

## Community Board Q & A

### **Are Community Boards notified of when the SLA receives applications in their neighborhoods?**

For certain types of establishments, Community Boards are notified **before** the SLA receives an application. The Alcoholic Beverage Control Law requires that anyone applying for an on-premises license notify their community board of their intention to apply for a liquor license 30 days before filing an application with the State Liquor Authority. Proof of the 30 day notice must be submitted with the application.

The community board may submit an opinion, either in favor of or against granting the license. That opinion will become part of the record used by the SLA in deciding whether to approve the application.

### **How can I tell what type of establishment is in my neighborhood?**

On September 15, 2008, the SLA started issuing new color coded licenses for On Premises (bars, nightclubs, restaurants, etc.) licensees. The licenses are color coded in order to provide an easy way for local government officials, community groups, the NYPD, and the public to know exactly what type of establishments are licensed in their communities. License certificates are color coded depending on the type of establishment: Mixed Use (Purple), Nightclub/Cabaret (Red), Restaurant Wine (Olive), Other (Blue).

The licenses also list details of the "Method of Operation" of the premises including: days and hours of operation, whether live music or dancing is permitted, if the premises includes an outside area, etc. This is part of the SLA's effort to provide more information to communities and local governments.

### **What are the different types of licenses granted by the SLA?**

There are several types of licenses granted by the SLA, the following are the four basic ones issued:

**On-Premises Liquor:** Generally considered to be the standard "bar" license. Allows on-premises consumption of liquor, wine and beer and also allows for sale of beer (only) for off-premises consumption. Food, such as soups and sandwiches, **MUST** be served.

**Grocery Beer/Wine:** Off-premises beer license as listed above, see "Grocery Store Beer". Additionally a "wine product" is defined as a beverage containing wine with added juice, flavoring, water, citric acid, sugar and carbon dioxide, not containing more than six percent alcohol by volume (typically referred to as "wine coolers").

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**Catering:** Allows providers of food for banquet halls, dining halls, etc., to provide liquor, wine and beer for consumption for an assemblage for a particular function (i.e. retirement dinner, wedding reception, private party) to which the general public is not admitted. This license is for this type of function only.

**Liquor Store:** For the sale of liquor and wine (no beer) for consumption off the premises. The only additional items allowed to be sold, such as ice and corkscrews, are listed in the ABC Law. Only one license is allowed per person (corporation, partnership, etc.).

## **What is the 500 foot rule and how does this apply to community boards?**

When the SLA receives an application, there is a general presumption that it will be approved unless there is a good reason not to approve it. However, for on premises license applications falling under the 500 foot rule, (meaning there are already 3 or more existing establishments with the same type of license within 500 feet of the proposed applicant), the presumption switches, and by law the application cannot be approved unless the SLA finds that issuing the license would be in the public interest.

The 500 foot law requires the SLA to consult with the community board and conduct a hearing to gather facts to determine whether the public interest would be served by issuing the license. Generally speaking, if there is no opposition to the application, and no other issues presented that requires consideration by the Members of the Authority, the application is acted on by the SLA's Licensing Bureau. In cases where the community board or other interested parties oppose the application, or there are other issues requiring review by the Members of the Authority, the matter is referred to the Members for determination. It is important to note that the fact that there is opposition to an application does not necessarily mean that the Authority will disapprove the application. The Authority may also applications even when there is no opposition.

In situations where there is opposition to an application, applicants may come to an agreement on stipulations concerning the operation of the establishment (e.g. closing hours, live music, etc). In such cases, the applicant may incorporate those stipulations into the approved method of operation. These stipulations then become conditions of the license privilege and failure to comply subjects the licensee to disciplinary action. The SLA can impose certain conditions on the operation of the establishment without the consent of the applicant if there is good cause to do so.

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### **Stipulations: Before a license is issued, if a Community Board and applicant agree to certain conditions of the license, some of which can be written into the license and some that cannot, how can the Community Board handle this?**

If the Community Board and the applicant reach an agreement with respect to the operation of the establishment, the applicant can incorporate into the application those conditions that are relevant to the operation of a licensed establishment.

### **What is the 200 Ft rule?**

Under the “200 Foot Rule” an establishment cannot be licensed to sell liquor at retail if it is on the same street and within 200 feet of a school, church, synagogue or other place of worship. The rule also applies to wine stores. It does not apply to on premises establishments that are licensed for wine and/or beer only and to grocery stores. There are two exceptions under the law if the establishment existed prior to the enactment of the law in 1934 or if the location was licensed prior to the existence of the school or place of worship and has been continuously licensed ever since.

### **What weight does the CB have in recommending approval or denial of retail license?**

While not binding on the Members of the Authority, the SLA considers input from community boards in all licensing decisions. However, courts have held that, for applications not subject to the 500 foot rule, community opposition alone is not sufficient to disapprove an application.

### **How do I know what Community Board represents me?**

The following link is from the Mayor’s Community Affairs Unit.

