

BALTIMORE COUNTY LIQUOR LICENSE REVIEW TASK FORCE

Final Report
November 22, 2011



Dan Gundersen
Co-Chair

Mike Mohler
Co-Chair

INTRODUCTION AND COUNTY EXECUTIVE'S VISION

County Executive Kevin Kamenetz envisions the County's downtowns and growth areas to be vibrant hubs of economic activity for businesses, nearby residents, and visitors from throughout the region. Thriving downtown areas are a combination of successful retail stores, employers, attractions, destination restaurants, live-work accommodations, and of course an inviting atmosphere. These vibrant areas not only create significant economic activity, but they also play a large role in shaping a community's identity.



Given the key role that locally- and nationally-owned restaurants play in creating vibrant downtown areas, the County has an interest in ensuring that these areas are able to attract as many quality eating establishments as each local community has the purchasing power to support. Recent experience indicates that the County's existing liquor license laws and regulations may be impeding the opening of as many restaurants as local markets can support. In addition, the inability to obtain a license to serve alcohol may be hampering the ongoing survival of existing restaurants because they lack the added revenue beer and wine sales can add to their balance sheets.

Recognizing this apparent constraint on restaurant formation and success, the County Executive commissioned the Baltimore County Liquor License Review Task Force in August of this year to review and recommend changes to Baltimore County's liquor license laws relative to restaurants to encourage economic development, noting the following directives:

- "The ability of Baltimore County to respond to the needs of both the small independent restaurant owner as well as the more well known national chains is a very real economic development issue."
- "I want to make it clear that this review should focus on licenses for restaurants only. There is no need to look at the expansion of bar or package goods stores. "
- "I am only interested in having this group take a look at the need for liquor licenses to support the expansion of the restaurant sector of Baltimore County's economy."

The Task Force met for the first time on August 18 and convened most Thursdays through November 10, 2010. The personal expertise of Task Force members was supplemented with presentations from Leanne Schrecengost, a partner with Royston, Mueller, McLean & Reid, LLP, who has extensive experience with liquor license laws throughout Maryland, and Mike Field and Sabrina Chase of the Baltimore County Office of Law. This report summarizes the group's findings and recommendations.

BALTIMORE COUNTY LIQUOR LICENSE REVIEW TASK FORCE MEMBERS

Arthur Adler, Partner, Caves Valley Partners

Teal Cary, Executive Director, Catonsville Chamber of Commerce

Edward Gilliss, Chair, Baltimore County Planning Board

Jack Milani, Legislative Co-Chair, Baltimore County Licensed Beverage Association

David Mister, Attorney, Mister, Winter and Bartlett, LLC.

Damian O'Doherty, KO Public Affairs

Harold Reid, Executive Director, Liberty Road Business Association

Jose Rivas, Realtor, Central Realty

Keith Scott, President & CEO, Baltimore County Chamber of Commerce

Melvin Thompson, Senior Vice-President, Restaurant Association of Maryland

Co-Chairs:

Dan Gundersen, Executive Director, Baltimore County Department of Economic Development

Mike Mohler, Chief Administrator, Baltimore County Liquor Board

RECOMMENDATIONS

The Application Process

Soon after the Task Force began its deliberations, the group reached consensus on several changes to improve the current liquor license system in Baltimore County:

- The provision in State law requiring an applicant for a license to provide signatures from ten people within a mile of the proposed establishment should no longer be required.
- The residency requirement for applicants in State law should be changed from Baltimore County to Maryland.
- The website of the Baltimore County Liquor Board should be changed to:
 - Allow applications to be downloaded and filled in electronically
 - List all available licenses (both as of right and by private party)
 - List all existing licenses and license holders.

Mike Mohler, Chief Administrator of the Liquor Board, was able to modify the website to reflect the recommendations as of October 6, 2011.

Number of Licenses that may be Held by a Single Ownership Group

The Task Force discussed in great depth many considerations surrounding the current limit of six (or seven including an establishment in the Liberty Road Commercial Revitalization District) on the number of licenses that any one ownership entity may hold.

- Several of the largest restaurant chain owners are constantly adding new “concepts¹.”
- Task Force members cited numerous examples of how the limit prevents new concepts from having a Baltimore County presence even when there is strong market demand.
- The inability of Baltimore County to readily accommodate such restaurants puts the County at an economic development disadvantage relative to neighboring jurisdictions such as Baltimore City and Howard and Montgomery Counties. Even when a license is available, some chains that are attracted to Baltimore County’s demographic profile may choose not to open a restaurant here because they refuse to pay up to \$150,000 for a license.
- Many in the development and restaurant community believe that the current license regulations create artificial interference with the free market both through limitations in the overall number of licenses available and through limits on the number of licenses that may be controlled by any single corporate owner. The limits on a single corporate owner, rather than a limit per distinct restaurant concept, may deter a major chain such as Darden or Brinker from opening a new concept in Baltimore County.
- Other Task Force members acknowledged the benefit to County residents and commercial areas of having access to new “concepts” introduced by major chains. At the same time, however, they stressed the value of maintaining a balance throughout the County between national or local chains and independent restaurants.

¹ A restaurant “concept” includes the menu, the ambiance, décor, whether or not alcohol is served, how customers will be served, what impression it will make on the customers the first time they come in and repeatedly thereafter. For example, Red Lobster and Olive Garden are both concepts or brands of the Darden restaurant group.

The Task Force voted unanimously to recommend changing State law to increase the number of licenses allowed to a single ownership group from six (6) plus one (7 total) additional if one restaurant in the Liberty Road Commercial Revitalization District to twelve (12) plus one (13 total) if one restaurant in the Liberty Road Commercial Revitalization District.

With these improvements agreed upon, the Task Force turned its attention to the more complex issues surrounding the number and allocation of licenses in the County.

Number and Allocation of Licenses

The twelve Task Force members each represented a unique perspective and constituency (private developer, attorney, current license holders, economic development advocate, the general County business community). However, on the most intensely contested issue – the number and allocation of liquor licenses – the group split into two general perspectives. On one side were members who favored maximizing the economic development potential represented by increased restaurant activity and making licenses more easily and inexpensively obtained by a broader range of businesses. On the other were representatives who generally agree with the economic development objectives, but believe that any changes to the system should be done slowly over a period of years to preserve the real and perceived value that licenses represent to current holders. These differing views framed much of the Task Force’s deliberations between August and November.

Key Considerations

- ***How does Baltimore County’s liquor license system compare to other jurisdictions in Maryland?*** A private attorney engaged in many such license transactions stated that the County’s population quota is unusual and significant because it creates a market value for licenses. She noted that only one other jurisdiction (Frederick County) has a similar quota. Prince George’s County technically has a population quota, but offers other provisions for obtaining licenses that mitigate the impact of the population limit. (A full summary of this presentation is included in the minutes for September 8.)
- ***Are liquor licenses personal property?*** According to the Baltimore County Office of Law, the answer to whether liquor licenses are considered personal property is a qualified “NO”. According to Sect. 2B of the Maryland Code, liquor licenses shall NOT be regarded as personal property. The Courts have said that liquor licenses are not regarded as property nor do holders have property rights vis-à-vis the State or County. License holders have no constitutional protection for the licenses as personal property. Furthermore, these licenses are a privilege not a right. However, between individuals liquor licenses can have value, are subject to writs of execution and can be the object of an adverse claim (i.e. divorce cases, bankruptcy disputes).
- ***Would increasing the number of liquor licenses available be considered a “taking” of the value of existing license holders?*** The Baltimore County Office of Law cited a Minnesota case concerning taxicab licenses, where the 8th Circuit Court ruled that to uncapped the number of transferable taxicab licenses is not a violation or ‘taking’ of existing license holders’ 5th Amendment rights. Licenses are a privilege, not a property right, and therefore the new ordinance proposed by the City of Minneapolis was not a “taking.”

Core Arguments

The core arguments of Task Force members who advocated a slower approach to changing the current system were as follows:

- The major elements of the current system have been in place for decades, growing out of Prohibition-era concerns about limiting alcohol consumption. It would be unwise to change such an established system too quickly.
- Although they would not advocate creating the same system today if one could start with a clean slate, they believe that current license holders have played by the established rules and their investments should not be devalued.
- As a result of working within the existing system, which allowed for the sale of licenses within an Election District, some current license holders have spent up to \$300,000 to purchase a license. A rapid change to the existing system would unfairly disadvantage current license holders.
- Many current license holders have used their licenses as collateral for bank loans or mortgages.
- These members advocate a system of “equalization,” whereby revised State law would allow for an “accelerated trickle” of licenses from the over-supplied 15th Election District to transfer at a specified rate and in specified numbers to all other Election Districts around the County.
- To encourage current 15th Election District license holders to sell in a timely fashion, a provision would be allowed providing for the creation of a small number of service bar licenses if annual transfer goals are not met.

The core arguments of the members advocating for a quick transition to a significantly more open liquor license system included:

- The recent experience of the Baltimore County private development community and the County Commercial Revitalization Program suggests that the existing system for allocating and creating liquor licenses results in significantly fewer new restaurants than market demand would support.
- Since locally- and nationally-owned restaurants play a central role in creating thriving downtowns and neighborhood commercial areas, these members believe that the constraints posed by the current license system prevent commercial areas from achieving their full potential as amenities and economic drivers for local communities. For example, areas such as Hampden in the City have become destinations for diners because there is a vibrant atmosphere and a wide variety of restaurant options, including innovative start-ups. Baltimore County is not conducive to such restaurant start-ups.
- In addition, the inability to obtain a license to serve alcohol at a reasonable cost impedes the longer-term viability of existing restaurants because they lack the added revenue that beer and wine sales can add to their balance sheets.
- In response to concerns raised about the rights of existing license holders, they cited the presentation made to the Task Force by the County Office of Law. This presentation stated that under Maryland Law liquor licenses are specifically not considered “private property,” but rather are a privilege. While licenses have taken on value in private transactions over the years, this development should in no way preclude changes that would increase significantly the number of licenses available.
- Any of the proposals under consideration would provide adequate time for current license holders to pay off any outstanding business loans where a license was used as collateral and/or depreciate the cost of the license as a business expense.

- They further argued that when current license holders purchased licenses, they should have been fully cognizant that the laws and regulations could change at any time.
- They argued that the faster the existing system can be changed to open up the market to new restaurants, including innovative startups and new chain concepts, the better.

Task Force Positions on Proposals to Alter the Number and Allocation of Licenses

As of November 10, 2011, the date the Task Force met to vote on specific recommendations, the proposals coalesced into three basic packages. The basic alternatives are presented below with a summary of the Task Force votes on each.

1. Recommendation 5A – a proposal supported by the Baltimore County Licensed Beverage Association (BCLBA) to allow for the transfer of more licenses out of the 15th Election District over a five-year period due to an abundance based on current population requirements.

Vote: Yes 3 No 9

2. Recommendation 9 – an economic development-driven proposal to quickly wind down the current system and convert to a Countywide (rather than Election District) allocation based on gradually lowered population triggers for creating new licenses.

Vote: Yes 7 – No 5

3. Recommendations 5, 6, 7, and 8 – a set of inter-related proposals that together form a hybrid between 5A and 9.

Votes: A majority ranging from 9-3 to 7-5 voted in support of these provisions. A variation on Recommendation 6 concerning new Service Bar licenses received a 3-9 vote against.

COMPLETE ROLL CALL VOTE RESULTS

Baltimore County Liquor License Review Task Force Recommendations		
Recommendation Number, Description and Vote Tally	Task Force Vote	
	Yes	No
<p>1. Residency Requirement Eliminate the Baltimore County residency requirement and replace with a Maryland residency requirement (Yes 12 - No 0)</p>	Art Adler Teal Cary Ed Gilliss Dan Gundersen Jack Milani David Mister Mike Mohler Damian O'Doherty Harold Reid Jose Rivas Keith Scott Melvin Thompson	
<p>2. Signature Requirement Eliminate the ten signature requirement on the application form (Yes 12 - No 0)</p>	Art Adler Teal Cary Ed Gilliss Dan Gundersen Jack Milani David Mister Mike Mohler Damian O'Doherty Harold Reid Jose Rivas Keith Scott Melvin Thompson	
<p>3. Multiple License Limit Increase the multiple License Number from six (6) to twelve (12) while retaining the Liberty Road additional license. (Yes 12 - No 0)</p>	Art Adler Teal Cary Ed Gilliss Dan Gundersen Jack Milani David Mister Mike Mohler Damian O'Doherty Harold Reid Jose Rivas Keith Scott Melvin Thompson	
<p>4. Non-Transferability of New Licenses Effective July 1, 2012, any "new" license issued by the Board will be site-specific with no "unrelated transfer" ability.</p>	No formal vote taken	

Baltimore County Liquor License Review Task Force Recommendations		
Recommendation Number, Description and Vote Tally	Task Force Vote	
	Yes	No
<p>5. Redistribution of licenses Due to the abundance of licenses in the 15th district, this would allow transfers out of the 15th district to all other districts. •5 ½ -year year transition period: beginning July 1, 2012 ending December 31, 2017 •Transfers open to all election districts •No more than 3 (three) transfers allowed per district per year •Site specific (example the exception licenses) •All "D" licenses transferred must be converted to "B" licenses (Yes 7 - No 5)</p>	Art Adler Teal Cary Ed Gilliss Dan Gundersen Mike Mohler Damian O'Doherty Jose Rivas	Jack Milani David Mister Harold Reid Keith Scott Melvin Thompson
<p>5A. Equalization of Licenses •See Table in Appendix for Election District specifics •Licenses could transfer out of Election District 15 •Licenses could transfer to any district not 25 % over •Limited to 2 per district per year in eligible districts •Population limits would continue to be updated •If 5 do not transfer after year 1 balance becomes SB BW following year •After year 2 total of 10, after year 3 total of 15, after year 4 total 20, after year 5 total of 25 (Yes 3 - No 9)</p>	Jack Milani David Mister Melvin Thompson	Art Adler Teal Cary Ed Gilliss Dan Gundersen Mike Mohler Damian O'Doherty Harold Reid Jose Rivas Keith Scott
<p>6. New Service Bar Licenses Beginning July 1, 2012 and ending December 31, 2017, use a "threshold/trigger" number to determine issuance of new Service Bar Only licenses. That is, if a certain number of licenses are not transferred from the 15th Election District in a calendar year, the County will issue new "Service Bar (SB)" licenses equal to the difference. The Threshold/Trigger number - Transfers = number of SB licenses created. Specific provisions: •Exception Licenses (not counted against population number) •Minimum of 51% of sales from food sales •Beer and wine only allowed •Beginning July 1, 2012 and ending December 31, 2012, threshold/trigger number set at three (3) •Beginning January 1, 2013 and ending December 31, 2017, the threshold/trigger number to be nine (9) for each calendar year (to target redistribution goal of 45 licenses to transfer over 5 years) •Site specific •No more than five (5) SB licenses issued per calendar year •No More than three (3) SB licenses issued to any Election District in one calendar year •No more than twenty-five (25) total SB licenses issued •SB application process established (see Recommendation #10) •All SB patrons must have table serve - no "alcohol only" checks •Seating permitted by Code for at least 30 people and no more than 100 •No package goods allowed •No more than one (1) license per ownership group •Annual renewal fee: \$5,000. (Yes 9 - No 3)</p>	Art Adler Teal Cary Ed Gilliss Dan Gundersen Mike Mohler Damian O'Doherty Harold Reid Jose Rivas Keith Scott	Jack Milani David Mister Melvin Thompson

Baltimore County Liquor License Review Task Force Recommendations		
Recommendation Number, Description and Vote Tally	Task Force Vote	
	Yes	No
<p>6A. Alternative Service Bar Proposal</p> <ul style="list-style-type: none"> •Establishment must be 2,500 square feet or less (total building space, including dining room, kitchen, storage) •"Service Bar Only" means beer and wine only, No "formal" bar. Bar must not be visible/accessible to the public, (area accessible only to staff – e.g. behind a wall or partition not accessible by customers) •All patrons must have regular table service only (beer and wine must not be served in any customer waiting area, lounge area or area other than the customer's table) •Beer and wine must be served with food only (no sale of beer or wine only) •Seating permitted by code for at least 30 people and no more than 60. •Maintain 60 percent of revenue from food sales •No television (commonly used by traditional bar/tavern patrons for watching sporting events), live bands, disc jockeys, karaoke or other live entertainment. •No package good sales •No more than 1 (one) license per ownership entity •Annual renewal fee: \$5,000. •No more than 1 Service Bar license created per district per year <p>(Yes 3 - No 9)</p>	<p>Jack Milani David Mister Melvin Thompson</p>	<p>Art Adler Teal Cary Ed Gilliss Dan Gundersen Mike Mohler Damian O'Doherty Harold Reid Jose Rivas Keith Scott</p>
<p>7. Reduce Population Limits</p> <p>Beginning January 1, 2018 and ending december 31, 2022 systematically reduce the population requirements by districts (see chart) spurring economic development by increasing the number of licenses available</p> <ul style="list-style-type: none"> •licenses established by Election District population numbers •licenses will be site specific (see explanation-page 1) •allows for transfers by necessity (change of zoning/entire business relocates) •all licenses issued will be Class "B" licenses •existing Class "B" and Class "D" licenses (all licenses held prior to jan 1, 2018) retain the right to "unrelated transfers" within the district with the exception of any transferred license from the 15th district as outlined in recommendation #5 <p>CHART</p> <ul style="list-style-type: none"> •Jan 1, 2018 - December 31, 2019: Population requirement 1 per 2,000 •Jan 1, 2020 - December 31, 2022: Population requirement 1 per 1,500 •Jan 1, 2023 forward: Population requirement 0 and licenses are "county-wide" and issued based on need and accommodation <p>(Yes 9 - No 3)</p>	<p>Art Adler Teal Cary Ed Gilliss Dan Gundersen Mike Mohler Damian O'Doherty Harold Reid Jose Rivas Keith Scott</p>	<p>Jack Milani David Mister Melvin Thompson</p>

Baltimore County Liquor License Review Task Force Recommendations

Recommendation Number, Description and Vote Tally	Task Force Vote	
	Yes	No
<p>8. Countywide Licenses Beginning January 1, 2023:</p> <ul style="list-style-type: none"> •all licenses are "countywide" and based on need and accommodation as determined by the board of liquor license commissioners. •all Class "B", "D" and "SB" licenses are site specific (see explanation page 1) •any new licenses applicant may petition the board for approval of either a Class "B" or "D" license •no "unrelated transfers" allowed •all ("B", "D" and "SB") licensees may petition the board for "transfers by necessity" (zoning change/business relocation/sale of business) <p>(Yes 9 - No 3)</p>	<p>Art Adler Teal Cary Ed Gilliss Dan Gundersen Mike Mohler Damian O'Doherty Harold Reid Jose Rivas Keith Scott</p>	<p>Jack Milani David Mister Melvin Thompson</p>
<p>9. Economic Development Proposal</p> <p>Part 1:</p> <ul style="list-style-type: none"> •2013 population requirement 1 per 2,000 •2015 population requirement 1 per 1,500 •2017 population requirement 1 per 1,000 •2018 population requirement 0 and licenses are "county-wide" and issued based on need and accommodation <p>Part 2:</p> <ul style="list-style-type: none"> •2013-2018 5 SB licenses issued per year (see past proposals for SB requirements) <p>Part 3:</p> <ul style="list-style-type: none"> •Licenses in 15th district allowed to transfer (see past proposals for requirements of 15th district transfers) <p>(Yes 7 - No 5)</p>	<p>Teal Cary Dan Gundersen Mike Mohler Damian O'Doherty Harold Reid Jose Rivas Keith Scott</p>	<p>Art Adler Ed Gilliss Jack Milani David Mister Melvin Thompson</p>

Baltimore County Liquor License Review Task Force Recommendations

Recommendation Number, Description and Vote Tally	Task Force Vote	
	Yes	No
<p>10. Application Process for Service Bar Licenses</p> <ul style="list-style-type: none"> •Initial application start date July 1, 2012 and ending December 31, 2013. •Beginning January 2014 and ending December 31, 2018 the application start date will be established as the 3rd Monday in January. •Items necessary to complete application process: <ul style="list-style-type: none"> --application form (current) --refundable check for \$1500 --location requirement- either existing or new. If new, a lease or contingency lease will be required --statement or 1-page economic development impact plan •incomplete applications will be rejected •all applications will be time/date stamped and reviewed and will be ranked on a "first come first serve" basis •Applicants will file annually •No vesting. If a license is not available in a particular year all interested parties must re-apply. A new check will not be required for those re-applying. •If more than one applicant arrives at the same time then a lottery will be conducted to determine the order and ranking of applicants. •As licenses become available hearings will be conducted in the order of the rankings. 	<p>No formal vote taken. Task Force felt this is an administrative process that can be finalized at a later date.</p>	
<p>11. Statement of intent to change language regarding determination of need</p> <p>Article 2B Section 10-202 should be revised in accordance with the following recommendation (specific language should be developed by legal experts):</p> <p>In Baltimore County, the issuance of a license shall be deemed necessary for accommodation of the public when:</p> <p>(1) a license is available based on election district population quota requirements</p> <p>(2) a licensed is transferred from the 15th Election District and/or new service bar licenses are created.</p> <p>(Yes 10 - No 2)</p>	<p>Art Adler Teal Cary Ed Gilliss Dan Gundersen Mike Mohler David Mister Damian O'Doherty Harold Reid Jose Rivas Keith Scott</p>	<p>Jack Milani Melvin Thompson</p>

BACKGROUND ON THE CURRENT LIQUOR LICENSE FRAMEWORK IN BALTIMORE COUNTY

In the United States, the distribution and use of alcoholic beverages is regulated by individual states. The Twenty-First Amendment to the U.S. Constitution grants the states broad regulatory powers over the importation and sale of alcoholic beverages. Every one of the fifty states of the United States exercises its statutory, police and administrative powers to regulate the distribution and accessibility of beverage alcohol. The extent of that regulation varies from state to state, but the essential point remains that all Americans experience some degree of governmental control over beverage alcohol. States, in turn, may grant authority to local communities to regulate many areas of alcohol sales and consumption. The level of regulatory control delegated to local communities varies, however, by state.

In Maryland, Article 2B of the Annotated Code of Maryland regulates the manufacture, sale, distribution, transport into or out of the state, and storage of alcoholic beverages. Section 9-201 of Article 2B grants to each county or Baltimore City liquor board the right to limit and restrict the number of licenses which they consider sufficient for any neighborhood, regulate and divide the city or county, as the case may be, into districts, and prescribe areas in which no licenses may be issued, among other powers.

Based on the power granted under Article 2B, the Baltimore County Liquor Board has developed its own set of rules governing the sale, distribution and storage of alcohol in the County. The current version of the County regulations took effect on November 26, 2007 (available records indicate that County regulations date back at least until 1964).

