



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD No. 4

330 West 42nd Street, 26th floor New York, NY 10036
tel: 212-736-4536 fax: 212-947-9512
www.ManhattanCB4.org

J. LEE COMPTON
Chair

MICHELLE SOLOMON
Acting District Manager

March 9, 2006

Commissioner Daniel Boyle
New York State Liquor Authority
84 Holland Avenue, 2nd floor, A-Wing
Albany, NY 12208

Re: Hell's Kitchen LLC d/b/a Hell's Kitchen, 715 Ninth Avenue (at 49th Street)

Dear Commissioner Boyle;

At its meeting on February 14, 2006 this Board's Business Licenses & Permits Committee reviewed an application for an on-premises liquor license at 715 Ninth Avenue. The applicant, John Dempsey, appeared at the meeting, as did many neighbors of the proposed venue.

Mr. Dempsey is the highly respected owner of several other restaurants and bars in Hell's Kitchen, none of which has been the subject of any complaints received by this Board. The intended premises, however, have a long history with this Board, and a number of outstanding building issues must be resolved before a liquor license should be approved at this location.

715 Ninth Avenue is a 5-story residential building with a ground floor commercial unit that was previously occupied by a furniture store. The property was converted to condominium ownership in 1989. The ground floor commercial unit and a 30% interest in the condominium's common elements are owned by the applicant's landlord (who previously owned the entire building, and was the condominium sponsor). The residential units and a 70% interest in the condominium's common elements are owned by 715 9th Avenue HDFC, a limited-equity cooperative whose shareholders are the building's residents (the "HDFC"). Litigation between the applicant's landlord and the HDFC has been ongoing.

The building has a one-story rear yard extension that may violate local zoning requirements (Section 96-102 of the New York City Zoning Resolution) The circumstances of the addition must be investigated to determine whether it was added subsequent to 1973 which would render it in violation of Section 96-102. The extension also must be a fireproof structure, made of concrete or metal, to meet fire egress requirements, because the fire escape that serves the building's rear apartments above ends at the extension (cit Admin Code reg) . Finally, alterations at this location will require a Certificate of No Harassment under Section 96-108 of the Zoning Resolution. The current owner of the commercial space, Mr. Soyaegh, was the subject of several tenant harassment enforcement actions in this neighborhood by the New York City Department of Housing Preservation & Development.. Under his ownership, 715 9th Avenue was the subject

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of proceedings under Article 7A of the Real Property Law for conditions hazardous to health and safety . That proceeding, which resulted in the appointment of an administrator for the building, establishes the history of tenant harassment in this building prior to its condominium conversion. We are writing separately to the New York City Department of Buildings to address each of these issues.

The SLA application requires certification that the premises has a valid certificate of occupancy and all appropriate permits. According to the Department of Buildings website, there are no certificates of occupancy on file for this address, and a number of open violations, including 3 “work without a permit” violations (copies of DoB printouts are enclosed). This application should not be allowed to proceed until these issues are resolved.

In addition to the buildings issues, many neighbors of 715 Ninth Avenue appeared at the committee meeting to oppose this liquor license application. Their apartments face onto the space over the roof of the one-story rear yard extension that would be occupied by the restaurant’s kitchen. The applicant has proposed placing air conditioning and kitchen exhaust equipment on the roof of the extension, directly under the windows of residential units on at least two sides. The neighbors and the Board are very concerned that it will be difficult to properly muffle and filter this equipment so as to protect the surrounding residents from noise and odors.

Due to questions about the legality of the commercial space, as well as the potential negative effects on surrounding residents, we must recommend denial of this application. We will be pleased to reconsider this application in the future, once the issues identified in this letter have been resolved.

Sincerely,



J. Lee Compton
Chair
Manhattan Community Board No. 4

Kevin Kossi
Co-Chair
Business Licenses & Permits Committee

John Weis
Co-Chair
Business Licenses & Permits Committee

cc: Applicant
Fred Gioffre
Elected Officials
Sadri Sohayegh, Mordred Realty Corp.
Tom Knutson, 715 Ninth Avenue HDfC
Neighboring residents