<http://www.nyc.gov/html/cau/html/cb/directory.shtml>

### **Can a bar or nightclub “transfer” their license to another owner? Does the Community Board need to be notified? Does a transfer require SLA approval?**

Licensees may not “transfer” a license, in the way transfer is commonly understood (i.e. licenses may not be sold or given from one person or company to another). The SLA’s Licensing Bureau staff uses the terms “transfer” and “new” applications only to differentiate between an application for an establishment that is currently licensed and selling their business (transfer) and an establishment that is not currently licensed (new). In both cases, the license applicant must go

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through the same process, including notifying their CB and holding a 500 foot-hearing if applicable. A corporate licensee may have a change of officers, directors and stockholders without going through the entire application process. In such a case the licensee has to submit information regarding the new persons coming into the corporation and the financing involved.

### **How do temporary permits work? If a license applicant gets a temporary, does this mean they will get a full liquor license?**

A license applicant who is purchasing the existing business that is currently licensed to sell alcoholic beverages may file an application for a Temporary Retail Permit. This allows the license applicant to begin operating the business and serving alcoholic beverages while their application for a permanent license is being reviewed. In order to qualify for this permit, the establishment must have been open and operating at least 30 days prior to the filing of the application.

The permit is granted at the discretion of the SLA for a period of 90 days, and may be renewed. Issuance of the permit is not a guarantee that the licensee will be approved for a permanent license.

### **Does the license expire once the licensee's establishment ceases to exist?**

A liquor license is connected to the individual and a specific location. If the establishment ceases to exist their license certificate must be returned to the SLA. If the entity has vacated the premises is considered abandoned, the SLA Licensing Bureau sends out an abandonment letter to verify if the prior tenant has vacated the premises.

When a licensee closes their business, they are required to alert the SLA and hand in their license, this is referred to as "surrendering" the license. Licensees are entitled to a refund on the unused portion of their licensing fee.

### **BYOB: While a license is pending, may a business owner allow customers to bring their own bottles of wine or other alcohol to have with their meals?**

No, BYOB (Bring Your Own Bottle) is generally not legal in New York State. Applicants awaiting a liquor license may jeopardize their chances for approval for permitting such practices.

### **Are there any routine unannounced inspections of establishments by SLA's enforcement unit to ensure compliance with the Alcoholic Beverage Control Law or is it complaint driven?**

The SLA conducts unannounced undercover inspections as part of its investigation of a licensee. An investigation by the SLA may include: 1. on-site inspections of a licensed establishment; 2. on-site undercover investigations by SLA Investigators and other law enforcement agencies; 3. a

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review of reports and investigations by other law enforcement and regulatory agencies; and 4. interviewing potential witnesses/complainants and collecting evidence of potential violations.

Information comes to the SLA from a variety of sources, including police and other law enforcement agency referrals, complaints by other government agencies or officials, and complaints made by the public. The identity of a person making a complaint is kept confidential.

## **How does SLA initiate its training with the New York City Police Department?**

The SLA coordinates with multiple agencies including the NYPD to monitor potential problem premises. The SLA additionally holds numerous training seminars with police departments, and has recently updated our “Law Enforcement Handbook” designed to provide law enforcement agencies with the information they need in order to charge licensee’s who violate the ABC Law.

The SLA also participates in the MARCH (Multi-Agency Response to Community Hotspots) program in New York City. The MARCH program is run out of the Criminal Justice Coordinator’s office (CJC) and coordinated by the NYPD. These multi-agency operations have been an extremely successful partnership in an effort to ensure the safety of NYC residents. The SLA will continue to participate in MARCH operations to ensure our limited resources are being utilized efficiently. Community complaints help the SLA to target the establishments that have become a nuisance to the neighborhoods.

## **How do government agencies such as the Department of Buildings (DOB), the Department of Environmental Protection (DEP) and NY Fire Department (FDNY) work with the SLA?**

DOB, DEP, and FDNY work with the SLA in joint operations, including MARCH Operations described above. In addition, the SLA receives numerous referrals from all of these city agencies on violations discovered in licensed premises.

## **Where can one find the fine schedule?**

There is not a fine schedule; all fines are determined by the Members of the Authority on a case by case basis. The Members look at the severity of the violation(s) as well as the licensee’s history in making a determination.

## **What’s the process for follow-up and accountability with respect to licensees regarding revocation, cancellation or suspension?**

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Revocations and Cancellations are served and posted at the licensee's location. In addition, the Revocation/Cancellation order is delivered to the police precinct in which the establishment is located. This ensures that the precincts in which the licensee formerly held a license are aware of the termination of the license.

### **What would trigger an Emergency Summary Suspension? Can the SLA padlock an establishment after issuing a suspension?**

The Members of the Authority can order an Emergency Summary Suspension when they believe the health, welfare, and safety is jeopardized by the continued operation of a licensee. While the license is suspended immediately, licensees are entitled to an expedited hearing before an impartial Administrative Law Judge. An order of Summary Suspension remains in effect until such time as it is modified by the State Liquor Authority or a reviewing court.

The SLA does not have the power to "padlock" or close down an establishment. SLA jurisdiction is limited to the licensees' ability to serve alcohol (i.e. an establishment may remain open during a suspension or after having a license revoked, provided they no longer serve or give away alcohol).

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