Depending on the specific provision under consideration, changes to the Baltimore County liquor license system can require changes to state law and/or County regulations.

Liquor License Classifications

Maryland provides for four different liquor license classifications. These classifications dictate what types of liquor may be served and under what circumstances.

- A. Off Sale Packaged Goods
- B. Restaurant – Minimum of 51% of revenue must come from food
- C. Clubs - VFWs / Golf Clubs
- D. Taverns - No Food Requirement

The Baltimore County Liquor License Review Task Force was charged with addressing only Class B licenses.

Limit on the Number of Licenses Allowed for a Single Ownership Group

As a result of two different provisions of Article 2B Section 9-102 of the Annotated Code of Maryland, Baltimore County currently limits the number of Class B liquor licenses that may be held by an individual or sole proprietorship, partnership, corporation, unincorporated association, or limited liability company in the County to not more than six. However, if one of the restaurants for which a license is issued is located in the Liberty Road Commercial Revitalization District, this limit is increased to seven.

Current Provisions for Creation of New Liquor Licenses in Baltimore County

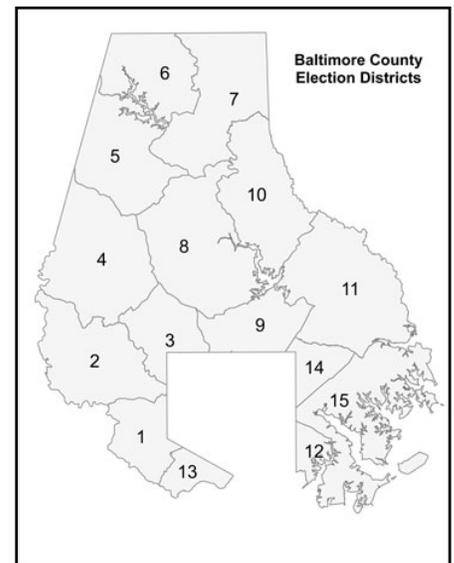
Rule 19 of the County Liquor License regulations provides for three means of creating new on site (as opposed to sales for off-site consumption) licenses:

- **Basic Formula Based on the Population by Election District:**

- The geographic unit for allocating licenses is the Election District (see map)
- The maximum number of on-site licenses in each of the Election Districts is limited to one per each 2,500 persons based on the most current population report of the Office of Planning
- No license shall be transferable from the Election District in which it was originally located.

- **Exceptions.** Rule 19 specifies that development projects that meet certain specifications may be eligible for one or more licenses above and beyond the number based on the population formula. No exception license may be transferred to another location. These exceptions are summarized below:

- Office Buildings: One Class B license for each 75,000 SF of leased commercial space
- Hotel/Motel: One Class B license for each 100 rooms
- Shopping Centers:
 - One Class B license if: 10 or more tenants, 250,000 SF and 500 parking spaces
 - One additional Class B license if: 20 or more tenants, 500,000 SF and 1000 parking spaces
 - One additional Class B license for each additional 250,000 SF

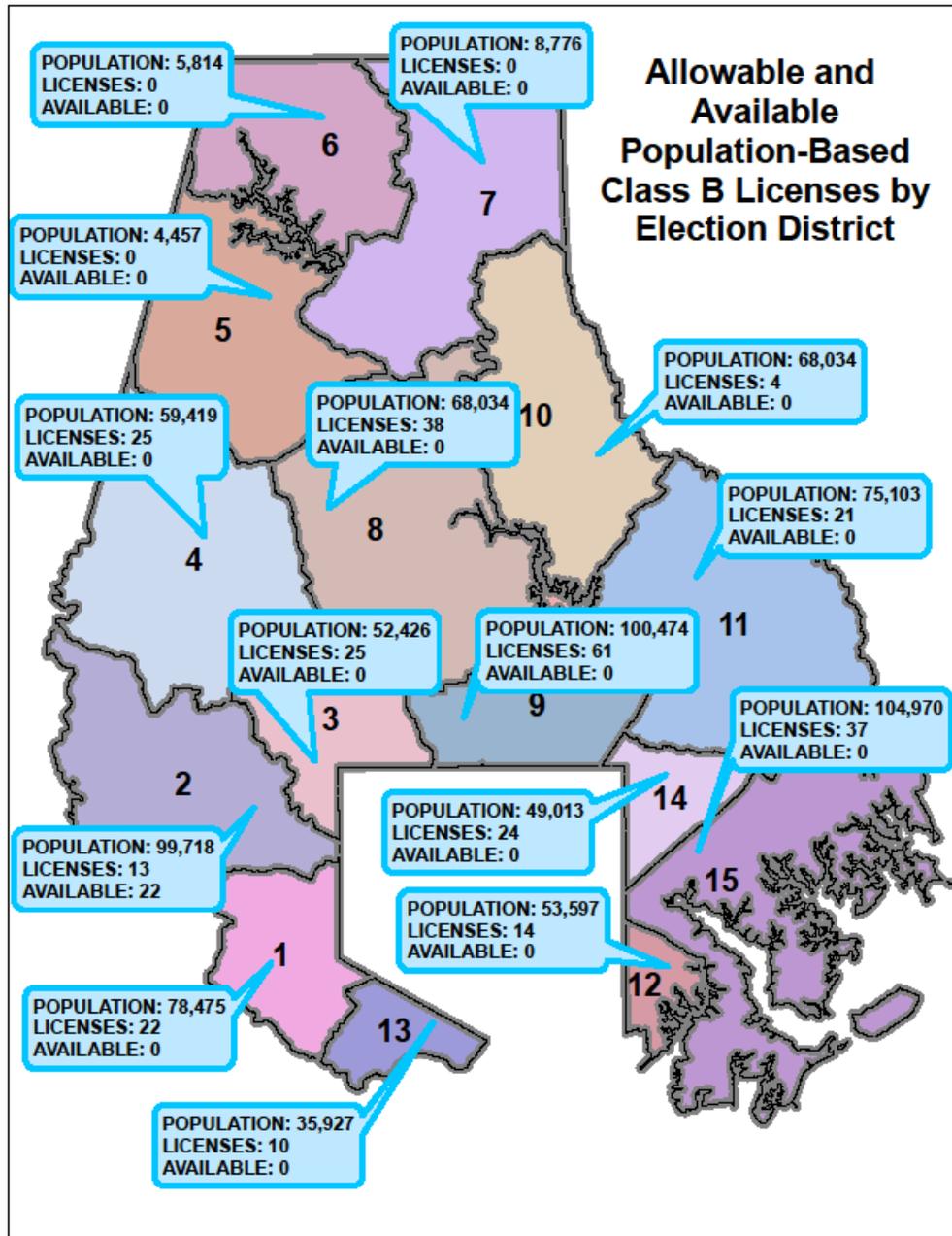


- Mixed-use Development²:
 - Two Class B licenses if: At least 400,000 square feet, with retail and/or hotel uses comprising the majority of the street level space, and office and residential space each comprising at least 20 percent of the entire development
 - One additional Class B license for every additional 200,000 square feet
 - No more than five (5) mixed-use exception licenses may be issued in any one mixed-use development.
- **Special Legislative Exemptions:** Over the past several years, Baltimore County has worked with the State legislation delegation to introduce and pass provisions providing special exemptions for specific projects or areas (see Table 1).

² A mixed-use development is defined as one having retail, office and residential components in either (1) one structure or (2) an approved Transit Oriented Development (TOD) as designated by the State Department of Transportation or (3) an approved Planned Unit Development (PUD).

SUMMARY OF CURRENT LIQUOR LICENSE ALLOCATION AND AVAILABILITY

Based on the population formula specified in Rule 19 of the Baltimore County Liquor Regulations, each Election District is entitled to a certain number of Class B licenses, as indicated in the following map:



The following table summarizes the total number of licenses available as of July 28, 2011 in each Election District, including exception licenses.

POPULATION ESTIMATES FOR JULY 1, 2011											
LICENSE COUNT OF JULY 28, 2011											
BY ELECTION DISTRICT											
ON SALE (TAVERN & RESTAURANT) (1 EVERY 2,500 PERSON)											
DISTRICT	POPULATION	LIMIT	CLASS B	ST	B(SB)	CLASS D	EXISTING	EXCEPTION	ST	B(SB)	TOTAL
1	78,475	31.39	22	0	0	13	35	3	0	0	32
2	99,718	39.88	13	0	0	4	17	0	0	0	17
3	52,426	20.97	25	0	4	1	30	4	0	4	22
4	59,419	23.76	25	0	0	2	27	3	0	0	24
5	4,457	1.78	0	0	0	1	1	0	0	0	1
6	5,814	2.32	0	0	0	2	2	0	0	0	2
7	8,776	3.51	0	0	0	4	4	0	0	0	4
8	68,034	27.21	38	0	0	5	43	14	0	0	29
9	100,474	40.18	61	0	0	9	70	15	0	0	55
10	10,741	4.29	4	0	0	0	4	0	0	0	4
11	75,103	30.04	21	0	0	10	31	1	0	0	30
12	53,597	21.43	14	0	0	7	21	0	0	0	21
13	35,927	14.37	10	0	0	9	19	1	0	0	18
14	49,013	19.60	24	0	0	5	29	7	0	0	22
15	104,970	41.98	37	0	0	88	125	2	0	0	123
TOTAL	806,944	322.71	294	0	4	160	458	50	0	4	404
NOT INCLUDING CLASS BDR DELUXE RESTAURANT LICENSES											
DISTRICT 1 CLASS B INCLUDES B(PC) PROMENADE CATONSVILLE											
DISTRICT 3 CLASS B INCLUDES B(QG) QUARRY AT GREENSPRING											
DISTRICT 4 CLASS B INCLUDES B(OMTC) OWINGS MILLS TOWN CENTER											
DISTRICT 8 CLASS B INCLUDES B(HV) HUNT VALLEY											
DISTRICT 9 CLASS B INCLUDES B(TRD) TOWSON REVITALIZATION DISTRICT, B(TSB) TOWSON SERVICE BAR AND B(TCRD) TOWSON COMMERCIAL REVITALIZATION DISTRICT											

The following table summarizes the Legislative Special Exception licenses currently in existence in Baltimore County.

License Description	Section	Restaurants	Requirements	Licenses Available
B(TSB) Towson Service Bar	Section 8-204.7	Mamma Lucia	Transferrable W/In The	0
Loch Raven Revitalization	3 Allowed	Pho Dat Thanh	Loch Raven Rev. Area	
		Italian Bistro		
B(BDR) Delux Restaurant	Section 8-204	Olive Garden	Investment Requirements	0
	Allowed 4 In Any District	Applebees	Expired 1995	
	18 Potential Licenses	Bertucci'S Italian Rest.		
		Bertucci'S- White Marsh		
		Del Capri		
		Nautilus Rest.		
		Oregon Grill		
		Kyodai Sushi Bar		
		Tgi Fridays		
	Towson Commons Llc (2)			
	(See Below Under Contract Dev.)			
Contract Purchasers/Developers	Section 8-204.6	Nottingham Ridge (1)	Purchased From 11th-Stays In 11th	1
	Allows Developer To Hold	St.Johns Properties (1) (B)	Purchased From 15th Stays In 15th	1
	While Property Is Developed	Middle River Mie (1)	Purchased From 15th Stays In 15th	1
		Towson Circle Phase 3 (1) (B)	Purchased From 15th Stays In 9th	1
		Promenade (1) (B-Pc)	Purchased From 15th Stays In 1'St	2
		Promenade-Appleschmidts (D)	Can Be Transferred	
		Promenade-Chi Chi'S (B)	There Are Requirements	
		Promenade-Pebbles (B)		
		Towson Town Center (1)	Purchased From 15th Stays In 9th	2
	Bdr'S Now Under 204.6	Ruby Tuesdays-Business Closed	Stay In The Towson Commons Complex	2
	Is Under Towson Commons	Paolos-Business Closed		
	B License	Queen Mary Properties	Can Be Transferred Within District	1
	B License -District 4	Kr Rest Assoc.	Can Be Transferred Within District	1
MVP- B License In District 8	Must Be Purchased	Not Done By Regulation	Can Be Transferred Within District	1
Special Theatre	8-204.1	Painters Mill	Live Entertainment/Other Requirements	1
Dinner Theatre	8-204.3	Was- F.Scott Black		1

APPENDIX

- PowerPoint from August 18 meeting
- Minutes from each meeting

LIQUOR LICENSE REVIEW TASK FORCE 2011



BALTIMORE COUNTY GOVERNMENT

400 Washington Avenue
Towson, Maryland 21204

AGENDA

Welcome & Introductions.....Dan Gundersen

County Executive's Charge

Economic Development Overview

Liquor License ReviewMike Mohler

Article 2B

Rule 19

Election District Maps & Population Analysis

Method of Issuance

Next Steps.....Group Discussion

Subjects to be Addressed

Proposed Meeting Schedule



INNOVATION • EFFICIENCY • CONSOLIDATION

CO-CHAIRS

Dan Gundersen

- Executive Director, Baltimore County Department of Economic Development
- Senior commerce roles for four governors / three states, including Assistant Secretary for business development for the State of Maryland
- Board Member, International Economic Development Council

Mike Mohler

- Chief Administrator, Baltimore County Liquor Board
Deals directly with all aspects of liquor industry
- Deputy Director Code Enforcement
- Mid-Atlantic Sales Director, Diageo
27 years experience in the liquor industry



TASK FORCE MEMBERS

- **Arthur Adler**, Partner, Caves Valley Partners
- **Teal Cary**, Executive Director, Catonsville Chamber of Commerce
- **Edward Gilliss**, Chair, Baltimore County Planning Board
- **Jack Milani**, Legislative Co-Chair, Baltimore County Licensed Beverage Association
- **David Mister**, Attorney, Mister, Winter and Bartlett, LLC.
- **Damian O'Doherty**, KO Public Affairs
- **Harold Reid**, Executive Director, Liberty Road Business Association
- **Jose Rivas**, Realtor, Central Realty
- **Keith Scott**, President & CEO, Baltimore County Chamber of Commerce
- **Melvin Thompson**, Senior Vice-President, Restaurant Association of Maryland



COUNTY EXECUTIVE VISION

"The ability of Baltimore County to respond to the needs of both the small independent restaurant owner as well as the more well known national chains is a very real economic development issue."

"I want to make it clear that this review should focus on licenses for restaurants only. There is no need to look at the expansion of bar or package goods stores. "

"I am only interested in having this group take a look at the need for liquor licenses to support the expansion of the restaurant sector of Baltimore County's economy,"



INNOVATION • EFFICIENCY • CONSOLIDATION

BALTIMORE COUNTY TAKES A SHOT AT LIQUOR LICENSE REFORM

Our View: Kevin Kamenetz goes where others have feared to tread — reforming his county's nonsensical restrictions on restaurant liquor licenses



“Maryland's liquor laws may be byzantine and inscrutable in general, but only those who live in Baltimore County (or Baltimore City, which operates similarly) have likely witnessed full regulatory madness... Clearly, the system makes no sense as it neither limits alcohol consumption nor encourages economic development.”

“Obviously, the county's archaic and ineffective licensing system should not be allowed to prevent new restaurants (and jobs) from being created in Baltimore County. But it's also reasonable to expect the county to protect those who have made huge investments in licenses. Can both be done?”



INNOVATION • EFFICIENCY • CONSOLIDATION

GOALS / OBJECTIVES FOR THE GROUP

The Charge

Review and recommend changes to Baltimore County's liquor license laws relative to restaurants to encourage economic development.

Deadline

November 15, 2011



INNOVATION • EFFICIENCY • CONSOLIDATION

ECONOMIC DEVELOPMENT OVERVIEW



INNOVATION • EFFICIENCY • CONSOLIDATION

BALTIMORE COUNTY ECONOMY



- #1 Job Center in the Baltimore Metro Area
- #2 Job Center in State
- HQ for McCormick & Company, Stanley Black & Decker and several other companies
- Federal HQ for Social Security and Centers for Medicare and Medicaid Services



INNOVATION • EFFICIENCY • CONSOLIDATION

BALTIMORE COUNTY ECONOMIC STRENGTHS

- Quality Work Force, Low Unemployment, High Education Levels, Interconnected Region
- Diverse, Growing Economy
- Colleges and Universities are a major economic engine in the region - Responsible for Over \$12 Billion in Direct and Indirect Economic Impact
- 'AAA' Bond Rating
- Reinvesting in Existing Communities
- Investments in Infrastructure to Support Economic Growth
- Room to Accommodate Business Growth
- Stable Business Climate
- High Quality of Life, Competitive Cost of Living



INNOVATION • EFFICIENCY • CONSOLIDATION

LIQUOR LICENSE REVIEW



INNOVATION • EFFICIENCY • CONSOLIDATION

LICENSE EXPLANATION

A. Packaged Goods

B. Restaurant 51% Food

C. Clubs - VFWs / Golf Clubs

D. Taverns - No Food Requirement

Exceptions

Special Exceptions By Legislation



INNOVATION • EFFICIENCY • CONSOLIDATION

POPULATION

Baltimore County is the third largest jurisdiction by population in the state.

	Land Area in Square Miles	Population	% STATE
Montgomery	495	971,600	17.05%
Prince George's	487	834,560	14.64%
Baltimore County	598	789,814	13.86%
Baltimore City	80	637,418	11.18%
Anne Arundel	418	521,209	9.14%
Howard	251	281,884	4.95%
Harford	448	242,514	4.26%
Frederick	663	227,980	4.00%
Carroll	452	170,089	2.98%
Washington	455	145,910	2.56%
Charles	452	142,226	2.50%
St. Mary's	373	102,999	1.81%
Cecil	360	100,796	1.77%
Wicomico	379	94,222	1.65%
Calvert	213	89,212	1.57%
Allegany County	428	72,532	1.27%
Worcester	475	49,122	0.86%
Queen Anne's	372	47,958	0.84%
Talbot	259	36,262	0.64%
Caroline	321	33,367	0.59%
Dorchester	593	32,043	0.56%
Garrett	657	29,555	0.52%
Somerset	338	25,959	0.46%
Kent	278	20,247	0.36%
TOTAL		5,699,478	



WHOLESALE ALCOHOLIC BEVERAGES SALES

Five jurisdictions represent over 60% of the state's alcohol business.

Statewide Sales

Total Gallons

Beer	100,827,468
Distilled Spirits	10,092,344
Wine	13,709,989

Sales by Political Subdivision (Gallons)

	Beer	Distilled Spirits	Wine	TOTAL	% STATE
Baltimore County	13,476,737	1,402,617	2,054,548	16,933,902	13.59%
Prince's George's	13,220,516	1,489,828	1,287,043	15,997,387	12.84%
Baltimore City	12,604,339	1,364,243	1,308,652	15,277,234	12.26%
Anne Arundel	11,333,117	1,089,117	2,006,305	14,428,539	11.58%
Montgomery	9,811,508	954,885	2,368,232	13,134,625	10.54%
Harford	4,382,552	336,939	537,658	5,257,149	4.22%
Frederick	4,236,213	365,676	556,515	5,158,404	4.14%
Howard	3,816,505	389,325	796,197	5,002,027	4.01%
Carroll	3,339,320	243,857	404,127	3,987,304	3.20%
Cecil	2,895,353	691,395	329,470	3,916,218	3.14%
TOTALS	<u>100,827,468</u>	<u>10,092,344</u>	<u>13,709,989</u>	124,629,801	



INNOVATION • EFFICIENCY • CONSOLIDATION

LICENSEES

Baltimore County holds 11% of all Class B licenses within the state.

Class "A" Off Sales:	BALT. COUNTY	State Totals	% LIC.
Beer	0	55	
Wine	0	10	
Beer and Wine	13	451	
Beer, Wine and Liquor	173	1000	
Total "A" Licenses	186	1516	12.27%
Class "B" On/Off Sale (Hotels & Restaurants)			
Beer	0	29	
Wine	0	0	
Beer and Wine	10	353	
Beer, Wine and Liquor	298	2367	
Total "B" Licenses	308	2749	11.20%
Class "C" - On Sale (Clubs):			
Beer	0	3	
Wine	0	0	
Beer and Wine	13	40	
Beer, Wine and Liquor	84	525	
Total "C" Licenses	97	568	17.08%
Class "D" - On/Off Sale (Taverns & On Sale Generally):			
Beer	0	55	
Wine	0	0	
Beer and Wine	1	291	
Beer, Wine and Liquor	159	679	
Total "D" License	160	1025	15.61%
Caterers - On/Off:			
Beer, Wine and Liquor		14	
Class "BD-7" - On/Off Sale			
Beer, Wine and Liquor(Baltimore City)		497	
Total	751	6369	11.79%



INNOVATION • EFFICIENCY • CONSOLIDATION

REGULATORY FRAMEWORK

General Assembly – State of Maryland

- Article 2B - Regulates and Controls
 - Manufacture
 - Sale
 - Distribution
 - Transportation and Storage Into and Out of State

Rules and Regulations of the Board Of Liquor License Commissioners for Baltimore County

- Local Regulation Regarding Sale, Distribution, and Storage of Alcohol Within Baltimore County
- Present Rules and Regulations Took Effect (Updated) November 26, 2007
- Per Article 2B - the Board Has the Authority to Enact Local Rules
- Files Date to 1964 - Could Be Earlier



REGULATORY FRAMEWORK

Basic Model

Population Growth by Election District

Exceptions Provided for by Rule 19

Specific developments that meet a threshold size (office buildings, hotel or motels, shopping centers, mixed-use developments)

Special Legislation

Several bills passed by the General Assembly for specific projects or areas



INNOVATION • EFFICIENCY • CONSOLIDATION

RULE 19 - POPULATION & NUMERICAL LIMITATIONS MIXED USE DEVELOPMENT ADDITION EFFECTIVE 11/27/06

Election District

- As Determined by the Baltimore County Office of Planning and Zoning.
 - 2,500 Actual Population
 - One On-sale License
 - 4,000 Actual Population
 - One Off-sale

No License Shall Be Transferable From the Election District in Which It Was Originally Located



ISSUANCE OF LICENSES

- Fourteen jurisdictions have no restrictions related to population
- Eleven jurisdictions have some measure of population along with other requirements
- Critical factor to be determined by Task Force: review business practices of other jurisdictions concerning transferring of licenses as they relate to the value of the business



INNOVATION • EFFICIENCY • CONSOLIDATION

MULTIPLE LICENSE REGULATION INDEPENDENT AND CHAIN

ARTICLE 2B. ALCOHOLIC BEVERAGES

TITLE 9. GENERAL PROVISIONS ON ISSUE OF LICENSES.

SUBTITLE 1. GENERALLY.

