

STATE OF NEW YORK: LIQUOR AUTHORITY

Application of 500 Foot Law on property located
at 269 East Houston Street in Manhattan

DECLARATORY
RULING
2013-00220

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 269 East Houston Street in Manhattan. According to the Authority’s records, 269 East Houston Group LLC currently holds a license at this address. That license was issued in June 2010. 269 East Houston Group LLC operated under a temporary retail permit from February 2009 until the license was issued. When 269 East Houston Group LLC filed its application, it acknowledged that it was within five hundred feet of at least three existing establishments with on-premises licenses. It does not appear that the applicant made a claim that the location was exempt from the 500 Foot Law. As required by the 500 Foot Law, a hearing was conducted with respect to

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).

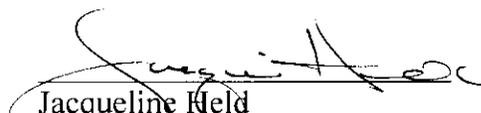
the issue of public interest. The applicant entered into a stipulation with the local Community Board and the application was approved.

From January 2005 until February 2008 the location was licensed to 269 East Rest Corp. That entity also operated under a temporary retail permit at the location from October 2004 until the license was issued. As with the current licensee, 269 East Rest Corp. acknowledged in its application that it was within five hundred feet of at least three existing establishments with on-premises licenses. It does not appear that the applicant made a claim that the location was exempt from the 500 Foot Law. As required by the 500 Foot Law, a hearing was conducted with respect to the issue of public interest. There was no opposition to the application submitted by the local Community Board and the application was approved.

As set forth in a letter from the Authority to Mr. Sharma, the location was licensed to 269 East Houston Street Corp from June 1995 until January 2005; and an unidentified entity from some time in 1993 until 269 East Houston Street Corp obtained its license. The original application files for those two licensees are not available to determine whether the 500 Foot Law issue was addressed with respect to either application.

Based upon the facts presented, the Members of the Authority find that that 269 East Houston Street 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