

STATE OF NEW YORK: LIQUOR AUTHORITY

Application of 500 Foot Law on property located
at 24 1st Avenue in Manhattan

DECLARATORY
RULING
2013-00219

Generally speaking, an application for an on-premises liquor license must be approved unless good cause is shown why the license should not be issued.¹ However, the Alcoholic Beverage Control Law places restriction on the issuance of on-premises liquor licenses for locations that are within five hundred feet of three establishments that are currently operating with on-premises licenses.² This licensing restriction is commonly referred to as the "500 Foot Law." Applications subject to the 500 Foot law can only be approved if the Authority finds that granting the license would be in the public interest.³

The Members of the Authority are in receipt of a request from Ravi Sharma, Esq., on behalf of a prospective applicant for a declaratory ruling as to whether, under the facts presented, a location is subject to the 500 Foot Law. For purposes of the request, Mr. Sharma does not dispute that the location is within five hundred feet of at least three existing establishments with on-premises licenses. Instead, he seeks a ruling as to whether the location is exempt from the 500 Foot Law because it has been continuously licensed since a date prior to November 1, 1993.

Notwithstanding the restrictions created by the 500 Foot Law, there are certain statutory exceptions for locations that would otherwise be subject to the public interest licensing standard. One of these provisions allows the Authority to continue to renew a license, or issue a new license, for a location that has been continuously licensed since before November 1, 1993, the effective date of the 500 Foot Law.⁴

The proposed licensed establishment is located at 24 1st Avenue in Manhattan. According to the Authority's records, Themed Restaurant, Inc. currently holds a license at this address. That license was issued in August 2002. Themed Restaurant, Inc. operated under a temporary retail permit from April 2002 until the license was issued. When Themed Restaurant, Inc. filed its application, it acknowledged that it was within five hundred feet of at least three existing establishments with on-premises licenses. However, it also claimed that the location had been continuously licensed since 1987. It appears, based on the licensing file, that the Authority did not dispute that claim and processed the application as a non-500 Foot Law application.

¹ See Alcoholic Beverage Control Law §§64(1).

² See, for example, Alcoholic Beverage Control Law §§64(7)(b).

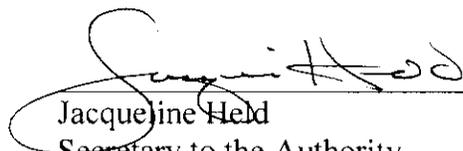
³ See, for example, Alcoholic Beverage Control Law §§64(7)(f).

⁴ See, for example, Alcoholic Beverage Control Law §§64(7)(c).

The Authority's records also show that the location was licensed to Montmorenci Corp. from approximately 1995 until the issuance of the temporary retail permit to Themed Restaurant, Inc. The original license file is not available to determine whether the 500 Foot Law issue was addressed with respect to that application. As noted in Mr. Sharma's letter, the Authority has also acknowledged that another entity held a license at the location from some time in 1993 until Montmorenci Corp. obtained its license.

Based upon the facts presented, the Members of the Authority find that that 24 1st Avenue has been continuously licensed since before November 1, 1993. Accordingly, the location is not subject to the 500 Foot Law.

The foregoing Declaratory Ruling was formally approved by the Members of the Authority at a Full Board meeting held on January 16, 2013.


Jacqueline Held
Secretary to the Authority