



THE CITY OF NEW YORK MANHATTAN COMMUNITY BOARD 3

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Alysha Lewis-Coleman, Board Chair

Susan Stetzer, District Manager

June 2018 Vote Sheet

Executive Committee

- Board Member Removal for Lack of Attendance

VOTE: Whereas Marnie Ann Joyce was given written notice to attend the CB 3 Executive Committee on June 21 to discuss lack of attendance at CB 3 meetings, and

Whereas Marnie Ann Joyce did not attend the meeting and did not respond in any way, and

Whereas Marnie Ann Joyce was appointed in 2017 and has attended one full board meeting since that time and has never been assigned to a committee, and

Whereas CB 3 bylaws require attendance at a minimum of 2/3 of meetings, so

Therefore be it resolved that Marnie Ann Joyce is being removed from Community Board 3 based on her persistent lack of attendance.

34 YES 0 NO 1 ABS 0 PNV MOTION PASSED

Personnel Committee

1. Selection of candidate for Assistant District Manager to replace vacant Assistant District Manager

VOTE: To approve the personnel taskforce recommendation for the District Manger to offer the Assistant District Manager job to the first-choice candidate and to have discretion of offering it to the second-choice candidate should the first-choice decline the offer.

2. Pay increase for the Community Board 3 District Manager

VOTE: Whereas, the Community Board 3 total budget has a surplus of "Other Than Personal Services" money due in large part to monies rolled over annually into this budget from unused "Personal Services" budget; and

Whereas, Community Board 3's "Personal Services" and "Other Than Personal Services" budgets, along with additional funding sources that the office has access to, can allow for a one-time base salary increase of \$1,300 for the District Manager (a 1.5% increase); and

Whereas, the District Manager is unquestionably dedicated to the Board and community that she both works and lives in; and

Whereas, Community Board 3's District Manager, Susan Stetzer, has not received a discretionary raise since May 2016 when she was given \$2,000 and the only other one before that after starting in the position in 2004 was for \$1,500 in 2012; and

Whereas, Manhattan District Manager salaries are on average much lower than the other boroughs by \$7,586, CB3's District Manager is currently paid \$3,478 less than the Manhattan average or \$11,064 less than the citywide average; and

Whereas, Ms. Stetzer is on call 24 hours, seven days a week, as evidenced by her long hours during the E. Village gas explosion, Sandy Recovery, not to mention for other routine work; and

Whereas, a base salary increase of \$1,300 is not representative of her work, it will bring her to closer parity compared to her Manhattan peers, by bringing her to being the 7th highest paid District Manager in Manhattan, yet still well below parity when using the Citywide average; and

Whereas, the Board believes that a discretionary raise of greater than \$1,300 is warranted based on her high level of performance, it is fiscally prudent to approve an increase this year so that it is retroactive for Fiscal Year 2018; therefore

Be it resolved that Community Board 3 approves a base salary increase of \$1,300 for the District Manager.

34 YES 0 NO 1 ABS 0 PNV MOTION PASSED

Health, Seniors, & Human Services / Youth, Education, & Human Rights Committee

1. Approval of previous month's minutes approved by committee
2. Beth Israel response to concerns no vote necessary
3. District Needs Statement no vote necessary
4. CAB reports no vote necessary
5. Vote to adjourn approved by committee

34 YES 0 NO 1 ABS 0 PNV MOTION PASSED

SLA & DCA Licensing Committee

1. Approval of previous month's minutes approved by committee

Applications within Saturated Areas

2. Local 138 (Pub 138 Inc), 138 Ludlow St btwn Stanton & Rivington Sts (op)

**VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Stipulations Agreed To—
Stipulations Attached**

WHEREAS, Pub 138 Inc., with a proposed business name of Local 138, is seeking a full on-premises liquor license for the premises located at 138 Ludlow Street, north storefront, between Stanton Street and Rivington Street, New York, New York; and

WHEREAS, this is application for a tavern with no listed certificate of occupancy, two (2) tables and twelve (12) seats, an eighteen (18) foot bar with thirteen (13) stools, hours of operation of 2:00 P.M. to 4:00 A.M. all days, a prep area serving bar food during all hours of operation, a closed façade, three (3) televisions, recorded background music, no promoted events, scheduled performances or events with cover fees, happy hours to 9:00 P.M. and no wait lines outside; and

WHEREAS, this applicant was denied a full on-premises liquor license for the same business at the south storefront of the same building by Community Board #3 in January of 2011, unless the applicant agreed to make as conditions of its license stipulations that it would 1) operate as a tavern serving light pub style food, 2) have hours of operation of 2:00 P.M. to 4:00 A.M. all days, 3) close any façade doors and windows at 10:00 P.M. every night, and 4) play background music only, consisting of recorded music; and

