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Reject the “Public Nuisance Abatement” legislation

Resolved, that ANC1D advises the Council of the District of Columbia to reject the “Public Nuisance Abatement” text of bill B18-0595, the “Neighborhood and Victims Rights Amendment Act of 2009”.

Why:

We residents of Mount Pleasant are very familiar with complaints about men who are “public nuisances”, and we understand and sympathize with the intent of this proposed law. But we see that this law could be, and surely would be, abused in our neighborhood, employed not merely to put a stop to nuisance activities, but to harass, punish, and force out of the neighborhood entire categories of people, based on the misbehavior of a few. Furthermore, the proposed preventive actions, e.g., court-imposed injunctions, are only punitive, and do nothing to address the actual causes of some behaviors defined as “nuisances”.

All of the nuisance activities specified by this proposed law, such as public urination, consuming alcoholic beverages in public, and making excessive loud noise, are already prohibited by law. This new law tacitly admits to the inability of law enforcement authorities to enforce existing laws, and surely that shortcoming should be addressed before imposing a new law on top of the old, as if two laws will be more effective than one.

Furthermore, some of the “nuisance” behaviors specified are minor, e.g., “discarding of food or debris on public space”. This is a license for legal assault on persons guilty of nothing more than littering.

Most troubling is the specification that any “community-based organization” would be empowered to bring charges, with only a “preponderance of evidence” required for conviction, and no substantial requirement that any certain individual be proven to be guilty of a specified “nuisance” action. This is likely to result in what amounts to “class action” suits, as residents unhappy with the behavior of certain groups will charge them all, and try to obtain injunctions against them all, on grounds of the misbehavior of a few. There is no assurance that a “community-based organization” will be reasonable or judicious in its use of this legal power placed in its hands.

Because of the large differences in culture, in economic status, and in ethnic background of the several populations of Mount Pleasant, it is highly likely that certain neighborhood organizations, characterized by high status and traditional middle-class backgrounds, will use this law against residents characterized by low status and recent-immigrant backgrounds. This is a law that will enable the “haves” to punish the “have-nots” for their behavior.

The text specifying that this law “shall be construed liberally in accordance with its remedial purposes” only adds further to the likelihood that it can be and will be misused by certain segments of the population of Mount Pleasant to punish other segments of our diverse population for their differences in economic status and cultural standards of behavior.

Nothing about this law promotes actual solutions to the problems experienced in our neighborhood. Simply compounding the punishment for acts that are already illegal does not address the question of why existing law is an inadequate deterrent. ANC1D believes that constructive efforts, such as education, persuasion, and communication, should be undertaken before simply adding more punitive efforts to existing law.

ANC1D understands also that there are real problems with groups of antisocial youths and men creating atmospheres of intimidation in public areas. The proposed “public nuisance” law is, however, far too broad, and will surely be used against residents whose behavior may be unpleasant, but is not threatening nor intimidating to other residents of our diverse neighborhood. The law should be rewritten to address those real threats to public security, whereas in its current form it covers far too broad a range of so-called “nuisance” activities.

Passed by 5 to 0 vote at the legally noticed, public meeting of ANC1D on April 20, 2010, with a quorum present. Voting “yes”: Commissioners Edwards, Scott, Bosserman, McKay, Lepanto.