



CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD FOUR

424 West 33 Street, Suite #580
New York, NY 10001
tel: 212-736-4536
www.nyc.gov/mcb4

JESSICA CHAIT
Chair

JESSE R. BODINE
District Manager

January 11, 2024

Chris Alexander
Executive Director
NYS of Cannabis Management
Harriman State Office Building Campus 1220 Washington Ave.
Albany, NY 12207

Tremaine Wright Chairwoman
Cannabis Control Board
Harriman State Office Building Campus 1220 Washington Ave.
Albany, NY 12207

RE: NYC Green Girl LLC (Adult-Use Retail Dispensary at 58-60 Ninth Avenue, New York, NY 10019)

Dear Mr. Alexander and Ms. Wright,

Manhattan Community Board 4 (MCB4) at its regular Board meeting on January 3rd 2024, by a vote of 35 in favor, 1 opposed, 4 abstaining and 1 present but not eligible to vote, voted to recommend denial of the application of Social & Economic Equity Applicant NYC Green Girl LLC (the "Applicant") for an Adult-Use Retail Dispensary at 58-60 Ninth Avenue, New York, NY 10019 for the following reasons:

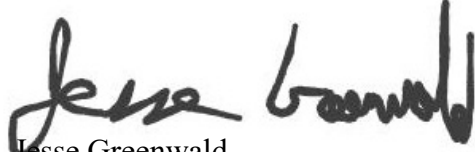
- First, MCB4 is aware that one of the owners of NYC Green Girl LLC is Michael Shah, the CEO of DelShah Capital, LLC, and a landlord with multiple properties in New York City. MCB4 was provided with information concerning one of Mr. Shah's properties on W 45th Street, where a smoke-shop tenant was recorded on video selling cannabis illegally.
- Second, MCB4 has been informed that Mr. Shah also owns several hospitality establishments within Community Board 2 ("CB2"). CB2 has a record of Mr. Shah violating stipulations with CB2 pertaining to those establishments, and members of CB2 have observed those establishments operating outside the parameters of their liquor licenses.

Accordingly, and after much discussion at its full board meeting, MCB4 is skeptical that Mr. Shah will operate his dispensary responsibly, or in a manner that is sensitive to his neighbors and surrounding community.

Sincerely,



Jessica Chait
Chair
Manhattan Community Board 4



Jesse Greenwald
Chair
Cannabis Task Force

ENCLOSURE

AFFIDAVIT OF SERVICE VIA E-MAIL

STATE OF NEW YORK)

: ss.:

COUNTY OF NEW YORK)

NIASHIA KEITT, being duly sworn, deposes and says:

The deponent is over 18 years of age and is employed at One Grand Central Place, 60 East 42nd Street, 16th Floor, New York, New York 10165.

That on November 17, 2023, deponent served a true copy of the **THIRTY (30) DAY NOTICE OF DEFAULT OF LEASE AND OPPORUNITY TO CURE** by email to **Waleed Khan** at the following email address:

waleedZkhan@icloud.com



NIASHIA KEITT

Sworn to before me this
17th day of NOVEMBER 2023



NOTARY PUBLIC

ELIZABETH LULGURAJ
Notary Public, State of New York
No. 01LU6215938
Qualified in Westchester County
Commission Expires January 11, 2026

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL RETURN
RECEIPT REQUESTED AND FEDERAL EXPRESS

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

Timothy Sanabria, being duly sworn, deposes and says:

The deponent is not a party to this action, is over 18 years of age and is employed at One Grand Central Place, 60 East 42nd Street, 16th Floor, New York, New York 10165.

That on November 17, 2023, deponent served a true copy of **THIRTY (30) DAY NOTICE OF DEFAULT OF LEASE AND OPPORUNITY TO CURE** herein upon::

Waleed Khan
370 S. Terhune Avenue
Paramus, New Jersey 07652

Craig S. Peligri, Esq.
302 Union Street
Hackensack, New Jersey 07601

by certified mail return receipt requested by giving the same in a post-paid, properly addressed envelopes to a postal employee at a United States Post Office, in the Borough of Manhattan, City and State of New York, for processing; under the exclusive care and custody of the United States Postal Service within the City and State of New York

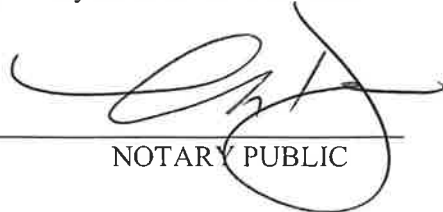
By Federal, express mail By depositing the papers in properly addressed wrappers into the custody of Federal Express employee for overnight delivery, prior to the latest time designated by Federal Express for overnight delivery.

