

Advisory Rules Committee Meeting Notes

Meeting Date and Time: September 29, 2015 – 10:00 AM – 12:00 PM

Meeting Location: BLLC Offices – 231 E. Baltimore Street, Suite 600

Meeting Attendance Record:

Advisory committee members and staff present:

- *Stanley Fine, Attorney, Chair, Rosenberg, Martin, and Greenberg, LLP*
- *Melvin J. Kodenski Attorney, Law Offices of Melvin J. Kodenski*
- *Minda Goldberg, Attorney, Office of the City Solicitor of Baltimore City*
- *Abraham Hurdle, Attorney, Law Offices of Abraham Hurdle*
- *John Pica, Attorney, Royston, Mueller, McLean & Reid, LLP*
- *Tom Yeager, Downtown Partnership*
- *Peter Kimos, owner, Peter's Pourhouse*
- *Michelle Wirzberger, Midtown Community benefits District*
- *Victoria Schassler, licensee*
- *Thomas R. Akras, Deputy Executive Secretary, BLLC*
- *Michelle Bailey-Hedgepeth, Executive Secretary, BLLC*

Members of the public present:

- *Rebecca Witt, Community Law Center*

Excused committee members (not present):

- *Theo Harris, Greektown CDC*
- *Richard Parker, President, Citizens of Pigtown*
- *Steve Johnson, Mount Vernon Belvedere Association*

1. Preliminary Matters

- a. As per the direction of the Chair the meeting to be held on October 5, 2015 will cover the rest of Chapter 4 and all Adult Entertainment Rules.
- b. BLLC staff informed the Committee that the DLS review should be completed by the end of this week and distributed to the Committee by next week.
- c. The Committee will meet on October 19, 2015 from 10 am – 1pm to complete a final review of the rules for submission to the Board.

2. Review of Chapter 2

- a. As per the Chair's direction, the Committee reviewed Chapter 2 and 3 for the purposes of correcting any errors in preparation for submission to DLS.
- b. **Rule 2.01 Applicants**
 - i. The Committee discussed including "registered voter" language for sole applicants in order to be consistent with the rest of 2.01. Both Mel Kodenski and Abe Hurdle raised objections concerning the inclusion of such language. Both raised issue with recent Circuit Court rulings in Montgomery County and Anne Arundel County which they purported held that citizenship is not a requirement.
 - ii. BLLC staff was tasked with contacting the Attorney General's office to determine the constitutionality of including the registered voter position
 - iii. BLLC staff spoke with the Attorney General's office. As per the Office, BLLC staff was informed that the Court of Special Appeals or the Court of Appeals has not ruled on a case involving whether or not a non-citizen can be named as an alcoholic beverage licensee. BLLC was further informed that there are a few Circuit Court judges in the State that have held the view that a non-citizen can be an alcoholic beverages licensee. In addition, BLLC was informed that through either case precedent or statutory amendments the law could change in the near future. Nevertheless, as of today the legislature has not amended the law as it pertains to Baltimore City, which as per Art.

