

NEW YORK STATE LIQUOR AUTHORITY
FULL BOARD AGENDA
MEETING OF JUNE 7, 2016
REFERRED FROM: LICENSING BUREAU

2016-01314

REASON FOR REFERRAL
REQUEST FOR DIRECTION

QUEENS TW 1285215
ASTORIA CRAFT LLC
DBA: ASTORIA CRAFT
18-01 26TH ROAD
ASTORIA, NY 11102

(DECLARATORY RULING)

The Members of the Authority at their regular meeting held at the Zone I New York City office on JUNE 7, 2016 determined:

RUDNER & PALEUDIS, LLC
ATTORNEYS AND COUNSELORS AT LAW

BRIAN M. RUDNER, MEMBER +♦♦
MICHAEL J. PALEUDIS, MEMBER +♦♦♦Δ
ROBIN E. SOSNOW, OF COUNSEL +♦♦

ADMITTED TO PRACTICE
+NY, ♦CT, *PA, ΔNJ, ♦MA

May 5, 2016

Via Priority Mail and Email:
jacqueline.flug@sla.ny.gov

Jacqueline Flug
General Counsel
New York State Liquor Authority
317 Lenox Avenue
New York, NY 10027

Re: Request for Declaratory Ruling; Application of 200 Foot Rule
Premises: 18-01 26th Road, Astoria, NY
Licensee: Astoria Craft, LLC; Serial No. 1285215

Dear Ms. Flug:

I represent Astoria Craft, LLC (Licensee), an entity that presently holds a Tavern Wine license to operate an on-premises establishment at 18-01 26th Road in Astoria. (Premises). My client wishes to apply for a class change and ultimately obtain an on-premises liquor license for the Premises. The Licensee seeks a determination from the New York State Liquor Authority with respect to the application of the 200 foot rule at the Premises.

The 200 foot rule prohibits the Authority from issuing a retail license for the sale and/or consumption of liquor at premises located on the same street and within 200 feet of any "building occupied exclusively" as a school or place of worship. The Licensee presently operates an establishment that serves only beer and wine. The Premises are located within 200 feet of two buildings that are, in part, used as places of worship.

The 200 foot rule grants the Authority the right to determine, in its sole discretion, whether a building is "exclusively occupied" as a school or place of worship for the purposes of the 200 foot rule. The Applicant hereby requests that the Authority determine whether the buildings located at 26-30 18th Street (Building No. 1) and 26-13 18th Street (Building No. 2) are "exclusively occupied" as a places of worship. For the Authority's reference, the Licensee has attached photographs of Building Nos. 1 and 2 as Exhibit A and a block plot diagram that includes the distances between the Premises and Building Nos. 1 and 2 as Exhibit B.

1. Is Building No. 1 exclusively occupied as a place of worship?

Building No.1 is partially occupied by the Iglesia De Dios Pentecostal Church. The building also contains at least one apartment unit that has recently been renovated and offered for lease to the general public. As evidence that the apartment is being offered to non-congregants, the Licensee has attached as Exhibit C listings for the apartments that were published online. By converting a portion of the building into an apartment the church has become a landlord and is conducting commercial, non-church business on the premises. The offering of the apartments for

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lease to the general public detracts from the predominant use of the building as a place of worship. Upon information and belief, the Authority has, under similar circumstances, concluded that premises were not "exclusively" used as a place of worship where an apartment, or apartments, in the building in question was rented to a non-congregant.

2. Is Building No. 2 exclusively occupied as a place of worship?

Building No. 2 is operated by the First Portuguese Speaking Church of New York, Inc. Attached to this Request as Exhibit D is the rental agreement for the church's social hall. In addition to renting the social hall, the agreement sets forth two "additional services" that may be selected by the event planner. One of the two additional services involves the payment of \$100 to the church but limits the event planner to the use of counters, utilities, microwave, sink, and a portion of the refrigerator. The second "additional service" is, in reality, the referral of business to Rosa Conceicao, the church's "Kitchen Director and Chef." Importantly, the agreement states that the event planner can "hire" Ms. Conceicao to operate the kitchen, stove, grill, and stove and to cater the event. The agreement states that the price of Ms. Conceicao's services are to be negotiated directly with Ms. Conceicao. The Church and Ms. Conceicao have an arrangement that allows Ms. Conceicao to operate her catering company on the church's premises. Although it is unclear precisely what portion, if any, of Ms. Conceicao's fees are shared with the church, it is apparent that commercial, non-church related business is being conducted on the premises and that the operation of this catering business detracts from the predominant use of the building as a place of worship. The Authority has, under similar circumstances, concluded that premises were not "exclusively" used as a place of worship where a catering facility was being operated from within a church.

Because Building No. 1 and Building No. 2 are both being used for commercial, non-church related activities that detract from the predominant use of the buildings as a places of worship, the Licensee requests that the Authority deem that these two premises are not used exclusively as places of worship and consider an application by the Licensee for an on-premises liquor license at the Premises.

Yours truly,



Michael J. Paleudis, Esq.

cc: Brian Connell, *via email*