

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
941 NORTH CAPITOL ST., NE, 7TH FLOOR, SUITE 7200
WASHINGTON, DC 20002
(202) 442-4423

HEARING DATE: APRIL 7, 2004

FEBRUARY 6, 2004, NOTICE IS HEREBY GIVEN THAT THE FOLLOWING PERSONS HAVE APPLIED FOR A LICENSE UNDER THE D.C. ALCOHOLIC BEVERAGE CONTROL ACT, THAT THE OBJECTORS ARE ENTITLED TO BE HEARD BEFORE THE GRANTING OF SUCH LICENSES ON APRIL 7, 2004 AT 10:00AM, 7th FLOOR, SUITE 7200, 941 NORTH CAPITOL ST., N.E.

APPLICATION NO. 350, UNIVERSAL DARUWALA, LLC. T/A UNIVERSAL LIQUORS, RETAILER'S CLASS "A" LIQUOR STORE , 2018 FLORIDA AVE., NW., WARD 2 ANC 2B01.

NATURE OF OPERATION

LIQUOR STORE TRANSFER NEW-LOCATION. LICENSE TRANSFER FROM SAFEKEEPING TO NEW LOCATION.

SALE AND SERVICE OF ALCOHOLIC BEVERAGES

MONDAY THROUGH SATURDAY, 9:00AM-10:00PM

PETITION AND/OR REQUEST TO APPEAR BEFORE
THE BOARD MUST BE FILED ON OR BEFORE
MARCH 23, 2004

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APPLICATION NO. 8284, HOTEL BRISTOL, INC. T/A THE MELROSE HOTEL WASHINGTON DC, RETAILER'S "C" HOTEL, 2430 PENNSYLVANIA AVE., NW WARD 2 SMD 2A03

LICENSEE REQUEST SIDEWALK CAFÉ PERMIT WITH SEATING CAPACITY FOR TWENTY-TWO (22) PERSONS.

SALE AND SERVICE OF ALCOHOLIC BEVERAGES

SUNDAY 11AM-12MIDNIGHT

MONDAY- THURSDAY, 12PM-12MIDNIGHT

FRIDAY. 12PM-1AM

SATURDAY, 11AM-1AM

PETITION AND/OR REQUEST TO APPEAR BEFORE
THE BOARD MUST BE FILED ON OR BEFORE
MARCH 23, 2004

BOARD OF ELECTIONS AND ETHICS

NOTICE OF PUBLIC HEARING
RECEIPT AND INTENT TO REVIEW INITIATIVE MEASURE

The Board of Elections and Ethics shall consider in a public hearing whether the proposed "Smokefree Workplace Act of 2004" is a proper subject matter for initiative, at the regular Board meeting on Wednesday, February 11, 2004 at 10:30am., One Judiciary Square, 441 4th Street, N.W., Suite 280, Washington DC

The Board requests that written memoranda be submitted for the record no later than 4:00p.m., Friday, February 6, 2004 to the Board of Elections and Ethics, General Counsel's Office, One Judiciary Square, 441 4th Street, N.W., Suite 270, Washington, D.C. 20001.

Each individual or representative of an organization who wishes to present testimony at the public hearing is requested to furnish his or her name, address, telephone number and name of the organization represented (if any) by calling the General Counsel's office on 727-2194 no later than Monday, February 9, 2004.

The Short Title, Summary Statement and Legislative Text of the proposed initiative reads as follows:

SHORT TITLE

"Smokefree Workplace Act of 2004"

SUMMARY STATEMENT

To protect people from the health hazards of secondhand tobacco smoke, this initiative would prohibit smoking in indoor workplaces and indoor public places.

It also would require no-smoking signs to be posted and ashtrays to be removed in all smokefree areas, and would establish penalties for violations. Private residences would not be subject to the new smokefree requirements unless used as workplaces that regularly provide day care, educational services, or health services.

LEGISLATIVE TEXT

To amend Title 7, Chapter 17 of the D.C. Official Code to create smokefree work environments in all enclosed public and private workplaces in the District of Columbia, and to establish penalties for the violation of smokefree workplace regulations.

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA,

That this Act may be cited as the Smokefree Workplace Initiative of 2004.