Md. Ann. Code art. 2B, § 9-102 (2011)

§ 9-102. More than one license for same person or premises; numbering licenses

(b-3B) Restaurants in Baltimore City and **Baltimore County** -- Additional licenses. --

(1) Notwithstanding any other provision of this section or § 8-204(l) of this article, in Baltimore County, an individual or a sole proprietorship, partnership, corporation, unincorporated association, or limited liability company in the county, may obtain a direct or indirect interest in:

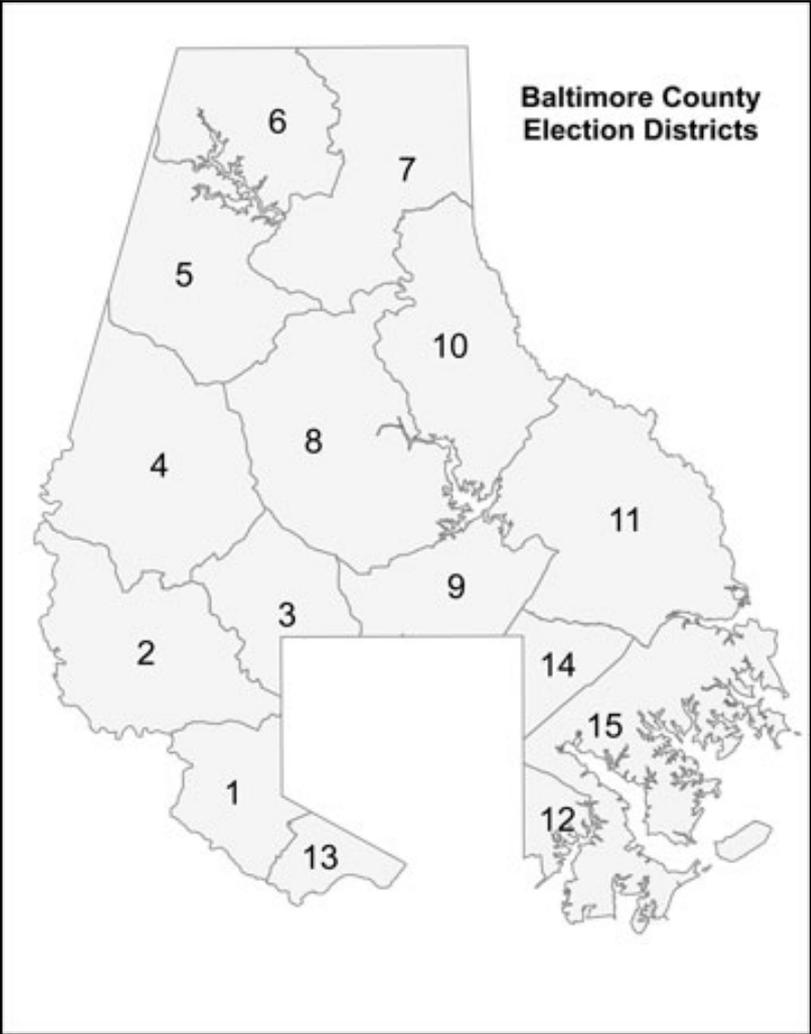
(i) **Not more than six Class B** (on-sale -- hotels and restaurants) beer, wine and liquor licenses under this article; or

(ii) If one of the restaurants for which a license is issued is located in the **Liberty Road Commercial Revitalization District** in accordance with subsection (b-3C) of this section, **not more than seven Class B** (on-sale -- hotels and restaurants) beer, wine and liquor licenses under this article.



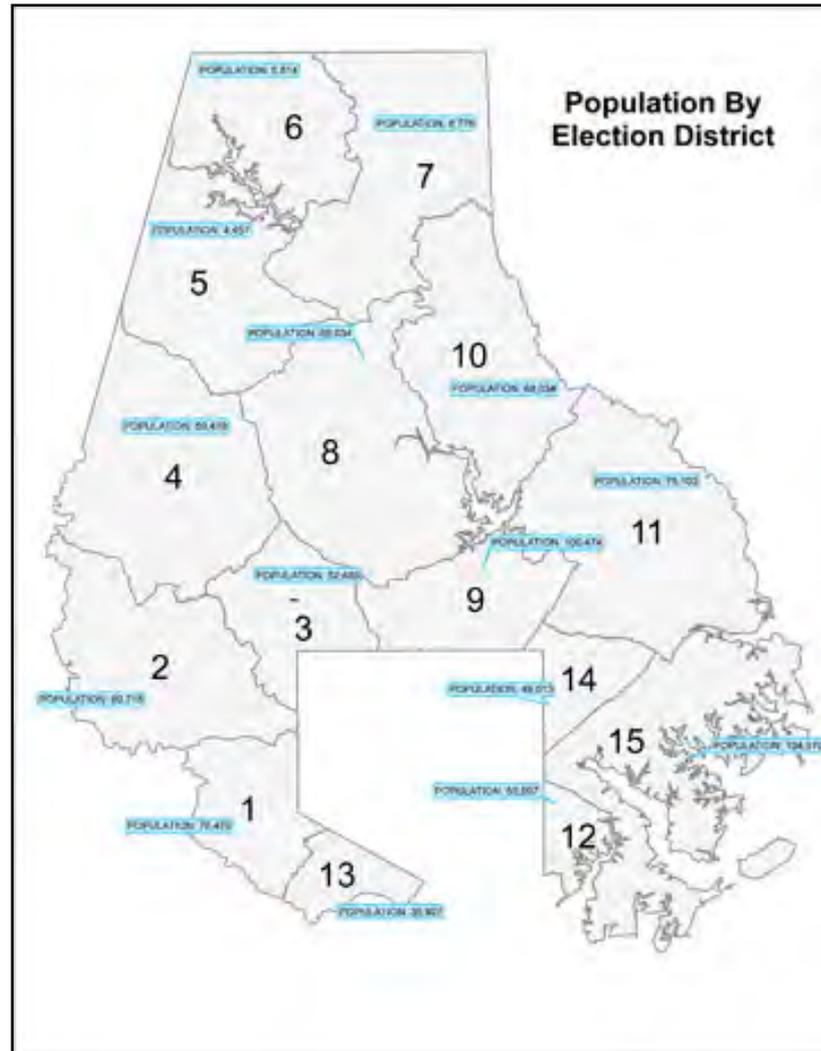
INNOVATION • EFFICIENCY • CONSOLIDATION

ELECTION DISTRICT OVERVIEW



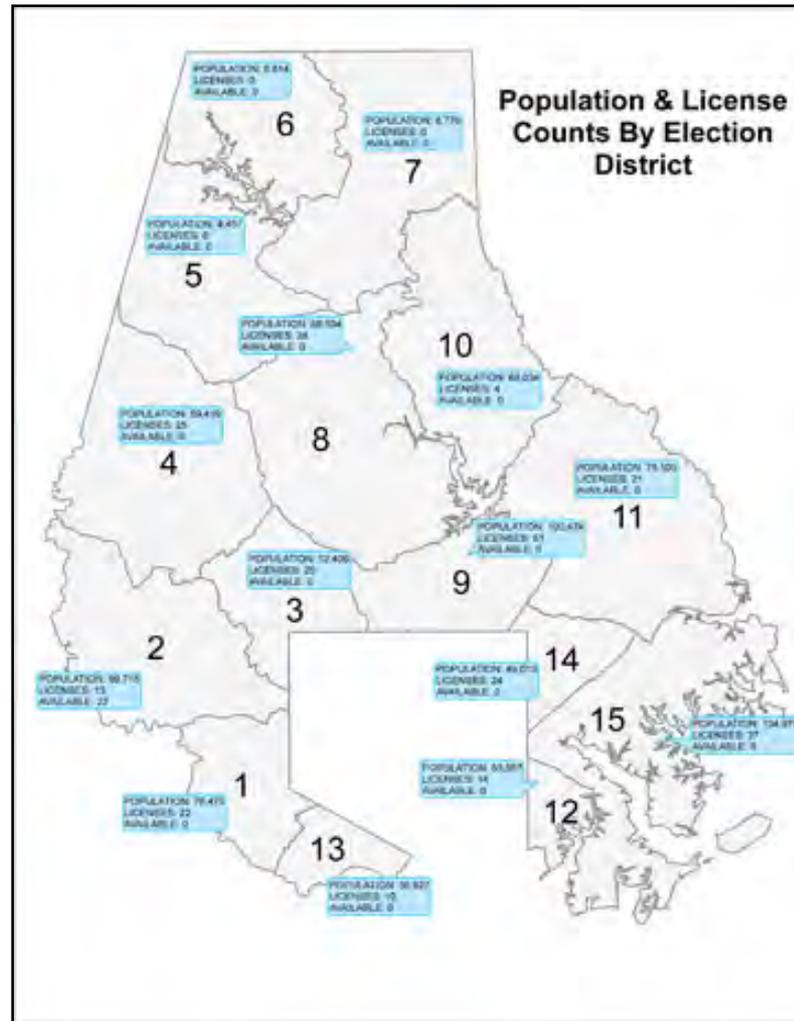
INNOVATION • EFFICIENCY • CONSOLIDATION

ELECTION DISTRICTS / POPULATION FIGURES

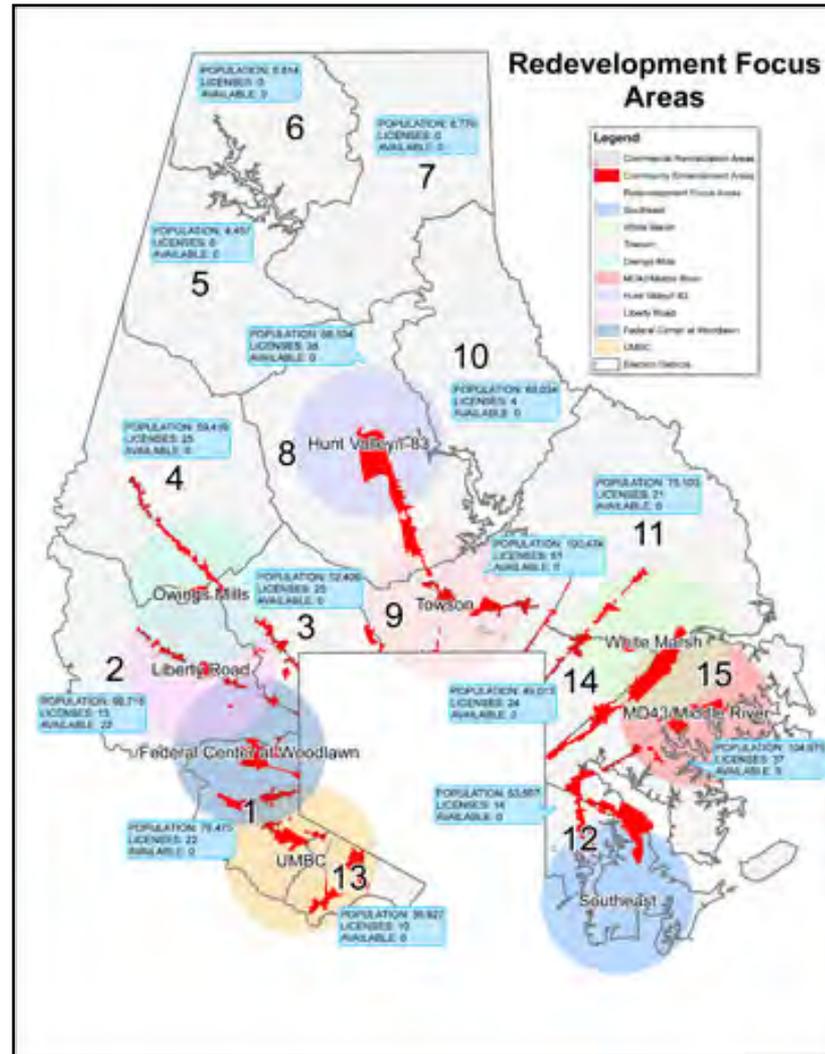


INNOVATION • EFFICIENCY • CONSOLIDATION

ELECTION DISTRICTS / POPULATION FIGURES LICENSE NUMBERS



ECONOMIC DEVELOPMENT OVERLAY



INNOVATION • EFFICIENCY • CONSOLIDATION

POPULATION ESTIMATES - 1997

ON SALE (TAVERN & RESTAURANT) (1 EVERY 2,500 PERSONS)

Revised 1-9-98

DISTRICT	POPULATION	LIMIT	CLASS B	ST	B(SB)	CLASS D	EXISTING	EXCEPTION	ST	B(SB)	TOTAL
1	69,240	27.70	24	0	0	13	37	5	0	0	32
2	80,628	32.25	18	0	0	3	21	0	0	0	21
3	45,504	18.20	19	0	3	2	24	3	0	3	18
4	47,951	19.18	21	0	0	2	23	2	0	0	21
5	4,591	1.84	0	0	0	1	1	0	0	0	1
6	4,952	1.98	0	0	0	2	2	0	0	0	2
7	7,872	3.15	0	0	0	4	4	0	0	0	4
8	60,297	24.12	32	0	0	6	38	11	0	0	27
9	92,434	36.97	52	0	0	9	61	14	0	0	47
10	10,264	4.11	3	0	0	0	3	0	0	0	3
11	66,151	26.46	11	0	0	15	26	1	0	0	25
12	53,428	21.37	13	0	0	11	24	0	0	0	24
13	34,644	13.86	9	0	0	10	19	1	0	0	18
14	42,190	16.88	13	0	0	12	25	2	0	0	23
15	102,169	40.87	42	0	0	105	147	1	0	0	146
TOTAL	722,315	288.94	257	0	3	195	455	40	0	3	412



INNOVATION • EFFICIENCY • CONSOLIDATION

POPULATION ESTIMATES - 2011

ON SALE (TAVERN & RESTAURANT) (1 EVERY 2,500 PERSON)

DISTRICT	POPULATION	LIMIT	CLASS B	ST	B(SB)	CLASS D	EXISTING	EXCEPTION	ST	B(SB)	TOTAL
1	78,475	31.39	22	0	0	13	35	3	0	0	32
2	99,718	39.88	13	0	0	4	17	0	0	0	17
3	52,426	20.97	25	0	4	1	30	4	0	4	22
4	59,419	23.76	25	0	0	2	27	3	0	0	24
5	4,457	1.78	0	0	0	1	1	0	0	0	1
6	5,814	2.32	0	0	0	2	2	0	0	0	2
7	8,776	3.51	0	0	0	4	4	0	0	0	4
8	68,034	27.21	38	0	0	5	43	14	0	0	29
9	100,474	40.18	61	0	0	9	70	15	0	0	55
10	10,741	4.29	4	0	0	0	4	0	0	0	4
11	75,103	30.04	21	0	0	10	31	1	0	0	30
12	53,597	21.43	14	0	0	7	21	0	0	0	21
13	35,927	14.37	10	0	0	9	19	1	0	0	18
14	49,013	19.60	24	0	0	5	29	7	0	0	22
15	104,970	41.98	37	0	0	88	125	2	0	0	123
TOTAL	806,944	322.71	294	0	4	160	458	50	0	4	404



INNOVATION • EFFICIENCY • CONSOLIDATION

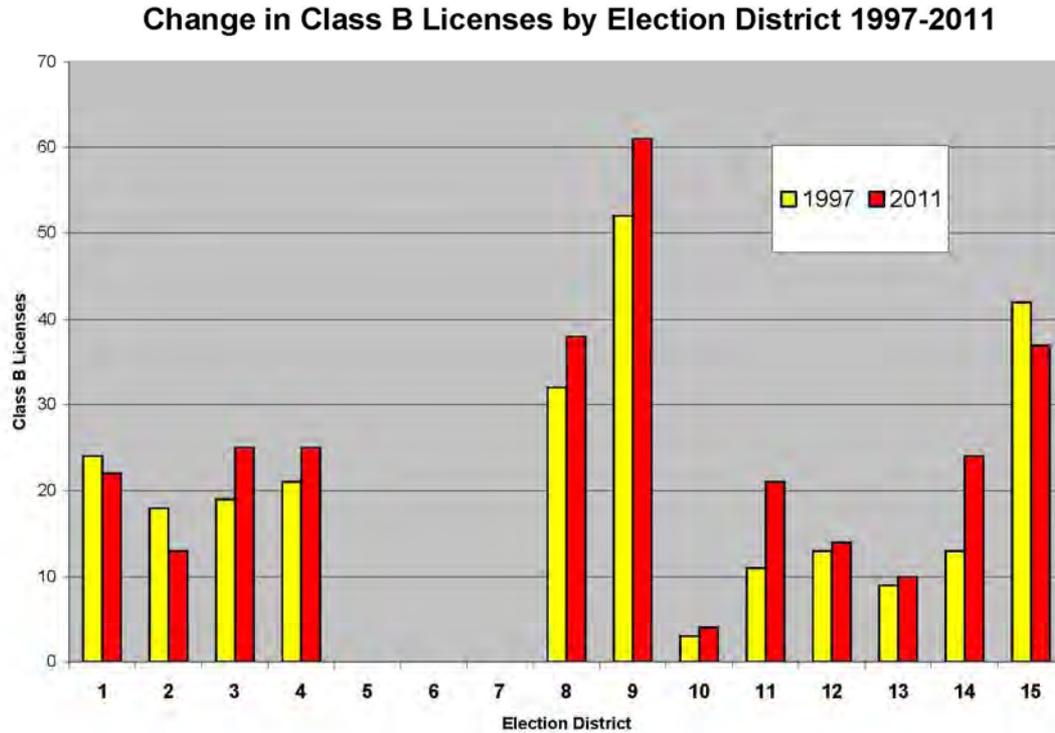
LIQUOR LICENSE CHANGES 1997 - 2011

1997					2011				
DISTRICT	POPULATION	LIMIT	CLASS B	TOTAL		POPULATION	LIMIT	CLASS B	TOTAL
1	69,240	27.70	24	32		78,475	31.39	22	32
2	80,628	32.25	18	21		99,718	39.88	13	17
3	45,504	18.20	19	18		52,426	20.97	25	22
4	47,951	19.18	21	21		59,419	23.76	25	24
5	4,591	1.84	0	1		4,457	1.78	0	1
6	4,952	1.98	0	2		5,814	2.32	0	2
7	7,872	3.15	0	4		8,776	3.51	0	4
8	60,297	24.12	32	27		68,034	27.21	38	29
9	92,434	36.97	52	47		100,474	40.18	61	55
10	10,264	4.11	3	3		10,741	4.29	4	4
11	66,151	26.46	11	25		75,103	30.04	21	30
12	53,428	21.37	13	24		53,597	21.43	14	21
13	34,644	13.86	9	18		35,927	14.37	10	18
14	42,190	16.88	13	23		49,013	19.60	24	22
15	102,169	40.87	42	146		104,970	41.98	37	123
TOTAL	722,315	288.94	257	412		806,944	322.71	294	404



INNOVATION • EFFICIENCY • CONSOLIDATION

LIQUOR LICENSE CHANGES 1997 - 2011



INNOVATION • EFFICIENCY • CONSOLIDATION

RULE 19 BALTIMORE COUNTY EXCEPTIONS

Office Buildings

- 75,000 Sq Ft-leased Commercial Space
 - One Class B License

Hotel / Motel

- 100 Rooms
 - One Class B License



RULE 19 BALTIMORE COUNTY EXCEPTIONS

Shopping Centers

- 250,000 Sq Ft
 - Minimum 10 Tenants
 - Parking For 500 Automobiles
 - One Class A License
 - One Class B License
- 500,000 Sq. Ft
 - 20 Tenants
 - Parking For 1,000 Automobiles
 - One Additional Class A License
 - One Additional Class B License
- For each additional 250,000 Sq Ft
 - One Additional Class A
 - One Additional Class B



RULE 19 BALTIMORE COUNTY EXCEPTIONS

Mixed Use Developments

Retail, Office & Residential Components

- One Structure
- Transit Oriented Development (TOD) Designated By The State
- Planned Unit Development (PUD)
 - 400,000 Sq Ft
 - Office And Residential Space Comprising 20% Of The Entire Development
 - Two Class B Licenses
 - Additional 200,000 Sq Ft
 - One Additional Class B



RULE 19 BALTIMORE COUNTY EXCEPTIONS

No More Than Five Rule 19 Class B Exception Licenses of any Type May Be Issued For Use At Any Location Or Mixed-use Development

No License Issued As An Exception Under This Rule Shall Be Transferable To Another Location, Nor Shall Any Such License Be Calculated In The Determination Of The Maximum Number Of Licenses Authorized In Each Election District.



INNOVATION • EFFICIENCY • CONSOLIDATION

SPECIAL EXCEPTIONS BY LEGISLATION

License Description	Section	Restaurants	Requirements	Licenses Available
B(HV) Hunt Valley	Section 8-204.4	Damons Grill/ Green Turtle Jesse Wongs Kitchen	Must Stay On Site	0
B(OMTC) Owings Mills Town Ctr	4 Allowed From 15th District 4 Allowed From 15th District	Red Lobster Don Pablos Red Robin America'S Gourmet	Must Stay On Site	0
MCOM-Metro Center At O Mills	Section 8-204.5 3 Allowed From 15th District	None Purchased	Must Stay On Site	3
B(PC) Promenade Catonsville	Section 8-204.5 3 Allowed From 15th District 3 On Hold-Other Legislation (See Below Under Contract Dev.)	One Purchased To Date Appleschmidts Chi Ch'S Pebbles	Must Stay On Site Can Be Transferred There Are Requirements	2
B(QG)Quarry Greenspring	Section 8-204.5 2 Allowed Purchased From 15th District	The Quarry At Greenspring The Quarry At Greenspring	Must Stay On Site	0
B(SB) Service Bar Pikes Revitalization Area	Section 8-204.2 10 Allowed	Jumbo Seafood Restaurant Umami Bistro Suburban House Rest. Mr.Chans Szechuan Rest.	Transferrable W/In The Revitalization Area	6
B (TCRD) Towson Commercial Revitalization District	Section 8-204.3 B Or D Allowed 10 Allowed From 15th District	Stoney River Café Troia French Café Towson Circle Phase 3 Towson Town Center Rest.	Must Stay On Site W/In Rev. District	5
B(TRD) Towson Revitalization	Section Doesn'T Appear In 2009 Addition 2 Allowed From 15th District	Green Turtle	Transferrable W/In Rev. Area Expiration Date	0

SPECIAL EXCEPTIONS BY LEGISLATION

License Description	Section	Restaurants	Requirements	Licenses Available
B(TSB) Towson Service Bar Loch Raven Revitalization	Section 8-204.7 3 Allowed	Mamma Lucia Pho Dat Thanh Italian Bistro	Transferrable W/In The Loch Raven Rev. Area	0
B(BDR) Delux Restaurant	Section 8-204 Allowed 4 In Any District 18 Potential Licenses	Olive Garden Applebees Bertucci'S Italian Rest. Bertucci'S- White Marsh Del Capri Nautilus Rest. Oregon Grill Kyodai Sushi Bar Tgi Fridays	Investment Requirements Expired 1995	0
	Towson Commons Lic (2) (See Below Under Contract Dev.)			
Contract Purchasers/Developers	Section 8-204.6	Nottingham Ridge (1)	Purchased From 11th-Stays In 11th	1
	Allows Developer To Hold	St.Johns Properties (1) (B)	Purchased From 15th Stays In 15th	1
	While Property Is Developed	Middle River Mie (1)	Purchased From 15th Stays In 15th	1
		Towson Circle Phase 3 (1) (B)	Purchased From 15th Stays In 9th	1
		Promenade (1) (B-Pc)	Purchased From 15th Stays In 1'St	2
		Promenade-Appleschmidts (D)	Can Be Transferred	
		Promenade-Chi Chi'S (B)	There Are Requirements	
		Promenade-Pebbles (B)		
		Towson Town Center (1)	Purchased From 15th Stays In 9th	2
	Bdr'S Now Under 204.6	Ruby Tuesdays-Business Closed	Stay In The Towson Commons Complex	2
	Is Under Towson Commons	Paolos-Business Closed		
	B License	Queen Mary Properties	Can Be Transferred Within District	1
	B License -District 4	Kr Rest Assoc.	Can Be Transferred Within District	1
MVP- B License In District 8	Must Be Purchased	Not Done By Regulation	Can Be Transferred Within District	1
Special Theater	8-204.4	Distlers Mill	Live Entertainment/Other Requirements	1

NEXT STEPS

- Member Comments / Suggestions
- Subjects for Future Meetings
- Meeting Schedule

Dan Gundersen

dgundersen@baltimorecountymd.gov

Mike Mohler

mmohler@baltimorecountymd.gov



INNOVATION • EFFICIENCY • CONSOLIDATION

Baltimore County Liquor License Review Task Force

Meeting Minutes

August 18, 2011

Welcome

- On behalf of County Executive Kevin Kamenetz, Chief of Staff Don Mohler welcomed Task Force members and members of the public to the first meeting of the Baltimore County Liquor License Task Force (BCLLTF). Mr. Mohler emphasized the County Executive's appreciation to the Task Force for taking on this important, complicated issue. He introduced the Task Force Co-Chairs, Dan Gundersen, Executive Director of the Department of Economic Development, and Mike Mohler, Chief Administrator of the County Liquor Board.