NYC RETAIL ENTERPRISES, INC.
D/B/A NEW YORK STOP & SHOP
777 Seventh Avenue
A Portion of the Ground Floor of the Building as Shown on Exhibit "A"
NEW YORK, NEW YORK 10019



TIMOTHY SANABRIA

Sworn to before me this
17th Day of **NOVEMBER** 2023



NOTARY PUBLIC

ELIZABETH LULGURAJ
Notary Public, State of New York
No. 01LU6215938
Qualified in Westchester County
Commission Expires January 11, 2026

**THIRTY (30) DAY NOTICE OF DEFAULT
OF LEASE AND OPPORUNITY TO CURE**

TO: NYC RETAIL ENTERPRISES, INC.
d/b/a NEW YORK STOP & SHOP
777 Seventh Avenue
A Portion of the Ground Floor of the
Building as shown on Exhibit "A"
New York, New York 10019

RE: Premises consisting of all rooms in the ground floor retail store located at 777 Seventh Avenue, New York, New York 10019 and referred to as Commercial Unit B within your February 23, 2023 Lease Agreement.

PLEASE TAKE NOTICE, that pursuant to the written lease agreement dated February 23, 2023 (the "Lease") between DS 761 SEVENTH AVENUE LLC ("Landlord"), as landlord, and NYC RETAIL ENTERPISES, INC. d/b/a NEW YORK STOP & SHOP as tenant ("Tenant"), for the rental of a portion of the ground floor of 777 Seventh Avenue, New York, New York identified in your Lease as Commercial Unit B as delineated within the floor plan attached hereto as Exhibit A (the "Premises"), Tenant is in default of the terms of the Lease.

TAKE FURTHER NOTICE, Tenant has violated, and continues to violate, the terms of the Lease in that:

- In violation of Articles 7 and 59(E)(m), you are allowing the Premises to serve as a cannabis dispensary or as a venue for the acquisition, storage, display, sale, use or delivery of cannabis and cannabis products, marijuana, cannabidiol (CBD) products, products containing tetrahydrocannabinol (THC), rolling papers, roach clips, pipers, or other drug paraphernalia in express violation of the terms of your Lease; and
- In violation of Articles 7 and 59(E)(m), you have erected signage and advertisements outside of the Premises advertising the sale of CBD and THC; and
- In violation of Article 6(A), you are using, or permitting the use of the Premises for an unlawful purposes, (i.e. the illegal sale of cannabis products); and

(The above described Lease violations are collectively referred to herein as the "Lease Violations"),

DEMAND IS HEREBY MADE, for Tenant to **IMMEDIATELY CEASE AND DESIST** from engaging in the sale of any and all cannabis products and removing the sign on the storefront advertising the sale of CBD and THC,

TAKE FURTHER NOTICE, pursuant to Article 17 of the Lease, that in the event that Tenant fails to cure the Lease Violations, as described above, by **CEASING AND DESISTING** from engaging in the sale of any and all cannabis products and removing the sign on the storefront advertising the sale of CBD and THC on or before **December 22, 2023**, that being at least thirty (30) days after the service of this Notice, then Landlord shall proceed to terminate Tenant's tenancy of the Premises based upon Tenant's continued default of the Lease pursuant to Article 17 of the Lease and in accordance with all applicable provisions of the Lease and law.

TAKE FURTHER NOTICE, in the event that Tenant fails cure thee Lease Violations on or before **December 22, 2023** resulting in Landlord's termination the Lease pursuant to Article 17 of the Lease, Landlord will be seeking from Tenant: (i) pursuant to Articles 19 and 50 of the Lease, the payment of any attorneys' fees associated with Tenant's breach of the Lease; and (ii) pursuant to Article 6 and Article 61 of the Lease, the payment of any fines, penalties, and/or liabilities associated with any violation issued as a result of the Lease Violations.

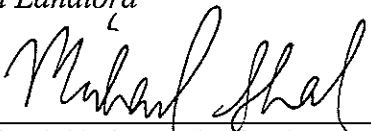
TAKE FURTHER NOTICE, that this Notice is being served pursuant to, without limitation, Article 28 of the Lease.

TAKE FURTHER NOTICE, that this Notice is being sent without prejudice to any and all of Landlord's rights, claims and remedies as against Tenant, and all of such rights, claims and remedies are expressly reserved herein by Landlord. Nothing in this Notice shall be interpreted as a of waiver of any default under the Lease, whether the default is known or unknown, and Landlord expressly reserves all of its rights in regard to any such defaults.

TAKE FURTHER NOTICE, that any response to this Notice shall be sent and directed to the below-named attorneys for Landlord.

