



KATHY HOCHUL
Governor

LILY M. FAN
Chair

EDGAR DE LEON
Commissioner

DECLARATORY RULING

Premises located at 29 Cornelia Street, NY, NY

Agenda # 2023-00636

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 29 Cornelia Street in Manhattan, New York.
- The location was most recently licensed to Cornelia Street Café, Inc. (New York OP 1025505) from 1984 to March 31, 2019 (date of expiration).

The proposed location was thus licensed prior to 1993 and was eligible for grandfather status from 1993 forward. The question presented is whether the premises can be considered “continuously licensed” now, even though the premises have been vacant for four years (during which there was no intervening use of the premises).

Where a liquor license has been surrendered for a number of months, the Authority has held that the premises would be treated as continually licensed as long as it was vacant and not used for other purposes following license surrender. Here, the premises have not been licensed for four years. This is well beyond the time period of less than one year previously

established by the Board to be acceptable, in the absence of exigent circumstances. The premises here was not operating for a year before the onset of the Covid-19 pandemic. Absent from this request is any exigent circumstance which would have prevented relicensing of the premises during the one-year period after the last liquor license expired.

The Members of the Authority find that the break in licensing has been too long for grandfathering to apply at this location.

An applicant at this location for an OP license thus is 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 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



Donald Roper
Secretary to the Authority