

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:)	
)	
Khan's BBQ, Inc.)	
t/a Khan's)	
)	
Applicant for a New)	
Retailer's Class CR License)	License No. 84082
)	Order No. 2010-473
at premises)	Case No. 10-PRO-00076
1125 H Street, N.E.)	
Washington, D.C. 20002)	
)	

Khan's BBQ, Inc., t/a Khan's ("Applicant")

Kelvin J. Robinson, Chairperson, Advisory Neighborhood Commission 6A ("ANC 6A")

Robert Pittman, on behalf of A Group of Five or More Individuals ("Protestants")

BEFORE: Nick Alberti, Acting Chairperson
Mital M. Gandhi, Member
Donald Brooks, Member
Herman Jones, Member
Calvin Nophlin, Member
Mike Silverstein, Member

ORDER ON VOLUNTARY AGREEMENT AND WITHDRAWAL OF PROTEST

The official records of the Alcoholic Control Board (Board) reflect that Khan's BBQ, Inc., t/a Khan's (Applicant), filed an Application for a new Retailer's Class CR License located at 1125 H Street, N.E., Washington D.C., and Chairperson Kelvin J. Robinson, on behalf of ANC 6A, have entered into a Voluntary Agreement, dated June 16, 2010, setting forth the terms and conditions that govern the operation of the Applicant's establishment.

The Board's official records also reflect that the Applicant and Protestants have entered into a separate Voluntary Agreement, dated September 1, 2010, that has also been reduced to writing and properly executed and filed with the Board. This Agreement constitutes a withdrawal of the Protest of this Application.

Khan's BBQ, Inc.
t/a Khan's
License No. 84082
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The Board is approving these two Agreements and notes that where there are differences between the two Agreements with regard to the terms and conditions, the Agreement with the more restrictive terms will govern.

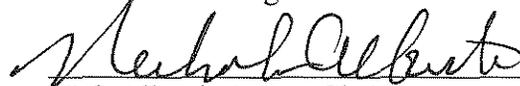
Accordingly, it is this 15th day of September 2010, **ORDERED** that:

1. The Application filed by Khan's BBQ, Inc., t/a Khan's, for a new Retailer's Class CR license located at 1125 H Street, N.E., Washington, D.C., is **GRANTED**;
2. The Protest in this matter is hereby **DISMISSED**;
3. The above-referenced Voluntary Agreements submitted by the Applicant, ANC 6A, and Protestant to govern the operations of the Applicant's establishment are **APPROVED** and **INCORPORATED** as part of this Order; except that the first sentence in Section 5 of the Voluntary Agreement dated June 16, 2010, between Khan's and ANC 6A, shall read as follows:

"This agreement can be modified only by mutual agreement of all the parties with the approval of the ABC Board or by the ABC Board consistent with the law."
4. Copies of this Order shall be sent to the Applicant, ANC 6A, and Protestants.

Khan's BBQ, Inc.
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District of Columbia
Alcoholic Beverage Control Board



Nick Alberti, Acting Chairperson

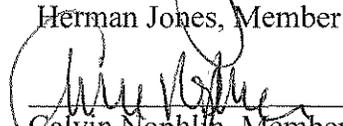
Mital M. Gandhi, Member



Donald Brooks, Member



Herman Jones, Member



Calvin Nophlin, Member

Mike Silverstein, Member

Pursuant to 23 DCMR § 1719.1 (April 2004), 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, 1250 U Street, N.W., Third Floor, Washington, DC 20009.

DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE
REGULATION ADMINISTRATION

2010 SEP -3 P 2:44

REC'D BY I. Fletcher

Khans BBQ Cooperative Agreement

This Cooperative Agreement is designed to reflect the concerns and issues of Protestants within 300 feet of Khans BBQ, Inc. located at 1125 H Street, N.E. along the H Street, N.E. corridor.

- ❖ As citizens and residents, we recognize that the Applicant has applied for a Class CR license from the Alcoholic Beverage Control Board (ABC), having met the necessary requirements set under the Alcoholic Beverage Regulation Administration (ABRA).
- ❖ As citizens, residents and Protestants, we are concerned about the impact on peace, order and quiet, demand for police, EMS and fire services, public intoxication and urination, rowdiness (intoxicated/impaired, screaming and yelling individuals on public space, people in cars drinking beer enroute to bars), illegal parking (including an over-concentration of establishments where the primary purpose is the consumption of alcohol) by large numbers of patrons in the 1100 - 1400 Blocks of H Street, N.E.
- ❖ In addition, the parking on residential streets has become a worry for fellow residents arriving home anytime after 4pm on any day and weekends become a parking nightmare for residents returning home from their activities.