Dated: New York, New York
November 17, 2023

DS 761 SEVENTH AVENUE LLC
Owner and Landlord

By: 
Michael Shah, Authorized Member

Belkin Burden Goldman, LLP
Attorneys for Landlord
60 East 42nd Street, 16th Floor
New York, New York 10165
(212) 867-4466
npicone@bbgllp.com
Attn: Noelle Picone

cc: *Via Certified Mail, Return Receipt Requested*
& Via Regular Mail (w/ certificate of mailing) & Electronic Mail

Waleed Khan
370 S. Terhune Avenue
Paramus, New Jersey 07652

Craig S. Peligri, Esq.
302 Union Street
Hackensack, New Jersey 07601

waleedZkhan@icloud.com

Susan Kent, *Chair*
Valerie De La Rosa, *First Vice Chair*
Eugene Yoo, *Second Vice Chair*



Antony Wong, *Treasurer*
Amy Brenna, *Secretary*
Mark Diller, *District Manager*
Brian Pape, *Assistant Secretary*

Community Board No. 2, Manhattan

3 Washington Square Village

NEW YORK, NY 10012-1899

www.cb2manhattan.org

P: 212-979-2272 F: 212-254-5102 E: info@manhattancb2.org

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December 1, 2023

Tremaine Wright
Chair
New York State Cannabis Control Board

Chris Alexander
Executive Director
New York State Office of Cannabis
Management

Dear Chair Wright and Mr. Alexander:

At its Full Board meeting on November 16, 2023, Community Board #2, Manhattan (CB2, Man.) adopted the following resolution:

RE: Michael Shah d/b/a Griffon Green, LLC 69 Gansevoort Street, 10014
New Application for Adult-Use Retail Cannabis License

RESOLUTION

WHEREAS, CB2, Man. received Notification to Municipality form OCM-06009 signed by Michael Shah d/b/a Griffon Green LLC (Applicant) stating the intention to apply for an Adult-Use Retail Dispensary to be operated at 69 Gansevoort Street, 10014 on October 3, 2023; and

WHEREAS, individuals having financial interest in Griffon Green, LLC are Michael Shah (80%) and Yehonatan Hadar (20%); and

WHEREAS, Applicant was placed on the CB2, Man. agenda to appear at the November 12, 2023, public hearing of the Cannabis Licensing Committee (CLC); and

WHEREAS, while Mr. Shah did not appear Mr. Hadar was in attendance for some portion of the meeting, but left prior to the hearing, and Griffon Green, LLC's attorney presented on their behalf; and

WHEREAS, the principal Applicant, Mr. Shah is a local business owner with a long and adverse history in Community District 2 and is well known to both CB2, Man. and the 6th Precinct, in relation to his multiple hospitality establishments; and

WHEREAS, concerns were raised about the Applicant as he has violated multiple stipulations, and operated outside the parameters of licenses in the past; and

WHEREAS, for detailed information on the history of the Applicant, please refer to CB2, Manhattan's September 2012 Resolution sent to the Liquor Authority for "Corp. to be formed by Michael Shah (61 Gans Restaurant, LLC) dba TBD, 53-59 Gansevoort St. 10014 on page 20, and CB2 Manhattan's April 2015 resolution sent to the Liquor Authority regarding the renewal application for 61 Gans Restaurant LLC, d/b/a BFB, Opus, The Raven, 53-59 Gansevoort St. (SN#1268022) on page 30 both which are footnoted here, and will also will be provided under separate cover; and

WHEREAS, the CLC shared guidance to applicants that includes factors that may influence an approval/denial decision that included:

Failure to:

- Completely fill out the CB2 CLC questionnaire
- Appear before the Cannabis Licensing Committee (CLC)
- Include false or misleading information in the answers to the questionnaire
- Omit information necessary to make the answers to the questionnaire not misleading
- Provide any documents or additional information required by the CB2 CLC
- Disclose or accurately represent requested information
- Provide answers to any questions posed by the CB2 CLC
- Conduct outreach to the community near the proposed location

THEREFORE, BE IT RESOLVED that CB2, Man. recommends **denial** of the new Adult-Use Retail Dispensary License for **Michael Shah d/b/a Griffon Green, LLC 69 Gansevoort Street, 10014.**

Vote: Passed, with 32 Board members in favor, and 4 abstentions (A. Brenna, R. Kessler, Z. Roberts, R. Sanz).

Thank you for your consideration. Please advise us of any decision or action taken in response to these comments.