WHEREAS, this applicant was issued a full on-premises liquor license for the adjacent storefront by the SLA on May 26, 2011; and

WHEREAS, the business itself has existed on Ludlow Street for the past twenty-one (21) years; and

WHEREAS, there are forty-five (45) full on-premises liquor licenses within five hundred (500) feet of this location per the applicant but there are forty-eight (48) full on-premises liquor licenses and two (2) pending full on-premises liquor licenses per the SLA LAMP map; and

WHEREAS, the building otherwise known as 138-140 Ludlow Street was recently purchased by Delshah Capital LLC, whose founder and chief executive officer is developer, landlord and nightlife operator Michael Shah, and the landlord gave the applicant the option of leaving the south storefront at the end of its lease which expires in eight (8) months or moving to the smaller north storefront, however, in order to lease the smaller storefront, the applicant had to sell its assets to the landlord, place its existing full on-premises liquor license in safekeeping and apply for a new full on-premises liquor license rather than seek to remove its existing license to the new location; and

WHEREAS, the applicant has stated that it cannot afford to lose this business which comprises half of its income or close it and displace its employees while searching for another location and removing its existing license in this area which has become increasingly unaffordable; and

WHEREAS, while the applicant has operated this business for seven (7) years, it has also operated a tavern, located at 132 Ludlow Street, for ten (10) years and a restaurant bar, located at 211 Avenue A, for three (3) years; and

WHEREAS, the applicant has operated its existing business at 138 Ludlow Street for seven (7) years without complaints and at its other location without complaints; and

WHEREAS, the applicant furnished petition signatures, eighty (80) of which were from area residents, including sixty-nine (69) residents of the block where the business is located and twenty (20) residents from its building, and its eight (8) employees appeared to speak on behalf of the applicant as a responsible, available business owner and the need to maintain their employment; and

WHEREAS, an area tavern owner and community board member appeared to speak on behalf of the applicant who has a seven (7) year history as a responsible business owner at this location and a ten (10) year history as a business owner in this neighborhood and to speak on behalf of the business as an affordable tavern in an area with increasingly unaffordable options and with daytime hours which helps to attract daytime foot traffic in an area where it is desperately needed; and

WHEREAS, thirteen (13) are residents submitted letters in opposition to this application because it is within five hundred (500) feet of numerous liquor licenses, nineteen (19) of which are on this street, the area is devastated by nightlife with people pouring into the neighborhood on weekends to patronize licensed businesses and there is persistent overbearing noise, music, yelling, garbage, smells, congestion, traffic, horn honking, fights, police sirens, morning noise from delivery and garbage trucks, violence and chaos from the patrons and businesses; and

WHEREAS, the LES Dwellers, a local residents association, submitted a statement in opposition to this application, expressing concern that its approval would result in an additional full on-premises liquor license and asking the applicant to seek the removal of its liquor license to another storefront; and

WHEREAS, Community Board #3 is unlikely to favorably view an application for a full on-premises liquor license in this building given that the intent of the landlord was to either evict the applicant or move the applicant to a smaller storefront in the same building in order to preserve the existing full on-premises liquor license for his own benefit; and

WHEREAS, notwithstanding the number of existing full on-premises liquor licenses within the immediate area, Community Board #3 would approve this application with stipulations governing its use given the good history of the applicant operating this business and in this community, the history of this business as an affordable tavern that caters to area residents in an area with increasingly unaffordable options and has midday operating hours which helps to attract daytime foot traffic in an area where it is sorely needed and given that the approval of this full on-premises liquor license will not add a new licensed business to an already overburdened community but will maintain the existence of a stable business; now

THEREFORE BE IT RESOLVED that Community Board #3 moves to deny the application for a full on-premises liquor license for Pub 138 Inc., with a proposed business name of Local 138, for the premises located at 138 Ludlow Street, between Stanton Street and Rivington Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulations that

- 1) it will operate as a tavern, serving food during all hours of operation,
- 2) its hours of operation will be 2:00 P.M. to 4:00 A.M. all days,
- 3) it will not commercially operate any outdoor areas,
- 4) it will install soundproofing consistent with the recommendations of a sound engineer,
- 5) it will close any front or rear façade entrance doors at 10:00 P.M. every night or when amplified sound is playing and will otherwise have a closed fixed facade with no open doors or windows,

- 6) it will play ambient background music only, consisting of recorded music, and will not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged,
- 7) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
- 8) it will not host pub crawls or party buses,
- 9) it will not have unlimited drink specials with food,
- 10) it will may have "happy hours" to 9:00 P.M. each night,
- 11) it will insure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk,
- 12) it will conspicuously post this stipulation form beside its liquor license inside of its business, and
- 13) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.

