

November 12, 2015

The Honorable Nancy King, Chair
Montgomery County Senate Delegation
223 James Senate Office Building
Annapolis, Maryland 21401

The Honorable Shane Robinson, Chair
Montgomery County House Delegation
223 House Office Building
Annapolis, Maryland 21401

Dear Senator King and Delegate Robinson:

In light of news reports that Delegate Frick and Comptroller Franchot plan to pursue legislation in Annapolis to require private distribution of alcohol in Montgomery County, we felt it was timely to reiterate the County Council's position on potential legislative changes to the county's Department of Liquor Control (DLC).

The bills proposed by Delegate Frick and Comptroller Franchot share substantial common ground with the County Council's approach. Our proposed legislation would also allow private wholesalers to sell directly to retailers and restaurants. However, the Frick and Franchot proposals seek a complete change without regard for the aspects of DLC operations that actually work well for consumers and taxpayers or the impact on other county priorities. The Council's approach is limited to privatizing the aspect of its operations that DLC has not managed effectively: the distribution of special order products. And our approach protects other county priorities.

Contrary to its connotation, "special orders" are anything but unusual. They are a routine purchase for restaurants and retailers, and they make up 85% of the 29,000-plus products available for order from DLC. For many businesses, special order products represent as much as 90% to, in some cases, 100% of their total order. The alcohol market has changed dramatically over the last few decades, and the timely and reliable delivery of special orders is critical to the success of businesses. Despite attempts by our DLC to rectify the issues affecting special orders, restaurants and retail stores continue to be dissatisfied with the selection and availability of product. The Council's proposed legislation seeks to address this issue head on by opening this segment to the private sector. Privatizing the whole market would exceed what is necessary to provide our restaurants and stores with an efficient and effective distribution system. The DLC has a 99% success rate with stock items; prices are competitive for stock items; and there is no negative economic impact from the DLC role in stock item delivery.

Furthermore, neither proposal addresses the most requested improvement from residents: the ability to purchase beer and wine in grocery stores. Residents often perceive Montgomery County's control system as the primary impediment to their purchasing a six-pack at the grocery store or a case at

Costco, but as you are aware, it is in fact state law which prohibits the sale of beer and wine in chain retailers, not county law. The County Council is amenable to the state reexamining if this is still the right policy for the time, but it should not be conflated with Montgomery County's regulatory system. If we truly put ourselves in the shoes of our constituents, any

reform effort will come up short if it does not also permit the sale of beer and wine in grocery stores.

While the County Council is not calling for full privatization, we are wholly supportive of reform. The Council does not believe the status quo is acceptable and has been working this year on how best to reform the Department of Liquor Control. Through the Council's Ad Hoc Committee on Liquor Control, the Council uncovered very serious issues at the Department of Liquor Control that would have in all likelihood gone unnoticed and unaddressed without its oversight. To date, DLC has not been an example of a government that works. There is need for significant improvement in the operations of DLC, but its shortcomings do not warrant dismantling the entire system.

Proponents of privatization have dismissed the approximately \$30 million dollars in profit generated annually by DLC as insignificant in the context of an annual \$5 billion operating budget, but these revenues are not trivial in terms of the programs and services they support and the tax relief they provide to residents. Without this \$30 million in alcohol-related revenue, the county will have either fewer resources for education, transportation and other key priorities, or it will have to raise property taxes. As stewards of the state budget, you may appreciate thinking about what the relative impact of losing \$30 million would be to the state. With a \$35 billion state budget, the same impact at the state level would be about \$220 million. Losing \$220 million would pose a serious hardship for the state's budget.

The impact of full privatization on the county's capital budget would also be significant. The County currently has about \$114 million in outstanding liquor bonds that are being used to fund capital projects. Without a secure revenue source, these projects would need to move to the county's general capital budget, displacing other projects. Consider that \$114 million is about half of all the capital funds that the county is seeking from the state to add much-needed classroom space to address overcrowding in Montgomery County schools. We do not want to have to remove \$114 million in needed projects, such as schools, libraries or transportation, from our capital budget.

Although incremental, the option favored by the Council represents significant progress after years of inaction. Previous Executives and Councils were unable to overcome the challenge of how to replace any potential loss in revenue, but through collaboration with the many stakeholders and rigorous analysis, we have identified a solution that minimizes the impact to the county, and meets the modern expectations of retailers and consumers. Like you, we want to ensure that every segment of the public is served by our alcohol laws. Allowing private wholesale distribution of special order beer and wine to licensees moves us forward in a responsible way, and does not preclude additional reforms from taking place. With the Council's approach, consumers, retailers and restaurants should see tangible improvements in the availability of products and their bottom lines. It seems prudent to give this consensus approach a chance. The Council is committed to monitoring the effectiveness of any reforms and revisiting these issues until the public is satisfied.

Rather than fully privatize the DLC, whether through legislation or a ballot initiative, we respectfully ask that you support our careful and reasoned approach -- recognizing that

there is substantial common ground, as the council proposal allows private distributors to operate in the County for the first time and in a way that has the greatest economic benefit.

Thank you for considering these facts. We look forward to working with the delegation in the coming months to achieve the right balance in public policy.

Sincerely,

George Leventhal
President

Nancy Floreen
Vice President

Hans Riemer

Marc Elrich

Tom Hucker

Nancy Navarro

Craig Rice

Sidney Katz

cc: Montgomery County Delegation