



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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CHRISTINE BERTHET
Chair

ROBERT J. BENFATTO, JR.
District Manager

February 14, 2014

Dennis Rosen
Chairman
New York State Liquor Authority
80 S. Swan Street, 9th Floor
Albany, New York 12210

Re: *New Applicant: Aura 3 LLC d/b/a TBD, 642 10th Avenue (45/46)*
Current OP License at this Address: Lux Bar & Lounge LLC d/b/a Bartini Ultra
Lounge Serial number 1224178, expires August 31, 2015

Dear Chairman Rosen:

Manhattan Community Board 4 (MCB4) writes with respect to the application for an On-Premise Liquor License by Aura 3 LLC at 642 Tenth Avenue, New York, NY 10036. Because of on-going litigation including a court-issued preliminary injunction relating to the establishment currently operating at this address and its present OP license holders/owners, MCB4 does not believe it is appropriate or timely for it to take a position on the application of Aura 3 LLC for a new OP license at this address to commence at some future date.

As outlined below, MCB4 and the community have had a host of issues with the establishment currently operating at this address and would need Aura 3 LLC to agree to a number of stipulations before MCB4 and the community could support its application. This establishment falls within the 500 foot rule as there are over ten OP liquor licenses within 500 feet of this address, and, given the past history at this address, MCB4 would need to give serious consideration to whether a new license at this address would serve the public interest. MCB4 believes that it would have a better understanding of the issues surrounding this address after the legal disputes between the present license holders/owners have been resolved and that consideration of the Aura 3 LLC application should be deferred until that time. In the event that the State Liquor Authority decides to proceed with this application at this time, MCB4 will submit its position in connection with the required 500-foot-rule hearing.

At present, an OP license for this address -- serial number 1224178, with an expiration date of August 31, 2015 -- is active and has been issued to three individuals, Theodore Arenas, Joanne Puc, and Joseph Puc, for Lux Bar & Lounge LLC d/b/a Bartini Ultra Lounge (Bartini). Bartini remains open and operating. Based on copies of court papers submitted to MCB4, we understand that there is ongoing litigation involving the three individuals listed on Bartini's OP license regarding their ownership interests in Bartini. *See Joanne Puc & Joseph Puc v. Theodore Arenas*, N.Y. Sup. Ct., Index No. 653336/2011. We are in receipt of a preliminary injunction dated January 28, 2014, issued by the court in that lawsuit, ordering that Joanne Puc and Joseph Puc (and those acting on their behalf) are "enjoined and restrained . . . from transferring, encumbering, assigning

or dissipating any ownership interests in or assets of Lux Bar & Lounge LLC, including but not limited to the lease and liquor license of said LLC, except in the ordinary course of business”

MCB4 understands that the present Bartini OP license may not be “transferred” to new operators except under limited circumstances and with the SLA’s approval, and Aura 3 LLC has revised its submission to MCB4 to indicate that it is seeking a new OP license at this address rather than a “transfer.” Nonetheless, the court’s preliminary injunction appears designed to preserve the status quo at Bartini until the rights of the involved parties can be determined by the court. MCB4 is concerned about taking a position on a new applicant at this address (which court papers indicate may be purchasing the assets of Bartini) without having a full understanding of the issues surrounding the present license holders/owners or a final judicial determination for guidance. Accordingly, we believe it is most appropriate to defer consideration of the present application until after the legal issues involving Bartini have been resolved.

MCB4 is particularly concerned about proceeding without a full understanding of the facts because Bartini has a troubled history, with persistent community complaints about such issues as excessively loud music, sidewalk congestion and inadequate security/crowd control, dancing without a cabaret license, and use of adjacent outdoor space. Accordingly, MCB4 likely would consider supporting a new OP license at this address only if the applicant agreed to a series of stipulations in such areas as music and noise levels, sound-proofing and acoustical design, operating hours, security and crowd control, ventilation, no use of outdoor space, and enforcement of a “no dancing” policy.

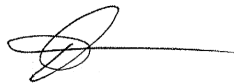
If the SLA decides to proceed with this application at this time, MCB4 would like the opportunity to discuss these concerns and proposed stipulations with Aura 3 LLC. Otherwise, MCB4 will submit its views on this application in connection with the required 500-foot-rule hearing.

Thank you for your attention and cooperation with this application.

Sincerely,



Christine Berthet
Chair



Paul Seres
Co-Chair
Business License & Permits
Committee



Frank Holozubiec
Co-Chair
Business License & Permits
Committee