

STATE OF NEW YORK: LIQUOR AUTHORITY

Application of the 200 Foot Law on property located
at 315 West 54th Street in Manhattan

DECLARATORY
RULING
2013-02625

Section 98.1 of the Rules of the State Liquor Authority, (9 NYCRR subtitle B) provides that any person may request the Authority to issue a declaratory ruling on the application of the Alcoholic Beverage Control Law ("ABCL"), or the Rules of the Authority, on any person, property or state of facts. The Authority is in receipt of a request from Terrence R. Flynn, Jr., Esq. on behalf of 780 Uncle Vanya, Inc., the operator of a restaurant with an on-premises wine license located at 315 West 54th Street in Manhattan. Mr. Flynn seeks a declaratory ruling as to whether, under the facts presented, the issuance of an on-premises liquor license for his client's restaurant is prohibited under the 200 Foot Law.

Section 64 of the Alcoholic Beverage Control Law governs the issuance of on-premises liquor licenses for establishments such as restaurants. Paragraph a of subdivision seven of that statute prohibits the Authority from issuing such a license for any premises which is on the same street and within 200 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 question presented by Mr. Flynn is whether a building near the restaurant is occupied exclusively as a place of worship.

As explained in Mr. Flynn's request, St. George Orthodox Church is located at 307 West 54th Street. Mr. Flynn does not dispute that his client's restaurant is within 200 feet and on the same street as that place of worship. Instead, he argues that the building at 307 West 54th Street is not "occupied exclusively" as a place of worship within the meaning of the 200 Foot Law. Mr. Flynn claims that a business, Regas Stationary, operates from the same building as the church. In support of his argument, he submitted a copy of a page from the business' web site, which refers to the company being located within the church. He also submitted, from that same web site, a list of the services provided by the business.

Mr. Flynn has also submitted a photograph purporting to show a sign on a door of the church regarding deliveries to the business. In addition, he has submitted photographs of a door with a sign for the business. According to Mr. Flynn, this is a door to the building containing the church. He has also submitted an email communication, apparently in response to an inquiry from Mr. Flynn, confirming that the business and the church are in the same building. Mr. Flynn has advised me that neither the church nor the business will provide a statement explaining the use of the building.

Based on the apparent use of the building at 307 West 54th for commercial purposes by an entity that, for purposes of this ruling, we will assume is unrelated to the religious organization, we find that the building is not exclusively occupied by a place of worship. Accordingly, the proximity of the restaurant to the place of worship will not prohibit the issuance of an on-premises license for the restaurant.

The foregoing Declaratory Ruling was formally approved by the Members of the Authority at a Full Board meeting held on October 8, 2013.



Jacqueline Held
Secretary to the Authority