



KATHY HOCHUL
Governor

LILY M. FAN
Chair

EDGAR DE LEON
Commissioner

DECLARATORY RULING

Premises located at 132 2nd Ave, NY, NY

Agenda # 2023-00635

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 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 applicant describes the facts as follows:

- The proposed licensed establishment is located at 132 2nd Ave in Manhattan, New York.
- The location was most recently licensed to Two and Eight Gourmet Ltd. (New York OP 1024394) from 1989 to January 31, 2023 (date of expiration).
- Applicant’s landlord represents that there has been no intervening use of the premises since the license expired.

The proposed location was thus licensed prior to 1993 and was eligible for grandfather status from 1993 forward, at least until January 31, 2023. The Applicant, Host 132 LLC, submitted its license application on March 15, 2023. The question presented is whether the premises can be considered “continuously licensed” now, even though the premises have been vacant for several months (during which there was no intervening use of the premises).

Given the short time period between licenses, the Members of the Authority find that the location should be deemed to have been continuously licensed since 1989 for purposes of the 500 Foot Law.

The Applicant is thus not subject to the procedural and substantive requirements of the 500 Foot law at this location.

This matter was heard and determined by the Members of the Authority at a Full Board meeting held on May 24, 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

A handwritten signature in black ink, appearing to read "Donald Roper", written in a cursive style.

Donald Roper
Secretary to the Authority