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COMMUNITY BOARD NO. 2, MANHATTAN

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September 20, 2019

Lorelei Salas, Commissioner
NYC Department of Consumer Affairs
42 Broadway
New York, NY 10004

Dear Commissioner Salas:

At its Executive Committee meeting on September 19, 2019 Community Board #2, Manhattan (CB#2, Man.) adopted the following resolutions:

1. Bosie, LLC d/b/a Bosie, 506 LaGuardia Place between Bleecker and West Houston Sts. with 6 tables and 12 chairs (9603-2019-ASWC)

Whereas, this establishment, a small, café and restaurant offering French food and drink, is located on the ground floor of a mixed-use residential/commercial building that was formerly occupied by the restaurant Freud which operated a sidewalk café with 7 tables and 14 chairs; and

Whereas, the establishment will offer full service in the sidewalk café and the café will be monitored and cleared by restaurant staff; and

Whereas, the operators appeared before CB2's SLA committee in May 2019, and stipulated that the sidewalk café would not operate past 10 PM, seven nights a week; and

Whereas, no amplified sound will be used in the sidewalk café and all planters will be pushed up against the façade of the establishment overnight; and

Whereas, no member of the public appeared to express support for or opposition to this application; and

Whereas, the applicant confirmed that all tables and chairs would be stored within the restaurant overnight and that, off-season, the café would be stored off-premises; now

Therefore Be It Resolved that CB2 Manhattan recommends **approval** of the application for revocable consent to operate an unenclosed sidewalk café for **Bosie, LLC d/b/a Bosie, 506 LaGuardia Place with 6 tables and 12 chairs (9603-2019-ASWC)** provided that the application conforms with all applicable zoning and sidewalk café laws, rules, and regulations and clearance requirements.

Vote: Unanimous, with 42 Board Members in favor.

OTHER MATTERS

2. Discussion of a proposal by NYC Small Business Services to streamline the sidewalk café licensing process by eliminating the legally-required public hearing conducted by the Department of Consumer Affairs (DCA).

Whereas, NYC’s Department of Small Business Services (SBS) contacted Community Board 2 and stated that it was “reviewing a proposal related to streamlining the Sidewalk Café licensing process. Currently, the New York City Administrative Code requires that both the Department of Consumer Affairs (DCA) and Community Board each conduct a public hearing. SBS is looking to eliminate the DCA public hearing requirement to streamline this process for business owners, while still allowing for community input during the process through the Community Board hearing. As Community Boards are a partner in this process, we are interested in eliciting your feedback and surfacing any potential impacts;” and

Whereas, Bob Gormley, District Manager of Community Board 2, spoke about his experience as a past employee of DCA and agreed that the DCA public hearing was, by-and-large, unproductive and believes that the Community Board hearing is the best opportunity for the operator to engage with community concerns; and

Whereas, several members of the public appeared to express apprehension at the idea of removing an opportunity for the public to speak regarding a sidewalk café application; and

Whereas, the chair of the sidewalk café review committee of Community Board 1-Manhattan appeared and stated that while he finds the DCA hearing to usually be a formality, there are times when important issues are raised at the DCA hearing and it is also an opportunity to amplify any objections raised in the relevant Community Board’s resolution to DCA; and

Whereas, a member of the committee owns an establishment that operates a sidewalk café and stated, in her experience, the DCA hearing is not productive and rarely do members of the public attend to express support or opposition to an application; and

Whereas, CB2 recently recommended a reduction in the number of tables and chairs in a sidewalk café application and several members of the public attended the DCA hearing to reiterate opposition that was previously raised at the CB2 public hearing; and

Whereas, under current rules and regulations, the relevant Community Board has 45 days to review and recommend approval or denial to each sidewalk café application, and while this is usually sufficient time to review all applications, there are instances when this is not enough time for comprehensive review by the Community Board to pass a resolution before the DCA hearing; and