- 2B § 10-103(b)(1), each applicant shall provide the Board with a “statement that the applicant is a citizen of the United States.” Thus, as the law currently stands, Baltimore City requires a U.S. citizen to apply for a license.
- iv. As per the directions of the Chair, in order to keep consistent the requirements of LLC/Corp./LLPs BLLC staff is inserting the language “registered voter” in the sole applicant section.
 - v. BLLC staff was instructed to remove “county or State of Maryland” from Section (b).
- c. **Rule 2.02 New/Transfer/Amendment Applications**
 - i. BLLC staff was instructed to remove the words “if the application is for renewal” as it was determined to be redundant as Zoning matters are stipulated in the Renewal sections of these rules.
 - d. **Rule 2.03 Substitute Applications**
 - i. BLLC staff was instructed to remove the 50.1% by Stanley Fine and replace it with “greater than 50%” in accordance with BLLC policy and Art. 2B.
 - e. **Rule 2.04 Renewals**
 - i. BLLC staff was instructed to add fees for the purposes of collecting any outstanding fees owed to the BLLC before issuance of a license at renewal time.
 - ii. After much discussion regarding Zoning matters and renewal, BLLC staff was instructed to insert language concerning zoning within the Renewal rules.
 - iii. Section (b)(i) was amended to clean up unnecessary language.
 - f. **Rule 2.05 Transfer of a License**
 - i. BLLC staff was instructed to amend some of the language in Section (e) to provide clarity on the permits required to be obtained by a transferee.
 - g. **Rule 2.06 Notice and Hearings**
 - i. BLLC staff was instructed to amend the language to reflect the intent for any member of the public to testify if they wanted to.
 - h. **Rule 2.07 – Protests Against the issuance or Transfer of a License**
 - i. BLLC Staff was instructed to eliminate the words “In Baltimore City” in Section (1).
 - i. **Rule 2.09 Zoning**
 - i. BLLC staff was instructed to eliminate this section as its components were found in other parts of the Rules and Regulations.
 - j. **Rule 2.09 Appeals**
 - i. BLLC staff was instructed to change awkward wording in Section (c) of the rule.
 - k. **Rule 2.10 Inspections**
 - i. BLLC staff was instructed to eliminate the “(a)”
- 3. **Vote on Chapter 2 – To send to DLS**
 - a. Upon completing the review of Chapter 2, Stanley Fine called for a vote on the language of Chapter 2 to be submitted to DLS for review
 - i. The Vote was 8-1, with all agreeing, but Melvin Kodenski. Mr. Kodenski argued he did not think it appropriate for a Sole Applicant to be a U.S. Citizen.
- 4. **Review of Chapter 3**
 - a. **Rule 3.01 – Ownership and Operation**
 - i. The (a) was removed from this Section
 - b. **Rule 3.02 Cooperation**
 - i. The (a) was removed from this Section
 - ii. “Parsons” was changed to “persons.”
 - c. **Rule 3.04 – Keg Registration**
 - i. Section (b) grammatical change from “the” to “this”

5. **Vote on Chapter 3 – To send to DLS**
 - a. Upon completing the review of Chapter 2, Stanley Fine called for a vote on the language of Chapter 2 to be submitted to DLS for review
 - i. The vote was unanimous to send Chapter 3 to DLS.
6. **Review of Chapter 4, beginning with 4.07**
 - a. **Rule 4.07 – Open Containers, etc.**
 - i. BLLC Staff was instructed to add the word “recapped” to Section (a)
 - b. **Rule 4.09 – Drive in Dispensaries**
 - i. The (a) was removed from this Section
 - c. **Rule 4.10 – False Statements**
 - i. The (a) was removed from this Section
 - ii. Minor changes in the structure of the sentence.
 - d. **Rule 4.11 Discrimination**
 - i. The (a) was removed from this Section
 - e. **Rule 4.13 – Drugs and illegal Narcotics**
 - i. BLLC Staff was instructed to insert Controlled Dangerous Substances language for Section (b).
 - f. **Rule 4.14 – Live Entertainment**
 - i. BLLC staff was instructed to eliminate Section (b) as it was seen as confusing and redundant.
 - ii. BLLC staff was instructed to simplify Section (a).
 - g. **Rule 4.15 Sexual Practices and Obscenity**
 - i. All of the phrases “or suffer” were removed from the Rule.
 - ii. BLLC staff was instructed to remove the “obscene act” phrase and insert “unlawful performance.”
 - h. **Rule 4.16 Illegal Conduct**
 - i. BLLC staff was instructed to eliminate Section (b) of this rule and combine the two if possible. After review BLLC Staff believes Rule 4.16 is broad enough to encompass acts of violence as the word “any” is used to define “law, statute, or ordinance.”
 - i. **Rule 4.18 – Alterations**
 - i. BLLC staff was instructed to eliminate all of the agencies listed in Section (b) and just stipulate to the “City” which would be all encompassing.
 - ii. BLLC staff was instructed to condense the language in Sections (c)-(e) into Section (b).
 - iii. BLLC staff simplified the language to indicated that “required permits and approvals must be obtained from the City” before work is completed.
 - j. **Rule 4.19 – Gifts**
 - i. BLLC Staff was instructed to eliminate (a).
 - k. **Rule 4.20 – Prohibited Activities by License Type**
 - i. BLLC Staff was instructed to add language allowing for exceptions as laid out by Article 2B.
 - ii. BLLC Staff was instructed to address the confusion created by the terms “Open Kitchen” and “Food Service.” Upon review BLLC Staff determined that the Section (b)(iii) was not necessary as the rule itself required the kitchen to be operational. In addition, licensees are instructed to provide inspectors information as to the food invoices so percentage sales concerning food can be reviewed.
 - iii. BLLC Staff also renamed the section “Functional Kitchen”
 - l. **Public Comment** - There were no public comments made at this meeting.