Now, Therefore, in consideration of the mutual covenants and conditions set forth below the Parties agree as follows:

Made this 1st day of September 2010, by and between; Applicant, Mr. James Lee (Khans BBQ, Inc.) and Helen Wooden, Cherie Mitchell, Lisa Greene, Corrine Davenport, Wilton Madison, Leonice Davenport and Robert Pittman, hereby agree that:

- 1 Khans BBQ, Inc, LLC (hereinafter "Khans") agrees to maintain the exterior areas adjacent to the restaurant including keeping the sidewalk, curbs¹, in accordance with Title 25, D.C. Code Enactment and Related Amendments Act of 2001 (25-726.) The establishment agrees to remove any visible debris from in front of the establishment at closing.
- 2 Khans agrees to comply with Title 25, D.C. Code Enactment and Related Amendments Act of 2001 (25-713) which stipulates, in part, that a licensee is to post notice, maintained in good repair and in a place clearly visible from the point of entry to the establishment, stating: (1) the minimum age requirement for the purchase of alcoholic beverages; and (2) the obligation of the patron to produce a valid identification document displaying proof of age upon request.
- 3 Khans agrees to refuse to serve alcoholic beverages to patrons, who upon request, refuse to produce or cannot produce a valid identification document to verify proof of age. Title 25, D.C. Code Enactment and Related Amendments Act of 2001 (25-101(53)), defines a valid identification document as an official identification issued by an agency of government (local, state, federal or foreign) containing, at a minimum, the name, date of birth, signature, and photograph of the bearer.

¹ Licensee agrees that cigarette buds and small debris will be cleaned up periodically through the course of the hours of operation and at closing or shortly thereafter.

Khans BBQ Cooperative Agreement

- 4 Khans agrees to comply with Title 25, D.C. Code Enactment and Related Amendments Act of 2001 (25-725) which stipulates, in part, that ABC licensees shall not produce any sound, noise, or music of such intensity that it may be heard beyond² the premises (beyond is reasonably applied in this agreement).
- 4.1 Khans agrees that if doors are used for ventilation purposes, the licensee will recognize that at 10:00 P.M. the establishment shall close the windows and doors on any given night to prevent disturbing residential neighbors. If the establishment has a Brunch, the licensee will ensure that windows and/or doors that are open do not cause sound to spill out.
- 5 Khans agree not to engage in competitive activity³ through music or sound to attract patrons.
- 6 Khans agrees that laser light shows, strobes and A-Frame signs to attract crowds will be prohibited.
- 7 Khans shall ensure that noise will not affect residential neighbors on surrounding streets.
- 8 Sound from inside the establishment should not be audible from the center line of H Street, nor should sound be audible from the rear of the establishment inside the homes of the neighbors in the 700 block of 12th Street, N.E.
- 9 Khans agree to be cognizant of lighting and its effect beyond the premises, including its impact on residents immediately behind the establishment and the impact of signage along the corridor.
- 10 Khans agree to maintain a professional façade, with professionally made and installed signage.
- 11 Khans agree to maintain proper sanitation conditions both outside and on the premise.
- 11.1 Khans agree that all boxes are collapsed and secured in dumpster with lid always closed. Further, the licensee will make sure that it sanitizes trash to minimize the attraction of rodents and insects. The licensee agrees that all crates and other stackable items are handled appropriately and are never stacked in the alleys.
- 11.2 Khans agree to maintain contracts with licensed contractors for both for refuse and grease removal.
- 11.3 Khans agree that the emptying of glass and beer bottles or anything else that makes loud noises will not occur after 12 midnight.
- 11.4 Khans agree that deliveries will not block alleyways or streets.
- 11.5 The licensee agrees that in the event there is a crowd in front of the establishment, they will not congregate or block the sidewalks, public streets or alleyways. The licensee agrees to take reasonable steps to remind patrons of the proper decorum, which means no talking loud, yelling or otherwise disturbing residents from restaurant after 10:00 p.m.
- 11.6 Khans agree to encourage staff and patrons to be respectful of the residential neighborhoods. To the extent possible, the licensee will post a sign directed at patrons about parking and the need to lower voices when coming into the residential communities.

