

NEW YORK STATE LIQUOR AUTHORITY
FULL BOARD AGENDA
MEETING OF FEBRUARY 16, 2016
REFERRED FROM: COUNSEL'S OFFICE

2016-00397 (OVER)
2016-00608 (OVER)
2016-00848

REASON FOR REFERRAL
REQUEST FOR DIRECTION

NEW YORK TIMES
WINE CLUB SALES

(DECLARATORY RULING)

The Members of the Authority at their regular meeting held at the Zone I New York City office on FEBRUARY 16, 2016 determined:

Item carried over to 3/15/2016

The Members of the Authority at their regular meeting held at the Zone I New York City office on MARCH 15, 2016 determined:

Item carried over to 4/12/2016

The Members of the Authority at their regular meeting held at the Zone I New York City office on APRIL 12, 2016 determined:

Request for Declaratory Ruling was withdrawn on March 28, 2016.

NEW YORK STATE LIQUOR AUTHORITY
FULL BOARD AGENDA
MEETING OF APRIL 12, 2016
REFERRED FROM: COUNSEL'S OFFICE

2016-00886

REASON FOR REFERRAL
REQUEST FOR DIRECTION

APPLICATION OF 200' LAW
1401 JEROME AVENUE,
BRONX, NEW YORK 14052

(DECLARATORY RULING)

The Members of the Authority at their regular meeting held at the Zone I New York City office on APRIL 12, 2016 determined:

Jerome Sussman
ATTORNEY AT LAW

(212) 962-4688
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EMAIL: sussmanliquorlaw@aol.com

305 BROADWAY
SUITE 1102
NEW YORK, NY 10007

February 9, 2016

Members of the Authority
State Liquor Authority
317 Lenox Ave.
New York, NY 10027
Attn: Jacqueline Held, Sec.

RE: Declaratory Ruling
1401 Jerome Ave a/k/a 1401 Plaza Drive,
Bronx, NY 10452

Dear Ms. Held,

I am herewith requesting a Declaratory Ruling that although proposed premises is within 200 feet of Latino Pastoral Action Center a church /school at 14 W. 170th street (approximately 100' from the proposed premises), that the location requested should be "Grandfathered".

The following are the facts & circumstances surrounding the background of this request:

Equator Corp. Ser #1003838 was licensed at 1401 Jerome Ave through early 2010.

Paulette Café Bar & Restaurant Inc. Ser # 1199657 was licensed at 5 W. 170th Street (same building) until 12-31-09.

The location was continuously licensed since the 1930's (Exhibit 1).

Note: Landlord has owned this property since 1981. Landlord's father owned a business at this building in 1938 and there was a bar at the corner of this building at the time he opened that business. (It would appear that the bar opened right after prohibition. I was very young at the time so I cannot personally attest to this fact.)

Jerome Sussman
ATTORNEY AT LAW

305 BROADWAY
SUITE 1102
NEW YORK, NY 10007

See also newspaper article by David M. Hirsch, that my client researched, showing the building at the convergence of Jerome Ave, 170th Street & Macombs Road, which is the building referred to herein, which photo was taken in the 1930's & referred in the article that was written in the 1970's, showing a "Bar & Grill" at the corner. (Exhibit 2(a) & 2(b)).

It would appear, from all of the above, that this location was continuously licensed from the 1930's to 2010.

From the N.Y.C Register's records, Latino Pastoral Action Center purchased the property at 14 W. 170th Street on Dec 7, 2000, from NYC Mission Society.

The Register's records indicate that N.Y.C. Mission Society purchased this property on April 13, 1970 from the estate of Solomon N. Petcher.

I have no indication as to whether N.Y.C. Mission Society operated a church at that address, but Latino Pastoral Action Center operates what appears from their website, to be a church/school.

Although 14 W. 170th Street may have been operating as a church/school since 1970, the premises herein have been continuously licensed since prior to 1938 and are therefore qualified for continuous licensing today.

The prior licensees' leases expired in early 2010 and the landlord did not renew their leases because the property was required to "undergo corrective construction & renovations to prevent unsafe conditions".

On 9-15-10 application was approved by the NYC Buildings Dept for construction at an estimated cost to the landlord of \$298,025 (copy of Building Dept permit attached). (Exhibit 3) A substantial renovation took place & now the premises is ready for final decorating and occupancy. As a result of substantial cost overruns, the landlord expended in excess of \$900,000.00 on the renovations.

The following are "Grandfathering" precedents approved by the NYS Liquor Authority:
W13 Pizza LLC Ser #1243397:

This is a matter where I personally represented the applicant:

The premises in that case had been vacated by the prior licensee for in excess of 1 year as a result of their dispossession by the landlord.

