



THE CITY OF NEW YORK MANHATTAN COMMUNITY BOARD 3

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Gigi Li, Board Chair

Susan Stetzer, District Manager

November 2013 Full Board Minutes

Meeting of Community Board #3 held on Tuesday, November 26, 2013 at 6:30pm at PS 20, 166 Essex Street.

Public Session:

David Langra (speaking in support of Rivington F&B SLA Item 8): Resident for 4 years and noted that Jonas Pelli has been a good manager and will do a good job at this establishment.

Sarah Lewitinn (speaking in support of Rivington F&B): Pelli has been a good manager and the establishment will be good for the community.

Alex Luvdmir (owner of Rizzo's Pizza and speaking in support of Rivington F&B): Pelli will be a great manager.

Taylor Ward (speaking in support of Rivington F&B): Pelli will be an excellent manager.

Matt Pilioci (speaking in support of Rivington F&B): Omri is a great operator and this will be a great establishment.

Anne Mitcheltree: Speaking to promote Toys for Tots and against Santacon. We should not have to overpay rent at the World Trade Center.

Pascal DuBois (CUNY School of Public Health): Speaking to promote the NYC HANES survey – it designed to identify health policy issues through voluntary surveys in order to generate data on NYC's health issues. The results lead to policies and solutions.

Jan Hanvik: Speaking on behalf of the LES Arts Jobs Training Program, which will pay non-profit arts groups to train youth in arts-related jobs. The deadline to apply is December 6.

Vaylateena Jones: The WTC Compensation Fund provides funding for medical conditions as a result of the WTC disaster. She has contact information for those that may have questions about eligibility. There is a study on adolescents

Jenny Lee: Coordinating WTC Adolescent Health Study to study health impact on those who went to school as kids near the WTC disaster.

Kimberly Flynn: Working for 9/11 Environmental Action to discuss post-traumatic stress syndrome as a result of the WTC disaster that can be covered by the Federal government.

Vaylateena Jones: On behalf of the Lower East Side Power Partnership, asking CB3 to invite a member of NYCHA to a meeting to inform us about their plan for providing services to disabled people in our community. We also ask that Lisa Donolan, the President of Community Education Council 1, to speak about a school report. We will be having a CPR certification course January 5.

Public Officials:

Mayor Michael Bloomberg, Pauline Yu: Not Present

Public Advocate Bill de Blasio, Phil Jones: Not Present

Comptroller John Liu, Alice Cancel: Not Present

Borough President Scott Stringer, Hunter Johansson: Reapplications for CB3 will be out soon.

Congressmember Carolyn Maloney, Victor Montesinos: Not Present

Congressmember Nydia Velazquez, Iris Quinones: Not Present

Assembly Speaker Sheldon Silver, Zach Bommer: Knickerbocker Village is finally getting money for Sandy recovery (starting with \$1.5 million). This year the Speaker met with the NYCHA tenant leaders to discuss quality of life issues. Silver was awarded a perfect score from Environmental Issues of New York and named a legislative

support from Mothers Against Drunk Driving. We can give you a free flu shot at a facility by the Brooklyn Bridge. We will be offering free legal services through NYLAG – we can drive the van directly to your area.

Assemblymember Deborah J. Glick: We worked with CB3 on closing Cooper Park before the reconfiguration of Astor Place so this would not dislodge loads of rats into the community. This Saturday is always Small Business Saturday as part of a reminder for people to shop locally. We had a hearing in Albany about InBloom, a state initiative to take all personal data on students and put it on a website. There are not sufficient guaranties on privacy, and I hope we will be stopping this in its tracks. Another local initiative is Kindergarten Connect – for parents to register their kids for kindergarten.

Assemblymember Brian Kavanagh, Marcela Medina: We are working with Santacon organizers to better regulate the event. There is a toy drive at the 9th and 7th precincts in December. The Assemblymember is on the Voting Committee and there is an upcoming hearing on absentee voting.

State Senator Daniel L. Squadron, Mauricio Pazmino: The catchment area for NY Rising has now been raised to 14th St., which now includes all of CB3. On December 2, there will be a hearing from the NY Rising staff. The Senator introduced a retail anti-profiling act which would add more transparency to NYPD supplemental policing of private entities. We are advocating for a school on the SPURA site. We held our Town Hall on November 18, and we're looking forward to doing it again.

