



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

330 West 42nd Street, 26th floor New York, NY 10036
tel: 212-736-4536 fax: 212-947-9512
www.nyc.gov/mcb4

DELORES RUBIN
Chair

Jesse Bodine
District Manager

August 1, 2017

Vincent G. Bradley
Chairman
New York State Liquor Authority
80 S. Swan Street, 9th Floor
Albany, New York 12210

**Re: Corner 47th Restaurant Corp.
d/b/a Tumboa
683 9th Avenue (47/48)**

Dear Chairman Bradley:

Manhattan Community Board 4 (MCB4) recommends **denial** of the after-the-fact application for an alteration to an On-Premise Liquor License by Corner 47th Restaurant Corp. d/b/a Tumboa, 683 9th Avenue (47/48). This applicant notified MCB4 of the almost total alteration of its premises -- including moving and expanding its bar -- **only after** the alterations were completed and the re-done and re-named establishment was open for business. To the best of our knowledge, the applicant also did not apply to, and receive written permission from, the Liquor Authority prior to making these alterations, as is required by the rules of the Liquor Authority. Community residents have reported that, since re-opening, the applicant has operated in a manner contrary to law and the interests of the community, including allowing dancing, live music, outdoor speakers playing music on the sidewalk, and loud music blaring into the street late at night from the establishment's fully open doors and windows. Given this disregard of the law and the interests of the community by this applicant, MCB4 believes that the retroactive approval of this alteration application would be contrary to the public interest.

For approximately the past 10 years, the applicant operated at this location a restaurant called Pietrasanta, which was a quiet neighborhood Italian restaurant with a small bar in back and which was not open later than midnight. Earlier this year, the applicant changed its premises and its method of operation; the applicant commenced a complete renovation and re-styling of this establishment, converting it into a Cuban restaurant called Tumboa. The name, décor, menu, and layout of the establishment changed completely. Notably, instead of the former small rear bar,

Tumboa now features an 18' foot bar at the very front of the restaurant. Tumboa's cocktail menu (attached) confirms that drinking, particularly in groups, will be a far more prominent feature than at the prior operation. The basic cocktails at Tumboa are available in either 12 ounce or 24 ounce sizes, and the menu also features two 35 ounce cocktails and seven 50 ounce cocktails.

Based on the permit displayed in its window (see attached), the Department of Buildings issued a work permit to the applicant for these alterations on March 28, 2017. Despite obtaining this permit, the applicant did not inform MCB4 of the alterations until May 2017, after the alterations were completed and the new establishment Tumboa was open to the public. To the best of our knowledge, the applicant did not obtain written approval from, or even notify, the Liquor Authority prior to making these alterations, as required by the governing rules. See 9 CRR-NY 47.1. In particular, those rules make clear that "no bar shall be replaced without permission unless by a bar of the same or a lesser size in the same location." 9 CRR-NY 47.2.

The type of alteration performed by the applicant here is of particular interest and concern to the community -- transforming a quiet Italian restaurant to an establishment with a bigger, more prominent bar and serving 35 and 50 ounce cocktails.

The applicant is also seeking to extend its closing hours to 2:30 a.m. on Fridays and Saturdays and 1:30 a.m. the other nights of the week. As community residents and local block associations have made clear to MCB4, Tumboa is located on the ground floor of a residential building, and these later closing hours, together with the loud, disruptive environment fostered by the new Tumboa, would be seriously detrimental to the reasonable quality of life of nearby residents.

Unfortunately, the community's concerns about the new establishment Tumboa were borne out during its first weeks of its operation. Accordingly to community residents and neighbors, Tumboa installed outdoor speakers illegally playing music on the sidewalk. (Per the applicant, these speakers have since been removed.) The applicant regularly played loud music with its doors and windows open, allowing the music to blare into the street and on at least one occasion featured a live band. There have been reports of dancing inside the premises. In violation of its sidewalk café permit, the applicant has rearranged its sidewalk café tables and chairs to allow large groups in its sidewalk café (see attached photo).

For the reasons stated above, MCB4 does not believe that an applicant that drastically alters its premises without the required Liquor Authority approval or community outreach and then operates its new premises in a manner disruptive to reasonable residential quality of life should be rewarded with retroactive approval of its illegal alteration. MCB4 therefore recommends that the alteration application be denied.

If the SLA were nonetheless to consider granting this alteration application, MCB4 requests that the following terms be made conditions of the applicant's license, conditions that MCB4 believes are essential for the community's protection:

- No live music. Background music only.
- No dancing.
- All doors and windows to be closed at all times, except when doors are used for entering and exiting.
- Premises to be closed and vacated of all customers no later than midnight nightly.
- Sidewalk café will be set up only in accordance with plans approved by Department of Consumer Affairs.
- No obstructions (other than what appears in approved sidewalk café plans), including display menus, A-frame signs, barrels, or plants, will be placed on the sidewalk.
- Bar reduced to pre-alteration size.

Thank you for your attention and cooperation with this application.

Sincerely,



Delores Rubin
Chair

[Signed on 8/1/17]

Burt Lazarin
Co-Chair
Business Licenses & Permits
Committee

[Signed on 8/1/17]

Frank Holozubiec
Co-Chair
Business Licenses & Permits
Committee