

Public Comment
OAL Notice File Number: Z2021-0615-05

Comment #1

6/29/21

From Roger Diamond (*sent via email*)

I am interested in your Notice of Proposed Rule Making published on Friday June 25, 2021. By selecting Friday June 25 it appears that the Board went out of its way to make sure that it receives as few proposed comments as possible. Apparently the deadline now is August 10, 2021 at 5:00 P.M.

I am interested in the Rules and Regulations of the ABC Appeals Board because it is apparent that there has been collusion between the Appeals Board and the ABC regarding the appellate process. It is not true that the Appeals Board needs to amend its rules because of gender surnames.

I am very much interested in the proposed rules because based upon my experience it looks as though there is a set up wherein the Appeals Board automatically affirms the Department. The Board went two years without a third member. It is hard to tell from the proposed rules whether there will be a third member added to the Board. I protested the fact that for two years the Board only had two members. Notwithstanding this the Appeals Board rejected my argument regarding the insufficiency of the number of Appeals Board members.

It is not true that the proposal is being considered because of out dated rules and regulations regarding the appellate process. It looks like the Appeals Board goes out of its way to support the ABC.

Instead of adopting the proposed rules the Board should work on making the ABC more responsive to good government. The ABC is systematically riding rough shot over its licensees. The process is set up to encourage "plea bargaining" to put out of business licensees who have had problems not of their own making. As the situation now exists the ABC goes out of its way to nail the licensee if some customer should engage in anti social behavior. Instead of being pro business the ABC and the appellate bureaucracy have made life miserable for licensees.

I have a case now pending before the Appeals Board wherein the Department allegedly mailed a copy of the Accusation to my client, the licensee. In fact the premises were closed for a substantial amount of time because of the Covid virus. Instead of waiting to see whether the Accusation was served at all or properly the Department rushed in to secure a default. Even though the Department suffered no prejudice the Department set the matter up for revocation. Mail delivery was difficult because of the Covid virus. The Department acknowledges that the premises were closed but does not care.

It is hard to tell who has access to the Department. It seems that procedures designed to revoke or suspend licenses take priority over anything else.

Instead of the Government being lenient and pro business the ABC goes out of its way to suspend or revoke licenses. Businesses are fleeing California in droves. Businesses in general do not do well in California.

There is a heavy hand of regulatory control in play here. Licensees are being nailed if there is any misconduct at all at premises licensed by the Department. It seems that these oppressive acts by the ABC and the Appeals Board are not the result of any fortuity. It seems that it was conscientiously developed and the proposals now under consideration are designed to make things even worse.

The religious right has gained control over the Department because of its opposition to alcohol. I respectfully request that the Appeals Board conduct a public hearing and conduct that hearing in Los Angeles. Otherwise it looks as though the power center in California remains Sacramento with the lobbyist in control.

The proposed rules are silent as to who instituted the proposals. Who is the driving force behind these regulations? They just did not come out of nowhere.

The first look of the ABC Department and the Appeals Board is to try to find out some way to keep the business operating. These types of businesses employ people and pay taxes. They should not be given second class treatment. The proposals being considered now by the Appeals Board are a waste of time. It does not matter whether somebody should be called he or she or him. Everybody knows the intention. The entire English language should not be at the mercy of politically correct interests.

In summary it looks as though somebody has proposed to expedite the appellate process and make things run as quickly as possible without regard to the notice. I believe the appellate process should slow down and make sure the Appeals Board gets it straight. This is also true because after the Appeals Board all that is left is the State Court of Appeal and the State Supreme Court. They do not have time to consider these more important issues.

The Department should not be able to serve accusations by a mail system that is hap hazard.

My client timely filed its motion to set aside the default and worked expeditiously as possible.

In return the system has crushed my client. The system does not even allow me to try to negotiate a settlement . I would like to be able to speak to the Appeals Board about this matter.