



KATHY HOCHUL
Governor

LILY M. FAN
Commissioner

VINCENT G. BRADLEY
Chairman

GREELEY FORD
Commissioner

DECLARATORY RULING

Premises located at 154 Court Street, Brooklyn, NY

Agenda # 2021- 02011

The Alcoholic Beverage Control Law [ABCL] §64(7)(b) prohibits the Authority from issuing a retail license for the sale or consumption of liquor for on-premises consumption where there are three or more such liquor licenses within 500 feet of the proposed location, *i.e.* the “500 Foot Law.” There are two exceptions: (i) where issuance of the license would be in the public interest after a hearing and in consultation with the community board [ABCL §64(7)(f)], and (ii) where there has been a full liquor license continuously in existence at the location since on or before November 1, 1993 [ABCL §64(7)(c), the “grandfather” exception].

The Members of the Authority are in receipt of a request for a declaratory ruling as to whether, under the facts presented, the above location is subject to the 500 Foot Law. For the purposes of this request, it is not disputed that the location is within 500 feet of three or more full (OP) liquor licenses. A ruling is sought as to whether the location may be deemed to be continuously licensed since before 1993 and thus “grandfathered-in” so as to be exempt from the 500 Foot Law.

The issue before the Members of the Authority is thus whether this particular location should be deemed to have been continuously licensed since November 1, 1993 based upon the facts presented.

The applicant describes the facts as follows:

- The proposed licensed establishment is located at 154 Court Street in Brooklyn, New York.
- The location was licensed to Brooklyn Sports Ltd.. (Kings OP 1011711) from 1989 to March 31, 2019 (date of expiration).
- The building owner’s management company has submitted an affidavit stating that the building has undergone a gut renovation project, which has caused the delay in re-licensing, and that no other business has occupied the premises since the prior license expired.

The Members would be reluctant to consider such a lengthy gap between a prior license and a new license (more than 2 years) to be “continuous licensing” absent circumstances explaining the gap. A similar issue arose in DR 2015-00986, where the premises had been damaged by a hurricane requiring extensive renovations, causing a three-year gap in relicensing. In that case, the Authority held that the premises would be treated as continually licensed as long as it was vacant and not used for other purposes in the interim. A similar showing has been made in this case. We see no reason to reach a different conclusion on the impact of an intervening period of vacancy due to a gut renovation in this case.

The Members of the Authority find that the location should be deemed to have been continuously licensed since before 1993. An applicant at this location for an OP license thus would not be subject to the procedural and substantive requirements of the 500 Foot law.

This matter was heard and determined by the Members of the Authority at a Full Board meeting held on July 14, 2021 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 on December 20, 2021.

Dated: 12/29/21

Thomas J. Donohue
Secretary to the Authority