Alterations

3. Ludlow House (Soho-Ludlow Inc), 139 Ludlow St btwn Stanton & Rivington Sts (op/alt/add 2-story garden expansion with 37 tables, 98 seats, and add service bar)

**VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Stipulations Agreed To—
Stipulations Attached**

WHEREAS, Soho-Ludlow Inc., doing business as Ludlow House, has applied for an alteration of its full on-premises liquor license for the premises located at 139 Ludlow Street, between Stanton Street and Rivington Street, New York, New York, to wit creating a two-story addition, comprised of cellar level bathrooms and recording studio and a ground floor partially enclosed garden with a retractable roof, in the lot which currently houses 137 Ludlow Street; and

WHEREAS, the applicant is also seeking to change the standup bar on the ground floor of its existing building to a service bar and change the service bar on the fourth floor of its existing building to a standup bar; and

WHEREAS, the original full on-premises liquor license for this applicant was denied by Community Board #3 in May of 2013, because of the scale and use of the proposed business and community opposition, and its license was then issued by the SLA on May 19, 2016; and

WHEREAS, this application is for an addition with a combined certificate of occupancy of four (400) people with a maximum occupancy of one hundred seventy-five (175) people in a nine hundred (900) square foot ground floor garden, an interior closing time of 2:00 A.M. all days, the retractable roof of the garden closing at 10:00 P.M. all days, one hundred thirty-one (131) seats in the garden comprised of seats at tables and lounge seating, no bars in the addition, service from its kitchen during all hours of operation, French doors, accordion doors and windows connecting the garden and main building but a fixed glass facade fronting the street, no televisions, no music in the garden addition but live and recorded music and DJs at background and entertainment levels within the interior spaces, no promoted events, scheduled performances or events with cover fees except for small performances for members, existing security during all hours of operation, no happy hours and no wait lines; and

WHEREAS, to accomplish the proposed alteration, the applicant is seeking to acquire and demolish the existing building at 137 Ludlow Street, which presently houses Brackluinn Restaurant Inc. and 137 Ludlow Holdings LLC, doing business as Libation, a multi-story dance club and music venue which has contributed to the noise, traffic and deteriorating conditions for residents since it was issued a full-on premises liquor license by the SLA on December 8, 2004; and

WHEREAS, consistent with the recommendations of a sound engineer who appeared before Community Board #3 on behalf of the applicant, the applicant will soundproof the cellar level, including the recording studio, and will install a retractable roof with sound attenuating properties above the garden addition and soundproof the entire length of the south wall of the garden adjacent to 135 Ludlow Street to dampen sound from the attached garden; and

WHEREAS, the applicant has operated its existing business at 139 Ludlow Street for two (2) years without complaints; and

WHEREAS, the applicant furnished petition signatures, one hundred seventy (170) of which were from area residents and a letter on its behalf from Educational Alliance, a local organization, and eleven (11) people, comprised of members of the club who also live or work in the area, were present in support of this application; and

WHEREAS, the LES Dwellers, a local residents association, submitted a statement in support of this application given that sixty-six percent (66%) of residents it had surveyed supported the proposed alteration, provided that any doors and windows, including the retractable roof, closes at 10:00 P.M. all days, given that the alteration would mean the elimination of Libation which has operated as a dance club and contributed to problems in the immediate area and because Ludlow House has been a responsive neighbor and immediately addressed any issues or concerns raised by residents; and

WHEREAS, there are forty-seven (47) full on-premises liquor licenses within five hundred (500) feet of this location per the applicant but there are forty-eight (48) full on-premises liquor licenses and two (2) pending full on-premises liquor licenses per the SLA LAMP map; and

WHEREAS, given that the applicant plans to implement sound mitigation consistent with the recommendations of a sound engineer, including playing no music in the garden addition, and will close doors, windows and the retractable roof to the garden at 10:00 P.M. all days and have no bar in the garden addition and given the additional public benefit that the approval of this alteration would effectively eliminate one of the more problematic nightlife businesses in a community overburdened with licensed businesses, Community Board #3 would approve this alteration with additional stipulations governing the use of the addition; now

