


THE PROTEST PROCESS

OVERVIEW

The background is a solid teal color. A faint, stylized graphic of two hands shaking is visible in the lower half of the image, rendered in a slightly darker shade of teal.

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

THE PROTEST PROCESS OVERVIEW

WHAT IS A PROTEST?

- A protest is a written statement in opposition to the issuance of a liquor license in the District of Columbia.

WHO CAN FILE A PROTEST?

- An abutting property owner. (sharing property line to property line)
- A group of no fewer than 5 residents or property owners of the District sharing common grounds for their protests.
- In a moratorium zone established under D.C. Official Code § 25-351, there must be a group of no fewer than 3 residents or property owners of the District sharing common grounds for their protests.

WHO CAN FILE A PROTEST?

Cont'd.

- A citizens association that 1) is incorporated under the laws of the District of Columbia, 2) is located within the affected area, and 3) meets the following conditions:
 - Membership in the citizens association is open to all residents of the area represented by the association; and
 - A resolution concerning the license application has been approved in accordance with the association's articles of incorporation or bylaws at a duly called meeting, with notice of the meeting being given at least 10 days before the date of the meeting.

WHO CAN FILE A PROTEST?

Cont'd

- An affected ANC;
- In the case of property owned by the District within a 600-foot radius of the establishment to be licensed, the Mayor;
- Community/Civic Associations and Advisory Neighborhood Commissions must include in their protest letter the date of their meeting and the vote that was taken regarding the protest of an application.

WHO CAN FILE A PROTEST?

Cont'd.

- In the case of property owned by the United States within a 600-foot radius of the establishment to be licensed, the designated custodian of the property; or
- The Metropolitan Police Department District Commander, or his or her designee, in whose Police District the establishment resides.

WHAT CAN BE PROTESTED?

- Applications for a new license, the transfer of a license to a new location, the renewal of an existing license, substantial changes to the nature of the operation of a licensed establishment, changes in current license class, and applying for an entertainment endorsement.

HOW DO I FILE A PROTEST?

- All protests must be in writing, must be received by the Board prior to the end of the protest period, and must clearly state the grounds for the protest, i.e., why the matter being objected to is inappropriate under one or more of the appropriateness standards, which include: 1) adverse impact on the peace, order, and quiet of the neighborhood;

HOW DO I FILE A PROTEST?

Cont'd

- 2) adverse impact on real property values; and 3) adverse impact on residential parking needs and vehicular and pedestrian safety.
- All protests must be signed by the protestants and contain the protestant's full name and mailing address.

Peace, Order, and Quiet

- Noise from licensed premises—any sound, noise, or music of such intensity that it may be heard in any premises other than the licensed establishment.
- Control of litter—the licensee under a retailer's license shall take reasonable measures to ensure that the immediate environs of the establishment, including adjacent alleys, sidewalks, or other public property immediately adjacent to the establishment, or other property used by the licensee to conduct its business, are kept free of litter.

WHAT IS NOT A VALID PROTEST

- Not filed timely—Section 25-602. Filing a protest — timing and requirements. (a) Any person objecting, under Sec. 25-601, to the approval of an application shall notify the Board in writing of his or her intention to object and the grounds for the objection within the protest period.
- Letters of opposition without a signature.
- Letters of designation without signatures of each of the protestants.

WHERE DO I FILE A PROTEST?

- The letter should be mailed or hand delivered to the following address:

ALCOHOLIC BEVERAGE
CONTROL BOARD
ADJUDICATION DIVISION
2000 14th Street, NW
Suite 400 South
Washington, DC 20009

WHEN CAN I FILE A PROTEST?

- All protests must be filed prior to the end of the protest period. The last day of the protest period, or petition date, can be found on the notice placards that licensees are required to post where it is visible to the public. You may also contact the Licensing Division of ABRA at 202/442-4359 to find out the last day of the protest period for a particular license application.

WHEN CAN I FILE A PROTEST?

- All protest are received and date stamped by ABRA. The date used to determine the deadline is based on the petition deadline. ABRA's stamped date determines whether the protest is filed timely. The stamp date by the Postal service is not accepted.
- Placards are placed in the window of establishments for various reasons: Green—Substantial Change; Orange—New Application; Red—Renewal; and Yellow—Suspension.