State Senator Brad M. Hoylman, Robert Atterbury: We'll be hosting a mammogram van that will be free. We joined with Assemblyman Kavanaugh's and Councilmember Mendez's office to meet with HPD. We asked Santacon organizers to make their participants be more respectful

Councilmember Margaret Chin, Persephanie: She's been fighting against a co-location plan at SEU. Michael Bloomberg signed a preparedness bill which requires Office of Emergency Management to notify tenants ahead of time of notification of severe weather. City Council Black Latino Asian Caucus is holding a job fair. Our office has documentation on how to register.

Councilmember Rosie Mendez, Rosemarie Diaz: Councilmember proposed legislation that would impose a ban on Sunday construction and night construction. We had a meeting with Mitchell-Lama leaders to discuss the changes to the policy. We had a briefing on the impact of the federal sequester on the HIV/AIDS program. EDC is proposing a ferry at Grand St. at East River Park and we asked EDC to submit the plan to CB3.

Members Present at First Vote:

David Adams	[P]	Vaylateena Jones	[P]	Thomas Parker	[P]
Dominic Berg	[P]	Meghan Joye	[P]	Teresa Pedroza	[A]
Karen Blatt	[P]	Lisa Kaplan	[P]	Carolyn Ratcliffe	[P]
Justin Carroll	[P]	Carol Kostik	[P]	Joyce Ravitz	[A]
Jimmy Cheng	[A]	Ben Landy	[P]	Carlina Rivera	[P]
MyPhuong Chung	[P]	Mae Lee	[P]	James Rogers	[P]
David Crane	[A]	John Leo	[P]	Richard F. Ropiak	[P]
Stephanie Dominici	[A]	Ricky Leung	[P]	Susan Scheer	[P]
Morris Fajtelewicz	[P]	Alysha Lewis-Coleman	[A]	Nancy Sparrow-Bartow	[A]
Flora Ferng	[P]	Gigi Li	[P]	Wilson Tang	[A]
Shoshannah Frydman	[A]	William LoSasso	[P]	Elinor Tatum	[leave]
Gloria Goldenberg	[A]	Chad Marlow	[P]	Julie Ulmet	[A]
Jan Hanvik	[P]	Bernard Marti	[P]	Josephine Velez	[A]
Ayo Harrington	[P]	Penina Mezei	[A]	Rodney Washington	[A]
Herman F. Hewitt	[P]	Alexandra Militano	[P]	Justin Yu	[A]
Anne K. Johnson	[P]	Chiun Ng	[A]	Thomas Yu	[P]
Linda Jones	[P]	Ariel Palitz	[P]		

Minutes:

Minutes of September 2013 were approved, as is.

Two corrections were submitted by Lisa Kaplan

Public Officials Reports, Report of Victor Montesinos for Congressmember Carolyn Maloney, to read:

"Read the statement by Congressmember Maloney for 9/11 commemoration statement read before Congress."

Transportation Committee, Item 3, first recital to read "WHEREAS, Mary Spink lived on the block of E 2nd St..."

33 YES 0 NO 0 ABS 0 PNV MOTION PASSED

Board Chairperson's Report:

Chairperson Gigi Li

CB3 Annual Holiday party will be at Donnybrook after the December meeting. There is a \$10 suggested donation. Ben Landy will be handling kosher food.

If there are spelling or grammar corrections to the minutes, please email Jamie Rogers at James.P.Rogers@gmail.com. If the revisions to the minutes are more substantive, the changes will be discussed at the board meeting.

We have secured funding for education providers.

Community engagement meeting for NY Rising meeting on December 2 at University Settlement at 6:00PM – the organization will be determining where to allocate \$25million.

If there is not quorum, any vote that comes out of the committee will be deemed a recommendation and then voted on at full board. There was not quorum at the second session of SLA this month. Committee chairs should announce this at the beginning of meetings and include it in the vote sheet.

There is speculation on whether board members needs to recuse themselves from voting when the board member has had a prior business relationship with an applicant. The Conflict of Interest Board determined that past relationships do not present a conflict of interest. This came up regarding Ariel Palitz's past business relationship and she is allowed to vote.

At Executive Committee, we discussed our board's block association policy. We reached a framework in which we identified goals such as maximizing participation. We will begin listing community groups. This includes community gardens, civic associations and merchant's associations, as well as block associations. We have a framework we are working on that we will put online for public review. We felt like the public should have an opportunity to comment on changes made to our policy. We will discuss the framework and comments at the December Executive Committee meeting.

