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ADVISORY #2022-33

Subject: Renewals and “SAPA”

This advisory provides guidance on how the provisions of the State Administrative Procedure Law (“SAPA”) relate to the renewal of licenses.

Section 401(2) of SAPA states that a licensee who has submitted a “timely and sufficient” renewal application can continue to operate under the expired license until a decision is made on the renewal application. The Authority refers to this situation as a licensee “operating under SAPA.”

- “Timely”: In Advisory 2020-21, the Members of the Authority stated that renewal applications must be filed at least seven calendar days before the expiration of the current license. If the application is not filed by this deadline, it is not considered timely, and the licensee does not get the benefit of SAPA.
- “Sufficient”: If there are any deficiencies in the renewal application, it will be deemed incomplete, and the licensee does not get the benefit of SAPA. If the licensee can cure the deficiency before the current license expires, the licensee will be allowed to operate under SAPA if a decision cannot be made before the current license expires. For on-premises licensees in NYC, the renewal application is not complete if the licensee did not provide proper notice to the Community Board.

When can a licensee be allowed to operate under SAPA?

If a renewal application meets the “timely and sufficient” requirements (as explained above) but cannot be approved (or disapproved) before the current license expires, the licensee will be allowed to operate under SAPA until a decision is made. If the renewal application is either not timely or not sufficient, the licensee cannot operate under SAPA.

Will a licensee be placed on SAPA if there are pending disciplinary charges?

If a licensee has pending disciplinary charges, the Authority’s prior practice was to have the licensee operate under SAPA until those charges were resolved. That practice has been discontinued. The Authority will review and act on the application regardless of whether the licensee has pending disciplinary charges. The pending charges will not be considered in deciding to approve or disapprove the renewal application. The Members of the Authority will determine

the appropriate penalty for any sustained disciplinary charges, including the possible cancellation or revocation of the license.

Will a licensee be placed on SAPA if there are pending criminal charges?

The Authority will review and act on a renewal application regardless of whether there are pending criminal charges against the licensee or one of its principals. The pending charges will not be considered in deciding to approve or disapprove the renewal application. If the licensee failed to disclose the arrest, the renewal application will be denied. Any further action (if any) regarding the criminal charges will be addressed by the Authority's Enforcement Bureau and Counsel's Office.

What happens if the renewal is disapproved?

Section 401(2) of SAPA states that a licensee who submitted a timely and sufficient renewal application is allowed to operate for four months after the disapproval of the renewal application. Please note that the licensee status will still appear as "inactive." A licensee whose timely and sufficient renewal application has been disapproved can request a letter from the Licensing Bureau confirming the licensee's ability to operate during this period.

This matter was heard and determined by the Members of the Authority at a Full Board meeting held on November 22, 2022 before Chairman Vincent Bradley, Commissioner Lily Fan, and Commissioner Greeley Ford. The above written advisory was approved by the Members of the Authority on November 22, 2022.

Dated: 12/13/22



Donald Roper
Secretary to the Authority