

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:)	
)	
The Reports Law Group, PLLC)	License No.: 083728
)	Order No. 2022-702
)	
)	
<i>Request for an Advisory Opinion</i>)	

BEFORE: Donovan Anderson, Chairperson
James Short, Member
Bobby Cato, Member
Rafi Aliya Crockett, Member
Jeni Hansen, Member
Edward S. Grandis, Member

ADVISORY OPINION INTERPRETING D.C. OFFICIAL CODE § 25-374

Pursuant to 23 DCMR § 1902, the Alcoholic Beverage Control Board issues the following advisory opinion regarding the appropriate interpretation of D.C. Official Code § 25-374. Specifically, § 25-374 governs where licenses with nude dancing endorsements may locate. Based on § 25-374, the Alcoholic Beverage Regulation Administration’s (ABRA) Licensing Division has proposed to deny the request of the Roberts Law Group, PLLC, to transfer a Retailer’s Class CN with a nude dancing endorsement to a new location within 600 feet of a residential zone without determining whether another licensee with a nude dancing endorsement is located within 600 feet. The Board determines that § 25-374 only mandates denial when a licensee with a nude dancing endorsement seeks to locate the license within 600 feet of another licensee operating under § 25-371(b) and a building with a certificate of occupancy for residential use or a lot or building with a permit from the Department of Consumer and Regulatory Affairs for residential construction at the premises. Therefore, the Board advises ABRA to reassess the application in accordance with this Advisory Opinion.

CONCLUSIONS OF LAW

1. D.C. Official Code § 25-374 provides the following:
 - (a) A license under § 25-371(b) may only be transferred to a location in the Central Business District or, if the licensee is currently located in a CM or M-zoned district, transferred within the same CM or M-zoned district, as identified in the zoning regulations of the District of Columbia and shown in the official atlases of the Zoning

Commission of the District of Columbia; provided, that no license shall be transferred to any premises which is located:

(1) Six hundred feet or less from another licensee operating under § 25-371(b);
and

(2) Six hundred feet from a building with a certificate of occupancy for residential use or a lot or building with a permit from the Department of Consumer and Regulatory Affairs for residential construction at the premises.

D.C. Code § 25-374(a)(1)-(2). A plain reading of this section due to the use of the word “and” in § 25-374(a)(1) indicates that the transfer of a license with a nude dancing endorsement should only be denied if the conditions listed in both (1) and (2) are present and should not be denied if only the conditions listed in one of the subsections are present.

2. The Board notes that this is the same conclusion that the Board reached in 2011 in an advisory opinion issued to Geoffrey Taylor regarding a strip club on Okie Street, N.E. *In re Geoffrey Taylor*, Board Order No. 2011-401, 1 (D.C.A.B.C.B. Sept. 21, 2011). Specifically, in that opinion, the Board stated that § 25-374’s purpose was to prevent an overconcentration of strip clubs in one location. *Id.* at ¶ 7. In that vein, “while the presence of residential use buildings near the proposed location are factors that the Board would consider in determining whether the granting of the license is appropriate for the neighborhood, their presence does not preclude the filing of a transfer to a new location” because no other establishment with a nude dancing endorsement is located within 600 feet of the proposed location. *Id.* The Board is aware that this appears to contradict a Board Order issued in 2020; however, the 2020 Order is silent as to the whether a nightclub was previously determined to be located within 600 feet of the proposed location or whether this issue was properly raised or considered during the 2020 proceedings. *In re Iraklion, LLC, t/a Iraklion*, Case No. 20-CMP-00092, Board Order No. 2020-267, 1-2 (D.C.A.B.C.B. Aug. 18, 2020). Consequently, the Board is satisfied that the Board’s opinion in the *Geoffrey Taylor* order remains controlling in interpretations of § 25-374.

ORDER

Accordingly, it is this 19th day of October 2022, **ORDERED** that the above represents the **ADVISORY OPINION** of the Board pursuant 23 DCMR § 1902 (2008).

District of Columbia
Alcoholic Beverage Control Board

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Donovan Anderson, Chairperson

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Edward S. Grandis, Member

Pursuant to 20 DCMR § 1902.6, if the requestor disagrees with the Board's advisory opinion in any respect, he or she may, within twenty (20) calendar days after issuance of the opinion, petition the Board in writing to reconsider its opinion, setting forth in detail the reasons and legal argument which support the requestor's points of disagreement, or may request the Board to issue a declaratory order, pursuant to § 1903. Advisory opinions of the Board may not form the basis of an appeal to any court in the District of Columbia.