District Manager's Report:

District Manager Susan Stetzer

The Board office keeps contact information for all members, and any member can request this from the office. Please note that at the top of the list is a statement that this is confidential and for use only by CB members for CB work.

The Office will be collecting toys for the 9th precinct children's holiday party. There will be a box in the office and you can drop them off any time before Dec 13.

I would like to give an example of how effective our resolutions can be. After the Board voted on resolution regarding protocols for getting rid of rats in Peter Cooper Park before reconstruction, there was immediate first response by the City, and then Assembly Member Deborah Glick organized a response by our local elected officials—and all Community Board requests were followed.

I would like to send a Thank You to Two Boots. Our demographer held focus groups with teachers and community partners and Two Boots donated pizza.

People are very upset about Santacon – it would be very helpful if people complain about specific locations. I have only a few complaints in the last two years, and both are regarding area above Houston Street.

Meghan Joye: Even if you do not sign up for Santacon, people come into your establishment. It is hard to stop them, and you do not want to turn them away because they are good for business.

Stetzer: Some Businesses do turn Santas away. But that is not what we are saying-- we want people to mitigate the problems.

Committee Reports:

Executive Committee

VOTE: Block Associations currently existing with their organizational details on record will have their contact information published on our website

33 YES 0 NO 0 ABS 0 PNV MOTION PASSED

Human Services, Health, Disability, & Seniors / Youth & Education

No Report

1. Urban Fellow project: Inventory of medical services and facilities in CB3 and serving CB# and analysis of needs
no vote necessary

2. Bowery Mission: Proposal to continue to operate Bowery Mission Transitional Center at 45-51 Avenue D

VOTE: Community Board 3 Resolution to Support the continued operation by the Christian Herald Housing Development Fund of the Bowery Mission Transitional Center at 45-51 Avenue D

Whereas, the Christian Herald Housing Development Fund ("CHHDF") which operates the Bowery Mission Transitional Center ("BMTCC") for adult men at, 45-51 Avenue D, under a contract with the New York City Department of Homeless Services ("DHS") since 1994; and

Whereas, CHHDF mission is to place homeless men in housing, jobs and recovery from addiction; and

Whereas, the Bowery Mission has served the poor, homeless and hungry New Yorkers since 1879 on the Lower East Side; and

Whereas, the CHHDF must submit a proposal to DHS under the Open-Ended Request for Proposals for the Development and Operation of a "Standalone" Transitional Residence for Homeless Adults; and

Whereas, the BMTC has successfully operated this 77-bed Transitional Residence under the same budget with no increase in other than personnel services ("OTPS") since 1994 leaving them at risk of being unable to continue to provide a comparable level of services;

BE IT RESOLVED that Community Board 3, Manhattan, fully supports the approval of the CHHDF's proposal to continue operating the BMTC facility at 45-51 Avenue D, New York, NY as a 77-bed Transitional Residence and its request for increased funding for both Personnel Services and OTPS to match the inflationary rises since 1994.

- 3. Planning for a school on SPURA site: project update
no vote necessary
- 4. NYCDOH & CUNY School of Public Health's Health and Nutritional Examination Survey (NYC HANES) request for support

VOTE: Community Board 3 Resolution to Support the NYC Health and Nutrition Examination Survey

WHEREAS: New York City Health and Nutrition Examination Survey ("NYC HANES") community-based health survey conducted by the New York City Department of Health and Mental Hygiene (DOHMH) provides an overall picture of New York City's health; and

WHEREAS: This summer the Health Department and the CUNY School of Public Health will randomly select 3,000 New Yorkers in all five boroughs to participate in NYC HANES; now

THEREFORE BE IT RESOLVED THAT: CB #3 supports NYC HANES and encourages all selected residents to participate in this important study.

- 5. Follow up on District Needs Statement-planning future speakers
no vote necessary

33 YES 0 NO 0 ABS 0 PNV MOTION PASSED (all excluding Human Services item 4)

32 YES 0 NO 1 ABS 0 PNV MOTION PASSED (Human Services item 4)

Economic Development

Joye: We published small business guide to lease negotiations. It goes through the basic terms of the lease to prepare small business owners. We are going to give them to banks where they can get in the hands of new business owners.