Sincerely,



Susan Kent, Chair
Community Board #2, Manhattan



Mar Fitzgerald, Chair
Cannabis Licensing Committee
Community Board #2, Manhattan

SK/fa

C: Pascale Bernard, Deputy Director of Intergovernmental Affairs, NYS OCM
Philip Rumsey, Manager of Intergovernmental Outreach, NYS OCM
Kevin Kim, Commissioner, NYC Small Business Services
Dasheeda Dawson, SBS/Cannabis NYC division
Hon. Daniel Goldman, Congressman
Hon. Brad Hoylman-Sigal, NYS Senator
Hon. Brian Kavanaugh, NYS Senator
Hon. Deborah Glick, Assembly Member
Hon. Grace Lee, Assembly Member
Hon. Mark Levine, Manhattan Borough President
Hon. Christopher Marte, Council Member
Hon. Erik Bottcher, Council Member
Hon. Carlina Rivera, Council Member
Hon. Brad Lander, NYC Comptroller
Hon. Jumaane Williams, NYC Public Advocate
Tricia Shimamura, Manhattan Borough President's Office
Keisha Sutton James, Manhattan Borough President
Kyshia Smith, Manhattan Borough President

¹ https://cbmanhattan.cityofnewyork.us/cb2/wp-content/uploads/sites/9/downloads/pdf/fullboard_2012/fullboard_0912.pdf

¹ https://www.nyc.gov/html/mancb2/downloads/pdf/full%20board%202015/04%20April%202015_fullboard.pdf

Tobi Bergman, Chair
Terri Cude, First Vice Chair
Susan Kent, Second Vice Chair
Bob Gormley, District Manager



Antony Wong, *Treasurer*
Keen Berger, *Secretary*
Susan Wittenberg, *Assistant Secretary*

Community Board No. 2, Manhattan

3 Washington Square Village
New York, NY 10012-1899
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April 24, 2015

Director
Licensing Issuance Division
NY State Liquor Authority
317 Lenox Avenue
New York, New York 10027

Dear Sir/Madam:

At its Full Board meeting on April 24, 2015, Community Board #2, Manhattan (CB2, Man.) adopted the following resolution:

61 Gans Restaurant LLC, d/b/a BFB, Opus, The Raven, 53-59 Gansevoort St. (SN#1268022 - OP Renewal – recommend denial)

Whereas, at the request of members of the community, CB2, Manhattan placed on the April 9th, 2015 CB2 SLA Licensing Committee Meeting agenda for discussion and recommendation to the Liquor Authority the renewal application for the liquor license SN#1268022 for 61 Gans Restaurant, LLC d/b/a BFB, Opus, The Raven, 53-59 Gansevoort St.; and,

Whereas, neither of the two principals on the liquor license appeared, but two individuals (James Chung and Victor Jung) representing one of the principals, Michael Shah, appeared; CB2 has been led to believe that the other principal, Matthew Levine, is no longer involved in the day to day operation of the premises and is apparently involved in ongoing litigation with Mr. Shah; and,

Whereas, a number of residents in the local community appeared and spoke in opposition to the renewal of the Liquor License for 61 Gans Restaurant, LLC and CB2 Man. received a number of email correspondence in opposition to the renewal of the liquor license for 61 Gans Restaurant LLC; and,

Whereas, for detailed information on the original presentation of this Liquor License and the proposed method of operation and stipulations agreed to, please refer to CB2, Manhattan's September 2012 Resolution sent to the Liquor Authority for "Corp. to be formed by Michael Shah (61 Gans Restaurant LLC) dba TBD, 53-59 Gansevoort St. 10014" a copy of which will be provided under separate cover; and,

Whereas, at the time the premises was originally presented to CB2 Man. it was described as a “full service restaurant paying homage to the meat packing district and old New York, with a Mexican inspired menu focused on local ingredients”; and,

Whereas, the basis for opposition to the renewal of the on-premise liquor license are as follows: **(1)** The Licensee is not regularly and in a bona fide manner operating a restaurant used and kept open for the serving of regular meals to guests **(2)** The Licensee stated that they are renting their kitchen space to another local restaurant in the area for use as a commissary kitchen and/or accessory kitchen and it is used for the location next door **(3)** The Licensee has stated to the Liquor Authority that their “Chef will be on site during all hours premises is open to the public” – but no restaurant is regularly open to serve the public **(4)** As part of the original application, the Licensee submitted as a part of their 500 ft. statement that the principals “are experienced in the restaurant business, and have other licenses that are in good standing”, that the application was “approved when they appeared before their community board” – CB2 Man. recommended “denial unless” certain stipulations were followed and specifically, this recommendation was based on the premise that “all statements the applicant has presented are accurate and that those conditions and stipulations agreed to by the applicant relating to the 4th and 7th “whereas” clause above are incorporated into the “Method of Operation” on the SLA On Premise license” - the Licensee was represented by an Attorney and as experienced restaurateurs there should be no confusion as to what the definition of a “restaurant” operation is and the meaning and implications of agreeing to stipulations **(5)** The Licensee presented the method of operation as outlined in CB2’s September 2012 resolution as the premises being operated as the principal business a restaurant located on the ground floor and 2nd floor and an accessory bar in the basement, the primary business is now a lounge/nightclub/bar operating under ever changing names, many of which do not seem to have been properly reported to the SLA **(6)** The Licensee clearly indicated to the Liquor Authority that the Principals would manage the premises – this does not appear to be the case and it appears that James Chung and Victor Jung are managing the premises and **(7)** the Licensee is clearly violating on a regular basis almost all of the stipulations which were agreed to as a condition of their Liquor License, which undermines the reasoning for the issuance of the original license in the first place as the stipulations were the basis of the findings of the Liquor Authority that the issuance of the license would be in the public interest; and