Introductions and Presentation

- Dan Gundersen welcomed the Task Force and presented the agenda for the first meeting (the full PowerPoint presentation including the agenda and all presentation materials is included as an attachment to these notes).
- Mr. Gundersen and Mr. Mohler each introduced themselves and provided short summaries of their professional backgrounds. Each of the following Task Force members then introduced him- or herself and summarized relevant experience. (Damian O'Doherty was the only member not able to attend the meeting).
 - Arthur Adler, Partner, Caves Valley Partners
 - Teal Cary, Executive Director, Catonsville Chamber of Commerce
 - Edward Gilliss, Chair, Baltimore County Planning Board
 - Jack Milani, Legislative Co-Chair, Baltimore County Licensed Beverage Association
 - David Mister, Attorney, Mister, Winter and Bartlett, LLC.
 - Damian O'Doherty, KO Public Affairs
 - Harold Reid, Executive Director, Liberty Road Business Association
 - Jose Rivas, Realtor, Central Realty
 - Keith Scott, President & CEO, Baltimore County Chamber of Commerce
 - Melvin Thompson, Senior Vice-President, Restaurant Association of Maryland
- Mr. Gundersen stated that the Task Force meetings will be open to the public and that citizens are welcome to speak to members privately after meetings and to communicate questions and comments to the Co-Chairs via email (dgundersen@baltimorecountymd.gov and mmohler@baltimorecountymd.gov).
- Mr. Gundersen presented the County Executive's vision for the Task Force: a focus only on restaurant (Class B) licenses and a commitment to address the needs of both independent and chain restaurants, with a deadline of November 15 for recommendations. He also cited the Baltimore Sun editorial commending the County for taking on this issue.
- Mr. Gundersen stated that there is a tremendous amount of information to be reviewed and discussed. The main focus of this first meeting would be to review the existing liquor license regulations and identify topics to explore in future meetings. He also provided a brief overview of the County's economy and cited the importance of liquor license availability in the ability to attract restaurants to strengthen revitalization districts and commercial corridors. He turned over the presentation to Mike Mohler.
- Mike Mohler presented a thorough overview of existing laws and regulations governing liquor licenses in Maryland and Baltimore County. The presentation (see attached) covered the centrality of Article 2B of the Code of Maryland to all considerations of liquor licenses in the State; Rule 19 of the Rules and Regulations of the Baltimore County Board of License Commissioners; the various classifications of liquor licenses available; the role of population growth, exceptions and special legislative exceptions in determining license availability, as well as details on the special exceptions currently in place; and the current number of total and available licenses by Election District.

Discussion

- Messrs. Gundersen and Mohler opened up the meeting for comments and discussion among the Task Force members.
- Various members suggested corrections or enhancements to the PowerPoint presentation. (The attached PowerPoint incorporates those recommended changes.)
- Although the Task Force mandate is to focus on Class B licenses (restaurants with food exceeding 51% of total sales), the group should be mindful that Class D licenses (taverns) in Election District 15 have also been involved in special legislative exceptions. Some of the District 15 licenses that have been transferred to other Districts were originally Ds and became Bs when moved to the receiving Districts. (Milani)
- It is much more common for a D to be transformed into a B than for the reverse to occur. (Gillis)
- Members questioned why Election Districts are the geographic unit for liquor license allocation since the boundaries are not as commonly known as those for councilmanic or congressional districts? (Adler)
- Election Districts have not changed over time due to redistricting. (Milani)
- A series of comments addressed the issue of the cost of purchasing a liquor license and the effect of that cost on restaurants' willingness to open new dining establishments in Baltimore County:
 - A developer may purchase and control a license for a proposed project, even though that project might not come to fruition in the immediate future. (Gillis)
 - Is there a record of the sales prices for licenses? (Adler)
 - It would be extremely helpful for the Task Force's future deliberations if factual data could be compiled on the actual costs paid either to purchase an available license within an Election District or to purchase a license transferred through a special legislative exception from another district. (Mister)
 - Given that every assignment of a license must be recorded with the County, compilation of such a list should be possible. (Mohler)
 - Messrs. Gillis and Mister offered to assist Mike Mohler and his staff in developing a complete list. This list will include prices paid for liquor licenses alone (not including the price of any related restaurant business) and will not specify names of the parties or locations.
 - Election Districts 8 and 9 (Hunt Valley-Timonium and Towson) are the districts where most of the unmet demand for licenses exists and where the highest prices for licenses appear to have been paid. (Milani)
 - Current regulations do not take into account the fact that many new, fast-casual restaurants such as Pei Wei and Qdoba do not need traditional full-service Class B licenses; they simply want the ability to provide customers with a glass of wine or beer with their meal. The inability of Baltimore County to readily accommodate such restaurants puts the County at an economic development disadvantage relative to neighboring jurisdictions such as Baltimore City and Howard and Montgomery Counties. Even when a license is available, some chains that are attracted to Baltimore County's demographic profile may choose not to open a restaurant here because they refuse to pay up to \$150,000 for a license. Several of the largest restaurant chain owners are constantly adding new "concepts."* (Adler)
 - Many in the development and restaurant community believe that the current license regulations create artificial interference with the free market both through limitations in the overall number of licenses available and through limits on the number of licenses that may be controlled by any single corporate owner. The limits on a single corporate owner, rather than a limit per distinct restaurant concept, may deter a major chain such as Darden or Brinker from opening a new concept in Baltimore County. (Gillis)
 - Baltimore County is perceived to have the most restrictive liquor license regulations in the State of Maryland. (Gillis)

* A restaurant "concept" includes the menu, the ambiance, décor, whether or not alcohol is served, how customers will be served, what impression it will make on the customers the first time they come in and repeatedly thereafter. For example, Red Lobster and Olive Garden are both concepts or brands of the Darden restaurant group.

- A series of comments were made concerning the investments made by the current holders of liquor licenses and the need for sensitivity to their interests.
 - The Chamber of Commerce perspective acknowledges this investment, but suggests that many situations change over time. The current system is hurting growth in the County. (Scott)
 - There are approximately 400 members of the Baltimore County Licensed Beverage Association who have played by the rules in place and are very concerned that their investments will be compromised. (Milani)
 - The Task Force needs to be sensitive to the current license owners but needs to move forward. (Scott)
 - The Task Force needs to be careful not to make it easier for chains to cannibalize small restaurants. (Thompson)
- A series of comments were made about the need for restaurants on Liberty Road
 - Liberty Road is devoid of small and large restaurants. How can we encourage more restaurants of all kinds there? (Reid)
 - Senator Kelly commends the County Executive for creating the Task Force and said she hopes the County will be able to help create more jobs in the area to support lunchtime restaurant business.
 - Northwest Hospital is the major employer in the corridor, but hospitals generally are considered to be lunch business “dead zones” by developers because workers rarely leave the building and eat in-house in cafeterias. (Adler)
 - Liberty Road is one of the County Executive’s focus areas and will certainly be looked at by the Task Force. (Gundersen)

Next Steps

- Mike Mohler and his staff will look into:
 - The ability of developers to “hold” licenses not currently in use
 - Compiling data regarding the prices paid for licenses in recent years
- Dan Gundersen and Mike Mohler will work to compile the issues raised and draft an agenda for the next meeting. Meeting notes and the corrected Power Point will be emailed out to Task Force members and will also be put on the County website.
- The next meeting will be Thursday, September 8 at the Baltimore County Chamber of Commerce, located at 102 W. Pennsylvania Avenue – Suite 101. The Task Force will meet every following Thursday in September, except September 29 (Rosh Hashanah), in Room 118 of the Historic Courthouse.
- The Task Force report will be due by November 15.

Baltimore County Liquor License Review Task Force

Meeting Minutes

September 8, 2011

In Attendance:

- Arthur Adler, Partner, Caves Valley Partners
- Teal Cary, Executive Director, Catonsville Chamber of Commerce
- Edward Gilliss, Chair, Baltimore County Planning Board
- Dan Gundersen, Executive Director, Baltimore County Department of Economic Development
- Jack Milani, Legislative Co-Chair, Baltimore County Licensed Beverage Association
- David Mister, Attorney, Mister, Winter and Bartlett, LLC.
- Mike Mohler, Administrator, Baltimore County Liquor Board
- Damian O'Doherty, KO Public Affairs
- Harold Reid, Executive Director, Liberty Road Business Association
- Jose Rivas, Realtor, Central Realty
- Keith Scott, President & CEO, Baltimore County Chamber of Commerce
- Melvin Thompson, Senior Vice-President, Restaurant Association of Maryland
- None absent

Welcome

- Dan Gundersen welcomed everyone to the meeting and said that the focus of the meeting would be on how Baltimore County's liquor license system compared to those of other jurisdictions around the state.
- Mike Mohler said that as a result of comments from the first meeting, the PowerPoint had been revised to correct some inaccuracies relative to licenses for the Promenade project in Catonsville and the number of BDR licenses. In addition, as requested by the Task Force, his office has gathered data about the price of licenses that have changed hands in recent years and sorted it by year and district. It was noted that not all figures are comparable because some included cost of the business.
- Dan Gundersen asked whether there were any changes to the minutes from the August 18 meeting. Ed Gilliss pointed out a spelling error. With that change the minutes were approved.
- Mike Mohler mentioned that we hoped at the next meeting to have a business development representative from a major restaurant chain give a short presentation on the Baltimore County liquor licenses system from the perspective of a major restaurant chain. He then introduced Ms. Leanne Schrecengost, a partner with Royston, Mueller, McLean & Reid, LLP, who has extensive experience with liquor license laws throughout Maryland to address statewide differences in local liquor license laws.

Highlights of Presentation by Ms. Schrecengost

- Baltimore County's population quota is a major issue because it creates a market value for licenses.
 - There is only one other jurisdiction (Frederick County) with a similar quota. Prince George's technically has a quota, but its luxury license provision for restaurants with at least an \$800,000 investment makes many more licenses available than would be based on population. Prince George's also introduces legislation regularly to modify its regulations.
 - Montgomery County has no population quota, but it does limit the location of licenses. Similarly, Anne Arundel does not have a population quota, but they do focus licenses on designated economic development areas.
 - Charles County limits the number of licenses to two per entity.

- In Baltimore City, there are limits on the number of tavern licenses by election precinct. There are also restrictions on restaurant licenses, but not to the extent of tavern licenses. There are certain precincts in the City where no new licenses are permitted no matter what class. Baltimore City does have a seating limit for some restaurant licenses, limiting the number for restaurants over a certain size.
- Harford County requires new liquor license operators to start with a beer and wine only license and then move up to a full license unless a deluxe license is applied for which has capital investment requirements.
- The cost of restaurant licenses in Baltimore County is a deterrent to start-up restaurants that cannot afford the \$150,000 to \$250,000 it often takes to obtain a license.
- Another hurdle for start-ups such as the French Press and Havana Road in Towson is that they do not meet the minimum number of seats to qualify for a license.
- The Task Force may want to review the current requirement that an applicant for a license obtain ten signatures of residents who live within one mile of the proposed license location. This is an antiquated requirement in the statute.
- Baltimore County's Liquor Board staff are extremely helpful and efficient. The application process is very friendly with the exception of the fact that license applications should be available online in a format that can be filled in electronically.

Discussion (comments organized by topic)

- Current availability of licenses in Baltimore County and implications for restaurants
 - In Election District 8 (Hunt Valley) there are three licenses that may be available, but one is entangled in a legal proceeding in the state courts relative to an IRS lien. It cannot be sold for less than \$250,000. (Mister)
 - Baltimore County is the only jurisdiction where there is buying and selling of restaurant (as distinct from tavern) licenses. County is the "lone wolf" in this respect and that puts us at a disadvantage if a Brinker or other chain wants to locate here. It might be more advantageous to the chain to go to Montgomery or Howard where they don't have to pay \$250,000. (Gilliss)
 - While Baltimore City tavern licenses do have monetary value, restaurant licenses do not (Thompson)
 - In Baltimore City there are limits on some types of licenses by precinct. (Schrecengost)
 - Some Baltimore City restaurant licenses have a monetary value because they were grandfathered in before the capital investment requirement was imposed. As a result, they have some value for a proposed restaurant operator who will not meet the capital investment threshold. (Mister)
 - It might be illustrative to understand how Catonsville was able to get the licenses to support its newer restaurants and any current problems that might exist there as the downtown is often used as an example for other communities (Gundersen)
 - Catonsville Gourmet is a good example of the problem. (Cary)
 - They couldn't get a license. because the restaurant is located within 300 feet of a church, a zone in Baltimore County where licenses aren't allowed (Milani)
 - Also in Catonsville, there was a license available, but Regions didn't want to pay the price. (Milani)
 - Does Baltimore County's system restrain the establishment of innovative, entrepreneurial new restaurants with young chefs? Such restaurants are exciting and draw people to an area to patronize other restaurants and businesses. (O'Doherty)
 - Yes. Start-ups typically cannot pay the \$150K+ it often takes to get a license. (Schrecengost)
 - Even if you re-opened the Baltimore County deluxe license provision, these small restaurants with 10-12 tables would not have the money for the level of capital expenditure required. (Gilliss)

- A solution is to start moving more existing licenses out of the 15th Election District. If we did that, the price would be more like \$75,000 instead of \$200-250,000. (Milani)
- The current system in Baltimore County is archaic. We see with the people who come into our Small Business Resource Center wanting to open a restaurant that they cannot cover the cost of a license. Why not just open it up? (Scott)
- Although it is usually possible to get a license under the current system, the process is lengthy and archaic, requiring action by the General Assembly. This system restrains the kind of creative, organic growth the local restaurant and entrepreneurial markets need to grow and thrive. Independent, local restaurants give a community special character and can increase land values. (Gundersen)
- Towson should be more like Hampden in the City. There is a great concentration of restaurants there. You know you can just drive to Hampden and park and you'll be able to dine at one of ten or more great places. Towson needs to be like this...park once and have a large number of restaurants to choose from, even if one or another is too crowded. (Adler)
- Why would the Voltaggio brothers* open a restaurant in Frederick instead of Towson? Could the difficulty in obtaining a liquor license be part of the answer? Why should a restaurant like Catonsville Gourmet have to wait until the area's population grows by a significant amount to get a license? Why should licenses be distributed evenly by population rather than by where restaurants want to be? (Gilliss)
- The cost of a license in Baltimore County is a very small part of the overall capital investment for a big chain restaurant. The question is not the cost, but rather can you get it? (Mister)
- Current holders of liquor licenses view them as a valuable asset
 - People have invested in their licenses and you can't just take that away. This will be a topic for a future Task Force meeting. (Mohler)
 - Many people, including delegates, will be concerned about any "sea change" in the current license system. The Maryland Code is filled with quirks that various delegates have put in over the years. (Mister)
 - It is not just small restaurant owners who want to retain the value of the licenses they have purchased; chains do as well. (Mister)
 - The "elephant in the room" is the issue of current license holders wanting to protect their assets. (Adler)
 - That is the issue. The Association recognizes the need for change but it has to be gradual. (Milani)
 - But a "patch" won't fix the system. (Gundersen)
 - Although there are 450 members of the License Beverage Association, the class within that group that has made a large investment in a license is much smaller. (Gilliss)
 - It is not just that they paid for a license, it's also that it is a family business where the license is the only thing with any residual value. (Mister)
 - For how many is it a major asset? For some it may be that their bank lines of credit are secured by their license. (Adler)
 - Task Force should consider creating a list of examples of how the current system does not work. These examples will be useful in convincing the General Assembly that the status quo cannot stand. Two restaurants sharing a single kitchen and liquor license is an example.
 - Smaller tenants would really benefit from the extra cash flow that would come from having a liquor license. Currently, a customer can buy a beer with their order at Chipotle in the City, but not in the County. Real issue is the need to support smaller restaurants in downtowns such as Towson and other places to help make the whole area work. (Adler)

* nationally-famous celebrity chefs who grew up in Maryland

- Task Force needs to be careful that any changes in the corporate ownership provision keeps the balance between chains and independents. It is important to address issues not just from the chain perspective. (Thompson)
- As a landlord, it seems that independents can benefit when there are long waits at a major chain restaurant. If Outback has a 50-minute wait, let's go to _____. Chains also do advertising that can draw people to an area, including to the independents in that area.
- Possible ways to address the concern of license holders about retaining the value of their asset.
 - There are many, many scenarios. One option would be to change the level of renewal expense based on whether or not the holder paid for their license initially. Those who got free licenses would pay a higher fee than those who bought their licenses. (Gilliss)
 - In the mid-80s, there was a realization in the Association that there needed to be more equalization geographically. Group was open to moving licenses that were about to expire into areas where they were needed. Over the years 16-18 licenses have moved out of the 15th Election District. For us, the "transfer concept" is the most attractive. (Milani)
 - Timing is critical. If you get a great restaurant prospect on March 15 you're dead for a year. Then, even if you get the transfer legislation passed, it is difficult to find an available license in the 15th. (Adler)
 - Three possible improvements: (Mister)
 - Create a free place on the County Liquor Board website where someone can post that they want to sell a license. Improve information flow about availability.
 - Further relax the expiration times for licenses (currently 180 days or 360 days for a hardship situation).
 - Review provisions that allow a developer to hold a license for three years.
 - Limit on how long a license can be held was instituted to discourage "flipping" of licenses as an investment. (Milani)
 - Why not just buy out the licenses of existing holders? (Scott)
 - Who would pay? (several comments)
 - The Association has always been open to transfers. Maybe regulations on transfers should be looser so that it would be easier to do? We have relied on the Economic Development Department to tell us where licenses are needed, but maybe we need to revisit this. (Milani)
 - Should there be any limit by Election District? (Gilliss)
 - The key issue is to figure out how to compensate people for their actual or perceived loss of value. (Adler)
- Liquor Board website
 - The application for a license needs to be available online. It should have the ability for it to be completed electronically.
 - These requests have already been submitted to the County Office of Information Technology (Mohler)
- Specific provisions in the current law that could be changed fairly simply
 - The 10-signature provision is out-dated and extremely cumbersome. It should be removed entirely or the requirements should be loosened. (Several similar comments)
 - Current requirement that a license holder be a Baltimore County resident is out-dated. Should be no more specific than a state resident.
 - Licensed Beverage Association would see removing these two requirements as a "no brainer." (Milani)
- History of liquor regulations

- There may not have been a consistent methodology for establishing regulations on liquor licenses, historically. The population quota was put into effect at some point and then not obeyed for a time. Then, the Board reinstated it. (Mister)
- Baltimore County has a “rich political history.” (Gilliss)
- The predecessor to Rule 19 went back to about 1964. There was a large number of existing licenses, especially on the East Side due to the area’s long industrial heritage and workers’ frequenting taverns. But, that area has not grown population-wise, creating a glut of licenses relative to other parts of the County where population has grown. (Mister)
- One good thing about Baltimore County’s liquor license regs is that they are predictable. (Mister)
- Baltimore County’s liquor regulations came into effect originally after prohibition with the stated purpose of limiting consumption. This is not the case in other jurisdictions. (Gilliss)

Next Meeting

- The focus of the next Task Force meeting will be how to deal with the issue of current license holders’ asset value. Members should come to the next meeting with specific proposals on how to approach this issue. The September 15 meeting will be back at Room 118 in the Historic Courthouse. (Mohler)

Baltimore County Liquor License Review Task Force

Meeting Minutes
September 15, 2011

In Attendance:

- Arthur Adler, Partner, Caves Valley Partners
- Teal Cary, Executive Director, Catonsville Chamber of Commerce
- Daniel C Gundersen, Executive Director, Department of Economic Development
- Edward Gilliss, Chair, Baltimore County Planning Board
- Jack Milani, Legislative Co-Chair, Baltimore County Licensed Beverage Association
- David Mister, Attorney, Mister, Winter and Bartlett, LLC.
- Mike Mohler, Baltimore County Liquor Board
- Damian O'Doherty, KO Public Affairs
- Jose Rivas, Realtor, Central Realty
- Keith Scott, President & CEO, Baltimore County Chamber of Commerce
- Melvin Thompson, Senior Vice-President, Restaurant Association of Maryland

Absent:

- Harold Reid, Executive Director, Liberty Road Business Association

Welcome

- Dan Gundersen welcomed everyone to the meeting and asked for any comments and/or revisions to last week's meeting minutes. Ed Gilliss provided some clarification and corrections on the summary of Leanne Schrenegost's presentation. Jack Milani suggested that wording regarding restaurants that are too small for liquor licenses and restaurants in Catonsville be revised. Art Adler pointed out a misspelling of his name. With the verbal amendments the minutes were approved. (The revised September 8 minutes including these corrections are attached.)
- Mike Mohler informed the group that Rib N' Reef (located in District 8) had recently put its license up for auction and the license was purchased for \$225,000 by a national chain. He added that there is also a license currently available in District 12, unrelated to the Rib N' Reef license auction.
- Melvin Thompson asked if there would still be a presentation from Outback. Mike Mohler informed the taskforce that Outback was unable to make it and the group would need to decide if there would be a reschedule. There was also discussion that if a chain presentation is scheduled, the Task Force should also hear from an independent restaurant owner.
- Dan Gundersen suggested that the group move directly into discussing the "elephant in the room". He asked for ideas that address the availability of licenses and the asset concern of current licensee holders.

