

IN PARLIAMENT

HOUSE OF LORDS

SESSION 2007-08

LONDON LOCAL AUTHORITIES BILL [HL]

P E T I T I O N AGAINST THE BILL – ON MERITS – PRAYING TO BE HEARD BY COUNSEL, ETC. TO THE RIGHT HONOURABLE THE LORDS SPIRITUAL AND TEMPORAL OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND IN PARLIAMENT ASSEMBLED

THE HUMBLE PETITION OF THE BRITISH HOSPITALITY ASSOCIATION

SHEWETH as follows:—

- 1 A Bill (hereinafter referred to as “the Bill”) has been introduced into and is now pending in your honourable House intituled “A Bill to confer further powers upon local authorities in London; and for related purposes.”
- 2 The Bill is promoted by Westminster City Council on behalf of the London borough councils.
- 3 The Preamble recites that it is expedient that further and better provision should be made for the improvement and development of local government services in London and for the benefit of persons residing therein and that the powers of London borough councils and the Common Council of the City of London (hereinafter referred to as “London borough councils”) should be extended and amended as provided in the Act; and also that it is expedient that London borough councils should be able to make increased charges when giving permissions for the execution of works and use of objects on the highway, if the execution of works and use of objects produces income; and also that food business operators should be under a duty to display food hygiene inspection documentation at food business establishments in London.

- 4 Part 3 contains a number of miscellaneous provisions relating to public health, environmental protection and highways.
- 5 Part 3, Clause 9 alters provisions in the Highways Act 1980 which enable local authorities to give permissions for the use of objects etc. on the highway, so that London borough councils may take into account additional considerations when setting the level of charges in relation to cases where they have given their permission under section 115E(1)(b)(i), for the placing of objects on the highway where doing so will result in the production of income.
- 6 Part 3, Clause 10 puts on a statutory footing an existing pilot scheme in London which is known as “Scores on the Doors”. The scheme makes provisions about the display of food hygiene documentation at premises which are subject to food hygiene inspections by the borough council.
- 7 Your Petitioner, the British Hospitality Association, is the representative body of the hotel, restaurant and catering industry in Great Britain. The Association represents all sections of the industry, both large and small, and has done so since its foundation in 1907. The Association has some 3900 subscriber members, who operate a total of over 40,000 establishments nationally, of which an estimated 4,000 are located in Greater London. Members of the Association have business interests in Greater London.
- 8 The rights and interests of your Petitioner’s members in Greater London will be injuriously affected by the provisions of the Bill if passed into law in its present form and your Petitioner accordingly objects to the Bill for the reasons hereinafter appearing.
- 9 Clause 9 seeks to redefine the definition of “the standard amount” in section 115F(2) of the Highways Act 1980 to cover the costs of various aspects of highway maintenance in addition to the administrative costs to the Council of granting the permission, where the Council does not own the sub-soil. Where councils do not own the sub-soil, they do not have the same responsibilities for the maintenance of the highway and should not, therefore, be able to recover similar costs. In such cases, the standard charge should be sufficient to cover the costs of administration incurred in granting the permission. Businesses already pay for

council services through business rates, and there are also other remedies available to councils, if necessary, to fund maintenance such as street cleansing, for example, through a Business Improvement District.

- 10 If the provisions of Clause 9 are enacted, this will result in inconsistency of approach between the London authorities and other local authorities in England and Wales. A national approach is essential to the granting of such permissions to hospitality businesses, such as public houses, restaurants and bars, which wish to offer customers the opportunity to sit outside. All local authorities face the same issues and local challenges in respect of these matters.
- 11 If the provisions of Clause 10 are enacted, this will place a significant and unnecessary burden on food businesses, including many members of the Association, in the London area. The display of food hygiene documentation by food business operators, or “Scores on the Doors”, is currently one of a number of pilot projects being co-ordinated by the Food Standards Agency (FSA) in a number of London boroughs and other local authorities across the country. It is unacceptable to seek to codify in law a scheme which is in need of considerable adjustment and whose effectiveness remains unproven.
- 12 The Association is represented on the FSA committee which is overseeing the pilots and, in that capacity, has expressed serious concerns about aspects of “Scores on the Doors.” In particular, the star rating, which, under clause 10, food businesses would be compelled to display on the premises, is of faulty construction, being based on Environmental Health Officers awarding points for bad practice, the total of which is then converted into a Star score, progressing from zero to five stars. This in itself risks causing confusion with the Star rating system for hotel quality grading, which also progresses to five stars.
- 13 The Association understands that the Star system for hygiene has led to a considerable number of appeals, though the Bill fails to incorporate any provisions to reflect this. In at least one case, an appeal has been allowed and the Star rating changed on the Your London website, though the official position of the London boroughs appears to be that, even if any fault detected on inspection and which causes adverse points to be added as indicated above is corrected very quickly, the

resulting Star score will not be changed until after the next formal inspection. These usually take place at intervals of at least eighteen months, so that, if the provision is enacted, an adverse, inaccurate and outdated rating would still have to be displayed, leading the public to be misinformed about the establishment's hygiene standards. In addition, the requirements of clause 10 would add to the clutter of notices which hospitality establishments are already obliged to display.

- 14 If enacted, the provisions of Clause 10 would also create further legislative burdens on businesses which will undermine the efforts of the Food Standards Agency to reduce such burdens as part of its Simplification Plan, and pre-empt the outcome of the current "Scores on the Doors" pilot exercise.
- 15 Your Petitioners also observe that there is no indication given in the Bill of the level of charges that might be expected under the various proposals, which have not been subject to a Regulatory Impact Assessment of the potential costs to business, as would be the case with Government proposals.
- 16 In conclusion, your Petitioner therefore respectfully submits that clauses 9 and 10 of the Bill in its present form should not be allowed to pass into law.

YOUR PETITIONER THEREFORE HUMBLY PRAYS to Your Honourable House that the Bill may not pass into law as it now stands and that it may be heard by its Counsel or Agent against the Preamble of the Bill and if the same do pass against all the clauses and provisions thereof which relate to or affect its members' property rights and interests and in support of other clauses and provisions for the protection and benefit of your Petitioner and its members' property rights and interests and that it may have such other relief as your Honourable House shall deem meet.

AND YOUR PETITIONERS WILL EVER PRAY, &c.

(Signed)

Martin Couchman on behalf of the British Hospitality Association

1 February 2008

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P E T I T I O N

of

The British Hospitality Association

AGAINST, By counsel, etc.

Martin Couchman

Deputy Chief Executive

On behalf of

British Hospitality Association

1 February 2008