Whereas, testimony was provided that the Licensee is regularly and in an ongoing manner violating stipulations that they agreed to as a condition of their license, specifically that **(1)** Licensee is regularly operating on the ground floor and 1st floor past hours to which they stipulated and patrons are remaining well past closing hours **(2)** there is no full service restaurant at the location **(3)** there is regularly patron dancing which is allowed by staff but the premises does not have a New York City Cabaret License **(4)** That in addition to the use of DJ’s in the basement, there are DJ’s on the Ground floor and 2nd Floor **(5)** music volume is often beyond any subjective qualification of “background music” on the ground and 2nd floor **(6)** Licensee has allowed live music performances **(7)** The Licensee regularly allows outside promoted events within the establishment which are evidence of which is easily found online when using the d/b/a name of the moment **(8)** The Licensee often charges cover charges for events and has bottle service with minimum purchase requirements for seating at tables **(9)** The Licensee regularly utilizes velvet ropes and barriers outside the establishment to queue patrons, in particular, they often manage 2 and sometimes 3 separate queues with “velvet ropes” **(10)** there are no identifying names or signage for the various d/b/a’s the premises is operating and/or advertising under **(11)** there are multiple entrances into the establishment and each floor is treated as a separate venue **(12)** That on certain nights when the spaces appeared to be booked or promoted or hosting popular events, the crowding outside and the contributing noise of rowdy patrons waiting to get in and drunk patrons leaving overwhelms the local community with quality of life issues

(13) that the 6th Precinct regularly responds to the premises and is under the impression that this is a club and not a restaurant and as such tolerates certain behaviors that are unacceptable for a restaurant with accessory lounge; and,

Whereas, CB2 Man. requested that local residents who appeared and submitted correspondence to CB2 with evidence and testimony also send the same information directly to the Liquor Authority and consider making themselves available for any enforcement proceedings and/or cooperate directly with the Liquor Authority in providing relevant information or testimony; and,

Whereas, CB2 Man. cannot support the renewal of this Liquor License for the many reasons which are summarized above, but the central reason is that the premises is not operating primarily and regularly as a bona fide restaurant open for regular service hours and is not closely following all of the stipulations which they agreed to as a condition of their Liquor License;

THEREFORE BE IT RESOLVED that CB2 Man. recommends **denial** of the renewal application for the liquor license SN#1268022 for **61 Gans Restaurant LLC, d/b/a BFB, Opus, The Raven, 53-59 Gansevoort St.**; and,

THEREFORE BE IT FURTHER RESOLVED that CB2 Man. respectfully requests that the Liquor Authority not issues any Renewal License or recall any Renewal License already issued, but not yet effective, until it has investigated the information presented by local residents directly to the Liquor Authority and summarized above; and,

THEREFORE BE IT FURTHER RESOLVED that CB2 Man. respectfully requests that the Liquor Authority conduct appropriate enforcement as it deems necessary; and,

THEREFORE BE IT FURTHER RESOLVED that should the Liquor Authority decide to issue a renewal license despite the reasons listed above, that it consider requesting that the Licensee place the license into safekeeping until such time a restaurant is opened on the Ground Floor and 2nd Floor as is indicated in the “method of operation”, in stipulations that are a condition of the license and in materials originally presented to CB2, Man. and to the Liquor Authority and that when it is removed from safekeeping that all agreed upon stipulations be fully adhered to for the rest of duration of the License and any subsequent renewals.

Vote: Unanimous, with 41 Board members in favor.

Please advise us of any decision or action taken in response to this resolution.