Discussion (Comments organized by topic)

- Cost vs. limitation on the number of licenses in Baltimore County and implications for restaurants.
 - Cost is not Outback's problem when it comes to a liquor license. Their issue is the limitation of licenses for chains. (Art Adler)
 - It would be helpful if we had some research on chain ownership restrictions in other jurisdictions. (Melvin Thompson)
 - Number of licenses assigned to one corporation is an issue and another is the value of licenses. (Mike Mohler).
 - If we could solve the asset value of licenses the other issues could be fixed easily. (Art Adler).
 - Baltimore County has most liberal corporate ownership rule in comparison to other jurisdictions.(David Mister)
 - Believe that Harford County has limit of 9 per ownership group. (Ed Gilliss)

- Regardless of the number limit there are broader issues to work through in light of the complexity of Maryland's law on interlocking corporate entities. (David Mister)

- Concern of current license holders

- The issue is not that national chains can't pay \$225,000, it's that to Jack's members the license is a significant asset on their balance sheet. We don't want to put people in default. (Art Adler).
- Do banks really value liquor licenses and if so, how? (Dan Gundersen).
- Yes. Banks in Maryland understand that these licenses have value. (David Mister)
- I receive at least two calls a year from banks assessing the value of these licenses. (Jack Milani)
- Lenders look for security from any asset on financial statements. Many file financial statements that include both equipment and their liquor license. (Ed Gilliss)
- I do bankruptcy work and often the liquor license is the most valuable asset. (David Mister)
- How do they attribute value to the license? (Dan Gundersen)
- Banks look at the statements and comps and might assign 50% of the value of the licenses as collateral. (Art Adler)
- Baltimore County licenses are perceived by banks to have value. (Ed Gilliss)
- Are there any ideas today regarding licenses having no value moving forward but protecting current license holders? (Mike Mohler)
- We've started that process with transfers out of the 15th district. We can get more aggressive with transfers. (Jack Milani)
- That would bring down the value but wouldn't increase opportunity for licenses in, for example, the 8th district. (Ed Gilliss)
- We've followed Economic Development's direction on where major projects were going to be: Pikesville for Senator Hollinger; Owings Mills Restaurant Park.. We recognize that the system needs to change. There have been 3 to 4 transfers for Towson in addition to the Avenue, Promenade, etc. (Jack Milani)
- Why should we always be in a situation where licenses are going out of one area into another? Why not have a completely open the market, a sea change? (Dan Gundersen).
- Because with a sea change you'd get a lot of pushback. There has not been one project in Towson that hasn't gotten a license where a license is available. Towson developers haven't purchased them. Maybe as Jack says we can be more liberal with where the licenses go because it will drive the cost down. (David Mister)
- The barrier to balancing supply and demand is the election district model. (Dan Gundersen)
- Only a small minority are getting the benefit, while 805,000 people are not getting the type of restaurants they want. (Keith Scott)
- It's not always the chain, so Jack is partially right. Smaller independents have a problem. If you have to pay a large amount for a license and try to support it on a 1,500 sq ft restaurant it is prohibitive. So what if we free up to the number of licenses for 4,000 sq ft and under. (Art Adler)
- Another problem is the process involved. If you're out in Las Vegas at a conference of retail developers (to promote prospective investment in the county), a big developer doesn't have time (for you to describe) for all of these machinations. (Ed Gilliss)
- Here are five possible ideas for remedying license holder concerns and devaluing licenses over a period of time. (Ed Gilliss)
 1. How about higher annual fee for new license holders and lesser annual fees for existing license holders. Existing license holders can capture a profit or sell their licenses for a specific time period but over time the license has no value.

- a. Concern here that there would be no consideration for those who paid for licenses in the past. (Jack Milani)
 - b. (This assumes that) new licenses are not for sale. (David Mister)
 2. There could be a new class of licenses. Treat 8th & 9th differently. Licenses on the east and west would have no cost, but in the 8th and 9th there would still be a cost.
 3. Set a date in the future when a new system will go into effect, similar to how County's new signage regulation was done. It said 10 years from now new sign regulations go into effect so everyone knows the existing situation will end at a specified time. Not an immediate fix, but changes down the road.
 4. Determine how many license have value and maybe only 50-100 smaller operators are actually out of pocket.
 5. Propose a structure that, without annual legislation, would allow a certain number of licenses every year to trickle out of the 15th to the 8th or other districts, gradually adding more to the system. (Ed Gilliss)
- How about an idea that in the future, any licenses (like in the current case of a license being available in the 12th) can be reissued but not be sold; it comes back to the County? (Mike Mohler)
 - So a business owner can not use a liquor license for collateral? (Melvin Thompson)
 - In essence you'd be managing the expectations of the license holder about its value. (Art Adler)
 - If the County was willing to say this is revenue neutral, an increased renewal fee could go into a fund and after 10 years be given as a "scholarship" for people who initially paid for their license. These license holders would get the value of their license back. (Art Alder)
 - I would want to see a fiscal note? (Jack Milani)
 - Where does the fee come from? Once money gets into the fund, what is the guarantee that the government doesn't use it for something else? (David Mister)
 - We can't take a short cut in this just because it is complicated. Every day Baltimore County is missing a lot of new restaurants because it is so complicated to accomplish here what can happen in a few seconds in other counties. (Damian O'Doherty))
 - The current process is like paying a scalper for a baseball ticket. (Dan Gundersen)
 - Let's not put too much emphasis on licenses that sold for \$225,000. How many people really paid over \$225,000 for a license? Not that many. We are dealing with what the perceived value is. Jack, people averaged \$75,000 -\$100,000 for a license. There has to be a way to compensate for that. (Art Adler)
 - How can you help the little restaurant? (Jack Milani)
 - The little guy can afford \$3,000 a year not a large chunk up front. (Art Adler)
 - I would like to see a fiscal note. And, how many people got license for free? Is there a way to figure that out? (Jack Milani)
 - Another alternative would be going to the General Assembly every year, like Prince George's County and set the number of licenses in each category. (David Mister)
 - How are these numbers determined? Isn't that a political model, not a business model? (Dan Gundersen)
 - There is a concern in Prince George's County in attracting enough high-class restaurants. (Damian O'Doherty)
 - Create an unlimited free beer & wine license category for the mom & pop restaurants, and ethnic restaurants without a bar & liquor. (Art Adler)
 - This would be open to the entire County, not just growth areas? (Dan Gundersen)
 - I think so. (Art Adler)

- Does the Liquor Board have any ideas to offer? (David Mister)
- We will implement whatever is passed. (Mike Mohler)
- Word on the street is that the County is going to start selling liquor licenses. We keep hearing that the County is going to sell them for \$50,000. We want to work in good faith but I have to go back to our membership and older members are getting very concerned. (Jack Milani)
- This just doesn't make any sense. (Teal Cary)
- How is this any different from the market for supermarkets. If a new supermarket comes into an area and creates competition for ones that were there, that's just the market working. Why should liquor licenses be protected? (Arthur Adler)
- Because the supermarkets didn't buy a license. Our members would go crazy. (Jack Milani)
- How many restaurants can be successful in Baltimore County? What's the point of opening up more licenses for restaurants that may fail? Maybe a way to gradually get more licenses in is to decide the number by a success percentage. (Jose Rivas)
- Like a demand analysis? That would be an interesting approach. (Dan Gundersen)
- Yes. How many restaurants can be successful in Baltimore County. If you open up the licensing and give one to anyone who wants one, you will have many go out of business. (Jose Rivas)
- We're interested in bettering our entire economy and County and not just what's best for a small group of Jack's members. I have a membership to go back to as well but the County Executive wants what's best for the entire County. How is this any different from losing value on a house? (Keith Scott)
- There is a need for transition for Jack's members, but how much needs to be done to rectify their financial circumstance? (Dan Gundersen).
- There was a system, we played by the rules. We didn't get this way over night and we won't be changed over night. We want a gradual changing of the guard and our members are willing to work. Where are folks looking to see licenses? (Jack Milani)
- Where is the demand? I have been representing chains and independents in this position for the last 10 years. I haven't heard from chains wanting to get into Baltimore County. I have sent emails to chain government representatives to get feedback for this task force but haven't heard back. I have heard from an independent operator in Catonsville who would like a license for beer and wine. I'm at a loss in understanding where the problem is from a chain's perspective. (Melvin Thompson)
- So we need to do a project to track the evolution of the value of specific licenses over time. We are only talking about 459 B licenses. There would be minimal impact to LBA if one that could sell came back to the County (Mike Mohler)
- We'd support that. (Jack Milani)
- I'm presenting the Howard County model where licenses are only good at certain locations. (Mike Mohler)
- What you're suggesting is like the existing Office Building exception license. It stays with the building. (Art Adler)
- This needs to be a multi-dimensional discussion. What we want is for small operators with high quality products to have 3 to 4 blocks like Bethesda. Open up 15th District licenses to use in the 8th or 9th district. Maybe allowing 3 to 5 in the 15th to move elsewhere. (Ed Gilliss)
- Which districts would they move to? (Jack Milani)
- Why does government need to decide this? (Damian O'Doherty)
- Let's take government out of planning so private business owners, developers and entrepreneurs can determine where and what will happen. (Dan Gundersen)
- You could adopt the Howard County model with no limitations of licenses for restaurants but I'm not sure the model can succeed here because people would feel disenfranchised. Wholesale change

- will be a problem and make people unhappy. Government is ultimately going to make the call on both the local and state level. 400 Licenses between all districts can become restaurants and the liquor board freely converts D licenses to B licenses. (David Mister)
- This is an economic development issue. There is retail space in Lutherville and I have had 4 to 5 businesses that would like to go there but can't w/out a license. There are so many great spots like this in the County. (Art Adler)
 - Mike, will you have your staff work on the proposed project to gather data on this history of specific license transfers? As we work through these ideas we should consider the political realities last or else each option won't be given its due diligence? (Melvin Thompson)
 - Let's try and turn around the meeting notes and ideas to the task force and devote half of next meeting to complete this monetary value discussion. (Dan Gundersen)
 - Should we deal with the total number of licenses an umbrella entity can have? (David Mister)
 - I propose changing the umbrella entity limitation to concept limitation.(Art Adler)
 - I think we should put the administrative fixes to the back burner but prioritize the issues. (Melvin Thompson)
 - We won't be able to undo the "interlocking corporate structure" language; that's why Harford County went so high on their chain limit. (David Mister)
 - That's a Band-Aid fix. (Ed Gilliss)
 - Every jurisdiction has some limitation on the number of chains. (Jack Milani)
 - Baltimore County is a disadvantage because chains have evolved many concepts over time, but our limit on ownership means we don't have many new concepts here. Lime, is a great concept but there are none in Baltimore County because the ownership group is maxed out. (Ed Gilliss)
- The group briefly outlined some proposed administrative fixes that need further discussion and recommendation, positive or negative, by the task force::
- Total number of licenses that umbrella entity may have
 - Change umbrella entity to concept
 - Eliminate signature requirement
 - Eliminate Baltimore County resident requirement
 - Eliminate 180 day rule.

Next Meeting

The focus of the next Task Force meeting will be to work through the proposed large fixes to the Baltimore County liquor license system. Members should come to the next meeting prepared to have a complete discussion about each idea. The September 22 meeting will be in Room 118 in the Historic Courthouse.

Baltimore County Liquor License Review Task Force

Meeting Minutes
September 22, 2011

In Attendance:

- Arthur Adler, Partner, Caves Valley Partners
- Teal Cary, Executive Director, Catonsville Chamber of Commerce
- Edward Gilliss, Chair, Baltimore County Planning Board
- Dan Gundersen, Executive Director, Baltimore County Department of Economic Development
- Jack Milani, Legislative Co-Chair, Baltimore County Licensed Beverage Association
- David Mister, Attorney, Mister, Winter and Bartlett, LLC.
- Mike Mohler, Baltimore County Liquor Board
- Damian O'Doherty, KO Public Affairs
- Jose Rivas, Realtor, Central Realty
- Keith Scott, President & CEO, Baltimore County Chamber of Commerce
- Melvin Thompson, Senior Vice-President, Restaurant Association of Maryland
- Harold Reid, Executive Director, Liberty Road Business Association

Welcome

- Dan Gundersen welcomed everyone to the meeting and asked for any comments and/or revisions to last week's meeting minutes. The minutes were approved unanimously.
- Mike Mohler distributed handouts to the task force: (1) List of Class B License transactions by date, district and price sold; and (2) a document comparing Baltimore County Liquor license fees to those of other jurisdictions in the state. The first handout pointed out that 72 out of a total of 320 licenses were sold for under \$100k (63 exception licenses have no value). Many of the sell/purchase dates for the licenses go back to the 1980's and even 1950's. There were two to three pages of licenses which had no historic information in the file. The second handout illustrated that Baltimore County's new license fee (effective October 1, 2011) will put the County in line with other Maryland Counties.
- Dan Gundersen suggested that the group move directly into following up on previous task force discussions (particularly those from the 2nd & 3rd meetings). He distributed a handout which placed ideas shared in the last meeting into two scenarios for discussion purposes. Dan suggested with this handout that the task force work initially toward establishing an agreement on quick fixes versus larger fixes.

Discussion (Comments organized by topic)

- Simple changes to correct outdated provisions of the State and County law that relates to liquor licenses in Baltimore County.
 - Residency provision for license holders. Let's look at a Maryland residency provision verses a Baltimore County residency provision in obtaining a license (Jack Milani)
 - Having an ongoing list of licenses available for purchase would definitely help the process. (David Mister)
 - The elimination of signatures of residents within 10 miles of an establishment seems like an area of possible agreement for the Task Force. (Mike Mohler).
 - It is hard to find residents within 1 mile of an establishment. The historic purpose of this provision – to allow community input on the moral standing of individuals by getting signatures of people who live near them -- is not necessary because there are other ways for a community to voice its concerns about a potential license holder. It would be best if there were no signature requirement, but if there needs to be one, how about getting signatures of 10 Maryland residents? (Ed Gilliss)

- Howard County requires character references to attest to the character of the potential holder. (David Mister)
- This requirement is outdated given the information provided through a background check. There is a recent example of an owner that couldn't get a license because he had a conviction. Obviously, we knew about this conviction through the background check. (Mike Mohler)
- Do you have an issue with abandoning the 10 signature requirement completely Ed? (Mike Mohler)
- No, I'm okay with getting rid of the 10 signature requirement. (Ed Gilliss)
- Let's take a vote to recommend elimination of the 10 signatures requirement. Vote passed. (Dan Gundersen)
- Over the years the Licensed Beverage Association has required the license holder be a Baltimore County resident just in case there is a problem. (Ed Gilliss)
- It would be okay if a licensee is a Maryland resident. (Jack Milani)
- Let's take a vote on one of the licensees having to be a Maryland resident versus a Baltimore County resident. Vote passed. (MM)
- The enhanced features to the Liquor Board website will also happen October 1, 2011 (Mike Mohler).



Possible approaches to increase the number of licenses in Baltimore County.

- If the goal is to increase the number of licenses available in the County I think the Task Force should turn its attention to the strategy elements described under Scenario 2 of the handout. (Dan Gundersen).
- I would add a fourth strategy of combining election districts or dividing the County in half. (Art Adler).
- The purpose of today's discussion is to find areas the members of the Task Force agree on. (Mike Mohler)
- Let's start with the strategy of allowing chains to have additional licenses for new concepts. I think it's the easiest place to begin because there could be consensus on this issue. (David Mister)
- Keep in mind laws start with a platform and additional clauses are added to it rather than going back and changing the entire platform of a law. This makes laws and later added clauses inconsistent with one another. For example, Baltimore County and Baltimore City went to 3 licenses per chain with certain capital investment requirements. Then the County added a provision allowing 3 more (for 6). It would be clearer if the County and City provisions were separated. This is a technical/housekeeping thing that needs to be done (David Mister)
- For internal consistency the task force could recommend modifying 2B by separating the Baltimore City provisions from the Baltimore County provisions. (Ed Gilliss)
- What I am hearing are three potential liquor license options for chains: (1) no limit; (2) by concept or (3) deciding a particular number. (Mike Mohler).
- Determining licenses by concept won't work. The number is for the interlocking parent provision. That's why Harford County went to nine per ownership group. (Jack Milani)
- Would someone explain why there is a limit at all? (Art Adler)
- The legislature didn't want one corporation having too much control. (David Mister)
- This limitation is spelled out in the Preamble of Article 2B of the Maryland Annotated Code. (Jack Milani)

- I'm just really trying to understand the legislature because in today's world with SDAT open records and other available information, the notion seems a bit outdated. What evil will happen with licenses given to multiple concepts? What's the injury to the public? (Art Adler)
- I can't really tell you the benefit of it but it is aimed at increased competition in the market place. It was created to deal with small local businesses. (David Mister)
- The good it does currently is inhibiting big publicly traded companies from competing with mom and pops. (Art Adler)
- I don't think this is going to work to go from the most highly regulated system to the least. (David Mister)
- Practically, to get something that might pass, we need to pick a reasonable number that might pass and go to Annapolis. My membership will have an issue because we don't want the cap off and all this is interlocked. (Jack Milani)
- What do you think a reasonable maximum number should be? (David Mister)
- Chains divide the County into corridors or thirds –East, Central and West. Their thought is to put one concept in each area to draw upon a larger radius of people. (Art Adler)
- Darden and Brinker look to put one of each concept in each of the three areas of the County. They say people look for one of those three when they dine. They believe there is a synergy with these concepts being together. In other jurisdictions these concepts being side by side seems to serve residents well. (Ed Gilliss)
- Realistically, are we going to be using this as a tool because on Liberty Rd. it didn't work? (Jack Milani)
- Let the market decide what is best. If we can agree to elevate the number of licenses per corporate entity we could amortize licenses that have been paid for say, at a rate of say \$1,000 per month over a lifetime. Money paid to current license holders would come from having corporations pay a \$10,000 license fee for a new concept.(Ed Gillis)
- We can't change laws every time corporations have a concept change. Independent operators don't want that. We shouldn't do that if the market isn't there. (Melvin Thompson)
- Some concepts have been precluded from locating in Baltimore County because of caps on ownership groups. There might be licenses available but they can't get one for a new concept because the ownership group is maxed out. (Ed Gillis)
- Philosophically the chamber is not in favor of any caps. We want to create as many jobs and bring as many big corporations to Baltimore County as possible. We want to open the market to benefit everyone. (Keith Scott)
- My membership isn't looking to remove all caps because we've played by the rules. (Jack Milani)
- I fully respect the position you're in Jack but the "we played by the rules argument," is not fair. I play by the rules all the time and do you know how many times DEPRM has changed the storm water regulations on me?" (Art Adler)
- We believe that transfers are still a very valuable and reasonable way to gradually change the system. (Jack Milani)
- We have to consider some basis to determine market demand to increase licenses by concept. (Melvin Thompson)
- Let's hold this discussion and move to issues 1 and 2 on the scenario sheet. It seems that we have some agreement on increasing the number but we have no agreement on what that number should be. (Dan Gundersen)
- Sometimes limits work as a limit to economic development. For example, maybe a chain would open on Eastern Ave. but they decide to hold out for the possibility of opening on York Rd. The delay in this chain opening hurts economic development. I do think a larger number would be an economic development win. (Art Adler)



Pros and Cons of creating a new Beer & Wine Only Service Bar Classification.

- We need to be balanced and clear on not disadvantaging independents. What about creating a new beer & wine only license classification? (Dan Gundersen)
- To some extent we've done this in the past. There seems to be little appetite for it. Most restaurants want full licenses. This would only help smaller places. (David Mister)
- That would not be fair to my membership. My membership is going to go into information gathering mode. (Jack Milani)
- How many members do you have Jack? (Dan Gundersen)
- I have 220 members and the majority is B & D license holders. (Jack Milani)
- If all were B holders, then you would represent half of the total B license holders in the County. But how many are just class B license holders? (Dan Gundersen)
- If you have single SB with specific requirements how would that be negative? (Mike Mohler)
- If I just brought a license and the guy next door gets an SB for free...that's just not going to fly. (Jack Milani)
- A size limit would be reasonable and will benefit the fast casual concepts. I don't know exactly what size, maybe 2,000 to 3,000 sqft? (Art Adler)
- Exactly, especially for a place like Qdoba.
- This Task Force cannot overlook the tone of the times. The retention of business is an economic development concern. It's bad and desperate for small businesses right now. Larger chains can spread their business but small businesses are dying and an SB could put them out of business. We need to strive for recommendations that have a chance. You also have to remember that these license holders are wired in to their delegates. (David Mister)
- A consumer doesn't go to a place because that place has alcohol. The alcohol being serviced is part of the experience of going out. If we allow mom and pops to sell beer & wine this would expand their business. This will not hurt Jack's members. (Mike Mohler)
- I'd like to see market data on consumer habits. I think this does drive the market and affect a business. (David Mister)
- I'd like to bring balance and something for the independents. The idea of creating a beer and wine classification gives a nod to smaller independents. (Melvin Thompson)
- We will take it back to our membership however the LBA would be opposed. (Jack Milani)
- Mike you are naïve because people absolutely come to a place for the alcohol. (Jack Milani)
- Let's talk about the restrictions. Are we talking about creating new wine and beer licenses that are not taken out of the population limits? (Art Adler)
- We had precedent for this with some service bar licenses that were created in the past. Let's start there. (Melvin Thompson)
- The first SB was created in Pikesville and it wasn't restricted by size but it wasn't transferable nor could they have a bar or have carryout. There were also three created in Towson that weren't population based but there was a cap on seating capacity and capital investment. (David Mister).
- David, you said that there was not much appetite for this, why? (Melvin Thompson)
- Perhaps with a small cap there wasn't much the business could make by being limited in size. (David Mister)
- There are two weeks until our next meeting. What about those (Melvin, Art and Jack) who have a strong view get together to iron out strategy elements 2 and 3? (Dan Gundersen)

- In Article 2B, Title 8-204.7 there is a seating capacity limit; average daily receipts 60% of the total restaurant and may not be transferred or converted. This was designed for Towson CRD. (Mike Mohler)
- That would be palatable if it didn't have to come out of available licenses based on population (Art Adler)
- I think the group would best be served by focusing on strategy elements 2 and 3 but we made great progress today. (Dan Gundersen)
- I'd be happy to meet but the issue is Jack won't be for it. (Art Adler)
- Meet and see what happens. That gets to the larger goals and issues. (Dan Gundersen).
- I'm not inviting greater restrictions but it may happen with creating more Service Bar licenses. (David Mister)
- If the Task Force was to address license value what are our options and or goals. (Dan Gundersen)
- An amortization process from value to no value that had a beginning and end date might withstand some critique. We'd find ways to reimburse those whose licenses have value. (Ed Gilliss)
- Can we get the opinion of the County Attorney on whether you can amortize the value for something that the State has considered personal property? I think this has constitutional ramifications. Creating new licenses isn't like making them have no value. (David Mister)
- That is true but we would be creating an amortization schedule. (Ed Gilliss)
- How would that be different than rezoning? (Art Adler)
- Could we get consensus that any license that comes back to the County can't be transferred or resold? (Mike Mohler)
- Or any new population license has no transfer value? (Art Adler)
- Could be doable. (Jack Milani)
- Could you ask Mike Field if you can have an amortization schedule with a longer term? (Ed Gilliss)
- May I ask you to ask Mr. Field if he could frame out legal language for an amortization schedule? (David Mister)
- Our Court of Appeals has said licenses aren't property rights but the Appellate Court said you could claim them to be. (Ed Gilliss)
- For example, you could state that as of January 2013 newly issued County licenses are nontransferable and have no value. (Mike Mohler)
- Most laws are effective in October because of the legislature's schedule. (Ed Gilliss)
- So does that would mean that the 22 licenses on Liberty Rd will have no value and won't be able to transferred out of Liberty Rd? (Harold Reid)
- Be careful of transfer licenses. (David Mister)
- Can we table this until legal language is drafted? (Jack Milani)
- Moving forward, our next meeting is October 6th. In the meantime, we will have one small group to handle strategy elements 2 and 3. (Dan Gundersen)
- Could the group focus on that which could increase the number of licenses in the system. (Dan Gundersen)
- Could we get rid of a population based license system? (Art Adler)
- Would the amortization schedule seem friendly or unfriendly to businesses. (Harold Reid)

- To existing license holders it would probably be seen as unfriendly but the general business community would see it as friendly. (Art Adler)
- We need to be careful about any unintended consequences resulting from changing the interlocking corporate ownership provisions.
- The homework for the Task Force is to look at the yellow section of the Scenario handout. (Dan Gundersen)
- Mike could your staff run calculations on the effect of decreasing population? (David Mister)
- I think that would be verily simple for us to do. (Mike Mohler)

Respectfully Submitted.

