. This case was  
6                   difficult for me and I'm speaking for myself,  
7                   but the decision was an easy one.

8                   Difficult because the problems of  
9                   the individual protestants are real. Their  
10                  immediate neighborhood has become louder.  
11                  Some residents do have problems they  
12                  testified. They testified they are awakened  
13                  in the early hours of the morning. The  
14                  history is complicated as is causation.

15                  This neighborhood has historically  
16                  been an entertainment district. The Lincoln,  
17                  the Howard, the Booker T, the hotels, the  
18                  clubs. This was proudly called the Black  
19                  Broadway. That area ended pretty much with  
20                  the riots of 1968, with burned out buildings,  
21                  with cinder blocks replacing many of those  
22                  entertainment venues.

1           The building in which we now sit  
2 right now was built to kickstart the  
3 revitalization of this neighborhood. This and  
4 the Metro construction. The Metro  
5 construction tore up U Street and forced many  
6 of the surviving venues to close and by the  
7 mid-1990s, this area was economically in a  
8 deep sleep.

9           And some people who live here who  
10 moved in before or just after the Metro  
11 construction see that deep sleep as the  
12 benchmark for peace, order and quiet. This  
13 Board Member does not nor does the woman who  
14 wrote on a petition opposing the proposed  
15 moratorium "Having arrived here in 1988, I  
16 have seen the cinder blocks removed from the  
17 windows of buildings along U Street and  
18 witnessed parking lots turned into busy mixed-  
19 use buildings. U Street is blossoming with  
20 new businesses. We need to continue the  
21 rejuvenation."

22           Metro brought life to the

1 neighborhood making transit accessible day and  
2 night, but if you examine the testimony of  
3 those who are negatively impacted by  
4 nightlife, you find many of them live on once  
5 quiet side streets that are now used by  
6 people, party-goers to take a shortcut to  
7 Metro on their way home.

8 Well, this Board cannot close  
9 Metro or change its hours. So I believe there  
10 are problems, but we must address whether  
11 those problems rise to the level that warrants  
12 this Board to take the drastic actions  
13 requested by the petitioners.

14 The petitioners, of course, say  
15 yes, but others in the neighborhood say no.  
16 And on this one metric of peace, order, quiet,  
17 we must weigh the conflicting opinions. And  
18 the DC Court of Appeals in a top decision  
19 requires we give great weight to Advisory  
20 Neighborhood Commissions.

21 All four affected Commissions over  
22 three wards of the city voted overwhelmingly

1 to oppose the moratorium proposal. Not a  
2 single Commissioner representing a district  
3 within the proposed Moratorium Zone voted in  
4 favor, not even those Commissioners in the  
5 limited area represented by the petitioners.

6 The overall vote was 27 or 28 to 1  
7 among the four ANCs. And the ANCs testified  
8 that public opinion at the listening sessions  
9 they held ran 5 or 6 to 1 against it.

10 The Board's decision or written  
11 order states that this -- states quite clearly  
12 this is not a popularity contest, but we can  
13 neither ignore the welfare of the residents  
14 nor the will of the public. A neighborhood  
15 association joined by neighboring associations  
16 petitioned us to impose a moratorium on  
17 certain new licenses, but those four ANCs were  
18 opposed, strongly opposed.

19 And the public listening sessions  
20 and petition seemed to support the ANCs.  
21 There can be no doubt that many of these  
22 neighborhood associations speak for their

1 leaders and for many of their members, but the  
2 evidence brought forth in this case shows this  
3 Board Member that when they say they speak for  
4 the neighborhood, one should probably take  
5 into account that there are other voices and  
6 other opinions as well.

7           Some nightlife advocates have  
8 called this exercise a waste of time and  
9 money. I would respectfully disagree. It has  
10 brought into clear focus some very real  
11 problems that people have in our neighborhood.  
12 But the 14th and U Street neighborhood is  
13 reclaiming its full inheritance as a great  
14 urban center with thousands more residences  
15 being built with more restaurants and night  
16 spots and jobs for District residents on the  
17 way.

18           And for all of us, the challenge  
19 now is to work together to help manage this  
20 rebirth, so that this neighborhood reborn can  
21 be both lively and liveable. Thank you, Madam  
22 Chair.

1 CHAIRPERSON MILLER: Thank you  
2 very much. Others? Okay. Then I would also  
3 just like to emphasize that this Board is  
4 committed to addressing the problems that  
5 became apparent in the hearing with respect to  
6 the moratorium and just of the conclusion that  
7 the moratorium is not the best way to address  
8 them.

9 So at this point, if there are no  
10 further comments, I would like to make a  
11 motion that we deny SDCA's petition for a  
12 Moratorium Zone for the 14th and U Street  
13 Corridor.

14 Do I have a second?

15 MEMBER SILVERSTEIN: Second.

16 CHAIRPERSON MILLER: Any further  
17 comments? Okay.

18 Not hearing any, all those in  
19 favor then of the Motion to Deny say aye.

20 ALL: Aye.

21 CHAIRPERSON MILLER: All those  
22 opposed? All those abstaining? Then the

1 motion passes 5-0-0.

2 So that concludes our meeting on  
3 the moratorium. And I believe that the order  
4 will be available very shortly. And it's a  
5 long order and you all can read the details in  
6 the order. Okay. Thank you.

7 I thank you all very much for  
8 coming down.

9 (Whereupon, the Public Hearing in  
10 the above-entitled matter was concluded at  
11 1:21 p.m.)

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