



ANDREW M. CUOMO
Governor

VINCENT G. BRADLEY
Chairman

LILY M. FAN
Commissioner

GREELEY FORD
Commissioner

DECLARATORY RULING

Interpretation of “capacity” for additional stand-up bars under ABCL §100(4-B)

Agenda # 2018-02478

The Members of the Authority are in receipt of a request from Alexander B. Victor, Esq. for a declaratory ruling regarding the interpretation of NYS Alcoholic Beverage Control Law Section 100 (4-b). ABCL § 100 (4) provides that each licensed establishment shall be permitted one main bar and no more than two additional bars. ABCL § 100 (4-b) provides that for venues having a capacity for one thousand or more persons, the Authority may issue licenses for any additional number of bars within its discretion.

The proposed premises in question will occupy about 75,000 square feet spread over six floors within a 57-story tower in New York City. The certificate of occupancy will have a maximum capacity of approximately 1,500 people. The applicant will apply for five stand-up bars. Applicant anticipates that the community board will request a stipulation limiting the occupancy to less than 1,000 persons. Applicant asserts that its ability to voluntarily limit its occupancy to under 1,000 persons turns on whether the Authority interprets the word “capacity” as set forth in the statute to mean how many people the venue can hold under the certificate of occupancy or how many people can occupy the premises under the terms of the stipulation.

The certificate of occupancy permits over 1,000 people. The applicant may voluntarily stipulate with the community board to receive fewer people than that to ameliorate its impact on the community, e.g., noise, traffic and parking considerations. This venue is spread over six floors, where having only three bars would adversely impact the licensee’s ability to serve patrons in an orderly manner.

The Members find that, based upon the facts of this application, capacity will be determined by the certificate of occupancy rather than by any lower occupancy limit as may be stipulated with the community board for the purposes of reducing crowd size and ameliorating impact on the community. The applicant may thus apply for a greater number of additional bars

Declaratory Ruling

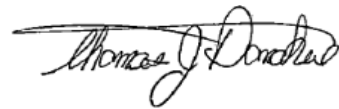
Interpretation of "capacity" for additional stand-up bars under ABCL §100(4-B)

Agenda # 2018-02478

pursuant to ABCL § 100 (4-b). This ruling is limited to this applicant and to the facts set forth herein and should not be considered approval for any other applicant.

This matter was heard and determined by the Members of the Authority at a Full Board meeting held on December 19, 2018 before Chairman Vincent Bradley, Commissioner Lily Fan and Commissioner Greeley Ford. The above written ruling was approved by Chairman Bradley on behalf of the Members of the Authority on May 2, 2019.

Dated: 5/13/2019



Thomas J. Donohue
Secretary to the Authority