² "Beyond" is reasonably applied; the location in a commercial site, with recorded music or live bands should not be heard standing in the middle of H Street on the yellow line.

³ "Competitive activity" means using music, sound devices or other such methods to attract patrons on the street.

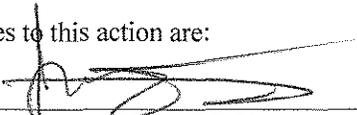
Khans BBQ Cooperative Agreement

- 12 Khans agrees to pursue reasonable efforts, both directly and through communications with the Metropolitan Police Department (1st District) to discourage individuals from congregating or loitering outside of and in areas adjacent to the establishment. The licensee agrees to maintain a log of calls placed to MPD and Emergency Medical Services (EMS), which shall be open to review by the Protestants, public safety and regulatory officials.
- 13 It is agreed that should complaints arise from community members concerning noise or other issues, the licensee shall meet with the Protestants (within 7 days of a request by either party) to develop methods to reduce and/or eliminate sounds that have become noise and address any outstanding problems (meetings may take place via the internet or teleconference and is not limited to a person-to-person contact).
- 14 **The Parties agree to maintain open dialogue to address mutual concerns and provide constructive remedial actions whenever necessary. If any of the Parties believes in good faith that any signatory has failed to comply with any provision of this Cooperative Agreement, that Party shall notify the other in writing of the concern. Both Parties shall make every effort to resolve any outstanding issues before filing a complaint with the ABC Board.**
- 15 The licensee acknowledges that the signatories hereto are Protestants in the pending license Application before the ABC Board of the District of Columbia. All of the Protestants live in the immediate area of the establishment and are personally impacted by the presence of an establishment that serves alcohol.

All Parties have read and mutually agree to the provisions of this document; Therefore the Protestants withdraw its protest of Khan's BBQ, LLC. application for a Class CR license.

This Cooperative Agreement shall be executed in 3(Three) originals.

Parties to this action are:



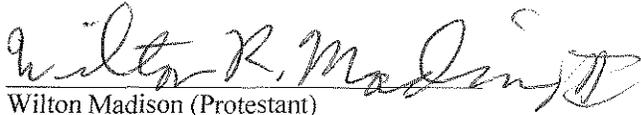
Mr. James Lee (Khans BBQ)



Corrine Davenport (Protestant)



Lisa Greene (Protestant)



Wilton Madison (Protestant)



Cherie Mitchell (Protestant)



Leonice Davenport (Protestant)



Robert Pittman (Protestant)

Khans BBQ Cooperative Agreement

Helen Wood
Helen Wood (Protestant)

Made this 14 day of June, 2010

by and between

Khan's BBQ
1125 H Street, NE
Washington DC 20002

and

Advisory Neighborhood Commission 6A

Preamble

Through this agreement, both parties aim to create an environment whereby the applicant may operate as a viable contributing business in the ANC 6A community, while concurrently curtailing any adverse effects a business such as the applicant's could have on the surrounding neighborhood.

The applicant agrees to work regularly with the ANC 6A, neighborhood associations, and residents to ensure the business operations do not adversely affect the surrounding neighborhood. All parties believe the statements and provisions contained in this agreement are reasonable and must become wholly integrated into the day-to-day operation of the business establishment.

Further, ANC 6A acknowledges that this Cooperative Agreement shall be presented to all Class CR applicants within the boundaries of ANC 6A. The community and merchants have agreed that it is in all the parties best interests to standardize the requirements for the operations of restaurant, tavern, and nightclub establishments within the boundaries of ANC 6A. To the greatest extent possible, the ANC will not insist upon or allow any significant changes to this Cooperative Agreement that will unfairly benefit or, conversely, cause competitive disadvantage to, any individual applicant or establishment within the ANC, unless such change is required by the District of Columbia government, other authorized governmental bodies, or rule of law.

The community and merchants understand and agree that the changes imposed upon the operations of all licensees within the ANC as set forth herein are important measures to protect the safety, peace, order and quiet of the neighborhood, its residents, and businesses.