Sincerely,



Robert Ely, Co-Chair
SLA Licensing Committee
Community Board #2, Manhattan



Tobi Bergman, Chair
Community Board #2, Manhattan



Carter Booth Co- Chair
SLA Licensing Committee
Community Board #2, Manhattan

TB/fa

cc: Hon. Jerrold L. Nadler, Congressman
Hon. Nydia Velasquez, Congresswoman
Hon. Sheldon Silver, NY State Assembly Speaker
Hon. Deborah J. Glick, NY State Assembly Member
Hon. Brad Hoylman, NY State Senator
Hon. Daniel L. Squadron, NY State Senator
Hon. Gale Brewer, Man. Borough President
Hon. Corey Johnson, Council Member
Hon. Margaret Chin, Council Member
Hon. Rosie Mendez, Council Member
Pauline Yu, CAU
Kerri O'Brien, Deputy Commissioner of Licensing NY State Liquor Authority
Michael Jones, Deputy Chief Executive Officer, NY State Liquor Authority
SLA Examiners

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Jo Hamilton, *Second Vice Chair*
Bob Gormley, *District Manager*



Antony Wong, *Treasurer*
Susan Kent, *Secretary*
Keen Berger, *Assistant Secretary*

COMMUNITY BOARD NO. 2, MANHATTAN

3 WASHINGTON SQUARE VILLAGE

NEW YORK, NY 10012-1899

www.cb2manhattan.org

P: 212-979-2272 F: 212-254-5102 E: info@cb2manhattan.org

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September 24, 2012

Dana E. Christian, Director
Licensing Issuance Division
NY State Liquor Authority
317 Lenox Avenue
New York, New York 10027

Dear Mr. Christian:

At its Full Board meeting on September 20, 2012, Community Board #2, Manhattan (CB#2, Man.) adopted the following resolution that was voted on at the August Executive Committee meeting:

10. Corp. to be formed by Michael Shah (61 Gans Restaurant LLC) dba TBD, 53-59 Gansevoort St. 10014

Whereas, the applicant appeared before the committee and,

Whereas, this application is for the “transfer” of an on premise license for a location which currently operates as Villa Pacri LLC dba Villa Pacri, Serial Number 1242771; and,

Whereas, this application encompasses the same space as the existing licensee Villa Pacri LLC and is a “full service restaurant paying homage to the meat packing district and old New York, with a Mexican inspired menu focused on local ingredients”, the premise exists on three floors collectively encompassing 10,000 square feet in a commercial building located on Gansevoort Street between 9th Avenue and Washington Street with 69 tables, 238 table seats, 2 stand up bars with 22 seats and 1 service bar across the three floors as listed on the supplied diagrams for a total of 252 interior seats; and,

Whereas, the current applicant has stated that they will stipulate to all stipulations that the previous licensee agreed to for its license in February 2010 and license renewal in June 2012

Whereas, the applicant has stated there will be a sidewalk café application in the upcoming future but no backyard garden; and, music will be background on the first two floors and DJ only in the basement; and

Whereas, the applicant has expressed their intent to operate under 3 DBAs (“Doing Business As”) with 3 separate ENTRANCES; and

Whereas, the applicant agreed to the following stipulations which they will execute as a stipulations agreement that they agreed will be attached and incorporated in to their method of operation on their SLA license stating that:

1. Ground Floor Café hours are Sunday –Saturday from 8:30 a.m. – 2:30 a.m.,
2. 2nd Floor Restaurant hours are Monday – Friday from 5:30 p.m. – 1:30 a.m. and Saturday and Sunday from 9:30 a.m. – 1:30 a.m.,
3. Basement Lounge hours are Seven Days a Week from 8:00 p.m. – 4:00 a.m.
4. The applicant has agreed to waive its rights to seek a DCA Cabaret license.
5. The applicant has agreed to provide hired, professional security at all times during evening hours.
6. The applicant has agreed to prohibit the use of promoters.
7. The applicant has agreed to not have velvet ropes in front of its entrances.
8. The applicant has agreed to close the ground floor windows and doors by 10:00 p.m. daily (the applicant understands that there are no exceptions to this as this has been a major issue for the community with the prior operator and is a direct contributor to quality of life issues for local residents in the vicinity of the applicant).
9. The applicant has agreed to abide by the regulations associated with all New York City Departments and safety organizations and will obtain all required certificates, permits and related documents (the expectation is that a valid Certificate of Occupancy whether temporary or final will be in effect at all times the establishment is operating and that a valid and current Place of Assembly will be in effect at all times of operation, both will be obtained prior to operating and presented to both CB2 and the Liquor Authority).
10. The applicant has agreed that the kitchen will be open until one hour prior to closing.
11. The applicant has agreed that there will be no live music, no promoted events, no events for which a cover is charged, and no scheduled performances.
12. The applicant has agreed that Security and doormen will be employed and utilized during all evening hours of operation.
13. The applicant has agreed that a sound limiter will be used on all music levels.
14. The applicant has agreed that employees will be trained on how to properly respond to noise complaints, including notify an appropriate party who will in turn notify a principle in the establishment.
15. The applicant has agreed that they will employ a general manager whose contact information is available to the community.
16. The applicant has agreed that no velvet ropes will be used.