Baltimore County Liquor License Review Task Force

Meeting Minutes

October 6, 2011

Attendance

In Attendance:

- Arthur Adler, Partner, Caves Valley Partners
- Teal Cary, Executive Director, Catonsville Chamber of Commerce
- Edward Gilliss, Chair, Baltimore County Planning Board
- Dan Gundersen, Executive Director, Baltimore County Department of Economic Development
- Jack Milani, Legislative Co-Chair, Baltimore County Licensed Beverage Association
- David Mister, Attorney, Mister, Winter and Bartlett, LLC.
- Mike Mohler, Administrator, Baltimore County Liquor Board
- Damian O'Doherty, KO Public Affairs
- Keith Scott, President & CEO, Baltimore County Chamber of Commerce
- Melvin Thompson, Senior Vice-President, Restaurant Association of Maryland
- Harold Reid, Executive Director, Liberty Road Business Association

Absent:

- Jose Rivas, Realtor, Central Realty

Welcome

- Mike Mohler welcomed everyone to the meeting and demonstrated the changes to the Liquor Board website that have been put in place in response to Task Force recommendations. He asked for any additional comments and or suggestions to further improve the website.
- Dan Gundersen asked for an approval of the meeting minutes from September 22, 2011. The minutes were approved unanimously.
- Dan Gundersen introduced the County Attorney, Mike Field, and Assistant County Attorney, Sabrina Chase. Both presented legal opinions on two ideas/issues the task force discussed in previous meeting; (1) liquor licenses as personal property and (2) an amortization schedule to compensate existing liquor licenses holders.

Highlights of Presentation by County Attorney Mike Field and Assistant County Attorney Sabrina Chase

- Legal clarification of whether Baltimore County liquor licenses are considered personal property.
 - The answer to whether liquor licenses are considered personal property is a qualified 'no'. According to Sect. 2B of the Maryland Code, liquor licenses shall NOT be regarded as personal property. The Courts have said that liquor licenses are not regarded as property nor do holders have property rights vis-à-vis the State or County. These licenses holders have no constitutional protection for the licenses as personal property. Furthermore, these licenses are a privilege not a right. However, between individuals liquor licenses can have value, are subject to writs of execution and can be the object of an adverse claim (i.e. divorce cases, bankruptcy disputes).
 - The attorneys also looked at the question of whether increasing the number of available licenses could be considered a "taking" of the value of existing license holders. A relevant case was in Minnesota, where in *Minneapolis Taxi Owners v. City of Minneapolis*, the 8th Circuit Court ruled that to uncap the number of transferable taxicab licenses is not a violation or 'taking' of existing license holders' 5th Amendment rights. Licenses are a privilege, not a property right, and therefore the new ordinance proposed by the City of Minneapolis was not a "taking."
- Amortization as a means to compensate existing liquor license holders for the loss of license value over time.

- Since, as explained above, liquor licenses have no property value relative to State or local government, it is beyond the authority of the County to set or imply the value of liquor licenses. The State could raise the number of liquor licenses per Article 2B 1-101. In doing the State would be immune from any claim from licensees. Increasing the number of licenses opens the market and lessens the need and reason for amortization.
- States have taken a strong position because they see an open market as a public purpose.
- If we increase the number of licenses that can't be considered a 'taking'? But if we do an amortization schedule we are 'taking'? (Damian O'Doherty)
- If you buy a license you assume risk that the government might change the number of licenses available. Any compensation for a 'taking' would be a 'windfall', according to the Supreme Court. (Sabrina Chase)
- The liquor license issue is different from the sign issue because signs are locally regulated and have a "useful life". Therefore, Baltimore County was able to amortize signs over a "useful life." (Ed Gilliss)
- At the local and state level future licenses could have no value and increasing the number of licenses can dilute the value. (Sabrina Chase)
- Could the State not the County impose an amortization schedule? (Dan Gundersen)
- No, the state could not impose an amortization schedule because doing so may devalue private contracts. (Sabrina Chase)
- You must have misunderstood what we meant by amortization. We didn't mean to set value. We meant to establish a scholarship fund to compensate existing license holders. (Art Adler)
- Are you (the attorneys) saying that fostering competition and economic growth is a public purpose? (Keith Scott)
- Yes, general health, welfare...(Sabrina Chase)
- It is reasonable to accommodate for a specific number of liquor licenses. Courts have found that there was an expectation that the number of license can be increased. (Sabrina Chase)
- Liquor license holders should have anticipated when they applied and received the licenses that the number of licenses would go up? (Keith Scott)
- Can we get the cases that you referred to when researching for your presentation? (David Mister)
- Yes. (Mike Field)
- This discussion was very relevant and informative. Thank you (David Mister)

• **Discussion (comments organized by topic)**

- Might I suggest we move into discussing the subcommittee report? (Dan Gundersen)
- Everything is connected. Problem is everything is grandfathered in the 15th district and it's 25% over [the number of licenses that result from the population-based formula]. Economic Development identified specific "projects" rather than "growth areas" (other than Pikesville) in determining where to move licenses and, as a result, not as many licenses have been moved out of the 15th as would be ideal. I don't think we should tie licenses to individual projects; we should allow them to move to an area. By doing this, over a couple of years we could take 40-45 licenses out of the 15th district. This would get all districts to a 25% over population number. I will provide a chart to everyone once I proof it. (Jack Milani)
- Jack, Melvin and I met and I framed questions to discuss: (1) signatures, (2) residence, (3) website, and (4) create plan to set chain limit. One proposal with changing the chain limit is a 12 +1 (including Liberty Rd). (Art Adler)
- Or rather 11 + Liberty Rd. (Jack Milani)

- What is the point of having any limit on the number of licenses per chain? (Mike Mohler)
- What people say is that there isn't any County that doesn't have a limit. (Art Adler)
- Don't want one entity to come in and control everything. (Jack Milani)
- This provision is a product of the old structure that only allowed one license per person. For years and years it used to be that license holders could only have 1 license. Then more were added over time. (Ed Gilliss)
- Why limit growth and opportunity? (Keith Scott).
- In other jurisdiction there have been concerns that if there were no limitations on the number, chains would take over. So limitations were set to create balance with smaller independents. (Melvin Thompson)
- Origin was the post-prohibition desire to have heavy regulation on alcohol. (Ed Gilliss)
- If you marry new SB licenses with no limitation or caps on chains, then mom and pops won't be disadvantaged. (Mike Mohler)
- But we are not conceding B&W. (Jack Milani)
- I'm saying we need to create economic value for the whole County. (Dan Gundersen)
- I'm in this business, it's hard to conceive that a chain would have 12 or more licenses. (Art Adler)
- From a group perspective unlimited licenses makes sense but Jack is ok with 12 + 1? (Mike Mohler)
- Yes, we could sell 12. (Jack Milani)
- Clearly, from an economic development perspective B&W licenses are good and unlimited full licenses are the best. There are a huge number of licenses that exist in the 15th District and we've worked for years on transfers for specific projects. Let's say that going forward licenses can go anywhere. Until we solve the equalization issues let's say licenses from the 15th can go anywhere in the County. This helps current value license holders. Jack felt if it was much easier to transfer full licenses out of the 15th, that there would be no need for new B&W licenses. Let's get equalization first. (Art Adler)
- The trigger was on the value. 42 licenses would move out of the 15th, try to get each district to 25% and over. Scatter the licenses throughout the County. (Jack Milani)
- Wouldn't the market do that anyway? (Ed Gilliss)
- Our fear is that too many at once would have the opposite affect. (Jack Milani)
- License transfers from the 15th District would have sunset date of 8 years. Absent a sale or move of a restaurant, the license would go away. One proposed sunset would be December 21, 2020 (Art Adler)
- But if you work for 'equalization' you don't need a specific sunset year; it would happen, but slowly.
- Where Jack and I disagree is with how fast. Jack wants to limit transfers to 10 to 14 a year. (Art Adler)

- Isn't this Task Force an awful lot of work to end up essentially just kicking the can down the road on the current system? (Damian O'Doherty)
- We want value not to get too high and too many out of one district is a problem. (Jack Milani)
- Equalizing licenses gradually puts licenses where they need to be and gives people an end date. (Jack Milani)
- Why such a long date? Why extend a torturous system any longer? (Dan Gundersen)
- It's not torturous if you have a process. (Jack Milani)
- But, if you want to open a new restaurant, you still have to pay \$30,000 or more for a license, right? (Damian O'Doherty)
- Yes. (Jack Milani)
- Jack and I agreed on solutions but disagreed on numbers. (Art Adler)
- If you allowed more licenses to go to whatever district you'd also have to change population restriction. (Ed Gilliss)
- We are not trying to take away value. We are trying to drive economic development. Why limit transfer license to certain districts? (Mike Mohler)
- System reinforces idea that developers have a better idea of dining ideas than restaurateur. (Damian O'Doherty)
- I don't think that the CE set up this task force to care about the small restaurants or service bar licenses. The idea was to be able to talk to the big guys in Las Vegas [International Council of Shopping Centers convention]. What are we trying to achieve. We have to pick a model acceptable to the general assembly. (David Mister)
- Leave that issue to the County Executive. (Dan Gundersen)
- Do you consider current license holders who played by the rules an economic development interest? (Jack Milani)
- This has been done this way and we played by the rules. The little guys are trying to work with you. (Jack Milani)
- Our rules are our laws. Our job is to come up with recommendations to improve the system and work in the best interest of the County. We are stuck because we are trying to work within the existing system. (Dan Gundersen)
- All you want is to bring more people to the County. What about those who are already here? This started years ago. We relied on economic development. I speak for the little guys and you're going to change the rules. (Jack Milani)
- You're talking about different little guys. Little guys don't want regulations and limitations. How many members do you have? (Keith Scott)
- 211. How many chamber members do you have? (Jack Milani)
- 800. (Keith Scott)
- Look at the activity in Catonsville. Several new restaurants have opened up and it's helping the whole area and other businesses. (Mike Mohler)

- Right. So the existing system worked. So what's the problem? (Jack Milani)
- To answer David Mister, It's both (independent and big). For example, the vacant restaurant at the shopping center on Padonia Road in May's Chapel could have been filled today if they could have gotten a license. There could be more examples like this and more opportunities at shopping centers throughout the County. (Art Adler)
- If we were starting from a blank slate then you would let the market decide. But with 80 years of alcohol regulations we are here. These suggestions help to move things forward. (Ed Gilliss)
- I agree (Dan Gundersen)
- If you want us to work within the existing system we have a structure. If you want a clean slate, I'll support you but it would be difficult. (Art Adler)
- We need to find balance between the existing system and a clean slate. There are extremes on both sides (Harold Reid)
- Have we gone far enough toward a clean slate? (Dan Gundersen)
- The free market is not an extreme position. (Keith Scott)
- For the next meeting, we will take this discussion and put it into a proposal for everyone to review. (Mike Mohler)
- You don't have to be a chain to have a controlling interest. The law pertains to anyone who wants to have multiple licenses. (David Mister)
- For example, Eddie Dopkin has multiple restaurants on Cold Spring Lane in Roland Park, but he's not a national chain. (Art Adler)
- Not just national a chain. (Dan Gundersen)
- Are we going to operate within a frame work for next meeting? (Melvin Thompson)
- We will discuss and vote on the structure the subcommittee put forth but also have an open discussion. (Dan Gundersen)
- By Tuesday, you will have the proposal and meeting notes to review. (Mike Mohler)

Respectfully submitted by the Task Force Co-chairs

Baltimore County Liquor License Review Task Force

Meeting Minutes

October 13, 2011

Attendance

In Attendance:

- Arthur Adler, Partner, Caves Valley Partners
- Teal Cary, Executive Director, Catonsville Chamber of Commerce
- Edward Gilliss, Chair, Baltimore County Planning Board
- Dan Gundersen, Baltimore County Department of Economic Development
- Jack Milani, Legislative Co-Chair, Baltimore County Licensed Beverage Association
- David Mister, Attorney, Mister, Winter and Bartlett, LLC.
- Mike Mohler, Baltimore County Liquor Board
- Damian O'Doherty, KO Public Affairs
- Keith Scott, President & CEO, Baltimore County Chamber of Commerce
- Melvin Thompson, Senior Vice-President, Restaurant Association of Maryland
- Harold Reid, Executive Director, Liberty Road Business Association
- Jose Rivas, Realtor, Central Realty

Absent:

- Damian O'Doherty, KO Public Affairs

Welcome

- Dan Gundersen opened the meeting and asked for any comments to the meeting minutes of October 6, 2011.
 - County Attorney Mike Field provided correction to the question of whether the State could impose an amortization schedule. Mr. Field wanted the answer to read: "No, the state could not impose an amortization schedule because doing so may devalue private contracts."
 - Ed Gilliss noted that Mr. Field's name should be corrected.
 - The minutes incorporating these changes were then approved.

Review of Proposal for Discussion

- We sent out a proposal based on the agreed upon provisions from last week. (Dan Gundersen)
- Can I request a summary of agreed-upon provisions from the last meeting? (Art Adler)
- Before we begin that discussion I would like to commend Mike Mohler's staff on the new website. My staff is extremely happy with the improvements and interactive website -- especially the online applications. It's of great benefit to us. (David Mister)

Signature Provision

- Can I ask a question? Are we asking to do entirely away with the signature requirement or are we substituting a more relaxed standard? I could see the General Assembly asking those questions. Most jurisdictions have at least some number. (David Mister)
- What I've heard the Task Force say is that the Liquor Board has adequate measures in place to check on an applicant's standing in the community and that the signatures are not necessary. (Dan Gundersen)
- My recommendation is that we should do away with it entirely. (Art Adler)

- David points out that other jurisdictions require some variation on the signature requirement, but the ability to research someone's background on the Internet has greatly reduced the need for signatures. (Ed Gilliss)
- I'd recommend that we do away with the requirement completely. If we need to have a fallback position, it could be that an applicant must list three people as references. (Art Adler)
- The sentiment of the taskforce is that if it's not needed then it is not required. (Dan Gundersen)

Transferability of new licenses or those returned to the County

- Where we ended last time was a discussion about what we are trying to accomplish. Is it incremental change or a bold and aggressive clean slate? I think we should give equal discussion time to both sides of the issue. (Dan Gundersen)
- Can people bring suggestions to the floor? No one has a problem with bullet #4¹. (Art Adler)
- The purpose was not to exacerbate the problem by creating artificial value but the issue of transferability clouds it. (Ed Gilliss)
- So what you're suggesting is that any new licenses would not have transferable value (Dan Gundersen)?
- Licenses wouldn't have value and couldn't be sold. (Ed Gillis)
- You don't want a situation where Mike's Pizza sells to Sam's Taco. (Art Adler)
- New licenses reissued are address-specific. (Mike Mohler)
- So then transfer has to go before the board? (Harold Reid)
- Yes, there is language in the State Code where other jurisdictions define what you can and can not do with a license. We have to understand this in context with other recommendations and if together they could devalue existing licenses. (David Mister)
- We agree in principle that this ought to be done. (Dan Gundersen)

Discussion of "Clean Slate" and "Reform the Existing Structure" approaches.

- Let's make sure we agree with what we have put in the proposal. The overall goal of any additional changes beyond those we have discussed is that within a reasonable period of time we arrive at a new framework for handling Class B licenses such that:
 - Licenses will no longer have any real or perceived asset value, and
 - Baltimore County is able to accommodate as many quality eating establishments (a balance of independent restaurants, multiple concepts with single ownership, or national chains) as the market determines each local community has the purchasing power to support. (Dan Gundersen)
- No comments offered.
- OK, so the two approaches we have to discuss are: (1) reform existing structure or (2) devise a clean slate in the issuance of liquor licenses. (Dan Gundersen)
- Is there a 3rd hybrid approach? (Art Adler)
- Jack has talked about a series of triggers or period of equalization out of the 15th district that deals with the overage in the 15th. (Mike Mohler)
- Some open issues would be duration period for interim transfer changes and sunset date for other "systemic" changes to existing conditions. Also, we need to address number of new licenses that would be made available during the interim period. (Dan Gundersen)

¹ Non-transferability of any newly-created or re-issued licenses. As of October 1, 2012, any new license issued whether by population growth or expiration of an existing license will have no transferability except for the sale of the same restaurant to a new owner or the relocation of the same restaurant to a new location. Otherwise, all licenses are returned to the County to be reissued via the County filing procedure. (AGREED IN PRINCIPLE BUT NO VOTE TO DATE)

- There is some trigger “when x happens, y years later”. (Art Adler)
- Dan, I think it’s all interlocked so we will be limited in our comments. I don’t think there is any disagreement on the 12+ 1. The only caveat is whether we can do something for Liberty Road. (Jack Milani)
- Is there anyone who has a problem with 12+1? Then can we draft language?(Mike Mohler)
- We want to go on the record as saying the original intent was to spur development on Liberty Rd. We support that. (Jack Milani)
- We had that language for years and it didn’t work. (Art Adler)
- Is there agreement on the 12+1 plan for chains? (Dan Gundersen)
- [Nods of agreement around the table.]
- The fairest way to equalize is to transfer licenses out of the 15th to 4th, 8th and 11th. This will diminish value in those districts and is the easiest situation for our guys. I can’t draft a single bill that fixes all the issues. If the economy doesn’t improve, equalization is going to take time. The 4th, 8th, 11th and 1st districts are targeted first. Resistance here is to directing licenses to particular districts. Exceptions are apart of this. Limit transfer to 2 per district per year. The 13th district would happen in a few years. If we do something similar to this it would unwind the current system. The legislature is familiar with this process. (Jack Milani)
- In your estimate how many would transfer each year? (Dan Gundersen)
- The 8th the 11th and 4th would go two a year. Others not so quickly. The first round is chains in the 8th, 11th and 4th right behind. The independents would then flow in. (Jack Milani)
- Is the idea that licenses bought in the 15th would be marketable in that location? (Ed Gilliss)
- Well we might have to revisit this in 3 or 4 years. (Jack Milani)
- How would that be any different from what we have now? (Dan Gundersen)
- Now we can only transfer for a special project. (Art Adler)
- Senator Brochin had asked for some targeted to smaller restaurants. (Jack Milani)
- There was a 25-75% max on cap investment in that bill. (David Mister)
- Just to clarify there are two options on the table. The one Jack has presented limits the number of licenses out of the 15th annually and limits the districts where those licenses can go. The other option limits equalization--- allows licenses to come out of the 15th yearly and go into any districts and in five years this would add up to equalization. (Mike Mohler)
- In my opinion, you will never bring the 15th to 25% over. But you need to limit how many can go into any district. (Jack Milani)
- So are you saying limit licenses out of the 15th yearly, but not limit receiving district? (Mike Mohler)
- We want every district to be 25% over. (Jack Milani)
- In my opinion this is unrealistic from an economic development perspective. We can’t expect every district to be 25% over. (Art Adler)
- If it were county wide it would. It is better to start with 25% over. There is an exception clause that would remain. (Jack Milani)
- Am I correct? One option is to limit where licenses out of the 15th can go. The other option you didn’t present would be no limit on where they can go. (Mike Mohler)
- In fairness, 11 of 13 could take a transfer. We are trying to unwind the system gradually for those who played by the rules. (Jack Milani)
- This is still an archaic situation. And Jack you keep saying fair but in the real world you can’t expect government to protect your investment. When you buy a license you take a risk. (Keith Scott)
- We are still in the realm of working to resolve problems with the existing system. (Dan Gundersen)
- In the real world we played by the rules. (Jack Milani)