Witnesseth

Whereas, Applicant's premises is within the boundaries of ANC 6A; and,

Whereas, the parties desire to enter into an agreement governing certain requirements and understandings regarding the issuance of a Retailer's Class CR Liquor License at the subject premises; and,

The Parties Agree As Follows:

1. Public Space Cleanliness and Maintenance. Applicant will maintain the public space (minimally the front sidewalk up to and including the gutter in front of the subject premises, and the alleyway behind the subject premises) adjacent to the establishment in a clean and litter-free condition by:
 - a. Picking up trash, including beverage bottles and cans, and all other trash a minimum of twice daily (once immediately before business hours and again between 5:00 p.m. and 8:00 p.m.).

dumpster area, and see that the trash and dumpster area remain clean.

c. Applicant shall deposit trash and garbage only in rodent-proof dumpsters, and shall see that dumpster covers fit properly and remain fully closed except when trash or garbage is being added or removed.

d. Exercising due diligence to prevent and/or rid vermin infestation in and around the establishment, including following, minimally, the recommendations and guidelines of the Vector Control Division of the Department of Public Works.

e. Assisting in maintenance of the curb in front of the establishment to keep them free of trash and to remove snow and ice from the sidewalk and comply with all applicable D.C. laws and regulation in these respects.

f. Planting, watering, and generally tending to tree boxes directly in front of the subject premises, if any.

e. Promptly removing or painting over any graffiti written on the exterior walls of the property.

2. Business Operations and Practices:

a. Applicant will not, directly or indirectly, sell or deliver alcohol to any intoxicated person, or to any person of intemperate habits, or to any person who appears to be intoxicated. A person of intemperate habits shall be defined as:

i. Any person convicted of alcohol offences or alcohol-related crimes three times or more in any one year; and

ii. Who has been so identified to the licensee by the Metropolitan Police Department by giving a photo and name to the licensee.

b. Applicant agrees to take all necessary steps to prevent patron rowdiness, including refusing admission/service to rowdy and/or unruly persons.

c. Applicant agrees to ensure that no patron bring alcohol into the establishment from outside sources, and at no time exits the establishment with alcoholic beverages.

d. Applicant will not provide or sell alcoholic beverages "to go." Applicant agrees not to promote or participate in bar or pub "crawls" or any other event of this nature.

e. The licensed establishment will be managed by the applicant in person or a board licensed manager.

f. Applicant, and all employees of the applicant, shall attend and complete an alcoholic beverage server training course/seminar.

g. Applicant shall post a notice kept in good repair and visible from point of entry a sign, which states:

i. Proper ID required (proof of age 21 minimum to be served and assurances that ID's will be checked at all times prior to serving alcoholic beverages to patrons).

ii. Prohibition against selling alcohol to minors.

iii. Request to patrons to not litter, loiter, or make excessive noise in the neighborhood as they arrive or depart.

iv. Warning: Drinking alcoholic beverages during pregnancy can cause birth defects.

v. Request that customers do not contribute to panhandlers.

h. Applicant shall make every effort to prohibit and prevent loitering and criminal activity on or in front of the establishment premises, to include:

i. Asking loiterers to move on whenever they are observed outside the establishment,

ii. Calling the Metropolitan Police Department (MPD) to remove loiterers if they refuse Applicant's request to move on,

iii. Calling the Metropolitan Police Department if illegal activity is observed,

iv. Keeping a written record of dates and times (i.e. log) when the MPD was called for assistance.

Applicant's log shall be provided to the Board and, for good cause shown to the Board, to any valid protestant during hearings involving future renewals or contested proceedings involving the Applicant's license.

- j. Applicant shall not support the installation of pay phones outside of the establishment on their property.
- k. Applicant will utilize and maintain high-intensity flood-lights on the exterior of its premises so as to fully light any abutting alleyway from dusk until dawn.
- l. Applicant shall provide valet parking services only with valet parking services as defined licensed and in compliance with Title 24 DCMR Chapter 16.