THEREFORE, BE IT RESOLVED that Community Board #3 moves to deny the application for an alteration of the full on-premises liquor license for Soho-Ludlow Inc., doing business as Ludlow House, for the premises located at 139 Ludlow Street, between Stanton Street and Rivington Street, to wit creating a two-story addition, comprised of cellar level bathrooms and recording studio and a ground floor partially enclosed garden with a retractable roof, in the lot which currently houses 137 Ludlow Street, changing the standup bar on the ground floor of 139 Ludlow Street to a service bar and changing the service bar on the fourth floor of 139 Ludlow Street to a standup bar, unless the applicant agrees before the SLA to make as additional conditions of its license the following signed notarized stipulations that

- 1) it will operate a ground floor garden addition to its private members club, with a kitchen within the club open and serving food to the addition during all hours of operation,
- 2) its hours of operation indoors for the ground floor garden addition will 9:00 A.M. 2:00 A.M. all days,
- 3) it will install soundproofing in the walls of the garden addition and add a retractable roof with sound attenuating properties, consistent with the recommendations of a sound engineer,
- 4) it will close any doors and windows and the retractable roof of the garden addition at 10:00 P.M. every night,
- 5) it will not play music in the garden addition,
- 6) its only access to the garden will be through its main entrance at 139 Ludlow Street,
- 7) it will operate the cellar level addition as a recording studio and area for small performances for members, will house member bathrooms in this level and will soundproof this level consistent with the recommendations of a sound engineer,
- 8) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
- 9) it will not host pub crawls or party buses,
- 10) it will not have unlimited drink specials with food,
- 11) it will not have "happy hours,"
- 12) it will insure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk,
- 13) it will conspicuously post this stipulation form beside its liquor license inside of its business, and
- 14) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.

4. Home Sweet Home and Fig 19 (TLS Chrystie LLC), 131 Chrystie St (op/alt/enlarge bar size, add DJ booth)

withdrawn

5. No Fun (161 Ludlow Food LLC), 161 Ludlow St (op/change method of operation/add security guards)

withdrawn

Sidewalk Cafe Applications

6. Oda House (Ave B Buon Gusto Corp), 76 Ave B @ E 5th St

**VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Change Order Agreed To—
Change Order Attached**

To approve the application for an unenclosed sidewalk café permit for six (6) tables and twelve (12) seats for Ave B Buon Gusto Corp., doing business as Oda House, for the premises located at 76 Avenue B, at the corner of East 5th Street and Avenue B, because the applicant has signed a change agreement which will become part of its DCA license that

- 1) its café will consist of six (6) tables and twelve (12) seats with four (4) tables and eight (8) seats located on the Avenue B side of the business and two (2) tables and four (4) seats located on the East 5th Street side of the business, and
- 2) its hours of operation will be 4:00 P.M to 10:00 P.M. Mondays through Thursdays and 11:00 A.M. to 10:00 P.M. Fridays through Sundays.

New Liquor License Applications

7. Ichibantei (Ichibantei Pub Inc), 401 E 13th St btwn 1st Ave & Ave A (wb)

**VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Stipulations Agreed To—
Stipulations Attached**

To deny the application for a wine beer license for Ichibantei Pub Inc., doing business as Ichibantei, for the premises located at 401 East 13th Street, between First Avenue and Avenue A, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulations that

- 1) it will operate as a full-service Japanese restaurant, with a kitchen open and serving food during all hours of operation,
- 2) its hours of operation will be 5:00 P.M. to 2:00 A.M. all days,
- 3) it will not commercially operate any outdoor areas,
- 4) it will close any front or rear façade doors and windows at 10:00 P.M. every night, when amplified sound is playing, including but not limited to DJs, live music and live nonmusical performances,
- 5) it will play ambient background music only, consisting of recorded music, and will not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged,
- 6) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
- 7) it will not seek a change in class to a full on-premises liquor license without first obtaining the approval of Community Board #3,
- 8) it will not host pub crawls or party buses,
- 9) it will not have unlimited drink specials with food,
- 10) it will not have "happy hours,"
- 11) it will insure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk,
- 12) it will conspicuously post this stipulation form beside its liquor license inside of its business, and
- 13) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.

8. Gala (Color Strip LLC), 92 3rd Ave btwn E 12th & E 13th Sts (wb)

**VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Stipulations Agreed To—
Stipulations Attached**

To deny the application for a wine beer license for Color Strip LLC, with a proposed business name of Gala, for the premises located at 92 Third Avenue, between East 12th Street and East 13th Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulations that

- 1) it will operate as a full-service Chinese restaurant, with a kitchen open and serving food during all hours of operation,
- 2) its hours of operation will be 5:00 P.M. to 12:00 A.M. Sundays through Thursdays and 5:00 P.M. to 2:00 A.M. Fridays and Saturdays,
- 3) it will not commercially operate any outdoor areas,
- 4) it will close any front or rear façade entrance doors at 10:00 P.M. every night or when amplified sound is playing and will otherwise have a closed fixed facade with no open doors or windows,

- 5) it will play ambient background music only, consisting of recorded music, and will not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged,
- 6) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
- 7) it will not host pub crawls or party buses,
- 8) it will not have unlimited drink specials with food,
- 9) it will not have "happy hours,"
- 10) it will insure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk,
- 11) it will conspicuously post this stipulation form beside its liquor license inside of its business, and
- 12) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.

