

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CORPORATION COUNSEL

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Office of Government Operations
Legal Counsel Division

July 24, 2001

Regina M. James
Commissioner
Advisory Neighborhood Commission 5B
1363 Adams Street, N.E.
Washington, D.C. 20018

Re: Actions of Chair with regard to ABC license renewal

Dear Ms. James:

This responds to your letter dated June 16, 2001, wherein you request legal advice regarding the actions taken by the Chair of Advisory Neighborhood Commission (ANC) 5B regarding the vote on a renewal of an ABC license. You state that it has been long-standing ANC 5B practice to have the owners of ABC establishments, as well as representatives from the Metropolitan Police Department (MPD), brought before the ANC whenever an ABC license is before the Commission. At the May 3, 2001 ANC 5B regular meeting the ANC considered the renewal of an ABC license for Brentwood Liquors. You opposed the renewal because of crime activity associated with the establishment. Neither the establishment's owner nor the MPD was present at the meeting. You made a motion to oppose the renewal of the license. The vote on the motion was 3-3, with three Commissioners abstaining. Thus, the vote failed. The three abstaining Commissioners requested more information prior to making a decision. After the May 3rd meeting, the Chair sent a letter dated June 6, 2001 to the ABC Board stating that a vote had been taken on a motion to oppose the renewal and that the motion failed, therefore the ANC did not oppose the renewal of the license to Brentwood Liquors. You state that the Chair did not have the permission of the Commission to write the June 6th letter because there was no Commission action taken. You further state that at the next meeting, on July 7th, the Chair would not permit any further discussion of the issue because she had already written the letter. You seek advice as to the propriety of the Chair's action in writing the June 6th letter, and seek suggestions as to internal controls that might prevent this type of issue from arising in the future.

I have reviewed the by-laws of ANC 5B, which you forwarded with your letter, and find that the by-laws permitted the Chair to write the June 6th letter. Section 8 of Article VI deals directly with the issue at hand as follows:

If, with respect to the proposed action, the Commission does not have a recommendation, it shall indicate same in writing within the required time.


This provision of the by-laws requires the ANC to report the failure of the motion to oppose the license to the ABC Board. Furthermore, the Chair is an appropriate officer under by Article II, section 2, and Article IV, section 13 to forward the result of the vote to the ABC Board. Therefore, the Chair's action in writing the June 6, 2001 letter was proper.

If you wish to prevent the Chair from so acting in the future you may do so in several ways, including, but not limited to: amending the by-laws to delete the requirement of sending a letter regarding the Commission's failure to act; amend the by-laws or make a motion (as you indicated in your letter) to require that more than one officer is required to sign letters which represent the Commission's position on any issue; move to require that all ABC licenses be brought to a vote only after certain information has been reviewed by the Commission and/or the owner of the establishment and the MPD have been invited to speak to the Commission regarding the license; or move to adopt standard language for letters that are forwarded from the Commission regarding motions that have failed.

If you have any further questions with regard to this issue, please contact Annette Elseth, Assistant Corporation Counsel, Legal Counsel Division, at 724-5537, or me at 724-5493.

Sincerely,

ROBERT R. RIGSBY
Corporation Counsel


By: DARRYL G. GORMAN
Senior Deputy Corporation Counsel
for Government Operations
Legal Counsel Division

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