3. Music / Dancing / Entertainment:

- a. Applicant agrees to ensure that sounds originating from within the establishment are mitigated by installing adequate sound proofing.
- b. Applicant shall not produce any sound, noise, or music of such intensity that it may be heard in any premises other than the licensed establishment in accordance with DC Official Code Title 25-725.
- c. In order to mitigate noise on the patio or summer garden the following steps will be taken:
 - 1) The hours for the patio will be until 11PM on weekdays and 12PM on weekends.
 - 2) Applicant shall not offer any type of live or pre-recorded music on the patio.
 - 3) A fence or other barrier will enclose the entire perimeter.
 - 4) No fewer than two signs will be clearly posted to remind guests to keep their voices at normal speaking volume.
 - 5) Staff will monitor the outdoor area to make sure guests do not raise their voices above normal speaking tones.
 - 6) Potted plants, trees, fountains or other types of noise mitigation techniques will be incorporated into the summer garden decor.
- d. If residents have no noise complaints for a three month period following opening of the establishment and the licensee has a record of good conduct during this time period, the hours for service on the patio may be extended to be consistent with the licensee's normal business hours.
- e. Applicant shall obtain an entertainment endorsement to have a cover charge. For purposes of this clause, a cover charge is a fee required by an establishment to be paid by patrons for admission that is not directly applied to the purchase of food or drink.
- f. Applicant may offer facilities for dancing for patrons only with an entertainment endorsement and may have recorded and background music without an entertainment endorsement. "Entertainment" means live music or any other live performance by an actual person, including live bands, karaoke, comedy shows, poetry readings, and disc jockeys. The term "entertainment" shall not include the operation of a jukebox, a television, a radio, or other prerecorded music.

4. Cooperation with ANC 6A. Applicant agrees to work on resolving issues preventing the applicant from fulfilling its obligations under this cooperative agreement with all of the following: the Single-Member District (SMD) ANC Commissioner within whose boundaries the establishment is located, the Chair of the ABL Committee, and other Commissioners whose SMD's are adjacent to the location of the establishment.

5. Modifications. This agreement can be modified only by mutual agreement of all the parties with the approval of the ABC Board. In the case of ANC6A, if applicant desires to modify the terms of this agreement, the applicant, prior to implementing the change(s), shall receive written agreement from ANC6A after a majority of the commissioners shall have voted in favor of the changes at a full public meeting.

6. Miscellaneous:

- a. Applicant certifies that it does not owe more than \$100 to the District of Columbia government as the result of any fine, fee or penalty interest or past due tax.
- b. Applicant shall post a copy of this voluntary agreement in the establishment in conjunction with the posting of its alcoholic beverage license.
- c. Applicant will operate in compliance with all applicable laws and regulations.

7. Enforcement:

- a. If either party hereto believes in good faith that the applicant is in violation of this agreement, written notice specifying the alleged violation shall be delivered to the applicant and the applicant shall have ten (10) days after receipt of such written notice to come into compliance with this agreement or respond to said alleged notice of default.
- b. Applicant and the ANC 6A Commission agree to enter into this agreement. If the applicant should breach the conditions of this agreement, it is understood by all parties that the ANC 6A, and/or its committees, or others shall immediately petition the ABC Board for a "show cause" hearing pursuant to 23 D.C.M.R. 1513.5.
- c. This cooperative agreement is binding on the applicant and its assigns and will continue in force for any and all subsequent license holders at this location.

In Witness Whereof

The parties have affixed hereto their hands and seals.

Applicant:

By: James C Lee Date: 6/8/10

Signature: 

Advisory Neighborhood Council 6A Representative:

By: Kelvin J. Robinson Date: 6/16/10

Signature: 

ABC Board-Licensed Manager:

By: _____ Date: _____

Signature: _____

Walker, Dannette (ABRA)

From: Davis, Thea (ABRA)
Sent: Monday, August 02, 2010 4:44 PM
To: Walker, Dannette (ABRA)
Subject: FW: Khan's BBQ - Voluntary Agreement

Please print and attach to the Khan's BBQ VA for the agenda. Thanks.