9. 133 Group Inc, 133 Chrystie St btwn Broome & Delancey Sts (op)

**VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Stipulations Agreed To—
Stipulations Attached**

To deny the application for a full on-premises liquor license for 133 Group Inc., for the premises located at 133 Chrystie Street, between Broome Street and Delancey Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulations that

- 1) it will operate as a full-service Asian barbeque restaurant, with a kitchen open and serving food during all hours of operation,
- 2) its hours of operation will be 12:00 P.M. to 1:00 A.M. all days,
- 3) it will install soundproofing,
- 4) it will not commercially operate any outdoor areas,
- 5) it will close any front or rear façade entrance doors at 10:00 P.M. every night or when amplified sound is playing and will otherwise have a closed fixed facade with no open doors or windows,
- 6) it will play ambient background music only, consisting of recorded music, and will not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged,
- 7) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
- 8) it will not host pub crawls or party buses,
- 9) it will not have unlimited drink specials with food,
- 10) it will not have "happy hours,"
- 11) it will insure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk,
- 12) it will conspicuously post this stipulation form beside its liquor license inside of its business, and
- 13) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints

Community Board #3 is approving this application for a full on-premises liquor license although this location is a previously unlicensed location in an area with numerous full on-premises liquor licenses because 1) this applicant has owned and operated a business at this location for forty (40) years, 2) the proposed application is for an Asian barbeque restaurant with moderate hours, including daytime hours, and 3) the proposed restaurant will be located on Chrystie Street which is a wide avenue.

10. Catalina's (355 Bowery Restaurant Group LLC), 355 Bowery btwn E 3rd & E 4th Sts (op)

**VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Stipulations Agreed To—
Stipulations Attached**

To deny the application for a full on-premises liquor license for 355 Bowery Group LLC, with a proposed business name of Catalina's, for the premises located at 355 Bowery, between East 3rd Street and East 4th Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulations that

- 1) it will operate as a full-service American, Mexican and Cuban restaurant, with a kitchen open and serving food during all hours of operation,
- 2) its hours of operation will be 4:00 P.M. to 2:00 A.M. Sundays through Wednesdays and 4:00 P.M. to 4:00 A.M. Thursdays through Saturdays,
- 3) it will install soundproofing and relocate existing speakers,
- 4) it will not commercially operate any outdoor areas,

- 5) it will close any front or rear façade entrance doors at 10:00 P.M. every night or when amplified sound is playing and will otherwise have a closed fixed facade with no open doors or windows,
- 6) it will play ambient background music only, consisting of recorded music, and will not have live music, DJs, promoted events or any event at which a cover fee will be charged, but may have scheduled performances consisting only of readings and the spoken word, no more than twice a month and ending no later than 9:00 P.M.,
- 7) it will not have televisions inside of the business,
- 8) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
- 9) it will not host pub crawls or party buses,
- 10) it will not have unlimited drink specials with food,
- 11) it may have "happy hours" to 8:00 P.M. each night,
- 12) it will insure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk,
- 13) it will conspicuously post this stipulation form beside its liquor license inside of its business, and
- 14) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints

Community Board #3 is approving this application for a full on-premises liquor license although this location is in an area with numerous full on-premises liquor licenses because 1) this is a sale of assets of an existing restaurant with a full on-premises liquor license and the same hours of operation, 2) this applicant consists of principals who have collective experience working in and operating similar businesses, including businesses within Community Board #3, and 3) the applicant demonstrated substantial support for its application, in that it furnished petition signatures, one hundred seventy-three (173) of which were from area residents, in support of its application, and six (6) people appeared to speak on its behalf.