- 1. EVCC: Update on Merchant organizing
no vote necessary
- 2. JGSC Group: Community Insights program/recruit and retain small businesses
no vote necessary

Con Ed Task Force

Carol Kostik: We finished our funding cycle. Three are continuing requests for funding, and one is new and very small from Plaza Cultural. The Con Ed Settlement Fund was created as a stipulation between the community and Con Ed, and it set aside money for fuel switching and steam transition. Under the stipulations, there is a process for funding alternative projects. We have allocated all of the fuel switching money that was available to give to alternative projects. We are now ready to use the steam conversion money that has been sitting untouched for ten years. We have instructed Con Ed to send all this money to the account for alternative projects. We have to consult with NYPIRG for this. The alternative projects process is going well – we have funded 20 different projects in the immediate vicinity of the plan, which benefit health, quality of life and environmental conservation. Next year, we will next meet in January when we will review the guidelines.

Herman Hewitt: We have buildings in our community that spew carcinogens because they use no.6 fuel. Some of the money should go to encourage these buildings to switch their fuels. The application for this could come from HDFC.

Kostik: Cooper Square has been working with HDFCs to get new boilers and weatherization money. People have to come to us with applications so if you're aware of a community group or building that is interested, please let them know to come to our committee.

Lisa Kaplan: Cooper Square is not getting great responses from HDFCs.

1. Updates/review of previously approved projects

VOTE: Community Board 3 Resolution to request that remaining balances of Con Edison Settlement Fund fuel-switching and steam conversion accounts be transferred for use for alternative air quality improvement projects

WHEREAS The Con Edison Settlement Fund (the "Fund") was established as an outcome of the Article X East River Power Plant Repowering Project, and

WHEREAS the Supplemental Joint Stipulation dated March 13, 2002 (the "Stipulations") establishing the Fund provided for monies to be used to write down the cost of fuel-switching for certain generators during the winter months, within certain price parameters and at the direction of Manhattan Community Board #3 ("CB3"), and separately to subsidize the cost of conversions to steam heat, if feasible conversions can be identified, and separately, other items of work that do not pertain to this Resolution, and

WHEREAS the Stipulations also provided for CB3 to recommend alternative uses for the Fund for "alternative air quality improvements in the general neighborhood of the East River Complex" [stipulation #7], and for alternative community benefit projects, except no such projects may be funded, "unless they assist the local community in the development and implementation of projects such as local air quality improvement, health improvement, or amenities programs in the general vicinity of the East River Complex," and

WHEREAS Stipulation #4 provides that the fuel switching account should continue in use until the earlier of the following occurs: i) it is fully utilized, ii) CB3 provides written notice to Con Edison that the remaining balance of the fuel-switching account be used for other specified activities such as alternative air quality improvement projects or iii) it will terminate at the ten year anniversary of the date on which the Project commenced operation and at that time the remaining balance of the fuel-switching account, will be used for alternative air quality improvement projects, as set forth in stipulation #7, and

WHEREAS stipulation # 5 provides that Con Edison should spend funds from the steam conversion account to encourage the conversion of oil heated buildings to steam heat, unless CB3 and the New York Public Interest Research Group ("NYPIRG") jointly notify Con Edison that the balance of the steam conversion account should be used for alternative air quality improvement projects, and

WHEREAS CB3 from 2006 to November 2013 has found numerous alternative community benefit projects that have met the requirements of the stipulations and the CB3 guidelines, specifically that 21 such projects managed by ten different entities based in CB3 or CB6 have been approved by the Task Force and by the full CB3, and the Task Force expects to continue to receive viable project applications, and

WHEREAS the cost of gas fuel has fallen dramatically since the Stipulations were agreed to, and therefore the fuel-switching account has not been necessary to encourage Con Edison to use this cleaner form of energy. Only a total of \$120,555 of the \$2.75 million originally allocated for this purpose has been used since 2005 and none has been used since 2008, and

WHEREAS Con Edison has not been able to identify commercially reasonable means to utilize the steam conversion fund and no buildings have been converted to steam heat and none of the \$480,000 originally allocated for that purpose has been utilized to date, and

WHEREAS, since 2006 through the current Fall 2013 funding cycle, CB3 has approved alternative community benefit projects committing over \$2.6 million for uses that improve the environment and health in the neighborhood of the plant thus fully utilizing the remaining fuel switching funds, and further it is CB3's understanding that the Project commenced operation on or before April 2005 and therefore the fuel-switching account would terminate no later than April 2015 in any case, causing the remaining funds to automatically transfer to uses related to alternative projects,

THEREFORE CB3 resolves that the entire balance of the fuel-switching account be used for alternative air quality improvement projects as set forth in stipulation #7 and none for fuel-switching, and written notification of such decision shall be immediately submitted to Con Edison, and

FURTHERMORE CB3 resolves to contact NYPIRG to seek its consent, as required, to join CB3 in informing Con Edison of the desire to transfer the entire balance of the steam conversion account to

alternative projects, and upon receiving consent from NYPIRG such notification will be submitted to Con Edison.