Whereas, the applicant has reached out to members of the community prior to presenting this application and no objections were voiced provided that the applicant agreed to all previous stipulations from February 2010 and June 2012 and that this application did not now and would not in the future include any rooftop use and that all doors and windows specifically were closed at 10 pm; and

Whereas, the CB2 Manhattan must point out that this neighborhood is heavily saturated with liquor license establishments and extenuating quality of life issues and severe traffic congestions, and therefore strongly urges the Liquor Authority to address any violations of the stipulations swiftly in consideration of CB2 Manhattan’s support for this “transfer” application; and,

THEREFORE BE IT RESOLVED that CB2, Manhattan recommends **denial** of an on-premise liquor license for **Corp. to be formed by Michael Shah (61 Gans Restaurant LLC) dba TBD, 53-59 Gansevoort St. 10014, unless** the all statements the applicant has presented are accurate and that those conditions and stipulations agreed to by the applicant relating to the 4th and 7th “whereas” clause above are incorporated into the “Method of Operation” on the SLA On Premise license.

Vote: Unanimous, with 42 Board members in favor.

Please advise us of any decision or action taken in response to this resolution.

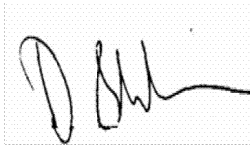
Sincerely,



Richard Stewart, Co-Chair
SLA Licensing Committee
Community Board #2, Manhattan



Carter Booth Co- Chair
SLA Licensing Committee
Community Board #2, Manhattan



David Gruber, Chair
Community Board #2, Manhattan

BH/jrm

cc: Hon. Jerrold L. Nadler, Congressman
Hon. Sheldon Silver, NY State Assembly Speaker
Hon. Thomas K. Duane, NY State Senator
Hon. Daniel L. Squadron, NY State Senator
Hon. Deborah J. Glick, Assembly Member
Hon. Scott M. Stringer, Man. Borough President
Hon. Christine C. Quinn, Council Speaker
Hon. Margaret Chin, Council Member
Hon. Rosie Mendez, Council Member
Pauline Yu, CAU
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Greenwich Village ✦ Little Italy ✦ SoHo ✦ NoHo ✦ Hudson Square ✦ Chinatown ✦ Gansevoort Market

May 6, 2015

Director
Licensing Issuance Division
NY State Liquor Authority
317 Lenox Avenue
New York, New York 10027

Dear Sir/Madam:

At its Full Board meeting on April 23, 2015, Community Board #2, Manhattan (CB2, Man.) adopted the following resolution:

19. 61 Gans Restaurant LLC, d/b/a BFB, Opus, The Raven, 53-59 Gansevoort St. (SN#1268022 - OP Renewal – recommend denial)

Whereas, at the request of members of the community, CB2, Man. placed on the April 9th, 2015 CB2 SLA Licensing Committee Meeting agenda for discussion and recommendation to the Liquor Authority the renewal application for the liquor license SN#1268022 for 61 Gans Restaurant, LLC d/b/a BFB, Opus, The Raven, 53-59 Gansevoort St.; and,

Whereas, neither of the two principals on the liquor license appeared, but two individuals (James Chung and Victor Jung) representing one of the principals, Michael Shah, appeared; CB2 has been led to believe that the other principal, Matthew Levine, is no longer involved in the day to day operation of the premises and is apparently involved in ongoing litigation with Mr. Shah; and,

Whereas, a number of residents in the local community appeared and spoke in opposition to the renewal of the Liquor License for 61 Gans Restaurant, LLC and CB2 Man. received a number of email correspondence in opposition to the renewal of the liquor license for 61 Gans Restaurant LLC; and,

Whereas, for detailed information on the original presentation of this Liquor License and the proposed method of operation and stipulations agreed to, please refer to CB2, Manhattan's September 2012 Resolution sent to the Liquor Authority for "Corp. to be formed by Michael Shah (61 Gans Restaurant, LLC) dba TBD, 53-59 Gansevoort St. 10014" a copy of which will be provided under separate cover; and

Whereas, at the time the premises was originally presented to CB2 Man. it was described as a “full service restaurant paying homage to the meat packing district and old New York, with a Mexican inspired menu focused on local ingredients”; and,

