

## **City liquor board steps it up - Revocation, suspensions, fines among actions commissioners take against bars, restaurants**

By Brent Jones, *Baltimore Sun*, October 12, 2009

When Baltimore's liquor board commissioners were sworn into office in April 2007, they took over an agency reeling from threats, lawsuits and internal backbiting.

Charged by Gov. Martin O'Malley with restoring public trust, the three-member panel has virtually cut out the infighting. But some observers argue that the commissioners have also taken a heavy-handed approach to their oversight responsibilities, dishing out substantial fines and suspensions and revoking more licenses than is necessary.

"They do listen to anything you present. But the weight they put on it is a different story," said Melvin J. Kodenski, a Baltimore attorney who has represented bar owners and brokered dozens of liquor license sales since the 1970s. "When they go back in that room [to deliberate], I have no idea what they talk about."

The board has been especially active recently. In September, the commissioners issued six-month suspensions to two restaurants and revoked the license of Phantom, a club in Canton. Made up of Chairman Stephan Fogleman, Elizabeth C. Smith and Harvey Jones, the board also fined the owner of Half Mile Track \$2,600, in part because two employees got into a fight outside the bar in the 4100 block of Frederick Ave.

The board has issued more than \$94,000 in fines this year, and \$325,000 since January 2008. It has also revoked five liquor licenses dating to 2007, a move rarely used in the past and generally reserved for clubs and restaurants with long records of serious misconduct.

The previous panel revoked just two licenses.

Commissioners say the penalties are fair, and in line with their responsibilities.

"In a public safety situation, the board is moved to move quickly," Fogleman said. "It was clear to us that the administration had failed in the bars we took action against. This board has always been busy. And we've always been committed to solving problems."

Added Smith: "We're tough but fair."

The board regulates the sale, storage and distribution of alcoholic beverages in Baltimore. Although it is a state agency, revenue it collects through licensing and fines goes to the city, and Baltimore's auditor performs occasional reviews of the board.

Its sometimes spotty history goes back decades.

Fogelman's predecessor as chairman, Mark S. Fosler, resigned in 2007 and took a

subordinate position as a liquor inspector amid an audit focusing on the way inspectors account for their workday and expense reimbursements.

Two years earlier, the Office of the State Prosecutor launched an investigation of the agency after then-chief liquor inspector Samuel T. Daniels Jr. accused liquor board officials and state senators of collusion and corruption. The inquiry wrapped up the next year without any charges. Daniels is now the board's executive secretary.

During that same period, liquor commissioners dismissed former Executive Secretary Nathan C. Irby Jr., a former state senator and city councilman. Although Irby filed a lawsuit to get his job back, he eventually agreed to leave with a financial payout.

"When you compare it to what we hear about the past, then we're happy to say this thing is managed effectively with the budget that we have," Fogleman said.

Two of the commissioners, Fogleman and Smith, have run for public office, leaving some critics to charge that they give more weight to community protests than to the business interests of tavern owners. Fogleman is an attorney who unsuccessfully challenged Baltimore State's Attorney Patricia C. Jessamy in 2006, while Smith lost that same year in a City Council race.

Phantom, a dance club that opened in December in the 2300 block of Boston St. in Canton, lost its license after 18 residents signed a petition against the business. Commissioners said Phantom violated an agreement with community leaders that prohibited advertising for parties. The board has cited repeated underage drinking violations, drug activity and sexual misconduct for license revocations involving other businesses.

"They're very interested in protecting neighborhoods," City Councilman William H. Cole IV said. "They've been responsive, particularly to community associations who come out and make their cases."

Cole has testified at several liquor board hearings, including those involving Linden Bar and Lounge and Suite Ultralounge, two clubs that have had their liquor licenses revoked. Several community associations signed petitions and rallied against those establishments, though a Baltimore judge ruled in August that the board acted improperly last year when it tried to shut down Suite Ultralounge.

"If you're a bar owner and you have a problem with it, don't be caught doing something wrong," Cole said. "They're not making cases up. They're using good, solid evidence. Their personal motivations or political ambitions have very little to do with the fact that they're taking real violations and just applying the law."

Fogleman said the board strikes a balance between the communities and businesses, but added that, "the community has to live with it. The communities live it, and the business owners, it's their career."

Smith insisted the board does not react to all community protests, citing four bars on Park Heights Avenue, in her council district, that several residents wanted closed. The bars remain open.

"That could have been an example of one commissioner siding with the community for future political assistance, and I didn't," Smith said. "Our mission to serve on the board, and we told the governor, is to provide transparency and integrity and to restore the public's trust to an agency that had been rife with political patronage and had received such bad press."

Copyright © 2009, [The Baltimore Sun](#)