Best regards,

Thea D. Davis
 Assistant Attorney General
 Office of the General Counsel
 Alcoholic Beverage Regulation Administration
 1250 U Street, N.W., 3rd Floor
 Washington D.C. 20009
 Main: 202/442-4423
 Direct: 202/442-4353
 Fax: 202/442-9563
 Email: Thea.Davis@dc.gov

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From: MBBeatty@aol.com [mailto:MBBeatty@aol.com]
Sent: Tuesday, July 27, 2010 9:48 PM
To: Davis, Thea (ABRA); Jenkins, Martha (ABRA); Moosally, Fred (ABRA)
Cc: GMACK01@JUNO.COM; RVMP56A@aol.com; ronneberg6a02@gmail.com; schltzss@yahoo.com; alberti6A04@yahoo.com; holmes6a3@gmail.com; kelvin.robinson@anc6a08.com
Subject: Re: Khan's BBQ - Voluntary Agreement

Dear Ms. Davis,

We have received the suggestion from our ANC 6A's VA for Khan's BBQ and more recently (7-24) for Desperado Pizza. Our comments below apply to both of these VA's. The VA's submitted for each applicant is our standard voluntary agreement. The language in our VA has been used with applicants throughout the ANC, but more particularly, with all applicants for CR/CT licenses along the H Street NE corridor for over six years.

As Chair of the ABL Committee for the ANC during that time, I have worked closely with ABRA and with the ABC Board (including former Chair Chuck Burger and current Executive Director Fred Moosally) to assure cooperation between the agency and our ANC. As an ANC, we respect ABRA management and the Board, and have made modifications to our standard voluntary agreement on numerous occasions based upon ABRA concerns. The process for these changes has been to receive comments directly from the legal department, have them discussed in the ABL committee, and finally have recommended changes presented to the full ANC for a vote. We do not make changes to our VA "on the fly", or without full ANC consideration of those changes. In fact, neither I as Chair of the Committee or Kelvin Robinson as Chair of the Commission have the authority to change language within the standard VA without full ANC approval.

8/3/2010

So, we have concerns about how you have presented your "suggestions" to us. But as importantly, we do not agree with your approach of stripping all language which references DC law, which restates DC law, or which ABRA deems to be unenforceable. We feel strongly that since many applicants are unaware of DC law, there is benefit to stating it in the agreement, and further that there is no harm in stating it. Secondly, you have asked us to strip any references to DC law, such as with valet parking services. The law regarding valet parking needs to be referenced in the VA because these laws (outside the liquor law code) would not necessarily be known or understood by a liquor licensee. Finally, there are provisions of a VA that are enforced by the ANC itself. The enforcement is public pressure, rather than the ability to levy a fine. We can cite numerous instances in which public pressure or negative attention by the ANC has created tremendous leverage in satisfying neighborhood concerns.

So, we feel that if the ABC Board would like to make suggestions regarding our VA, particularly a VA that has been accepted for over six years, that it should be done in a process that does not disadvantage all of those who have signed this agreement, and through a process that includes our entire ANC.

Respectfully,

Mary Beatty

In a message dated 6/28/2010 4:57:38 P.M. Eastern Daylight Time, thea.davis@dc.gov writes:

All –

Thank you for submitting the Voluntary Agreement, dated June 16, 2010, between Khan's BBQ and ANC 6A. On June 23, 2010, the Board reviewed the Voluntary Agreement and referred it to the Office of General Counsel with the following requests for amendments and/or omissions. The Board's requests for these changes are because a certain provision is unenforceable by ABRA, restatement of the law, inconsistent with the requests of the Applicant, or inconsistent with the law.

Section 1 (Public Space Cleanliness and Maintenance):

Subsections (d), (e), (f), and (g)(labeled e) should be removed.

Section 2 (Business Operations and Practices):

Subsections (b), (c), (d), and (e), and (l) should be removed.

Subsections (g)(i), (ii), and (iv) should also be removed.

Section 3 (Music/Dancing/Entertainment):

Subsections (a), (b), (d), (e), and (f) should be removed.

Subsections (c)(1) and (2) should be removed.

Section 4 (Cooperation with ANC 6A):

This section should be removed.

Section 5 (Modifications):

This section should be removed.

8/3/2010

Section 6 (Miscellaneous):

This entire section should be removed.

If you have any questions or comments, please feel free to contact me. Thank you.

Best regards,

Thea D. Davis
Assistant Attorney General
Office of the General Counsel
Alcoholic Beverage Regulation Administration
1250 U Street, N.W., 3rd Floor
Washington D.C. 20009
Main: 202/442-4423
Direct: 202/442-4353
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U.S. Census workers are here to assist you with filling out the **2010 Census Form**.

www.census.dc.gov