Whereas, the basis for opposition to the renewal of the on-premise liquor license are as follows: **(1)** The Licensee is not regularly and in a bona fide manner operating a restaurant used and kept open for the serving of regular meals to guests **(2)** The Licensee stated that they are renting their kitchen space to another local restaurant in the area for use as a commissary kitchen and/or accessory kitchen and it is used for the location next door **(3)** The Licensee has stated to the Liquor Authority that their “Chef will be on site during all hours premises is open to the public” – but no restaurant is regularly open to serve the public **(4)** As part of the original application, the Licensee submitted as a part of their 500 ft. statement that the principals “are experienced in the restaurant business, and have other licenses that are in good standing”, that the application was “approved when they appeared before their community board” – CB2 Man. recommended “denial unless” certain stipulations were followed and specifically, this recommendation was based on the premise that “all statements the applicant has presented are accurate and that those conditions and stipulations agreed to by the applicant relating to the 4th and 7th “whereas” clause above are incorporated into the “Method of Operation” on the SLA On Premise license” - the Licensee was represented by an Attorney and as experienced restaurateurs there should be no confusion as to what the definition of a “restaurant” operation is and the meaning and implications of agreeing to stipulations **(5)** The Licensee presented the method of operation as outlined in CB2’s September 2012 resolution as the premises being operated as the principal business a restaurant located on the ground floor and 2nd floor and an accessory bar in the basement, the primary business is now a lounge/nightclub/bar operating under ever changing names, many of which do not seem to have been properly reported to the SLA **(6)** The Licensee clearly indicated to the Liquor Authority that the Principals would manage the premises – this does not appear to be the case and it appears that James Chung and Victor Jung are managing the premises and **(7)** the Licensee is clearly violating on a regular basis almost all of the stipulations which were agreed to as a condition of their Liquor License, which undermines the reasoning for the issuance of the original license in the first place as the stipulations were the basis of the findings of the Liquor Authority that the issuance of the license would be in the public interest; and

Whereas, testimony was provided that the Licensee is regularly and in an ongoing manner violating stipulations that they agreed to as a condition of their license, specifically that **(1)** Licensee is regularly operating on the ground floor and 1st floor past hours to which they stipulated and patrons are remaining well past closing hours **(2)** there is no full service restaurant at the location **(3)** there is regularly patron dancing which is allowed by staff but the premises does not have a New York City Cabaret License **(4)** That in addition to the use of DJ’s in the basement, there are DJ’s on the Ground floor and 2nd Floor **(5)** music volume is often beyond any subjective qualification of “background music” on the ground and 2nd floor **(6)** Licensee has allowed live music performances **(7)** The Licensee regularly allows outside promoted events within the establishment which are evidence of which is easily found online when using the d/b/a name of the moment **(8)** The Licensee often charges cover charges for events and has bottle service with minimum purchase requirements for seating at tables **(9)** The Licensee regularly utilizes velvet ropes and barriers outside the establishment to queue patrons, in particular, they often manage 2 and sometimes 3 separate queues with “velvet ropes” **(10)** there are no identifying names or signage for the various d/b/a’s the premises is operating and/or advertising under **(11)** there are multiple entrances into the establishment and each floor is treated as a separate venue **(12)** That on certain nights when the spaces appeared to be booked or promoted or hosting popular events, the crowding outside and the contributing noise of rowdy patrons waiting to get in and drunk patrons leaving overwhelms the local community with quality of life issues

(13) that the 6th Precinct regularly responds to the premises and is under the impression that this is a club and not a restaurant and as such tolerates certain behaviors that are unacceptable for a restaurant with accessory lounge; and,

Whereas, CB2 Man. requested that local residents who appeared and submitted correspondence to CB2 with evidence and testimony also send the same information directly to the Liquor Authority and consider making themselves available for any enforcement proceedings and/or cooperate directly with the Liquor Authority in providing relevant information or testimony ; and,

Whereas, CB2 Man. cannot support the renewal of this Liquor License for the many reasons which are summarized above, but the central reason is that the premises is not operating primarily and regularly as a bona fide restaurant open for regular service hours and is not closely following all of the stipulations which they agreed to as a condition of their Liquor License; and,

THEREFORE BE IT RESOLVED that CB2 Man. recommends **denial** of the renewal application for the liquor license SN#1268022 for **61 Gans Restaurant LLC, d/b/a BFB, Opus, The Raven, 53-59 Gansevoort St.**; and,

THEREFORE BE IT FURTHER RESOLVED that CB2 Man. respectfully requests that the Liquor Authority not issues any Renewal License or recall any Renewal License already issued, but not yet effective, until it has investigated the information presented by local residents directly to the Liquor Authority and summarized above; and,

THEREFORE BE IT FURTHER RESOLVED that CB2 Man. respectfully requests that the Liquor Authority conduct appropriate enforcement as it deems necessary; and,

THEREFORE BE IT FURTHER RESOLVED that should the Liquor Authority decide to issue a renewal license despite the reasons listed above, that it consider requesting that the Licensee place the license into safekeeping until such time a restaurant is opened on the Ground Floor and 2nd Floor as is indicated in the “method of operation”, in stipulations that are a condition of the license and in materials originally presented to CB2, Man. and to the Liquor Authority and that when it is removed from safekeeping that all agreed upon stipulations be fully adhered to for the rest of duration of the License and any subsequent renewals.

Vote: Unanimous, with 41 Board members in favor.