STATE OF NEW YORK: LIQUOR AUTHORITY

Application of 200 Foot Law on property located at 472 Franklin Avenue, Mount Vernon

DECLARATORY RULING 2015-02013

Preliminary Statement

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 Alcoholic Beverage Control Law [ABCL] prohibits the Authority from issuing a retail license for the sale or consumption of liquor 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 Members of the Authority are in receipt of a request from Maureen M. Pritchard, 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. For the purposes of this request, Ms. Pritchard does not dispute that the location is on the same street and within 200 feet of a building occupied exclusively as a church. Instead, she seeks a ruling as to whether the location may be licensed as a result of the "grandfather" provision of the 200 Foot Law.

Notwithstanding the general prohibition created by the 200 Foot Law, there are certain statutory exceptions that allow a retail liquor license to be issued. Two of these exceptions are the "grandfather" provisions. The first provides that a license that was in effect on December 5, 1933, may continue to be renewed even if the location would otherwise be subject to the 200 Foot Law. The second grandfather provision states that "no license shall be denied [as a result of the 200 Foot Law] to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school [or place of worship]." Put another way, if there was a license issued for the location before the school or place of worship came into existence, and a license has remained in effect at the location since that time, the 200 Foot Law does not apply [ABCL §64-a (7)(a)(iii)].

The facts upon which this ruling is based are as follows:

- The proposed licensed establishment is at 472 Franklin Avenue in Mount Vernon, New York.
- The location was most recently licensed to Robert Doughty doing business as The Star Bar & Grill from 1987 to 2015. The license was first issued on May 22, 1987, and it expired on April 30, 2015.
- As set forth in Ms. Pritchard's letter of July 27, 2015, the church, Kingdom Hall Jehovah's Witnesses, located at 460 Franklin Avenue, was established in 1996.
- The applicant began leasing the property at 472 Franklin Avenue on May 21, 2015.

The proposed location was thus licensed prior to the existence of the church. The only question remaining is whether, by virtue of the expiration of the license on April 30, 2015, the location has been continuously licensed. The Members of the Authority find that, notwithstanding the expiration of the license on April 30, 2015, the location will be deemed to be continuously licensed upon the timely filing of an application by Ms. Pritchard's client.

The foregoing Declaratory Ruling was formally approved by the Members of the Authority at a Full Board meeting held on September 1, 2015.

Jacqueline Held
Secretary to the Authority