Sec. 2. Chapter 17 of Title 7 of the D.C. Official Code is amended as follows:

(a) Section 7-1701 is amended to read as follows:

(a) The Council of the District of Columbia finds that the inhalation of secondhand smoke resulting from the smoking of tobacco inside facilities in which the public congregates is a clear danger to health and a cause of discomfort to persons in such facilities.

(b) The Council of the District of Columbia further finds that numerous studies have found that tobacco smoke is a major contributor to indoor air pollution and that breathing secondhand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease, and lung cancer.

(c) The Council further finds that secondhand smoke is a known carcinogen.

(d) The Council further finds that the U.S. Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke. The Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke.

(e) A significant amount of exposure to secondhand smoke occurs in the workplace. A study published in Tobacco Control found that employees who work in

smoke-filled businesses suffer a 25-50% higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as well as increased acute respiratory disease and measurable decrease in lung function.

(f) A study published in Business and Health found that smoke-filled workplaces result in higher workplace absenteeism due to respiratory disease, lower productivity, higher cleaning and maintenance costs, increased health insurance rates, and increased liability claims for diseases related to exposure to secondhand smoke.

(g) The purpose of this subchapter is to protect the public health and welfare by prohibiting smoking in public places and places of employment.

(b) Section 7-1702 is amended to read as follows:

For the purposes of this chapter:

(1) "Employee" means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for an entity.

(2) "Employer" means a person, business, partnership, association, corporation, including a municipal corporation, trust, or an entity that employs the services of one or more individual persons.

(3) "Indoor" means an area that is neither open nor partially enclosed, except normal means of access and egress through doors or passageways.

(4) "Mayor" means the Mayor of the District of Columbia or the Mayor's designated agent.

(5) "Person" means any individual, firm, partnership, association, corporation, company, or organization of any kind, including a government agency, to

which the health and safety laws of the District of Columbia may be applied.

(6) "Place of Employment" means an area under the control of a public or private employer that employees may frequent during the course of employment, including, but not limited to, offices, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, taxis and company-owned vehicles used for business purposes. A private residence is not a place of employment unless it is used as a licensed child care, adult day care, educational or health care facility.

(7) "Public Place" means an area to which the public is invited or in which the public is permitted, including but not limited to, banks, bars, educational facilities, food service establishments, health care facilities, laundromats, nightclubs, pool halls, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, taverns, theaters, and waiting rooms. A private residence is not a public place unless it is used as a licensed child care, adult day care, educational or health care facility.

(8) "Smoking" means the act of puffing, having in one's possession, holding or carrying a lighted or smoldering cigar, cigarette, pipe, or smoking equipment of any kind or lighting a cigar, cigarette, pipe or smoking equipment of any kind.

(9) "Tobacco store" means a retail store devoted primarily to the sale of any tobacco product, including but not limited to cigarettes, cigars, pipe tobacco and chewing tobacco, and accessories and in which the sale of other products is merely

incidental. The sale of such other products shall be considered incidental if such sales generate less than ten percent of the total annual gross sales.

(c) Section 7-1703 is amended to read as follows:

a. Smoking shall be prohibited in the following:

- (1) Any indoor public place;
- (2) Any indoor place of employment;
- (3) Any elevator, except in a single family home.

(d) Sections 7-1703.01, 7-1703.02 and 7-1703.03 are repealed.

(e) Section 7-1704 is amended to read as follows:

(a) In any place, elevator, or vehicle in which smoking is prohibited, the owner, manager, or person in charge of the place, elevator, or vehicle shall post or cause to be posted signs that read, "No Smoking Under Penalty of Law". Signs posted shall clearly state the maximum fine for a violation of this subchapter. Signs shall be visible to the public at the entrance to the area and on the interior of the area in sufficient number and in a manner that gives notice to the public of the applicable law. Signs shall also include a number to call to report violations of this subchapter.

(b) Where smoking is prohibited pursuant to this subchapter all signs posted shall include the internationally recognized no smoking symbol.

(c) It shall be unlawful for any person to obscure, remove, deface, mutilate, or destroy any sign posted in accordance with the provisions of this subchapter.

(d) All ashtrays and other smoking paraphernalia shall be removed by the owner, operator, manager, or other person having control of the area from any area where smoking is prohibited under this subchapter.

(f) Section 7-1705 is amended to read as follows:

(a) The owner, lessee, manager, operator or other person in charge of a facility or vehicle where smoking is prohibited pursuant to this chapter shall:

(1) Post and maintain the appropriate "No Smoking" signs;

(2) Ask persons observed smoking in violation of this subchapter to refrain from smoking; and

(3) Not provide service to persons in violation of this subchapter.