2. Final review of Fall 2013 Funding Cycle applicants

VOTE: Community Board 3 Resolution to allocate Con Edison Settlement funding to La Plaza Cultural de Armando Perez Community Garden to implement the Replanting and Soil Remediation Program, Phase II

WHEREAS The Con Edison Settlement Fund (the "Fund") was established as an outcome of the Article X East River Power Plant Repowering Project, and

WHEREAS the Supplemental Joint Stipulation dated March 13, 2002 (the "Stipulations") establishing the Fund provided for monies to be used to write down the cost of fuel-switching for certain generators during the winter months, within certain price parameters and at the direction of Manhattan Community Board #3 ("CB3"), and separately to subsidize the cost of conversions to steam heat, if feasible conversions can be identified, and separately, other items of work that do not pertain to this Resolution, and

WHEREAS the Stipulations also provided for CB3 to recommend alternative uses for the Fund for "alternative air quality improvements in the general neighborhood of the East River Complex" [stipulation #7], and for alternative community benefit projects, except no such projects may be funded, "unless they assist the local community in the development and implementation of projects such as local air quality improvement, health improvement, or amenities programs in the general vicinity of the East River Complex," and

WHEREAS in each case of an alternative proposal, it must be identified by CB3 and the City of New York and approved by Con Edison as "prudent expenditures" [stipulation #8], and

WHEREAS CB3 has created the Con Edison Task Force to administer the process of reviewing potential alternative uses and recommending them to the full CB3 for a vote, and

WHEREAS application guidelines were initially adopted by the Task Force in 2009, and revised periodically, most recently in June 2013, and in each case posted on the CB3 web site and publicized at multiple CB3 meetings, and

WHEREAS this proposal review process was established so that the process was fully transparent; dates and criteria were clearly identified; the process was fully public and decisive and applied equally to all proposals; and all activities of the Task Force complied with Open Meetings law, and

WHEREAS the current application cycle began with a October 7, 2013 application deadline, and four applications were received before the deadline, with a total initial funding request of \$555,489 (later reduced to \$500,489), and one application was from the La Plaza Cultural de Armando Perez Community Garden ("La Plaza"), a neighborhood-based 501(c)3 non-profit, for \$6,771 and

WHEREAS according to records of the Con Ed Task Force, \$966,996 remains to available to spend of the Fuel Switching and Steam Conversion funds provided under the Stipulations, assuming funding of previously approved projects still under review by the New York City Law Department and/or Con Edison, so there are sufficient funds for this proposal, and

WHEREAS the Task Force met on October 29, 2013 and conducted an initial review of the La Plaza application, and did not identify any additional information needed from the applicant, and

WHEREAS this application requests funds for its second phase of post-Superstorm Sandy restoration of the garden, specifically to purchase trees and vegetation to replace the extensive lost plantings, and provided a detailed budget and vendor estimate for the plant materials, and

WHEREAS the Task Force finds that the application identified air quality, health and quality of life benefits to the community, including filtering pollutants from the air, providing local composting and food, and capturing and reusing rainwater, among other benefits, and

WHEREAS La Plaza has already raised \$2,560 for phase one of its restoration work, which together with volunteer labor addressed soil remediation and composting system repairs, and

WHEREAS the La Plaza proposal is found to be fully consistent with the Stipulations and the CB3 Guidelines,

THEREFORE CB3 requests that \$6,771 be awarded to La Plaza Cultural de Armando Perez Community Garden to implement the Replanting and Soil Remediation Program, Phase II as detailed in its proposal of October 7, 2013.