11. Hwa Yuan Szechuan (42-44 East Broadway Restaurant Inc), 42-44 East Broadway btwn Catherine & Market Sts (upgrade/op)
withdrawn
12. Spicewal Bar/Apna Masala/Mancora (US Lions Inc), 344 E 6th St (op)
withdrawn
13. Sushi Bada (S&D Wave Group Inc), 199 2nd Ave btwn E 12th & E 13th Sts (op)
withdrawn
14. Down and Out (Down and Out Brooklyn LLC), 197 E 3rd St (op)
withdrawn
15. Nai Tapas (Nai Tapas Restaurant Corp), 85 2nd Ave @ E 5th St (op)

VOTE: TITLE: Community Board #3 Recommendation To Deny

WHEREAS, Nai Tapas Restaurant Corp. has applied for a full on-premises liquor license for the premises located at 85 Second Avenue, at the corner of East 5th Street and Second Avenue, New York, New York; and

WHEREAS, this applicant is seeking to operate a two-story Spanish tapas restaurant with a certificate of occupancy of one hundred forty-four (144) people, thirty-five (35) tables and one hundred eleven (111) seats, a thirteen (13) foot bar with five (5) stools, hours of operation of 11:00 A.M. to 10:00 P.M. Sundays, 11:30 A.M. to 11:00 P.M. Mondays through Thursdays, 11:30 A.M. to 12:00 A.M. Fridays and 11:00 A.M. to 12:00 A.M. Saturdays, a sidewalk café of unspecified size on both Second Avenue and East 5th Street, a kitchen open to within one (1) hour of closing, French doors, an unspecified number of televisions, recorded and live background music, scheduled performances and happy hours to 7:00 P.M., and

WHEREAS, this applicant was denied a restaurant wine license by Community Board #3 in April of 2010, for the same business under corporate name NAI LLC, for the premises located at 174 First Avenue, unless the applicant agreed to make as conditions of its license stipulations that it would 1) operate as a full service Spanish tapas restaurant, serving food to within one (1) hour of closing, 2) have hours of operation of 11:30 A.M. to 1:30 A.M. Mondays through Thursdays, 11:30 A.M. to 2:30 A.M. Fridays, 10:30 A.M. to 2:30 A.M. Saturdays and 10:30 A.M. to 1:30 A.M. Sundays, 3) play ambient background music, consisting of recorded music, except that it would have live acoustic music once a week, consisting of a flamenco troupe, and 4) close its façade windows at 10:00 P.M. every night; and

WHEREAS, contrary to its existing stipulations, the applicant has conceded that it has been hosting amplified live performances twice a week at 174 First Avenue; and

WHEREAS, this location is within five hundred (500) feet of twenty-eight (28) full on-premises liquor licenses and two (2) pending full on-premises liquor licenses per the SLA LAMP map; and

WHEREAS, the applicant has stated an inadequate public benefit for approving a full on-premises liquor license for its business in that it stated that it is seeking a full on-premises liquor license to be able to offer a menu of six (6) to eight (8) cocktails to pair with food; and

WHEREAS, this applicant is seeking to occupy a storefront within two hundred (200) feet of a house of worship and its attorney conceded that this location is within two hundred (200) feet of a house of worship, in that it is across the street from Iglesia Alianza Cristiana y Misionera a/k/a The Spanish Evangelical Church, located at 76 Second Avenue, between East 4th Street and East 5th Street; and

WHEREAS, the attorney for the applicant stated that the applicant would seek to move the entrance of the proposed business from the existing Second Avenue entrance to East 5th Street in an effort to comply with the statute requiring that its entrance not be within two hundred (200) feet of a house of worship; and

WHEREAS, a review of the community board questionnaire of Bare City Two LLC, the previous business at this address, which was submitted when it applied for a change in class of its wine beer license to a full on-premises liquor license in May of 2014, indicated that its business, which operated with a Second Avenue entrance, was not within two hundred (200) feet of a house of worship and the proximity of this church was, consequently, not part of the community board discussions of its application at that time and was unaddressed in the resulting resolution; and

WHEREAS, notwithstanding that the applicant furnished petition signatures in support of its application, one hundred fifty-nine (159) of which were from area residents, eleven (11) residents of the block and a representative of the East 5th Street Block Association appeared and four (4) residents submitted statements in opposition to the intention of this applicant to host amplified live music on the second story of this location which is flanked by floor-to-ceiling windows on both the Second Avenue and East 5th Street side of the business given that the music at its present location is amplified and offered twice a week contrary to its stipulations and given that block association members who visited the business reported that it was excessively loud; and

WHEREAS, block residents also submitted statements and appeared in opposition to this application given the number of businesses within five hundred (500) feet of this location that already have full on-premises liquor licenses, stating that the intersection of East 5th Street and Second Avenue is deafeningly loud and overrun with patrons from existing licensed businesses; and

WHEREAS, one hundred forty eight (148) petition signatures from area residents, most of which were from within one (1) block of the location, were submitted in opposition; and