Jerome Sussman
ATTORNEY AT LAW

305 BROADWAY
SUITE 1102
NEW YORK, NY 10007

I will not go into detail as I am attaching hereto, a copy of my letter to the SLA (Exhibit 4a) and a copy of the Conditional Letter of Approval issued by the SLA. (Exhibit 4b)

6 Olmsteadville Road, Pottersville, Declaratory ruling 2013-03285A:

This matter has some similarities to the W. 13 Pizz LLC matter. I am attaching the Boards Declaratory ruling hereto, so as to avoid repetition with respect thereto. (Exhibit 5)

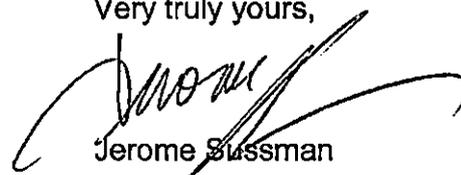
33 Peck Slip, Manhattan & Declaratory Ruling 2015-009186:

This matter is also similar to the within application. I am attaching the Board's Declaratory Ruling hereto, again with the concept of avoiding repetition. (Exhibit 6)

The landlord owning the property at 14 W. 170th Street has expended hundreds of thousands of dollars since the last license expired, with the sole purpose of preparing the premises for occupancy as a first class restaurant, with a liquor license, to occupy this property and my client Kimo Management Group Corp desires to open a first class restaurant at these premises. A first class restaurant at this location cannot survive without a liquor license. It is respectfully requested that the members of the Authority determine that this location is "grandfathered" and entertain an application for an on premises liquor license at 1401 Jerome Ave, aka 1401 Plaza Drive, Bronx, NY.

In each of the above referenced matters, the Board has seen fit to "Grandfather" each of those locations and it is my belief that this location, based upon the reasons set forth herein, should likewise be "Grandfathered".

Very truly yours,


Jerome Sussman

JS:laj
Encls.

NEW YORK STATE LIQUOR AUTHORITY
FULL BOARD AGENDA
MEETING OF APRIL 12, 2016
REFERRED FROM: WHOLESALE BUREAU

2016-00901D

REASON FOR REFERRAL
REQUEST FOR DIRECTION

ALCOHOL AWARENESS AND
TRAINING PROGRAM (ATAP)

(PROPOSED RULE)

The Members of the Authority at their regular meeting held at the Zone I New York City office on APRIL 12, 2016 determined:

Notice of Adoption

Liquor Authority, State
(SUBMITTING AGENCY)

- This adoption will amend the NYCRR.
 This adoption will not amend the NYCRR.

NOTE: Typing and submission instructions are at the end of this form. Please be sure to COMPLETE ALL ITEMS. Incomplete forms will be cause for rejection of this notice. change in text

1. Action taken:

Addition of Part 106 of Title 9, Subtitle B, of the Official Compilation of Codes, Rules and Regulations of the State of New York (N.Y.C.R.R.)

"X" box if the rule was originally proposed as a consensus rule making.

2. Effective date of rule:

- Date this notice is published in the *State Register*.
 This is a "rate making" as defined in SAPA §102(2)(a)(ii), and, is effective as follows:
 Date of filing.
 Other date (*specify*):
 Other date (*specify*):
 days after filing.

3. Statutory authority under which the rule was adopted:

ABCL Sec. 18(10)

4. Subject of the rule:

Alcohol Training and Awareness Program (ATAP) application processes and program requirements.

5. Purpose of the rule:

To enact statutorily required Alcohol Training and Awareness Program (ATAP) application processes and program requirements.

6. Terms and identification of rule :

A. I.D. No. of original notice of proposed or emergency/proposed rule making: LQR-06-16-00003 - P

B. Comparison of the proposed rule to the adopted rule (CHECK ALL THAT APPLY):

No changes were made to the proposed rule.

● Do NOT attach the text of the previously published rule. If the last previously published RIS, RFA, RAFA or JIS remain adequate and do not require correction, SKIP ITEMS 9-12 and do NOT attach any such statements. If any of the most recently published statements were deemed inadequate or required correction, complete Item 9, 10, 11, or 12 as applicable, do NOT attach previously published statements. Be sure to complete C, if applicable, as well as remaining Items 7-8 and 13-14.

Nonsubstantive changes were made in [Parts, sections, subdivisions or paragraphs]:

[Four empty rectangular boxes for listing nonsubstantive changes]

● Attach the original of the text as adopted (if proposed as full text, submit full text; if proposed as a summary, submit a summary) typed in scannable format. Do not skip Items 9-12; revised statements or explanatory statements are required.

Text attached.

Summary attached.

This is a "rate making" as defined in SAPA §102(2)(a)(ii) and, pursuant to SAPA §202(7)(b), the agency elected to submit an original copy of a description of the substance. Substantial revisions were made in the following Parts, sections, subdivisions or paragraphs:

[Four empty rectangular boxes for listing substantial revisions]

C. List the publication date and I.D. No. of any previously published notice(s) of revised rule making:

Publication date: _____, I.D. No. _____

Publication date: _____, I.D. No. _____

7. The text of the final rule and any required statements and analyses may be obtained from:

Agency contact Paul Karamanol, Senior Attorney

Agency name State Liquor Authority

Office address 80 South Swan Street, Suite 900

Albany, NY 12210

Telephone (518) 474-3114 E-mail: paul.karamanol@sla.ny.gov

8. Additional matter required by statute:

Yes (include below material required by statute).

[Large empty rectangular box for additional matter]

No additional material required by statute.

