



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

CHRISTINE BERTHET
Chair

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

April 2, 2014

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

Re: Zonea Food & Beverage Inc.
d/b/a Bea
403 West 43rd Street (9th/10th Avenues)

Dear Chairman Rosen:

Manhattan Community Board 4 (MCB4) recommends denial of an alteration to the On-Premise Liquor License for Zonea Food & Beverage Inc. d/b/a Bea because the extended operating hours sought in the alteration application (from presently closing at 12:30/1:00 a.m. to a 3:00 a.m. closing nightly) would not serve, and would be contrary to, the public interest.

This establishment falls within the 500 foot rule as there are **25 (twenty-five)** OP liquor licenses within 500 feet of this address. This establishment is located on a very residential side-street block; Manhattan Plaza, a 3000 unit apartment complex with a large number of senior residents, is located directly across the street from this location. The rest of the housing stock is a mix of tenements and brownstones with old windows and poor noise isolation. There are no other establishments on this block open until the 3:00 a.m. nightly closing time sought in this application. To the best of our knowledge, no prior licensed establishment at this location or on this block has been open as late as 3:00 a.m. In our experience, the extended hours sought in the application present a serious risk of increased vehicular and pedestrian traffic and gatherings outside to smoke, generating excessive street noise in the early morning hours and causing significant disruption to surrounding residents.

This applicant first appeared before MCB4 in 2012, seeking its original OP license. At that time, the applicant sought to close at 4 a.m. nightly. This original application was strongly opposed by the community for reasons including those stated above: the establishment's location on a very residential side street, the fact that no prior establishment at the location had been open so late, and the threat of increased vehicular and pedestrian traffic and noise late at night. Had the applicant not stipulated to the more limited hours of its present OP license -- closing at 12:30 a.m. on Sunday through Wednesday and 1:00 a.m. on Thursday, Friday, and Saturday -- MCB4 likely would have recommended denial of the original application.

The services proposed by this establishment are not unique. As mentioned above, there is an overabundance of OP-licensed establishments within 500 feet -- with several of them, located on the primarily commercial Ninth Avenue, operating on the extended hours sought by the applicant

here. This applicant's extended hours would add nothing to the community that is not readily available at nearby locations.

At the March 11, 2013 meeting of MCB4's Business Licenses and Permits Committee, multiple community residents spoke against the application for extended hours, citing the concerns outlined above. No one (other than the applicant) spoke in favor of the application. Although the applicant did submit a petition with approximately 90 signatures supporting the alteration application, we note that approximately half of those signatures were from individuals *not* residing in the immediate vicinity of this location. Moreover, in our view, that petition is greatly outweighed by the views of the immediate neighbors in Manhattan Plaza, the 3000 unit apartment complex directly across the street from this location. At our March 11th meeting, a representative of the Manhattan Plaza Tenants Association informed us that the Tenants Association, and the 120 members of that association attending their recent meeting, unanimously opposed the extended hours sought in the present application.

It is the case that, at the applicant's urging at the time of its original application, the applicant's stipulations with MCB4 included a provision that MCB4 would re-evaluate the closing hours after four months of operation. The opposition of the community to late night hours was made very clear to the applicant at the time of its original application, however, and the current closing hours were an important condition of the original approval by MCB4.

In recent months, another applicant -- BK 19 Inc. at 400 West 43rd Street -- appeared before MCB4 in connection with a license for premises immediately across the street from the present applicant. BK 19 Inc. initially sought a full O/P license with late night hours, which met with extensive community opposition. After discussions with the community, BK 19 Inc. agreed to apply for a wine & beer (rather than a full OP) license and to close at midnight nightly. MCB4 recommended the approval of that application because of, and subject to, those stipulations.

MCB4 has re-evaluated the request for extended hours presented in the alteration application, but, particularly in light of growing concerns about noise, increased concentration of licensed establishments, and continued community opposition, adheres to its original conclusion that a late-night liquor license on this residential block is contrary to the public interest and the well-being of local residents. MCB4 accordingly urges denial of the present alteration application.

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