WHEREAS, community residents and the block association expressed vehement opposition to the representation by the attorney that the applicant would move the entrance of the business to the East 5th Street side of the business to circumvent the statute requiring that its entrance not be within two hundred (200) feet of a house of worship because when Sin Sin, a prior business operated as a club, had its entrance located on this residential side street, residents of the street experienced noise from people and music, disruptive crowds, cars idling on the street and fights amongst patrons every night that it was open and these conditions ceased only after the business closed after a patron was shot leaving the location; and

WHEREAS, Community Board #3 finds insufficient public benefit in approving an application for a full on-premises liquor license for this applicant who is operating its existing business with the same business name contrary to its stipulations and given that the applicant is seeking to relocate the entrance to this premises onto a residential side street in order to

circumvent the statute requiring that its entrance not be within two hundred (200) feet of a house of worship; now

THEREFORE, BE IT RESOLVED that Community Board #3 moves to deny the application for a full on-premises liquor license for Nai Tapas Restaurant Corp., with a proposed business name of Nai Tapas, for the premises located at 85 Second Avenue, at the corner of East 5th Street and Second Avenue, New York, New York.

16. UKI Freedom LLC, 136 2nd Ave btwn St Marks Pl & E 9th Sts (op)
withdrawn

17. Golden Diner (123 Madison Street LLC), 123-B Madison St (aka 40 Market St) (wb)

**VOTE: TITLE: Community Board #3 Recommendation To Deny Unless Stipulations Agreed To—
Stipulations Attached**

To deny the application for a wine beer license for 123 Madison Street LLC, with a proposed business name of Golden Diner, for the premises located at 123B Madison Street a/k/a 40 Market Street, at the corner of Madison Street and Market Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulations that

- 1) it will operate as a full-service restaurant, to wit a diner, with a kitchen open and serving food during all hours of operation,
- 2) its hours of operation will be 7:00 A.M. to 12:00 A.M. Sundays through Wednesdays and 7:00 A.M. to 1:00 A.M. Thursdays through Saturdays,
- 3) it will install soundproofing,
- 4) it will not commercially operate any outdoor areas,
- 5) it will close any front or rear façade entrance doors at 10:00 P.M. every night or when amplified sound is playing and will otherwise have a closed fixed facade with no open doors or windows,
- 6) it will play ambient background music only, consisting of recorded music, and will not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged,
- 7) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
- 8) it will not host pub crawls or party buses,
- 9) it will not have unlimited drink specials with food,
- 10) it will not have "happy hours,"
- 11) it will insure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk,
- 12) it will conspicuously post this stipulation form beside its liquor license inside of its business, and
- 13) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.

18. Clay Pot NYC (Ho Mei Inc), 58 St Marks Pl (wb)
no vote necessary - item not heard at committee

19. District Needs Statement
no vote necessary

Hotel Applications

20. Allen Street Hospitality LLC (Allen Hotel), 140 Allen St @ Rivington St (op)
withdrawn

Items not heard at Committee

21. Tarallucci e Vino (Mannaggia Inc), 163 1st Ave (op/corp change)
no vote necessary

22. Cocoa Bar (Bar Cipriano Inc), 19-21 Clinton St (wb)
no vote necessary

23. Bricklane Curry House (Bricklane 1 LLC), 79 2nd Ave (wb)
no vote necessary

24. Babbomio Inc, 231 Eldridge St (wb)
no vote necessary

25. Fire and Water (Derossi Asia LLC), 111 E 7th St (wb)
no vote necessary

26. Yin Yang East Village Inc, 130 1st Ave (wb)
no vote necessary

27. Cubmare Bar LLC, 115 Delancey St (wb)
no vote necessary

28. Silky Hospitality Inc, 137 E 13th St (wb)

- no vote necessary
- 29. Shabu Shabu Mayumon (Noodle Investor Inc), 115 Division St (wb)
 - no vote necessary
- 30. The Granddaddy LLC, 290 Grand St (wb)
 - no vote necessary
 - Vote to adjourn
 - approved by committee

34 YES 0 NO 1 ABS 0 PNV MOTION PASSED (excluding SLA items 2, 3, 9)
31 YES 3 NO 1 ABS 0 PNV MOTION PASSED (SLA item 2)
30 YES 3 NO 1 ABS 1 PNV MOTION PASSED (SLA item 3)
31 YES 3 NO 1 ABS 0 PNV MOTION PASSED (SLA item 9)

Transportation, Public Safety, & Environment Committee
 meeting after full board

Parks, Recreation, Cultural Affairs, & Waterfront Committee

1. Approval of previous month's minutes
 - approved by committee
2. Parks Wildlife presentation: raptors (birds of prey) monitoring project
 - no vote necessary
3. District Needs Statement
 - no vote necessary
4. Report from Arts & Cultural Affairs Subcommittee
 - no vote necessary
5. Vote to adjourn
 - approved by committee