NOTIFICATION/PLACARD INFORMATION

- The notice placards contain the following information:
 - Licensing information, i.e., the legal name of the applicant, the trade name of applicant, the street address of establishment, the license class, the description of the nature of the operation of the establishment, etc.;
 - The date the notice placards are required to be posted by the applicant, or *the posting date*;

NOTIFICATION/PLACARD INFORMATION

- The date of the final day of the protest period, or *the petition date*;
- The date of the roll call hearing, or *the hearing date*, during which the applicant and the protestant(s) are introduced to each other and to the ABC Board and where the grounds for the protest of the license application are read to the public.

CAN I FAX A LETTER OF PROTEST?

- Letters of Protest may be faxed or e-mailed (electronic submission) as a PDF file with signatures of each protestant to the Alcoholic Beverage Control Board (Fax: 202/442-9563). The original letter of opposition must eventually be received by ABRA in order for the the faxed or e-mailed submission to be valid.

CAN A PERSON REPRESENT MY CONCERNS AT A HEARING?

- Yes! However, the Board requires that all parties of record must attend the Roll Call Hearing.
- After the Roll Call Hearing, a designated representative may be appointed by the protestant/s.
- The designation must be in writing, authorizing the designee to represent him/her; and must be available for the Board's review at the time of the Roll Call Hearing.

THE ALCOHOLIC BEVERAGE CONTROL BOARD

- There are seven (7) members on the Board.
- Each is a resident of the District of Columbia from various parts of the City.
- The Mayor, with the advice and consent of the DC City Council, appoints the Board members.
- The Chairperson is selected by the Mayor, with the advice and consent of the DC City Council.
- All appointments are for a term of four (4) years, except appointments made for the remainder of unexpired terms.

THE VARIOUS HEARINGS

- **Roll Call** – It is a non-adversarial proceeding held by the Board at which a list of applications for the licensing actions and the names of protestants who have filed an objection to the issuance, renewal, transfer to a new location, and any substantial change to the operation of a licensed establishment may be made is read to the public.
- **Status** – It is a non-adversarial proceeding held by the Board at which the parties inform the Board of their progress in reaching a cooperative/voluntary agreement.
- **Protest** – the adjudicatory proceeding held by the Board, after receipt of a protest, to hear persons objecting to, or in support of, the issuance of a license.

RESOLVING THE PROTEST

- All parties are encouraged to resolve the protest through a voluntary/cooperative agreement.
- All parties are encouraged to resolve the protest through the mediation process.
- If a protest cannot be resolved by the above avenues, the Board will hold an adjudicatory proceeding known as a “protest hearing”.

THE PROTEST HEARING

- During a protest hearing, the applicant and the protestant(s) will present evidence and testimony regarding the appropriateness of the licensing action.
- The record shall close when a hearing is concluded. Parties shall have 30 days after the conclusion of the hearing to submit proposed findings of fact and conclusions of law to the Board.

THE PROTEST HEARING

- Within 90 days after the close of the record, The Board shall issue its written decision accompanied by findings of fact and conclusions of law. The Board shall publish and maintain a compilation of its decisions and orders.
- A petition for reconsideration, rehearing, reargument, or stay of a decision or order of the Board may be filed by a party within 10 days after the date of receipt of the Board's final order.

HEARINGS OUTSIDE OF THE PROTEST PROCESS

- **Fact Finding** – Prior to rendering a final decision on a licensing request or an ABRA investigative report, the Board may hold a fact-finding hearing to obtain further information from an applicant or licensee.
- **Summary Suspension** – The Board may suspend or restrict the license of the licensee. Additionally, the Board may keep the licensee in the summary suspension proceeding to monitor the licensee to make a determination if the conditions placed by the Board on the licensee are effective.

HEARINGS OUTSIDE OF THE PROTEST PROCESS

- **Show Cause** – whenever the Board has reasonable cause to believe that any license or permit should be revoked or suspended, it shall notify the person to whom the license or permit was issued by personal service or certified mail at the last address recorded by the person with the Board, citing that person appear before the Board not less than thirty (30) days thereafter. The notice shall state the time and place set by the Board for the hearing.

RETAILER'S CLASS OF LICENSES

- Class A – beer, wine, and spirits
- Class B – beer and wine
- Class C/R – restaurant – beer, wine, and spirits
- Class D/R – restaurant – beer and wine
- Class C/T – tavern – beer, wine, and spirits
- Class D/T – tavern – beer and wine
- Class C/N – nightclub – beer, wine, and spirits
- Class D/N – nightclub – beer and wine

RETAILER'S CLASS OF LICENSES

- Class C/H – hotel – beer, wine, and spirits
- Class D/H – hotel – beer and wine
- Class C/X – Arena, Multi-purpose facility (on premises without a stationery location.)