

Sveinn C. Storm
130 Dock St.
Annapolis, MD 21401

September 19, 2018

City of Annapolis, Office of Law
Gary M. Elson
160 Duke of Gloucester
Annapolis, MD 21401

Dear Mr. Elson,

I assume by your presence at the most recent Alcoholic Beverage Control Board meeting, you were the attorney of record for the City of Annapolis. The agenda for that Special Meeting, dated September 12, 2018 stated its purpose as a Public Hearing for *"A request to consider a proposal to temporarily extend the sidewalk area designated for existing and new Side Walk Café Permit Holders. Location: On Main Street beginning just South East of Chick & Ruth's Delly up to Church Circle."*

The obvious question is when did it become the responsibility of the Alcoholic Beverage Control Board to approve the extension of a sidewalk area for the use of cafe permit holders? It would appear more appropriate to bring this matter before planning and zoning as well as the City Council. Clearly, according to the Annapolis City Code 7.12.060, the Alcoholic Beverage Control Board's duties do not encompass zoning issues. **(A)**

Many of us were quite surprised at learning of this irregular meeting. According the City of Annapolis website, the regular meetings of the Alcoholic Beverage Control Board are held on the first Wednesday of every month at 7:00pm. It appears that meeting never took place. I, along with a large number of other citizens wish to know exactly who it was it that called for this "emergency meeting" and what was its legal justification? What is the board's standard criteria for holding a public hearing?

Mr. Elson, I understand you serve at the pleasure of Mayor Buckley, but you had to know that the submittals presented to the Alcoholic Beverage Control Board were Sidewalk Cafe Permit Applications, not applications for a change in an alcoholic beverage license . Is a Sidewalk Cafe Permit Application an adequate and legal substitute for the Application for a Change in an Alcoholic Beverage License? If so, when has this previously been done? Does the Mayor have the authority to approve this substitution?

Nothing about this September 12 hearing met its legal requirements yet is was allowed to continue for two hours. The proper applications had not been submitted **(B)**. No application fees were paid. None of the applicants were present. There was no evidence presented showing the legal notice requirements were met and, in fact, these requirements never occurred **(C)**.

Gavin Buckley's attendance and participation in the hearing gives every indication that this meeting was called by the mayor or, at the very least, at his direction. If Mayor Buckley called for this hearing, we all have a right to know. It seems highly improper for a mayor to ask for a public hearing of the Alcoholic Beverage Control Board and equally inappropriate for him to testify in front of it. Are they not appointed by the mayor?

Many questions remain and deserve answers. How do sidewalk cafe permit approvals fall under the liquor board's purview? Who filled out the Sidewalk Cafe Permit Application forms? The penmanship on each of the forms is identical. The drawings were clearly produced by the same individual as well. They were done on the same size graph paper and the drawing style was identical.

From whose office did these application forms originate? If they were produced by a city employee, at whose direction was this done? Does the city have a history of filling out and submitting liquor license requests for applicants? Is this standard procedure and would it be considered lawful practice?

In conclusion, it is my sincerest hope that you will respond to this correspondence promptly and provide replies to the questions I have raised. Feel free to contact me at any time with questions or comments you may have.

Respectfully,

Sveinn C. Storm

(A) Annapolis City Code 7.12.060 - Alcoholic Beverage Control Board—Powers and duties generally.

A. Subject to the provisions of this chapter and the provisions of Article 2B of the Annotated Code of Maryland, the board may:

1. Grant or deny an application for an alcoholic beverage license or for the upgrading, renewal or transfer of an alcoholic beverage license;
2. Suspend or revoke an alcoholic beverage license, or take any other action permitted by law in order to secure the enforcement of all alcoholic beverage laws, ordinances, rules and regulations applicable to licensed establishments;
3. Administer and enforce its rules and regulations.

B. The board shall conduct a public hearing prior to:

1. Acting upon an application for an alcoholic beverage license or for the renewal, upgrading or transfer of an alcoholic beverage license;
2. Acting upon any proposed suspension or revocation of an alcoholic beverage license, or taking any other enforcement action permitted by law; or
3. Adopting any rule or regulation.

(B) 2.01 APPLICATIONS FOR NEW LICENSE, EXPANSION OF LICENSE, UPGRADE OF LICENSE, AND/OR TRANSFER OF LICENSE, AND SUBSTITUTION OR DELETION OF LICENSEE(S).

A. Every individual and/or entity applying for any License to sell, serve, give and/or deliver Alcoholic Beverages in the City

Annapolis City Code 7.42.020 - Sidewalk Cafe Standards

E. An operating establishment shall not sell, serve or allow consumption of alcoholic beverages on its sidewalk café without obtaining the required license from the Alcoholic Beverage Control Board. Alcoholic beverages shall be served on the sidewalk café only in conjunction with the service of food. Notwithstanding any contrary or different hours of operation in its alcoholic beverages license, an operating establishment shall not sell, serve or allow consumption of alcoholic beverages on its sidewalk café within thirty minutes before the operating establishment's permitted closing time.

ALCOHOLIC BEVERAGE CONTROL BOARD RULES AND REGULATIONS

1.02 DEFINITIONS

- N *"Enclosed Premises" means those areas of the Premises within the walls of a structure, including, but not limited to, open patios and decks attached to such structure, whether or not Alcoholic Beverages are sold, served, given, or delivered therein.*
- P *"Expansion" means a change in the Licensed Premises to include an area not previously approved for the service of Alcoholic Beverages.*
- X *"Licensed Premises" means only that area within the Premises wherein alcohol beverages may be served.*
- JJ. *"Sidewalk Café" means an extension of Licensed Premises onto a public sidewalk where food, refreshments, and/or beverages are sold by a Restaurant, delicatessen, ice cream shop or coffee shop for public consumption at tables or counters located on such public sidewalk, approval for which has been applied for in accordance with Chapter 7.42 of the Code of the City of Annapolis, as may be amended.*

(C) 2.02 NOTICE REQUIREMENTS.

A. *Notice by Publication. The City Clerk shall give notice by publication at least two (2) times, not on consecutive days, in a newspaper published in the City and having a general circulation in the City, of all applications for Licenses, Expansion of Licenses, upgrades of Licenses, or transfers and the date and place of the public hearing.*

B. *Notice by Posting. The applicant shall give public notice of all applications for Licenses, Expansion of Licenses, upgrades of Licenses, or transfers by posting a conspicuous sign upon the Premises at the main entrance on the main street or artery bounding the Premises, stating the time, place, and purpose of the public hearing. The sign shall be of a size and type-size to permit persons in passing vehicles to determine the purpose of the application. The telephone number of the City Clerk shall appear in large type so that interested parties may obtain further information regarding the application and public hearing. The sign shall be posted at least fifteen (15) days prior to the scheduled hearing and shall remain in place in readable form until after the hearing.*

C. *Notice by Mailing. In addition to the notice pursuant to Section 2.02(B) above, the applicant for a new License or transfer of a License shall give public notice by mailing a written notice all abutting property owners within two hundred linear feet (200') of the Premises stating the time, place, and purpose of the public hearing, and including the telephone number of the City Clerk so that interested parties may obtain further information regarding the application and the public hearing. The written mailing shall be mailed via standard U.S. Post Office mail at least fifteen (15) days prior to the scheduled public hearing. The applicant shall submit a written affidavit to the City Clerk confirming that this notice by mailing has been completed.*