9. Revised Regulatory Impact Statement (RIS)

(SELECT AND COMPLETE ALL THAT APPLY; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached Revised RIS contains:

The full text of the Revised RIS.

A summary of the Revised RIS.

B. A statement is attached explaining why a revised RIS is not required (check one box):

Changes made to the last published rule do not necessitate revision to the previously published RIS.

This is a technical amendment exempt from SAPA §202-a.

- C. A revised RIS is **not** attached because this rule is a "rate making" as defined in SAPA §102(2)(a)(ii).
 A revised RIS is **not** attached because this rule was proposed as a consensus rule as defined in SAPA

10. Revised Regulatory Flexibility Analysis (RFA) for small businesses and local governments

(SELECT AND COMPLETE ALL THAT APPLY; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

- A. The attached Revised RFA contains:
 The full text of the Revised RFA.
 A summary of the Revised RFA.
- B. A **statement is attached** explaining why a revised RFA is not required (check one box):
 Changes made to the last published rule do not necessitate revision to the previously published RFA.
 The changes will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments. The attached statement sets forth this agency's findings and the reason(s) upon which the findings were made, including what measures were used to determine those findings.
- C. A revised RFA is **not** attached because this rule is a "rate making" as defined in SAPA §102(2)(a)(ii).
 A revised RFA is **not** attached because this rule was proposed as a consensus rule as defined in SAPA §102(11).

11. Revised Rural Area Flexibility Analysis (RAFA)

(SELECT AND COMPLETE ALL THAT APPLY; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

- A. The attached Revised RAFA contains:
 The full text of the Revised RAFA.
 A summary of the Revised RAFA.
- B. A **statement is attached** explaining why a revised RAFA is not required (check one box):
 Changes made to the last published rule do not necessitate revision to the previously published RAFA.
 The changes will not impose any adverse impact or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. The attached statement sets forth this agency's findings and the reason(s) upon which the findings were made, including what measures were used to determine those findings.
- C. A revised RAFA is not attached because this rule is a "rate making" as defined in SAPA §102(2)(a)(ii).
 A revised RAFA is **not** attached because this rule was proposed as a consensus rule as defined in SAPA §102(11).

12. Revised Job Impact Statement (JIS)

(SELECT AND COMPLETE ALL THAT APPLY; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

- A. The attached Revised JIS contains:
 The full text of the Revised JIS.
 A summary of the Revised JIS.
- B. A **statement is attached** explaining why a revised JIS is not required (check one box):
 Changes made to the last published rule do not necessitate revision to the previously published JIS.
 The changes will not impose a substantial impact on jobs and employment opportunities. The attached statement sets forth this agency's findings that the rule will have a positive impact or no impact on jobs and employment opportunities; except when it is evident from the subject matter of the rule that it could only have a positive impact or no impact on jobs and employment opportunities, the statement shall include a summary of the information and methodology underlying that determination.
- C. A revised JIS is **not** attached because:
 This rule is a "rate making" as defined in SAPA §102(2)(a)(ii).
 This rule was proposed by the State Comptroller or Attorney General.

13. Assessment of Public Comment (includes legislative comments) (check applicable box):

- A. 45-day minimum comment period is complete (Full text was submitted with proposal or summary of text was submitted with the proposal and the full text was posted on a State web site or the rule is a consensus rule or a rule defined under SAPA §102[2][a][iii] [Rate Making])
- 60-day minimum comment period is complete (Summary of text was submitted with the proposal and the full text was not posted on a State web site or the rule is not a consensus rule or a rule defined under SAPA §102[2][a][iii] [Rate Making])
- B. (COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)
 - Attached is an assessment of public comment.
No particular form is required, and it need **only** include comments not addressed in any previously published assessment for this rule. However, the assessment must be based on any written comments received by the agency or any comments presented at any public hearing held by the agency about this rule (include legislative comment). It must contain a summary and an analysis of the issues raised and significant alternatives suggested, a statement of the reason(s) why any significant alternatives were not incorporated, and a description of any changes made as a result of such comments.
 - An assessment is not attached because no comments were received.
 - An assessment is not required because this action is for a "rate making" as defined in SAPA §102(2)(a)(ii).

14. Referenced material (check one box):

- No information is being incorporated by reference in this rule.
- This rule contains referenced material in the following Parts, sections, subdivisions or paragraphs:

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15. Initial Review of Rule (SAPA §207)

(SELECT AND COMPLETE ONE)

- A. As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year which is no later than the 3rd year after the year in which this rule is being adopted.
- B. As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year which is the 4th or 5th year after the year in which this rule is being adopted. This review period, justification for proposing same, and invitation for public comment thereon, were contained in a RFA, RAFA or JIS:
 - Attached is an assessment of public comment on the issue of the 4 or 5-year initial review period; or
 - An assessment of public comment on the 4 or 5-year initial review period is not attached because no comments were received on the issue.
- C. As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year which is no later than the 5th year after the year in which this rule is being adopted.
- D. Not Applicable. This rule is a "rate making" or a "consensus rule," or the agency is not required to review existing rules.