- Everything Jack says assumes population is a good measure. The population distribution of licenses doesn't seem to align with the market demand. (Dan Gundersen)
- Yes. (Art Adler)
- There is an exception clause for shopping centers. (Jack Milani)
- The single biggest risk is that sellers in the 15th district won't actually sell their licenses. If they don't sell licenses there is no reform of the existing system. (Art Adler)
- We would look at countywide system once you have some equalization (Jack Milani)
- If, 4 years from now, licenses aren't restructured by election district, economics all change? (Ed Gilliss)
- By taking off boundaries you'd flood the market and that wouldn't play well. There isn't an appetite for that. (David Mister)
- Are you saying there is not demand for 22 licenses? I disagree, there would be a demand. (Art Adler)
- David's theory wouldn't come true. (Ed Gilliss)
- I'm still going back to the issue of limiting districts where licenses can be transferred to versus no limits. The number is not as important as the difference between limiting by Election District or not. (Mike Mohler)
- Our concern is less about chains and the value of chains but more about independents. I've started hearing from members that were concerned because they heard this Task Force was talking about creating free licenses. We want to refrain from making any judgment until we hear a total package. We don't take a position that benefits one segment of our members over another. (Melvin Thompson)
- Do I take from this that you are not going to have an opinion on limiting districts or will withhold comments until a full package is presented? (Dan Gundersen)
- Yes. (Melvin Thompson)
- Who were you getting the calls from? (Dan Gundersen)
- The first callers were independent license holders who had paid for licenses and were upset about the concept of free licenses. The second series of calls were from people concerned about the short term. They said that with the change in the economy the only thing they could borrow against was their license. (Melvin Thompson)
- Same thing for me as well. I have heard from licensees who are concerned about any change. I've also heard from people who want the system opened up. So there is really no consensus. (Teal Cary)
- What's your theory on limiting districts or not? (Mike Mohler)
- If you limit the transfers to particular districts you won't have small restaurants. How really can you figure a specific number? My personal opinion is to open the market. (Teal Cary)
- So you're open to opening up the market? (Mike Mohler)
- Personally, yes. (Teal Cary)
- We can't speak for people not in our associations. (Melvin Thompson)
- There is only one Hispanic restaurant in Baltimore County that has a license. Hispanic restaurant operators all go to Baltimore City because it's easier and they don't need \$250,000. Let the market dictate where restaurants will open. There is no need for an election district limit. (Jose Rivas)
- You're open to open districts? (Mike Mohler)
- Yes. (Jose Rivas)
- What has happened thus far hasn't worked on Liberty Rd. but flooding the market won't work either. I'm really in the middle, in support of some hybrid to both options. (Harold Reid)
- Why hasn't it worked? (Teal Cary)
- Not enough daytime population outside the hospital. (Jack Milani)
- Practically, Jack's proposal would have more legs. We need to work with people. Harold's position too. Overall the end result has to be that in four years we would get to a countywide license with greater flexibility (Ed Gilliss)

- The endpoint is what will encourage license holders from the 15th to sell. (Art Adler)
- I straddle the fence. I also have clients that are property owners and developers. General Growth Properties is sitting on several licenses and they wouldn't be happy if we flooded the market. Keep in mind you can transfer as many as 12 licenses in the 1st year. That's still a lot. I'd predict this would drive the value down. I don't know the effect on market value but I know the number of licenses pent up. (David Mister)
- On a separate note, I'd advocate we do something about extending the hardship provision in article 2B because of the hardship in the economy. Liquor Board has been flexible, but we should do something in statute. (David Mister)
- I'm like Ed. Philosophically, I agree with Keith. But we have to live in the legislative real world. We need to phase this in. Jack's plan has lots of merits. However, we need something with a trigger date not too far out to encourage people to sell; all of this is a failure if no one sells. (Art Adler)
- Ed, are you ok with having limits by election districts but trigger an end to it? (Mike Mohler)
- I think practically, Melvin and Jack make a point about members who have paid cash for licenses. If you can get a plan with a greater trickle of licenses from the 15th, with an end at some point to the Election District-based licenses, then the County will have made great strides. The perfect world is Montgomery County where the market determines failure and who gets a license. Really that is the way to go. (Ed Gilliss)
- What hasn't come up in this conversation is the Beer and Wine only license. (Dan Gundersen)
- Can I suggest an alternative model to for shifting out of the 15th District, one where you'd have three areas: east, west and north? (David Mister)
- That still uses population as a base. (Dan Gundersen)
- The Beer & Wine only suggestion is to open it up and limit the license by size. Or, limit them to Revitalization Districts. Jack wasn't enthusiastic about this. (Art Adler)
- We don't think any free license works for us. B&W sales are probably 70% of typical license sales. (Jack Milani)
- A developer asked me if he could transfer from D to B&W. Would this license holder be able to transfer over to B&W? Would that open it up? Could they cash it in? (Teal Cary)
- I'd advise him to get legal advice because that's considering brokering. (Jack Milani)
- What do people think about the effect of a new B&W license on value or Jack's take on value? (Dan Gundersen)
- Do you think it won't affect the value of existing licenses? (Jack Milani)
- The original B&W available had no tap, certain restrictions on food, less than 10 seats no more than x seats and limited to small restaurants. (Art Adler)
- Do you [Jack] philosophically agree? (Dan Gundersen)
- Do you care that it plays with value? (Jack Milani)
- I'm concerned that small independents can't pay for a license. (Dan Gundersen)
- I agree with Jack. If we create free B& W only it will affect the value of existing license holders. There are people who won't pay 75-100K and will wait for a free one. (Art Adler)
- The whole purpose of this is to spur economic development. Opening the system up for needed licenses at the independent level would do that (Dan Gundersen)
- Another point of concern is the influence of national restaurants. There is good reason to open up the system for smaller establishments to maintain balance. (Ed Gilliss)
- We know there are cafes, etc. who want that type of license. But we are concerned about free licenses. (Melvin Thompson)
- Will B&W really move the needle much in the way of the County's economy? How much economic development will it drive? I don't think the concerns of small restaurants are what spurred the creation of this Task Force. It's about selling to the big chains in Las Vegas that drove this. (David Mister)

- I take exception and disagree about what originated the taskforce. That hasn't been stated about the taskforce to either Dan or me. Do we want chains? Yes. Do we want small independents? Yes. B&W offers opportunity to offset that. (Mike Mohler)
- If you had a B&W only, there could be a restriction of one per owner. (Ed Gilliss)
- We are looking at the effect on current license holders. (Jack Milani)
- Set the restrictions and limitations on areas and make the fee \$5000 and over 20 years they've paid your price of admission. (Mike Mohler)
- That would be the case if I had an asset like a house. At the end of the day we are looking at the effect on current value. (Jack Milani)
- I believe strongly that 2,000 SF restaurants are economic development drivers. (Art Adler)
- I have a question: Do we have the capacity of doing an analysis on the negative impact on existing license holders or pros/benefits to new small businesses? (David Mister)
- Some of my members would lose value if we change the existing system, but on average we stand by the principle of a free market. We're going to take a stand on our principles. We have a diverse group but people will respect our principles. (Keith Scott)
- Our stand isn't philosophical. All of my membership has skin in this game. We are the ox that is getting gored. (Jack Milani)
- We will write up specific language. (Mike Mohler)
- Fair to say task force would do well to meet again. Is next Thursday good? We need to draft what we believe are the views of the task force to be able to prepare recommendations. For a taskforce we don't need a consensus. It is the County Executive's call to what moves forward. The next meeting will be held Thursday, October 20, at 10:00 am. (Dan Gundersen)

Respectfully Submitted,

Co-Chairs, Liquor License Review Task Force

Baltimore County Liquor License Review Task Force

Meeting Minutes

October 20, 2011

Attendance

In Attendance:

- Arthur Adler, Partner, Caves Valley Partners
- Teal Cary, Executive Director, Catonsville Chamber of Commerce
- Edward Gilliss, Chair, Baltimore County Planning Board
- Dan Gundersen, Baltimore County Department of Economic Development
- Jack Milani, Legislative Co-Chair, Baltimore County Licensed Beverage Association
- David Mister, Attorney, Mister, Winter and Bartlett, LLC.
- Mike Mohler, Baltimore County Liquor Board
- Damian O'Doherty, KO Public Affairs
- Keith Scott, President & CEO, Baltimore County Chamber of Commerce
- Melvin Thompson, Senior Vice-President, Restaurant Association of Maryland
- Jose Rivas, Realtor, Central Realty

Absent:

- Harold Reid, Executive Director, Liberty Road Business Association

Welcome

- Dan Gundersen opened the meeting and asked for any comments to the meeting minutes of October 13, 2011. The meeting minutes were approved unanimously.
- Last week we were tasked to update the proposal document to incorporate group discussion points. I think you could say we now see and know the "end zone" but haven't been able to visualize the "goal posts". How about we talk about the key points today? (Dan Gundersen)
- Mike and Jack have had a conversation and constructed a proposal about what could be some consensus for the interim as well as long-term change.
- Jack and I met as a subcommittee. I'd like to read through each proposal, explain them and then go back and discuss them. Jack and I are not 100% on these. I want to keep the focus on economic development. There needs to be discussion. (Mike Mohler)

Subcommittee Proposal Discussion

- I have a site specific comment and question. Some transfer licenses are limited to a particular address; others are limited to staying in a particular Commercial Revitalization District but move around. That is a little bit different from the existing law, A 204.6. Do you want to make this new law narrow or a bit broad? (David Mister)
- Let's discuss that. (Mike Mohler)
- I don't understand why there is an exception for District 2. Why exclude it? I think we should stop highlighting District 2. Secondly, this allows all districts to be over ratio. 9 and 13 would be excluded to 25% over rule based on existing chart. (Art Adler)
- This proposal is subject to the population quota. (Ed Gilliss)
- I think 25% is counterproductive to economic development. A three per district cap...that's too low. If you want a cap, I'd make it higher, maybe four. (Art Alder)
- This proposal wouldn't allow any licenses to go from the 15 to the 9th district. (Ed Gilliss)
- I'm willing to have other districts be equally unequal. (Art Adler)

- Is it easier to change 204.3 beyond the Towson Revitalization District? (Mike Mohler)
- I'll go back to my members...Would you get rid of five new licenses slated for Towson CRD? (Jack Milani)
- That legislation was created for them but they haven't taken advantage of it so why protect it? So is the idea that they shouldn't compete with the 9th. (David Mister)
- Our guys understand equalization. (Jack Milani)
- The five Towson CRD licenses became available at the beginning of an economic downturn. (Art Adler)
- It's a permutation. (David Mister)
- Economic Development misses the mark because Towson has a larger commercial population but lesser resident numbers. So Towson is where more licenses should be and licenses should not be transferred based on what population dictates. (Ed Gilliss)
- My frustration is that getting the five Towson CRD licenses required a lot of political pressure from the former County Executive, but they haven't been getting purchased. That's the main reason I'm not sympathetic to protect this territory. There is no appetite there. (David Mister)
- But you have to acknowledge that there's been a severe economic crisis that has affected this area. (Ed Gilliss)
- Smaller guys have been less able to get credit to buy licenses. (Art Adler)
- Equalizing at 25% is something we discussed. (Jack Milani)
- Towson has more exception licenses because it is the County seat and has larger business establishments. How about any licenses that goes into the 9th can't go where the five can go? (Art Adler)
- It is definitely better than what we have now but it wouldn't happen anyway for three years. (Ed Gilliss)
- I can see people in the 9th outside the revitalization area screaming. (Art Adler)
- There is reality that there needs to be participation by all sectors of the community. We hope that maybe in three years the economic climate will be better. (Ed Gilliss)
- If you create Service Bar licenses, the licenses should prohibit any sale or off-site consumption, package goods. (David Mister)
- Yes. (Mike Mohler)
- I would recommend setting a minimum number of seats for a Service Bar license to prevent carry-outs from acquiring one. I'd say a minimum seating of 30 seats not 12. 70% of revenues from food is an interesting threshold but maybe a threshold of 60-65% would be better. I suggest no more than 1 license per user to encourage start-up restaurants and balance with an increase in the annual fee. This could be a fair-trade off—in existing communities. (Ed Gilliss)
- Maybe a \$5,000 fee? (Mike Mohler)
- So we agree, you don't want it to be a carryout. (David Mister)
- We're looking for a higher goal, white tablecloth. (Ed Gilliss)
- We'd have to reconsider free Service Bar licenses because that didn't factor into our conversation. My guys have said they won't support other reform provisions free licenses are part of the package. (Jack Milani)
- You won't get a small ten table start-up to pay \$100,000 to someone in the 15th. (Ed Gilliss)
- Well I don't know. (Jack Milani)
- We should state that Service Bar license is only for "on premises" food. (Ed Gilliss)
- We're talking about three in the County, no more than 1 in a Revitalization District. (Mike Mohler)
- Per year? (Melvin Thompson)
- Yes, nine total to spur development. (Mike Mohler)
- How much economic development are you going to drive? (Jack Milani)

- You're suggesting a random process such as a lottery for distributing any new, free Service Bar licenses. That is, not a political decision by the Board? (Melvin Thompson)
- Absolutely. (Mike Mohler)
- So you also mean bottled wine? Or do you mean wine by the glass? There are wine taps. Can we specify only table service? (Melvin Thompson)
- We are not saying this to generate carryout businesses. But back to Melvin's comments, I understand the fairness of a lottery system but that might award someone in Overlea rather than on York Road where it's needed. (Art Adler)
- Should applicants for new Service Bar licenses be pre-qualified? (Dan Gundersen)
- The juice isn't worth the squeeze. Let's not get wrapped up in nine free licenses. (Jack Milani)
- I don't want the Service Bar licenses at all. (Jack Milani)
- What Melvin is trying to avoid is a Prince George's County model where people presented proposals to the board. (David Mister)
- We don't need to discuss the process, the interim is what we are trying to equalize. But three free licenses per years isn't a huge influx with restrictions. (Mike Mohler)
- Don't worry. If Ed and I are worth our salt, we'll have all the licenses sold before the legislation goes into effect. You'll have all the licenses you'll ever want by then. (David Mister)
- Let's move on to the second proposal. (Mike Mohler)
- We like proposal #2 because it kicks the can down the road. Does transfer mean change of location or transfer by necessity? (David Mister)
- Yes, the new license can transfer into a business but existing license retains transferability. (Mike Mohler)
- So three years would be 2013, 2014 and 2015? We want to base it on a calendar year, not fiscal year. Bill passage gives people time. (Jack Milani)
- I think a good compromise is three licenses per year and calendar year? (Mike Moher)
- Bet you would. (Jack Milani)
- So over ten years there will be 80 licenses available? (Dan Gundersen)
- No, 40-50. (Mike Mohler)
- I'll volunteer my son to serve on this Task force in 2022. (Art Adler)
- This takes people so far but allows licenses to be created to spur economic development. (Mike Mohler)
- As I add the numbers, in the first ten years you are meeting the mark you'll have 41 in first three years. (Dan Gundersen)
- I'd say the count depends on what chart you're looking at. The chart is based on County-wide figures. (Jack Milani)
- This addresses the concerns I raised regarding a lender. This allows time to figure out depreciation. (Art Adler)
- No one is lending more than 20 years out. Someone can depreciate assets over time. This is more than enough time. (Ed Gilliss)
- If they get 1-3 years loan this change won't create immediate crisis. (Art Adler)
- Some lenders won't even lend to a tavern. (David Mister)
- Even if you got a 3-year loan, this change wouldn't create a problem. (Art Adler)
- I question the Sun's editorial perspective that called this system "archaic." There has been a change of attitude recently about liquor. In the past, people didn't think liquor licenses were good. That's why alcohol is the most controlled industry in the U.S. next to tobacco. We need to keep this in mind. If you're going to tell the delegation that what they've been doing for years is nonsensical, they aren't going to like it. We've got to explain our reasoning better. (David Mister)

- I'd like to run some numbers and come up with a real final proposal. I want to make sure this makes sense. In theory there could be a compromise but I don't want unintended consequences. (Jack Milani)
- Such as? (Mike Mohler)
- I need more time to study. While I think this is a workable theory I'd like to look at it. We are going to put a little meeting together and invite all B&D license holders. We'd like to also make sure that someone from the Administration attends who can stand being yelled at. But we're going to make an effort. (Jack Milani)
- I'd hope you'd say that, considering this is your handiwork. This is a test of your leadership. (Dan Gundersen)
- I'd suggest that since this group has had six meetings, I'd like to see if there is now consensus on this proposal, with the tweaks we've mentioned, among the non-Jack group. I'd suggest we take a non-binding straw poll. Then Jack can take it back to his membership as the proposal the Task Force wants to approve and we come back in two weeks to discuss. (Art Adler)
- Essentially this is a huge hurdle for me because we are working within the population formulation to meet the need instead of eliminating it. (Dan Gundersen)
- I agree with Dan. I don't believe we should use the government system to help people ensure profitability. This should be a free market economy. But, we've spent so much time at this point I want to see something come out of this Task Force. (Keith Scott)
- I agree with both. I have been watching the PBS special on prohibition and that is not a model I want to be used for any economic development efforts. I am a supporter of a transparent process and do get concerned that the recommendations have lots of exceptions. I think it's quite presumptuous for us to say to the legislature that in 20 years this is going to happen and the legislation will change. By that time there will be new State Senators who will have a different approach to liquor licenses. (Damian O'Doherty)
- Twenty years is the timeframe that grew out of discussions with lenders because these licenses have been used as collateral. (Mike Mohler)
- But 10 to 15 years could be equally as palatable. (Dan Gundersen)
- The preamble to the State liquor code says nothing about economic development. I'd suggest the Task Force co-chairs appear at a general meeting with all license holders to discuss what the taskforce is saying. (David Mister)
- The reason the County Executive set up this Task Force was to serve that purpose of getting dialogue on the issue. (Damian O'Doherty)
- It's not my or Mike's role to propose a hearing input process on Task Force recommendations the County Executive hasn't even seen. Once he reviews them we could think about public input. (Dan Gundersen)
- We have only one license holder on this taskforce. I just want everyone to have input. (David Mister)
- I agree with Damian. On this Task Force we have representation of the largest and second-largest license holder groups plus the Chamber of Commerce. Every week we kick the can further down the road. I'd like to make the changes Art's suggested. (Mike Mohler)
- I'd actually like to go above three free licenses but I'd take out the exception of District 2. (Art Adler)
- The Licensed Beverage Association willing to be flexible because of the wind down period. (Ed Gilliss).
- We have an unequal system because of the 15th, by limiting B licenses we just further encourage that inequality. (Art Adler)
- This is an attempt to equalize the system. You are not going to have 47 sellers within three years, especially not in the last year. Twenty-five percent over is more than fair. Consider moving TCRD licenses to be available in all of the 9th? (Jack Milani)
- Jack says in the next population estimate there will be 1 more license available in the 13th. They are four over now, the limit is 14 and they have 18. At the next population turn they will be eligible for another that's instead of creating another. (Mike Mohler)
- That's not going happen in this session because they are done. (Jack Milani)
- I'd hope you'd give us time to convene and speak with our members. (Jack Milani)

- I'll make the revisions and send it out. I'll hope you [Melvin] also will have the representative authority to make a decision next week. (Mike Mohler)
- Can we convene next Thursday to approve something with the understanding that by November 2nd, Jack can come back with thoughts of his membership? (Art Adler)
- Can we meet in the afternoon? (Dan Gunderson)
- Why do we need to meet to discuss? Could we do a conference call? (Melvin Thompson)
- Well I'd hate to create another exception considering Damian's rule but how about anyone currently between 10-25% could go to 40%? (Art Adler)
- How about eliminating the percentage and go to three free? (Mike Mohler)
- I'd have to look at the effect on the 4, 8th and the 11th. (Jack Milani)
- Maybe back to 50% over? (Art Adler)
- What about a straw vote to eliminate percentage? (Mike Mohler)
- That could make my job easier. (Jack Milani)
- So do we take out or leave in the three per year per district? (Mike Mohler)
- I'd say as a subcommittee we didn't get to this easily. (Jack Milani)
- We have two packages: one with 25% and one without a percentage but with a chart that shows licenses. How about we distribute materials by next week and meet the following week? (Ed Gilliss)
- Let's skip next Thursday and we'll be in touch. (Mike Mohler)
- I'll put it before my membership. (Jack Milani)

Respectfully submitted,

Dan Gunderson and Mike Mohler

Co-Chairs

Baltimore County Liquor License Review Task Force

Meeting Minutes

November 3, 2011

Attendance

In Attendance:

- Arthur Adler, Partner, Caves Valley Partners
- Teal Cary, Executive Director, Catonsville Chamber of Commerce
- Edward Gilliss, Chair, Baltimore County Planning Board
- Dan Gundersen, Baltimore County Department of Economic Development
- Jack Milani, Legislative Co-Chair, Baltimore County Licensed Beverage Association
- David Mister, Attorney, Mister, Winter and Bartlett, LLC.
- Mike Mohler, Baltimore County Liquor Board
- Keith Scott, President & CEO, Baltimore County Chamber of Commerce
- Melvin Thompson, Senior Vice-President, Restaurant Association of Maryland
- Harold Reid, Executive Director, Liberty Road Business Association

Absent:

- Jose Rivas, Realtor, Central Realty
- Damian O'Doherty, KO Public Affairs

Welcome

- Dan Gundersen began the meeting at 10:15 a.m. to accommodate late arriving members. Members reviewed and then approved the minutes from October 20, 2011.
- We made good progress at our last meeting. I noted then that although the end zone was in plain view, the goal posts were not. We worked on that, but now, they seemed to have moved a bit. For this meeting I would like us to start by reviewing last weeks' major points and discuss the concept revisions made to Jack's plan. (Dan Gundersen)

Subcommittee Proposal Discussion

- Equalization with free licenses is a contradiction. I met with Ed and David in addition called Art to incorporate his ideas. If licenses aren't available we'd spin our wheels. We had a board meeting and even by the end of the discussion some didn't want any free licenses at all. However, by the end I came up with what I call a "Hybrid Equalization Theory." This theory would hold that if at the end of a period licenses are not available for purchase or transfer there would be the addition of free SB's into the market. There were instances we were told certain areas needed licenses, like Towson but they still remain unused. We can appreciate the charge or intent of economic development but our membership wants to work towards equalization. I have some concerns with Art's idea. (Jack Milani)
- I'd like to balance Jack's feeling of counterintuitive with market pressure on seller to sell. I don't agree with the whole concept but trade-off of free is fair. I'll make a market deal as a seller if I know free is on the table. (Art Adler)
- 25% over except in the 2nd. The 15th won't ever get to 25% and over, at least not in the near future. There are 6 licenses available in the 9th. I placed a call into Senator Brochin and only asked him if he would be fine with us expanding his bill to include the entire 9th. Every district would be allowed to have licenses move in. At the end we can equalize. It would be an average of 5 per year. A lot would be dependant on the economy. Districts 4,8,9 and 11 will go 2 per year, if the economy is good. The other 2 maybe not.(Jack Milani)
- Is this chart missing a line? (Art Adler)
- Every meeting there is a new spreadsheet that gets presented that baffles me. So let me understand, there would be a 5 year trial of transfers....nothing however has been stated to happen after the 5 years, there is only an assumption of equalization? (Dan Gundersen)

