



KATHY HOCHUL
Governor

LILY M. FAN
Commissioner

VINCENT G. BRADLEY
Chairman

GREELEY FORD
Commissioner

DECLARATORY RULING

Premises located at 20 W 20th Street, NY, NY

Agenda # 2021-02329

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' of the proposed location, i.e. the "500 Foot Law." There are two exceptions; the first 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 the second where there has been a full liquor license continuously in existence at the location since on or before November 1, 1993 (the "grandfather" exception) set forth in ABCL §64(7)(c).

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' 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 whether a full (OP) liquor license has been in existence continuously since November 1, 1993, or should be deemed to have been continuously licensed at this location based upon the facts presented.

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

- The proposed licensed establishment is located at 20 W 20th Street in Manhattan, New York.
- The location was licensed to Dezer Entertainment Concepts, Inc. (New York OP 1024726) from 1989 to November 20, 2002 (date of surrender), then to West 20th Enterprises Corp. (New York OP 1133383) from November 20, 2002 to October 31, 2020 (date of expiration).
- Landlord represents that the last licensee occupied the space until February 8, 2021 and that there has been no intervening use of the premises since then.

The premises at issue appear to have been licensed from before November 1, 1993 until October 31, 2020. The proposed location was thus licensed prior to 1993 and is eligible for grandfather status through October 31, 2020. The remaining question is whether the premises should be deemed "continuously licensed" even though it has been unlicensed since October 31, 2020 and vacant for several months after February 8, 2021.

The Authority has previously held that premises would be treated as continually licensed as long as it was vacant and not used for other purposes for a number of months following a prior license expiration. We see no reason to doubt the representation from the Landlord that there has been no intervening use of the premises and, therefore, no reason to reach a different conclusion here.

The Members of the Authority find that the location should be deemed to have been continuously licensed since before 1993 for purposes of the 500' law.

An applicant at this location for an OP license thus would not be subject to the procedural and substantive requirements of the 500' law.

This matter was heard and determined by the Members of the Authority at a Full Board meeting held on August 18, 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