(b) Whenever the owner, lessee, manager or operator of a facility covered by this subchapter requires a license issued by the District of Columbia government in order to operate the facility, the owner, lessee, manager or operator shall comply with this subchapter as a requirement for receiving or renewing the license. Where an on-site inspection is required prior to issuance or renewal of a license, the inspector should certify that the appropriate signs have been posted. In those cases where an on-site inspection is not needed, a signed statement by the applicant that he has complied with this subchapter shall constitute sufficient evidence of compliance as required in this subsection. Violation of this subchapter shall be grounds for license suspension or revocation.

(c) The Mayor is authorized to promulgate any regulations needed to carry out the provisions of this subchapter.

(d) An aggrieved person or class of persons may bring an action in the Superior Court of the District of Columbia for injunctive relief to prevent any owner, lessee, manager, operator or person otherwise in charge of a facility or vehicle where smoking is prohibited pursuant to this subchapter from violating, or continuing to violate,

any provision of this subchapter. For the purposes of this subsection, an "aggrieved person" shall be defined as any person subjected to tobacco smoke due to failure to comply with this subchapter.

(g) Section 7-1706 is amended to read as follows:

(a) Any person who violates any provision of this subchapter, other than Section 8 of D.C. Law 3-22, by:

(1) Smoking in a posted "No Smoking" area or defacing or removing a "No Smoking" sign, or failing to post warning signs as set forth in Chapter 7-1704(a) shall, upon conviction, be punishable by a fine of not less than \$100 nor more than \$200 for a 1st offense; and not less than \$200 nor more than \$1,000 for each 2nd or subsequent offense; or

(2) Obscuring, removing, defacing, mutilating or destroying any sign posted in accordance with the provisions of this subchapter shall, upon conviction, be punishable by a fine of not more than \$500; or

(3) Failing to post or cause to be posted or to maintain "No Smoking" signs and by failing to warn a smoker observed to be smoking in violation of this subchapter to stop smoking, as required by this subchapter, shall, upon conviction, be punishable by a fine of not more than \$500. Each and every day that the violation continues shall constitute a separate offense, and the penalties provided for in this paragraph shall be applicable to each separate offense; provided, that such penalties shall not be levied against any employee or officer of any branch, agency or instrumentality of the District of Columbia government.

(4) Failing to remove ash trays from public places or places of

employment shall, upon conviction, be punishable by a fine of not more than \$500. Each and every day that the violation continues shall constitute a separate offense, and the penalties provided for in this paragraph shall be applicable to each separate offense; provided, that such penalties shall not be levied against any employee or officer of any branch, agency or instrumentality of the District of Columbia government.

(b) The Mayor is authorized to establish procedures for the issuance of a citation to any person who violates this subchapter requiring the person to post collateral in accordance with Chapter 16-704 to assure the person's appearance in the Superior Court of the District of Columbia to answer the citation, and such collateral may be forfeited in lieu of an appearance as the Court may direct.

(c) Issuances of citations pursuant to subsection (b) of this section shall not constitute arrests nor shall forfeitures of collateral pursuant to said subsection constitute convictions. Records which may be maintained in connection with the implementation of this section shall not constitute records of arrest under Chapter 5-113.02, relating to arrest records, or paragraph (4) of Chapter 5-113.01.

(d) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules or regulations issued under the authority of this subchapter, pursuant to Chapter 2-1801.01 et seq. Adjudication of any infraction of this subchapter shall be pursuant to Chapter 2-1801.01 et seq.

(h) Section 7-1708 is amended to read as follows:

(a) Owner-operated tobacco stores where there are no employees and where there are three or fewer principal owners who each hold at least a 25% interest;

provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of this Act.

(b) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than twenty percent (20%) of rooms rented to guests in a hotel or motel may be so designated. A room so designated shall have signs posted on the door and in the room indicating that smoking is allowed therein;

(c) Private and semiprivate rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted.

(i) Add a new Section 7-1711 to read:

a. No person or employee shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this subchapter or reports or attempts to prosecute a violation of this subchapter.

Sec. 3. Effective Date.

This act shall take effect 60 days following a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code & 1-206.02(c)(1)).

