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## DECLARATORY RULING

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Application of the 500' Law on the premises located at 795 8<sup>th</sup> Avenue, Manhattan

Agenda # 2023-0118

### Question Presented

Has the premises been licensed continuously since November 1, 1993, and thus eligible for “legacy” status pursuant to ABCL 64(7)(c)?

### Statement of Facts

The following is a summary of the relevant facts as presented by the applicant in its request for a Declaratory Ruling:

- The proposed licensed establishment is on the ground floor, second floor, and basement of a property located at 795 8<sup>th</sup> Avenue in Manhattan.
- The licensing history of the Premises includes: Blarney Stone Restaurant, Inc. (New York RL 1028489) from 1959 until 2003; 795 8<sup>th</sup> Avenue Corp. (New York OP 11366695) from 2003 until 2013; Social 8<sup>th</sup> Ave. Corp. (New York OP 1261550) from 2013 to April 12, 2019 (date of surrender); and Bar Fluid (New York OP 1330158) from June 18, 2021 until May 31, 2023.
- Applicant’s attorney has provided the Authority with an affidavit from the owner of 795 8<sup>th</sup> Avenue confirming that the subject premises has been vacant, with no intervening use or tenancy since the expiration of the previous license on May 31, 2023.

### Applicable Law

Section 64(7)(b) of the Alcoholic Beverage Control Law prohibits the Authority from issuing an on-premises liquor license for any premises when there are three or more such licenses within 500 feet of the proposed location. There is an exception to this prohibition where there has been a full liquor license continuously in existence at the location since on or before November 1, 1993. ABCL Sec.64(7)(c). In *233 W 4th St. Tenants Assn. v. State Liquor Authority*, 2022 NY Slip Op 32624(U) the court approved the Authority's policy relative to awarding legacy status to proposed licensed premises under the following conditions:

(1) That there was no intervening use of the premises as anything other than a bar or restaurant; and (2) in the absence of special circumstances, that no more than one-year has passed between the prior license becoming inactive and the new applicant filing an application.

### Determination of the Members

The Members of the Authority find that the proposed location was continuously licensed prior to November 1, 1993. There has been no intervening use of the premises, and it has been unlicensed less than a year

since the last liquor license expired. Therefore, the Members of the Authority find applicant eligible for “legacy” status pursuant to ABCL 67(7)(c).

This Ruling is limited to the facts and the parties set forth in the request and shall not be considered as approval for any other proposal.

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This matter was heard and determined by the Members of the Authority at a Full Board meeting held on September 20, 2023 before Chair Lily Fan and Commissioner Edgar De Leon. The above written ruling was approved by Chair Fan on behalf of the Members on April 4, 2025.

Dated: 06/23/25

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

Donald R. Roper  
Secretary to the Authority