

STATE OF NEW YORK: LIQUOR AUTHORITY

Application of 200 Foot Law on property located
at 417 Marcus Garvey Boulevard in Brooklyn

DECLARATORY
RULING
2012-02638

Various statutes¹ in the Alcoholic Beverage Control Law prohibit the Authority from issuing a retail license for the sale and/or consumption of liquor for any premises which is on the same street and within two hundred feet of a "building occupied exclusively as" a school or place of worship. This licensing restriction is commonly referred to as the "200 Foot Law."

The Alcoholic Beverage Control Law sets forth the procedures to be used in measuring the distance from the proposed licensed premises. The measurement must be taken in a straight line from the entrance of the proposed licensed premises to the entrance of the school or place of worship. Measurements are taken from entrances used by: the public to enter the proposed licensed premises; students entering the school; or the public attending the place of worship.

The Members of the Authority are in receipt of a request from Vivian Tozaki, Esq., on behalf of a prospective applicant for a declaratory ruling as to whether, under the facts presented, a location is subject to the 200 Foot Law. The facts upon which this ruling is based are as follows.

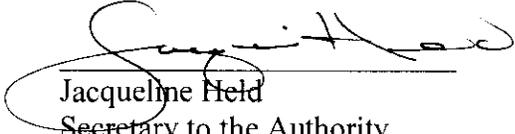
- Boroughs After Hours LLC has obtained conditional approval for a Tavern Wine license for a premises located at 417 Marcus Garvey Boulevard in Brooklyn. The license has not yet been issued but the applicant intends to apply for an on-premises liquor license if it obtains a favorable ruling.
- The Glorious Church of God is located at 363 Halsey Street in Brooklyn. The church is located at the corner of Halsey Street and Marcus Garvey Boulevard. Ms. Tozaki does not dispute that, for purposes of the 200 Foot Law, the church is located on the same street as her client's premises. The building at 363 Halsey Street is exclusively occupied by the church.
- There are two entrances to the church. The closest entrance is less than 200 feet from the entrance to the prospective applicant's location. However, this entrance is used for maintenance purposes only and does not provide access to areas used by the general public.

¹ See Alcoholic Beverage Control Law §§64(7)(a), 64-a(7)(a)(ii), 64-b(5)(a)(i), 64-c(11)(a)(i), 64-d(8)(a) & 105(3)(a).

- Using the measurement provided by Ms. Tozaki, the second entrance to the church, which is used by the public, is 211.8 feet from the entrance to her client's premises.

Based upon the facts presented, the Members of the Authority find that the entrance to the church located within 200 feet of Boroughs After Hours LLC's establishment is not used by the public attending the church. Accordingly, Boroughs After Hours LLC's premises is not subject to the 200 Foot Law.

The foregoing Declaratory Ruling was formally approved by the Members of the Authority at a Full Board meeting held on October 9, 2012.



Jacqueline Held
Secretary to the Authority