



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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JEAN-DANIEL NOLAND
Chair

ROBERT J. BENFATTO, JR., ESQ.
District Manager

February 18, 2009

Commissioner Daniel Boyle
New York State Liquor Authority
80 South Swan Street
Albany, NY 12210

Re: CDDF Restaurant Inc. d/b/a Bourbon Street-346-348 West 46th Street (8/9) total capacity 230 currently operating 7 days per week 11 a.m. – 4 a.m.

Dear Commissioner:

Manhattan Community Board 4 voted to recommend denial of an alteration of a full liquor license for CDDF Restaurant Inc. d/b/a Bourbon Street for the following reasons:

- The current application is for seating up to 43 patrons in an outdoor rear patio on the mezzanine level. This same space was on the applicant's original license request and declined by MCB4 in June of 2007 and again in June of 2008 due to very close proximity to neighboring apartments; in some cases, the patio is less than 10' from adjacent windows. Additionally, the sheer number of apartments and bedrooms facing this mezzanine level patio is substantial.
- The applicant developed the patio space subsequently with brick surfacing despite being denied in the original application.
- The plan presented by the applicant is not materially different from the plans presented for the June, 2007 nor the June, 2008 meetings. While the new application includes a movable glass enclosure, this enclosure is not soundproof and would do little to mitigate noise concerns in adjacent apartments.
- The rear yard patio space is incongruent with MCB4's rear/outdoor patio policy due to its extreme proximity to nearby apartments and negative impact on nearby residents.
- West 45th Street between 8th and 9th Avenues is almost exclusively residential. The rear yard patio of Bourbon Street is mid-block on West 46th Street and surrounded by dozens of apartments above and to the north and south of the establishment.
- The residents stated they have intolerable noise problems from the current rear patios operated by neighboring businesses such as O'Flaherty's and Brazil, Brazil. Some residents complained about the noise already emanating from this space when patrons smoke or use cell phones in the proposed space.
- The applicant does use the space in the bar area for live amplified music performances in the bar area.

- Some residents stated they already have noise problems arising from the applicant's establishment when a band was playing inside Bourbon Street with the doors closed and when the rear patio is not in use.
- It was noted that this applicant has a file of complaints from neighbors regarding illegal hours of construction of the rear patio.
- While the owner states that he can use this patio space as of right until 4 am, concern was raised by the community about diners who are drinking in this area would tend to be much louder than diners without alcohol.
- It was noted that there were a number of community residents present who spoke in favor of the applicant, as well as those opposed. The main content of the pro-applicant speakers attested to the applicant being a good operator of other establishments within the community.

The committee and the board have discussed this application as we try to provide balance between commerce and quality of life, and these aspects were also discussed with the applicants in advance of their presentation to the committee and the board. The committee feels that the following stipulations might appease the concerns of the neighboring residents and if this license were to be approved we would look for the stipulations to be:

- The outdoor space would comply with the recommendations contained within CB4's backyard patio/outdoor space policy which would include provisions such as use of this space would be for seated diners only, no patrons standing outside to drink or smoke. Use of bamboo plates and plastic glassware on the patio would also help to reduce noise levels. A copy of our backyard policy use is attached for the SLA's review.
- As this is an establishment on Restaurant Row, near the theater district, it is dependent upon pre-theater diners. An initial limit on the hours of operation of the rear patio to be from noon until 8:30 pm could be considered. All diners and employees would be expected to vacate the patio completely by 8:30 pm. If the applicant is able to demonstrate a good relationship with minimal disruption to neighboring residents, an extension to the 10 pm weekdays/11 pm weekends could be considered in a future application.
- A certified sound engineer would design the space to include, but not be limited to softening the reverberating noise with sound absorbing tiles, use of a sound limiting canopy, cover or enclosure, furnishing the patio with plants and other noise absorbing decorations. Most importantly as the bar does employ live amplified bands and play amplified music inside, a 'sound lock vestibule' out to the patio would need to be installed. We define the 'sound lock vestibule' to be a two door system so no noise would emanate from inside as patrons and employees entered/exited the patio.
- Down-lighting would be used in this area to limit the impact on neighboring bedrooms and living rooms.
- Reduction of the number of tables and patrons in this area to half of the proposed amount.
- Limit the outdoor dining area to be at least 15 feet from the rear side of the patio.
- No live bands would play inside when the rear patio is in use.
- The applicant would make every effort possible to limit the noise emanating from diners by posting signs outside and also on menus asking for respect of the neighbor's privacy and peace. The staff would also encourage a peaceful environment amongst the outdoor

diners. The applicant would regularly attend local block and resident association meetings to address any problems that arise. Additionally, we would expect the applicant to comply with recommendations that arise in future discussions with the community and CB4 to mitigate any noise problems.

Bourbon Street is a restaurant with two bars and a full kitchen and has been in operation for a year and a half.

Sincerely,



Jean-Daniel Noland
Chair
Manhattan Community
Board Four

Lisa Daglian
Co-Chair
Business License &
Permits Committee



Chuck Spence
Co-Chair
Business License & Permits
Committee

cc: Applicant
Fred Gioffre
Elected Officials