DECLARATORY RULING

Application of the 200' & 500' Laws on the premises located at 260 Sixth Avenue, Manhattan

Agenda # 2023-0119

Question Presented

Is the premises subject to the prohibitions against licensing pursuant to the 200-and 500-foot laws?

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 located on the ground floor of property at 260 Sixth Avenue, in Manhattan.
- The location was leased to Da Silvano Corp. (New York RL 1028415) from 1975 to February 2018, then to Alta Cucina 2 LLC d/b/a Avena Downtown (New York OP 1311601) from January 2019 to December 2022.
- Applicant's attorney has provided the Authority with an affidavit from the landlord's manager confirming that the subject premises has been vacant, with no intervening use or tenancy since expiration of the previous license on December 31, 2022.

Applicable Law

Section 64(7)(a) of the ABCL prohibits the Authority from issuing an on-premises liquor license for any premises which is on the same street or avenue and within 200 feet of a building occupied exclusively as a school or place of worship. 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 are exceptions where an on-premises liquor license has existed continuously prior to the date when the building housing the church or school was exclusively occupied as such, and where there has been a full liquor license continuously in existence at the location since on or before November 1, 1993, respectively. ABCL Section 64(7)(c).

Determination of the Members

The Board previously determined that licensing at this location pre-dated the school [Declaratory Ruling 2017-01724]. The premises was most recently licensed until December 31, 2022. The landlord of the premises has affirmed that the premises has been vacant, with no intervening use since that date. Given the fact that the subject premises has been unlicensed for less than one year with no intervening use, the Members of the Authority find that it has been continuously licensed for the purposes of the 200 and 500 Foot Laws, and the Applicant is thus not subject to the procedural and substantive requirement of either statute.

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

Donald R. Roper
Secretary to the Authority