- Somewhat yes. Doing anything beyond five years is beyond ludicrous. Any district that is not 25% and over would be eligible for transfers. Our idea is to promote some that are unreasonable. (Jack Milani)
- Transfers from the 15th into the other districts only if there was room for 25% and over? (Ed Gilliss)
- Under your chart the 8th district the 8th district gets 2 per year for 2 years? (Ed Gilliss)
- Yes. (Jack Milani)
- Another premise is that if a certain amount doesn't transfer the difference would be made available County wide for free SB's. But if they all transferred then no free SB's? How many SB's would be made available? (Dan Gundersen)
- If I could predict the economy I wouldn't be sitting here. A lot transfers if the economy comes back. (Jack Milani)
- So this is Russian roulette with SB's. (Dan Gundersen)
- I have to say, this idea is a great start. Districts 4,8,9, and 11 will move every year. (Jack Milani)
- No they won't because they are over 25%. (Art Adler)
- Yes they will because we'd expand into the entire 9th District. (Jack Milani)
- So if all transferred there would be no SB's? (Melvin Thompson)
- The 15th is predominantly D licenses, we'd be transferring there and converting them in the growth areas. (Jack Milani)
- Jack, one thing I will agree with you on is that to project too far into the future is "beyond ludicrous." Rapid changes in the world today are showing that to be true. Last meeting the discussion focused on taking change out 20 years. That's crazy; it does not align at all with economic changes. From an economic development and business case point of view, there appear to be three time sensitive hurdles to address here:
 - The first hurdle centers on a debt timeframe. We know that some licenses were used over the years as collateral for privately arranged loans. But you can't ignore the fact that business loans typically have short terms, 3, 5, or 7 year terms are normal. So, thinking that we have to build in years' of transition into our recommendations does not comport with the business world.
 - The second hurdle is the purchase cost. The question has been how to account for reduced or no cost for a licenses when others' went to market to purchase theirs. Simple, purchasing a license was a business decision some made. Because they chose to make it, they got a license that maybe someone else could not get. They, in essence, have joined a closed market with limited competition since buying their licenses. Keep in mind too that these businesses are now, or have already, expensed the cost. If we build in another seven year window it provides even more time to reconcile that situation.
 - The 3rd time oriented hurdle revolves around political considerations. The idea that change has to happen in the distant future so that it can be acceptable to the legislature is an insult to the intelligence of elected officials. I just don't accept that. What elected officials want and need are ideas to create jobs. This [liquor license change] isn't a silver bullet but it is one part of creating desperately needed jobs and we should be doing everything possible to accelerate this.
 - My economic development proposal is for an interim system lasting 6 yrs. In the first year, drop the population by 500 then in year 3 another 500 and year 5 another 500. By year 6 the system is essentially open. Additionally, in each of these six years, we would make 5 free SB's available with restrictions.
 - Given that it would take a full year to pass and implement, this provides a 7 year window to address lender-borrower issues and purchase-expense concerns. I think this should be politically feasible because it accelerates the creation of jobs and opportunity. (Dan Gundersen)
- I support Dan regarding his economic development proposal/perspective. I applaud Jack for supporting the self-interest of his members. Government can not and should not be used as a tool for revenue and profit. Times have changed and this is a free market, you compete on the basis of profit. This is the 3rd plank on our legislative agenda, we will lobby Annapolis. (Keith Scott)

- The practical effect is that in year 5 population limit would be 1,000 v today's 2,500. This would double licenses available, flood the market with license opportunity. It would be the equivalent to doing away with population. (Ed Gilliss)
- Let me jump in here and turn your attention to the handout an attempt at a happy medium. In the proposal you'll notice a little bit of what Dan spoke to in the way of accelerated job creation. There have been lots of offline conversations, positive and good ideas have gone into the proposal outlined in this handout. I'd like to say the proposals take a little of Dan and a little of Jack and creates some consensus. (Mike Mohler)
- Can I interrupt? The board is burdened to apply public need and application standard. Is the idea that this proposal comes with a statutory proclamation saying there is a public need of more licenses so there doesn't need to be additional testimony to the Liquor Board? This is a totally practical question. (Ed Gilliss)
- That speaks to process. (Melvin Thompson)
- It's a practical question. (Ed Gilliss)
- To the process standpoint, no. I haven't spent time coming up with a process. New licenses are first come first serve, new SB's wouldn't--we'd be fair, transparent. (Mike Mohler)
- We as a taskforce should make a statement that ending the quota system is equivalent to a statutory pronouncement of public need. (Ed Gilliss)
- I think we are starting over? (Art Adler)
- Let's first address the issue on the table. (Harold Reid)
- Ed brought up a practical side. My members are going to ask how this is going to happen. (Melvin Thompson)
- To me that's all doable as low hanging fruit. There would be an application process, a hearing process; each proposal would have the same consideration/benefit by the board. Every license at this time is vetted by the liquor board. (Mike Mohler)
- No dealing with....Who decides who applies? Who gets to make the application? That's what Melvin is getting at. (Jack Milani)
- I suggest a system like Environmental Protections system, a ranking from 1-10 for those who apply. (Ed Gilliss)
- Now the process is first come first serve. (Mike Mohler)
- How often do you have that? But now the volume is not that high. (Jack Milani)
- In discussing process instead of change, we might be overstepping what the taskforce has been called to do. (Dan Gundersen)
- There is a lack of understanding of the process. The Liquor Board has powers guided by the General Assembly. Liquor Board doesn't have the power now to do x. the taskforce has to recommend that to the legislature. (David Mister)
- The present process enables someone to know where they are on the list if a license becomes available. (Art Adler)
- Let's table the issue of assigning SB's. There are bigger fish to fry. (Mike Mohler)
- Mike, I hear you and I'm choosing my words carefully. I will have to talk to you later. You are not appreciating our concerted effort to work with you. Dan, I hope your proposal was a bomb to get us to listen to Mike but if that's a serious proposal I'm insulted. After all the hours I've put in I've feel like I've wasted 7 or 8 weeks. I can't tell my members anything. (Jack Milani)
- Our position is that we want to be cooperative. Some of my members have licenses and some do not. Your goal is getting more business my main concern is to members with businesses now. I hoped we could reach some fair and balanced proposal. I keep giving them a different proposal every week. I'm not prepared to vote without a clear proposal that my members understand. (Melvin Thompson)
- Melvin, I respect what you are saying but disagree. We are all in agreement with equalization, of a 5 year plan to equalize the 15th in 5 years. To be sensitive, nothing changes in or until 5 years unless no threshold is hit. (Mike Mohler)
- I'm saying 2 per district every year and Mike is saying 3 per year. (Jack Milani)

- For your members nothing changes for 5 years. The only change could be the creation of SB's. (Mike Mohler)
- You are also missing a change for an existing license holder. (Jack Milani)
- You agreed to this. (Mike Mohler)
- I agreed to 3 per year not 9 per year (Jack Milani)
- You've agreed to transfer some in certain districts. (Mike Mohler)
- Yes, see my chart. The issue is we've gone very far, your proposal takes things too far. Dan's is in another room. An economic development guy on the taskforce is like a fox in the hen house. (Jack Milani)
- I think it's the other way around. (Dan Gundersen)
- For the record, my membership has instructed me to ONLY present the 5 year, Option 1. (Jack Milani)
- Proposals 2 & 3? (Mike Mohler)
- Again please make sure this point makes the minutes. I'm not going for any of Mike Mohler's other approaches. (Jack Milani)
- That's why proposals 2 & 3 we shouldn't move on? Options 2 & 3 you can't support. They fundamentally change the system. (Mike Mohler)
- I'm so sick of this system. If you're talking about the 2nd proposal I support not digging our head in the sand. I support some wind down to this system. (Art Adler)
- Keith, Harold and Teal do you feel the same way? (Dan Gundersen)
- Yes. (Harold Reid)
- Yes. (Teal Cary)
- Yes. (Keith Scott)
- I desire change but recognize what situation Jack is in. We need recognition of the political realities. I believe somewhere between Mike and Jack there is an opportunity. For example: the quota system, transfers out of the 15th, spurring economic development with small restaurants...(Ed Gilliss)
- Do we agree with what Ed said? (Dan Gundersen)
- Clarification, Jack says 5 transfers for 5 years from the 15th, if I heard Ed it was 5+? (Art Adler)
- I took Jack's platform and added 3 to 4 SB's per year per district. So if there is a real demand we'd satisfy that need. Recognizing there is a public need for more licenses. (Ed Gilliss)
- But the difference is Jack's plan says transfer to any district but the plan here says the growth districts. (Melvin Thompson)
- I'd eliminate revitalization districts. (Art Adler)
- My folks didn't want to limit them. (Jack Milani)
- Some districts won't ever take licenses. You can get rid of the 25% cap. (Art Adler)
- Art didn't want per revitalization district but max per year in any district. Ed suggested 4 SB's per year per district, max is 20 licenses for a 5 year period. No, I built my proposal on top of Jack's. My thought is, I accept Jack's motivation that licenses will transfer out of the 15th at a reasonable price, and small operators have a chance. (Mike Mohler)
- I don't know why you'd do both. (Jack Milani)
- Your suggestion of getting a reasonable price out of the 15th is a good one, the introduction of free SB's only encourages sale. I'm trying to ensure that when a license gets transferred out there is still a small operator opportunity. (Ed Gilliss)
- Confused? (Jack Milani)
- I want to ensure licenses really come out of the 15th at resale price. (Ed Gilliss)
- What is the trigger number? It would take 47 to equalize other districts. (Jack Milani)

- Mike your proposal of 9 a year is reasonable. (Ed Gilliss)
- We can solve economic development's concern with Mike's idea. (Art Adler)
- Without free SB's w transfers you force the small guy to buy for the high sale/transfer prices. (Harold Reid)
- Increase the trigger number and Ed will withdraw his proposal. (Art Adler)
- Maybe both not necessary. (Ed Gilliss)
- Depends on the economy this could be more or less with legislature meeting every year something could be done. No cap per year but you are trying to create 20 SB's because 47 transfers aren't going to happen. (Jack Milani)
- Ed, in your scenario, was there a limit of 1 per year? (Mike Mohler)
- Are we meeting next Thursday? We have to get decisions made. (Art Adler)
- I have next week as a last meeting. Take your...Jack but a 5 year plan people can get their heads around with some of proposal 2 and 3 although Jack won't agree. (Art Alder)
- If a license is available, there needs to be agreement with quota system is equivalent to state need. (Ed Gilliss)
- I want to ensure small entrepreneurs can get a license. Jack, I know that isn't your membership's goal. When all is said and done I'd like that to be part of what we do. (Teal Cary)
- I promise to have a process for Melvin next week. (Mike Mohler)
- I don't want to vote on anything in pieces. (David Mister)
- Task Force agreed to meet next on November 11, 2011.

Respectfully submitted,

Dan Gundersen and Mike Mohler

Co-Chairs

Baltimore County Liquor License Review Task Force

Meeting Minutes

November 10, 2011

Attendance

In Attendance:

- Arthur Adler, Partner, Caves Valley Partners
- Teal Cary, Executive Director, Catonsville Chamber of Commerce
- Edward Gilliss, Chair, Baltimore County Planning Board
- Dan Gundersen, Baltimore County Department of Economic Development
- Jack Milani, Legislative Co-Chair, Baltimore County Licensed Beverage Association
- David Mister, Attorney, Mister, Winter and Bartlett, LLC.
- Mike Mohler, Baltimore County Liquor Board
- Keith Scott, President & CEO, Baltimore County Chamber of Commerce
- Melvin Thompson, Senior Vice-President, Restaurant Association of Maryland
- Harold Reid, Executive Director, Liberty Road Business Association
- Jose Rivas, Realtor, Central Realty
- Damian O'Doherty, KO Public Affairs

Welcome

- Dan Gundersen began the meeting by seeking approval for the meeting minutes from November 3, 2011. The minutes were approved unanimously.
- I think it is important that I restate the mission of the taskforce. The County Executive asked for us to review and recommend changes to the existing liquor laws relative to economic development. We should give our best judgment/advice to the County Executive and his team will present any changes to the legislature. Let's start today with Mike and his proposals and then vote on each. (Dan Gundersen)

Proposal Review and Taskforce Vote

- The vote on a proposal is not an either/or. It's how you feel about a particular proposal. The vote is to gauge the taskforce sentiment. So I ask that you take each individually. Let's go from start to finish; Recommendations 1-3 have already been agreed to however no specific date in our vote of July 1, I just used that date. (Mike Mohler)
- My problem is 12-0 vote. I don't recall saying licenses after July 1. (David Mister)
- I motion to vote on the first 3. (Jack Milani)
- I'd like to change my vote then. (David Mister)
- We are talking about new licenses. (Mike Mohler)
- We never voted on it. We only agreed to consider as part of a larger package. (Jack Milani)
- Let's revisit recommendation 4, had agreed effective new license (only 2 now available) would be site specific (20 available in the 2nd District). (Mike Mohler)
- We discussed whether to stop historic value of licenses with the point of stopping the creation of value. I also think the point was new applications, the language is loose. (Ed Gilliss)
- This is too interlocking. (Jack Milani)
- Why say arbitrarily July 1. (Harold Reid)
- Let's not get hung up on the date. (Mike Mohler)
- Where is my proposal from last week? We spent a long time on that and I don't see it in your set of items to vote on. (Jack Milani)
- This is a compilation but your proposal is included. (Mike Mohler)

- I think it's an issue of fairness. To break-up our proposal isn't a fair shake. It should get an up or down vote. (Jack Milani)
- I would agree. After all the work the industry put in, their proposal needs an up or down vote. (Melvin Thompson)
- I second. (David Mister)
- What elements to recommendation 5 would have to be made? (Dan Gundersen)
- We should agree to calendar or fiscal year. (Jack Milani)
- We switched everything to calendar year. Recommendation 6 started July 12 – Dec.31, 2012, triggers first half of year. (Mike Mohler)
- We need to tie it with renewal, fiscal or calendar, it needs to be done yearly. (Jack Milani)
- We put faith in equalization with a certain overage that's not clear in your proposal. If not, we just glut another district. (Jack Milani)
- The market has driven that. (Art Adler)
- He should take equalization out of the proposal. (Jack Milani)
- How about changing the language to redistribution. (Mike Mohler)
- Our recommendation was to equalize out of the 15th, asked legislatively approved districts for transfers. Called Senator Brochin to broaden the 6th; that would put 6 licenses into the 9th; 3 licenses into the 4th. At the turn of population there will be an additional license with a start of some equalization. Free shouldn't happen during equalization but if licenses are not available then free will be introduced. (Jack Milani)
- Can SB's go anywhere? (Ed Gilliss)
- No, 1 per year, SB's would be exceptions. Proven from chart with daytime population it goes hand in hand with exceptions. This isn't a bad problem. The problem was the glut. (Jack Milani)
- One not limit to 25%, 2 per district; our proposal has 3. 5 SB's our proposal is 9. Philosophically we agree it's just numbers and how we get there. We need to discuss the numbers. (Mike Mohler)
- You could break this into two different recommendations. (Dan Gundersen)
- The 25% cap is a concept that limited economic development. (Art Adler)
- As a developer that makes sense but as a license holder there has to be a gradual wind down (change). (Jack Milani)
- On recommendation #5, we can compromise from three to five but not 25% and SB's are a separate issue. (Mike Mohler)
- No, we worked on fair equalization. I can't go back. This is a concept of equal. I have people who paid real money so I need patience. We have membership that has accepted an unwinding. You have to be sympathetic to those who played by the rules. (Jack Milani)
- We have heard and been sensitive but like the rezoning of land, things happen. (Mike Mohler)
- Zoning changes happen more frequently. (Jack Milani)
- But the principle is the same. (Harold Reid)
- Our proposal should still be among these to be voted on. (Jack Milani)
- I clearly said this was a compilation. (Mike Mohler)
- Fairness should have started with this and then amendments should have been made from there. (Jack Milani)
- Are there any questions on 5A? (Dan Gundersen)
- Let's vote on it then? (Ed Gilliss)
- I think we/Jack has to be an either or, if not it's shirking our duty. (Art Alder)
- I'd be happy to second your proposal and vote up or down. (Damian O'Doherty)

- Recommendation 9 doesn't continue to promote the existing system, all else are cumulative. 9 and Jack's stand alone. (Ed Gilliss)
- I suggest either/or on recommendation 9 or 5A. (Art Adler)
- The County Executive wants to know what this taskforce thinks. (Art Adler)
- True, but it isn't for us to determine political calculations. (Dan Gundersen)
- Let's start voting on 5 thru 11. (Art Adler)
- Are the Co-Chairs going to vote? (David Mister)
- Yes, we were appointed as full members. (Dan Gundersen)

Recommendation 5A

Votes/Member	JM	AA	KS	TC	HR	MT	JR	DO	EG	DM	MM	DG	Total	%
YES	X					X				X			3	25%
NO		X	X	X	X		X	X	X		X	X	9	75%

- Recommendation 9 fundamentally changes system. It is about creating jobs and moves to make jobs come online most quickly. No need to phase it in over a protracted period. A redistribution or trickle out economic theory that stretches beyond 6 or 7 years is hard to defend from a business perspective. I ask for your support of this proposal. (Dan Gundersen))

Recommendation 9

Votes/Member	JM	AA	KS	TC	HR	MT	JR	DO	EG	DM	MM	DG	Total	%
YES			X	X	X		X	X			X	X	7	58%
NO	X	X				X			X	X			5	42%

- I suggest the taskforce vote on the one we want the County Executive to know our sentiments on. (Art Adler)
- Parts 2 and 3 of Dan's proposal can be amended in the future as far as the definition of service bars. My folks had concerns about SB's and want more limits. If you vote for 9 are you voting for the definition of SB's? (Melvin Thompson)
- Is there any national data about job created by restaurants with alcohol? We need a perspective of issues driving economic development. (David Mister)
- No one can have those numbers without the system being open. (Teal Cary)
- There is no data? (Ed Gilliss)
- There is a lot of data on saturation point and I think we are there. Look at the back end. (Jack Milani)
- We are as far from saturation as we are from full employment in the County. (Dan Gundersen)
- We are doing a disservice as a group if we don't pass this. (Art Adler)

Recommendation 5

Votes/Member	JM	AA	KS	TC	HR	MT	JR	DO	EG	DM	MM	DG	Total	%
YES		X		X			X	X	X		X	X	7	58%
NO	X		X		X	X				X			5	42%

- Recommendation 5 must have language changed to redistribution as oppose to equalization (Mike Mohler).

- My members have problems with Service Bars because they see them as free. The real issue is to define Service Bars; make restrictive as possible; decrease the maximum seating number from 100 to 60; and only sell the alcohol with food. (Melvin Thompson)
- Our guys have a problem with entertainment at Service Bars. 1 per district per year, no glut to devalue existing licenses. (Melvin Thompson)
- I move that, to be an additional recommendation. (David Mister)
- I second. (Jack Milani)
- Do we want to redefine SB's? (Mike Mohler)
- I don't think it needs to be a separate recommendation. Try to amend motion line by line but no other proposal, please. I am pressed for time, if we took it as a separate proposal. I'd like to have a vote on this up or down. (Art Alder)
- Amend my motion to make Melvin's 6A. (David Mister)
- I second. (Jack Milani)
- Arbitrarily, how do you get 60 seats? Why all of a sudden does the industry want 60? (Harold Reid)
- That is a smaller establishment. I can ask my guys to go up to 70. (Melvin Thompson)
- So 6A includes 3-11 as beer & wine only. I think it's overly restrictive. I mean we have 15 inspectors to know if license holders are outside scope. I'd say vote down the amendment. (Mike Mohler)
- 60% vote sales stays in regular B licenses. Why do we have B&D licenses? It goes against the food requirement. (Jack Milani)
- I'm willing to amend. (Mike Mohler)
- It's intended to be for restaurants not taverns. (Ed Gilliss)

Original Recommendation 6

Votes/Member	JM	AA	KS	TC	HR	MT	JR	DO	EG	DM	MM	DG	Total	%
YES		X	X	X	X		X	X	X		X	X	9	75%
NO	X					X				X			3	25%

- I'm confused with 6 verse 10 years. What is the basis of the population decline? (Harold Reid)
- The proposal is 2018-2019 and the population limit goes up systematically. (Mike Mohler)

Recommendation 11

Votes/Member	JM	AA	KS	TC	HR	MT	JR	DO	EG	DM	MM	DG	Total	%
YES		X	X	X	X		X	X	X	X	X	X	10	83%
NO	X					X							2	17

- Beginning in 2023 all licenses are County-wide, site specific and no un related transfers (Howard County model) (Mike Mohler)
- Transfers from the 15th into the other districts only if there was room for 25% and over? (Ed Gilliss)
- Recommendation 10 doesn't need to be voted on. It's just more of an internal, clean up process of transparency. (Mike Mohler)
- Recommendation 11 takes away the board's prerogative. Only two other counties are exempt from that. (Ed Gilliss)
- Historically we have we had legislative changes challenged. (Jack Milani)

- I agree with Ed, we move from the purpose of this if someone could agree to it and delay it. It's just a slippery slope. (Art Adler)
- There are other things the board considers other than needs. (Ed Gilliss)
- The way it's drafted includes all licenses creates a tension on how to address competitive licenses. (David Mister)
- We spent all of this time on transfers out of the 15th then we need to ensure transfers happen. (Ed Gilliss)
- Can we amend the language to say distribution? (Mike Mohler)
- Eliminate need for liquor board to demonstrate public need. (Ed Gilliss)
- Let's vote on goodness and professional trust. Transfers from the 15th & SB's w/ redistribution provision notes agreed to or not but lawyers will see and revise. (Art Adler).

Votes/Member	JM	AA	KS	TC	HR	MT	JR	DO	EG	DM	MM	DG	Total	%
YES	X					X				X			3	25%
NO		X	X	X	X		X	X	X		X	X	9	75%

- On behalf of the County Executive I'd like to thank the entire taskforce. The County Executive appreciates what you've done and the time you've spent on this issue. (Don Mohler)
- Getting a report to the County Executive on November 15, 2011 will be a bit of a challenge. Let us try our best to have a summary with a narrative to you all by next week for your review and a final report completed within ten days. (Dan Gundersen)

Respectfully submitted,

Dan Gundersen and Mike Mohler

Co-Chairs



Baltimore County Department of Economic Development
105 West Chesapeake Avenue – Suite 300
Towson, Maryland 21204

Baltimore County Board of Liquor License Commissioners
111 West Chesapeake Avenue – Room G-14
Towson, Maryland 21204

Staff Support:

Courtney Franklin Bush, Research & Analysis Coordinator, Department of Economic Development

(Primary minutes author)

Sharon Klots, Chief, Policy & Program Planning, Department of Economic Development

(Primary report author)

Phyllis Panopolous, Executive Assistant to the Director of Economic Development

Chaunte Thomas, Liquor Board Office Administrator

Andrea Van Arsdale, Director, Office of Planning

Yolanda Winkler, Director of Government Relations