



**KATHY HOCHUL**  
Governor

**LILY M. FAN**  
Chair

**EDGAR DE LEON**  
Commissioner

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**DECLARATORY RULING**  
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Premises located at 100 East 63 Street a/k/a 575 Park Avenue, NY, NY

Agenda # 2023-00477

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).

Initially, the Members of the Authority were in receipt of a request for a declaratory ruling as to whether, under the facts presented, the above location is subject to the 200 Foot Law. A 200-Foot measurement was conducted by the SLA Enforcement Bureau on 3/23/23 and it was found that the distance from the applicant (B&B Luxury Hospitality LLC – New York OP 1360096) and the Central Presbyterian Church was over 200 feet (ROI dated 3/28/23). The Applicant then requested the Board to find continuous licensing for the purposes of the 500 Foot Law. 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 facts upon which this ruling is based are as follows:

The proposed licensed establishment is located at 575 Park Ave in Manhattan, New York. The first liquor license issued at 575 Park Ave was a hotel liquor (HL) license issued to 575 Park Ave Corp. d/b/a Hotel Beekman in the 1930’s. The license was surrendered in 1955. The Beekman was thereafter converted to cooperative apartments. A series of restaurant liquor (RL) and on-premises (OP) liquor licenses for restaurants on the premises followed continuously.

The most recent OP license at this location was issued in 2015 to AMG Park LLC d/b/a Vaucluse, Inc. (New York OP 1277798). That license was surrendered in December of 2020. Applicant’s attorney represents that there has been no use of the subject premises since then.

The proposed location was thus licensed prior to 1993 and is eligible for grandfather status. The question is whether the premises should be deemed “continuously licensed,” even

though it was unlicensed and vacant during the Covid-19 pandemic (during which there was no intervening use of the premises).

The SLA Board is generally limited to a maximum of a one-year time period that a premises can be unlicensed to find that licensing has been continuous for the purposes of grandfathering under the 500-Foot Law or the 200-Foot Law. In the present case the period is slightly more than two years. The one-year limit can be extended where there are compelling circumstances, such as a fire or natural disaster, or where a premises requires significant renovations, that would prevent a new applicant from opening or applying within a one-year period.

Covid-19 was a global pandemic that qualifies as a *force majeure* that was beyond anyone's control, endangered public health and destabilized the entire economy. The last license was surrendered during the pandemic, the gap in licensing has taken place entirely or almost entirely during the pandemic, which prevented the transfer and relicensing of the premises in a timely and continuous manner. In other words, but for the pandemic, licensing would have been continuous for the past 80 plus years.

The Members of the Authority find that, based upon and limited to the facts of this application, the location should be deemed to have been continuously licensed, in this case, since the 1930's.

The Applicant at this location for an OP license thus is not subject to the procedural and substantive requirements of the 500' law.

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This matter was heard and determined by the Members of the Authority at a Full Board meeting held on April 4, 2023 before Chairman Vincent Bradley and Commissioner Lily Fan. The above written ruling was approved by Chair Fan on behalf of the Members on July 19, 2023.

Dated: 07/24/23



Donald Roper  
Secretary to the Authority