VOTE: Community Board 3 Resolution to allocate Con Edison Settlement funding to Cooper Square Community Development Committee to implement the continuing HDFC Greening Project

WHEREAS The Con Edison Settlement Fund (the "Fund") was established as an outcome of the Article X East River Power Plant Repowering Project, and

WHEREAS the Supplemental Joint Stipulation dated March 13, 2002 (the "Stipulations") establishing the Fund provided for monies to be used to write down the cost of fuel-switching for certain generators during the winter months, within certain price parameters and at the direction of Manhattan Community Board #3 ("CB3"), and separately to subsidize the cost of conversions to steam heat, if feasible conversions can be identified, and separately, other items of work that do not pertain to this Resolution, and

WHEREAS the Stipulations also provided for CB3 to recommend alternative uses for the Fund for "alternative air quality improvements in the general neighborhood of the East River Complex" [stipulation #7], and for alternative community benefit projects, except no such projects may be funded, "unless they assist the local community in the development and implementation of projects such as local air quality improvement, health improvement, or amenities programs in the general vicinity of the East River Complex," and

WHEREAS in each case of an alternative proposal, it must be identified by CB3 and the City of New York and approved by Con Edison as "prudent expenditures" [stipulation #8], and

WHEREAS CB3 has created the Con Edison Task Force to administer the process of reviewing potential alternative uses and recommending them to the full CB3 for a vote, and

WHEREAS application guidelines were initially adopted by the Task Force in 2009, and revised periodically, most recently in June 2013, and in each case posted on the CB3 web site and publicized at multiple CB3 meetings, and

WHEREAS this proposal review process was established so that the process was fully transparent; dates and criteria were clearly identified; the process was fully public and decisive and applied equally to all proposals; and all activities of the Task Force complied with Open Meetings law, and

WHEREAS the current application cycle began with a October 7, 2013 application deadline, and four applications were received before the deadline, with a total initial funding request of \$555,489 (later reduced to \$500,489), and one application was from the Cooper Square Community Development Committee ("Cooper Square"), a neighborhood-based 501(c)3 non-profit, in the initial amount of \$140,000, subsequently reduced to \$85,000 and

WHEREAS according to records of the Con Ed Task Force, \$966,996 remains to available to spend of the Fuel Switching and Steam Conversion funds provided under the Stipulations, assuming funding of previously approved projects still under review by the New York City Law Department and/or Con Edison, so there are sufficient funds for this proposal, and

WHEREAS the Task Force met on October 29, 2013 and conducted an initial review of the Cooper Square application, identifying questions and additional information needed from the applicant, and the applicant was requested to submit the supplementary materials by November 12th for the November 19, 2013 Task Force meeting, and did so, and

WHEREAS this application requests continued funding of a Cooper Square program previously funded by the Con Ed Settlement Fund, to assist low-income Housing Development Fund Corporations (HDFCs) in census tracts close to the Con Ed plant with energy efficiency measures, including enrolling eligible buildings in the Weatherization Assistance Program (WAP) and/or other programs offered by Con Edison and others to increase energy efficiency, and

WHEREAS the Task Force finds that the similar work implemented by Cooper Square in accordance with prior funding was completed in accordance with the prior award, including leverage of approximately \$379,000 of other funding, largely Weatherization: and that there is continued air

quality, health and quality of life benefit to community in further funding of the program to reach additional HDFCs, and

WHEREAS Cooper Square is funding \$43,931 of the total program costs of \$128,931 through other fundraising including Red Cross and bank foundation grants, and

WHEREAS the Cooper Square proposal is found to be fully consistent with the Stipulations and the CB3 Guidelines,

THEREFORE CB3 requests that \$85,000 be awarded to the Cooper Square Community Development Committee to implement the continuing HDFC Greening Project as detailed in its proposal of October 7, 2013 as modified on November 12, 2013.

VOTE: Community Board 3 Resolution to support allocate Con Edison Settlement funding to LES Ecology Center to implement the continuing Ecobiz and Street Tree Stewardship programs

WHEREAS The Con Edison Settlement Fund (the "Fund") was established as an outcome of the Article X East River Power Plant Repowering Project, and

WHEREAS the Supplemental Joint Stipulation dated March 13, 2002 (the "Stipulations") establishing the Fund provided for monies to be used to write down the cost of fuel-switching for certain generators during the winter months, within certain price parameters and at the direction of Manhattan Community Board #3 ("CB3"), and separately to subsidize the cost of conversions to steam heat, if feasible conversions can be identified, and separately, other items of work that do not pertain to this Resolution, and

WHEREAS the Stipulations also provided for CB3 to recommend alternative uses for the Fund for "alternative air quality improvements in the general neighborhood of the East River Complex" [stipulation #7], and for alternative community benefit projects, except no such projects may be funded, "unless they assist the local community in the development and implementation of projects such as local air quality improvement, health improvement, or amenities programs in the general vicinity of the East River Complex," and