34 YES 0 NO 1 ABS 0 PNV MOTION PASSED

Landmarks Committee

1. Approval of previous month's minutes
 - approved by committee
2. 54 Canal Street amended Certificate of Appropriateness
 - withdrawn
3. 119-121 2nd Avenue –Application for Certificate of Appropriateness

VOTE: TITLE: CB 3 Supports the Certificate of Appropriateness for 119-121 Second Avenue

WHEREAS, the Certificate of Appropriateness application is to develop a new building to replace two historic buildings (119 and 121 Second Avenue), destroyed in a fire that resulted in the tragic loss of two lives as well as the historic buildings; and

WHEREAS, the original dates of construction are unknown, both 119 and 121 Second Avenue were altered in 1886 to their present five-story high, and both were contributing buildings within the East Village/Lower East Side Historic District; and

WHEREAS, both were five-story Queen Anne style tenement buildings whose materials were orange brick, terra cotta, and masonry; and

WHEREAS, the proposed new building on this formerly tragic site is commercial on the ground floor, six stories high plus a penthouse; and

WHEREAS, the proposed design is of a tripartite nature in textured buff-colored brick, crowned with a contemporary version of a bracketed cornice and with a facade demarked by 25-foot sections; and

WHEREAS, the fenestration has a one-foot reveal with a projecting cast stone surround; and

WHEREAS, the design responds in a contemporary way to the residential buildings in the district; and

WHEREAS, all of the window treatments seem out of context with buildings in the historic district in one way or another:

- the treatment of the prominent corner with large expanses of glass in the corner windows

- the large expanses of glass at the retail level
- the single-paned windows throughout the building

WHEREAS, there was discussion but not agreement about the brick color with some finding the tan color too drab and preferring the orange brick of the original buildings; and

WHEREAS, considering the tragedy that occurred on this corner, the building requires an acknowledgment of the history of the lost buildings, the terrible explosion, the loss of two lives, the injuries to 19 others, and the loss of so many homes and businesses; so

THEREFORE BE IT RESOLVED, CB 3 approves the Certificate of Appropriateness for a new building at 119-121 Second Avenue, with the following conditions:

- There must be a prominent, permanent, bronze marker honoring those who died at this location, and telling the story of the event; the content and placement of this marker should be reviewed by the families of Moises ismael Locon Yac and Nicholas Figueroa
- The architects should reconsider all of the windows, including the corner windows and the large storefront windows
- The architects should consider changing the brick color to the orange more typical in the East Village

4. District Needs Statement
no vote necessary
5. Vote to Adjourn
approved by committee

34 YES 0 NO 1 ABS 0 PNV MOTION PASSED (excluding Landmarks item 3)

33 YES 1 NO 1 ABS 0 PNV MOTION PASSED (Landmarks item 3)

Land Use, Zoning, Public & Private Housing Committee

1. Approval of previous month's minutes
approved by committee
2. DCP Presentation: M1 Hotel Text Amendment
VOTE: TITLE: To support the M1 Hotel Text Amendment

WHEREAS, our district has been inundated with over-development of hotels; and

WHEREAS, the proposal is generally in line with previous positions CB 3 has taken regarding an appropriate mix of uses for development and preservation of affordable housing and light manufacturing; so

THEREFORE BE IT RESOLVED, CB 3 supports the proposed M1 Hotel text amendment, which requires special permits for hotels in M1 districts.

3. HPD: pre-ULURP discussion regarding proposed redevelopment of 204 Avenue A & 535 E 12 St
no vote necessary
4. District Needs Statement
no vote necessary
5. Report from Public Housing & Section 8 Housing Subcommittee
no vote necessary
6. Vote to adjourn
approved by committee

34 YES 0 NO 1 ABS 0 PNV MOTION PASSED

Economic Development Committee

1. Approval of previous month's minutes
approved by committee
2. Overview of Lower East Side, East Village struggles with retail diversity: history and strategy moving forward
no vote necessary
3. Essex Street Market Community Visioning Report
no vote necessary
4. Discussion on Small Business Survival Act
no vote necessary
5. District Needs Statement
no vote necessary

6. Vote to adjourn
approved by committee

34 YES 0 NO 1 ABS 0 PNV MOTION PASSED

By-Laws Task Force

- Community Board 3 Manhattan By-Laws

VOTE: To approve By-Laws.

35 YES 0 NO 0 ABS 0 PNV MOTION PASSED