Whereas, the Community Board hearing is often the best opportunity for the community to hear about the plans for the sidewalk café from the operator and this is frequently where issues arise which are particular to the location of the café and the neighboring residents and businesses are the most knowledgeable about specifics of the location that may not appear in an operator’s application or layout; and

Whereas, if the DCA public hearing is eliminated there must be processes in place to catch all community concerns before a sidewalk café application is voted on by the City Council; now

Therefore Be It Resolved that CB2 Manhattan recommends that if the Department of Small Business Services and the Department of Consumer Affairs formulate a proposal for a new sidewalk café application process it should maintain the Community Board public hearing and increase the amount of days for the Community Board to hear each application in order to ensure that any issues raised by the community are contemplated and considered by the DCA before a final vote is taken by the City Council; and

Therefore Be It Further Resolved that any new streamlined procedure should not be instituted until Community Boards have ample opportunity to comment.

Vote: Unanimous, with 42 Board Members in favor.

3. Discussion of a proposal by DCA to amend its Sidewalk Café Design and Regulations Guide so that businesses would no longer be required to remove the tables and chairs from the sidewalk when the sidewalk café closes.

Whereas, an applicant appeared before Community Board 2 in Spring 2019 and, when asked by the committee if the operator planned to store the sidewalk café furniture in the restaurant overnight, the operator stated that it had been instructed by the Department of Consumer Affairs (DCA) that this was not a requirement and the applicant could leave the café furniture on the public sidewalk overnight and off-season; and

Whereas, this guidance from DCA was a complete change from previous DCA guidance which was that sidewalk café furniture was to be removed from the public sidewalk each night; and

Whereas, the current DCA regulation directive states that “[t]ables and chairs **MUST** be quietly taken in for the night” (emphasis added); and

Whereas, when contacted, DCA stated that the agency was writing a new design guide which would not list removing tables and chairs as a requirement and will state that businesses may leave their tables/chairs out during spring and summer season, but its recommended to keep them locked up during the fall and winter seasons; and

Whereas, the committee has serious concerns about businesses being permitted to leave their sidewalk café furniture fully set up on the public sidewalk whenever the operator wishes; and

Whereas, leaving a sidewalk café fully set up could create serious quality of life issues including vermin, obstruction of public space, and loitering after-hours; and

Whereas, the committee believes that DCA should continue to encourage operators to store all furniture in the establishment overnight during sidewalk café season and to store all furniture off-premises during sidewalk café off-season; and

Whereas, if sidewalk café furniture is permitted to be left outside the establishment, DCA should formulate clear standards on how the furniture should be stored, including the requirement that all furniture be folded closed and secured as close to the building façade as possible in order to leave the most amount of public sidewalk space for public use (as illustrated below); now



Therefore Be It Resolved that CB2 Manhattan recommends that the Department of Consumer Affairs should continue to encourage sidewalk café operators to store café furniture inside the establishment off-hours; and

Therefore Be It Further Resolved that if DCA does not require sidewalk café furniture to be stored inside off-hours, it should formulate clear standards on how the furniture should be stored including the requirement that all furniture be folded closed and secured as close to the building façade as possible.

Vote: Unanimous, with 42 Board Members in favor.

Please advise us of any decision or action taken in response to these resolutions.

Sincerely,



Carter Booth, Chair
Community Board #2, Manhattan



Joseph Gallagher, Chair
Quality of Life Committee
Community Board 2, Manhattan

CB/EM

c: Hon. Jerrold L. Nadler, Congressman
Hon. Carolyn Maloney, Congresswoman
Hon. Nydia Velázquez, Congresswoman
Hon. Brad Hoylman, NY State Senator
Hon. Brian Kavanagh, NY State Senator
Hon. Yuh-line Niou, Assembly Member
Hon. Deborah J. Glick, Assembly Member
Hon. Gale Brewer, Manhattan Borough President
Hon. Corey Johnson, Council Speaker
Hon. Margaret Chin, Council Member
Hon. Carlina Rivera, Council Member