**BOARD OF ZONING ADJUSTMENT
PUBLIC HEARING NOTICE
TUESDAY, MARCH 30, 2004
SECOND FLOOR HEARING ROOM, SUITE 220-S
441 4TH STREET, N.W.
WASHINGTON, D.C. 20001**

TO CONSIDER THE FOLLOWING: The Board of Zoning Adjustment will adhere to the following schedule, but reserves the right to hear items on the agenda out of turn.

**9:30 A.M. TO 12:00 P.M. MORNING SESSION
1:00 P.M. TO 6:00 P.M. AFTERNOON SESSION**

A.M.

WARD EIGHT

**THIS APPLICATION WAS CONTINUED FROM THE JANUARY 20,
2004, PUBLIC HEARING SESSION:**

17103 **Application of Stanton Glenn Ltd. Partnership, pursuant to 11**
ANC-8B **DCMR § 3104.1, for a special exception to allow Child**
 Development Center (60 children, ages infant to 14, and 20 staff)
 under section 205, (last approved by BZA Order No. 16568, dated
 May 1, 2000), in the R-5-A District at premises 3040 Stanton Road,
 S.E. (Square 5879, Lot 11).

WARD ONE

17138 **Application of James and Julie Edwards, pursuant to 11 DCMR §**
ANC-1B **3103.2, for a variance from the minimum lot area requirements**
 under section 401.3, to allow the conversion of an existing flat (two
 family dwelling) to a four unit apartment building in the R-4 District
 at premises 1325 Fairmont Street, N.W. (Square 2860, Lot 819).

WARD TWO

17136 **Application of Africare, Inc., pursuant to 11 DCMR § 3103.2, for a**
ANC-2C **variance from the lot occupancy requirements under section 403, and**
 a variance from the rear yard requirements under section 404, to
 allow an addition to an existing headquarters office of a charitable

BZA PUBLIC HEARING NOTICE
MARCH 30, 2004
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organization in the R-4 District at premises 440 R Street, N.W.
(Square 509, Lot 805).

P.M.

WARD TWO

THIS APPEAL WAS CONTINUED FROM THE JANUARY 20, 2004,
PUBLIC HEARING SESSION:

17092 **Appeal of Stephanie Mencimer, et al**, pursuant to 11 DCMR §§
ANC-2F 3100 and 3101, from the administrative decision of Denzil Noble,
Acting Zoning Administrator, Department of Consumer and
Regulatory from the issuance of Certificate of Occupancy Number
(C of O) CO57903, dated July 23, 2003, to WagTime LLC, a 24-
hour dog boarding and grooming with accessory retail sales of pet
supplies. Appellant alleges that the aforementioned use is not
permitted in the Arts/C-3-A District. The subject property is located
at 1412 Q Street, N.W. (Square 209, Lot 878).

PLEASE NOTE:

Failure of an applicant or appellant to appear at the public hearing will subject the application or appeal to dismissal at the discretion of the Board.

Failure of an applicant or appellant to be adequately prepared to present the application or appeal to the Board, and address the required standards of proof for the application or appeal, may subject the application or appeal to postponement, dismissal or denial.

The public hearing in these cases will be conducted in accordance with the provisions of Chapter 31 of the District of Columbia Municipal Regulations, Title 11, and Zoning. Pursuant to Subsection 3117.4 of the Regulations, the Board will impose time limits on the testimony of all individuals.

Individuals and organizations interested in any application may testify at the public hearing or submit written comments to the Board. Individuals and organizations wishing party status in any case before the Board must request that status and should do so in writing not less than fourteen (14) days prior to the date set for the public hearing on the particular application in accordance with Subsection 3106.2. All requests and comments should be submitted to the Board

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MARCH 30, 2004

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through the Director, Office of Zoning, 441 4th Street, NW, Suite 210, Washington, D.C. 20001. Please include the case number on all correspondence. FOR FURTHER INFORMATION, CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

GEOFFREY H. GRIFFIS, CHAIRPERSON, RUTHANNE G. MILLER, VICE CHAIRMAN, CURTIS L. ETHERLY, JR., DAVID A. ZAIDAIN, AND A MEMBER OF THE ZONING COMMISSION ----- BOARD OF ZONING ADJUSTMENT, BY JERRILY R. KRESS, FAIA, DIRECTOR.

PHN 3/30/04 rsn