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Chairman

LILY M. FAN
Commissioner

GREELEY FORD
Commissioner

DECLARATORY RULING

Application of 200 Foot Law on property located at 339 East 75th Street, Manhattan

Agenda # 2019-00638

The Alcoholic Beverage Control Law [ABCL] prohibits the Authority from issuing a retail license for the sale or consumption of liquor for any premises which is on the same street and within 200 feet of a "building occupied exclusively as" a school or place of worship. This licensing restriction is commonly referred to as the "200 Foot Law."

The Members of the Authority are in receipt of a request from Alan J. Gardner, Esq. on behalf of a prospective applicant for a declaratory ruling as to whether, under the facts presented, the location is subject to the 200 Foot Law. For the purposes of this request, Mr. Gardner does not dispute that the location is on the same street and within two hundred feet of a building occupied exclusively as a synagogue. Instead, he seeks a ruling as to whether the location may be licensed as a result of the "grandfather" provision of the 200 Foot Law.

Notwithstanding the general prohibition created by the 200 Foot Law, there are certain statutory exceptions that allow a retail liquor license to be issued. Two of these exceptions are the "grandfather" provisions. The first provides that a license that was in effect on December 5, 1933, may continue to be renewed even if the location would otherwise be subject to the 200 Foot Law. The second grandfather provision states that "no license shall be denied [as a result of the 200 Foot Law] to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school [or place of worship]." Put another way, if there was a license issued for the location before the school or place of worship came into existence, and a license has remained in effect at the location since that time, the 200 Foot Law does not apply [ABCL §64-a (7)(a)(iii)].

The facts upon which this ruling is based are as follows:

- The proposed licensed establishment is at 339 East 75th Street in New York, New York.

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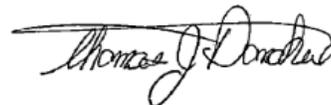
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- It was first licensed as Sangram Restaurant Corp. (New York OP 1026748) on July 21, 1995, and has been successively licensed by various entities since that date.
- Manhattan Sephardic Congregation purchased the existing building located at 325 East 75th Street for its synagogue on August 8, 1995.
- The subject location was most recently licensed to JBird One LLC (New York OP 1259018) until December 6, 2018.
- Other than for relatively short increments of time between licenses, it appears that the subject location has been utilized only as a restaurant with OP liquor licenses since July 21, 1995.

The proposed location was first licensed on July 21, 1995, just prior to the existence of the synagogue at 325 East 75th Street. The only question remaining is whether the location has been continuously licensed since then. The Members of the Authority find that, notwithstanding the relatively short increments of time between licenses, the location will be deemed to be continuously licensed upon the timely filing of an application by Mr. Gardner's client.

This matter was heard and determined by the Members of the Authority at a Full Board meeting held on April 10, 2019 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: 5/13/19



Thomas J. Donohue
Secretary to the Authority