WHEREAS in each case of an alternative proposal, it must be identified by CB3 and the City of New York and approved by Con Edison as "prudent expenditures" [stipulation #8], and

WHEREAS CB3 has created the Con Edison Task Force to administer the process of reviewing potential alternative uses and recommending them to the full CB3 for a vote, and

WHEREAS application guidelines were initially adopted by the Task Force in 2009, and revised periodically, most recently in June 2013, and in each case posted on the CB3 web site and publicized at multiple CB3 meetings, and

WHEREAS this proposal review process was established so that the process was fully transparent; dates and criteria were clearly identified; the process was fully public and decisive and applied equally to all proposals; and all activities of the Task Force complied with Open Meetings law, and

WHEREAS the current application cycle began with a October 7, 2013 application deadline, and four applications were received before the deadline, with a total initial funding request of \$555,489 (later reduced to \$500,489), and one application was from the Lower East Side Ecology Center ("LESEC"), a neighborhood-based 501(c)3 non-profit, for \$108,718 and

WHEREAS according to records of the Con Ed Task Force, \$966,996 remains to available to spend of the Fuel Switching and Steam Conversion funds provided under the Stipulations, assuming funding of previously approved projects still under review by the New York City Law Department and/or Con Edison, so there are sufficient funds for this proposal, and

WHEREAS the Task Force met on October 29, 2013 and conducted an initial review of the LESEC application, identifying questions and additional information needed from the applicant, and the applicant was requested to submit the supplementary materials by November 12th for the November 19, 2013 Task Force meeting, and did so, and

WHEREAS this application requests continuing funding of two LESEC programs previously funded by the Con Ed Settlement Fund, (1) EcoBiz, which works with local businesses to reduce energy

consumption, air pollution contribution, waste and operating costs, and (2) Street Tree Stewardship, which works with the City Parks Department and New York City Tree Trust to plant and maintain street trees in the immediate vicinity of the Con Ed plant, and

WHEREAS the Task Force finds that both programs have been implemented by LESEC in accordance with prior funding conditions and that there are continued air quality, health and quality of life benefits to community in further funding of each program, and

WHEREAS the LESEC is again committing its Street Tree Stewardship to close integration with the New York City Parks Department/Tree Trust initiative also being recommended separately for funding on this date, among other work, and

WHEREAS the LESEC is funding \$16,734 of the total program costs of \$125,452 through in-kind contributions of staff and materials, and

WHEREAS the LESEC proposal is found to be fully consistent with the Stipulations and the CB3 Guidelines,

THEREFORE CB3 requests that \$108,718 be awarded to Lower East Side Ecology Center to implement the continuing Ecobiz and Street Tree Stewardship programs as detailed in its proposal of October 7, 2013 as modified on November 12, 2013.

VOTE: Community Board 3 Resolution to support allocate Con Edison Settlement funding to the New York Tree Trust for continuing its Accelerated Greening program

WHEREAS The Con Edison Settlement Fund (the "Fund") was established as an outcome of the Article X East River Power Plant Repowering Project, and

WHEREAS the Supplemental Joint Stipulation dated March 13, 2002 (the "Stipulations") establishing the Fund provided for monies to be used to write down the cost of fuel-switching for certain generators during the winter months, within certain price parameters and at the direction of Manhattan Community Board #3 ("CB3"), and separately to subsidize the cost of conversions to steam heat, if feasible conversions can be identified, and separately, other items of work that do not pertain to this Resolution, and

WHEREAS the Stipulations also provided for CB3 to recommend alternative uses for the Fund for "alternative air quality improvements in the general neighborhood of the East River Complex" [stipulation #7], and for alternative community benefit projects, except no such projects may be funded, "unless they assist the local community in the development and implementation of projects such as local air quality improvement, health improvement, or amenities programs in the general vicinity of the East River Complex," and

WHEREAS in each case of an alternative proposal, it must be identified by CB3 and the City of New York and approved by Con Edison as "prudent expenditures" [stipulation #8], and

WHEREAS CB3 has created the Con Edison Task Force to administer the process of reviewing potential alternative uses and recommending them to the full CB3 for a vote, and

WHEREAS application guidelines were initially adopted by the Task Force in 2009, and revised periodically, most recently in June 2013, and in each case posted on the CB3 web site and publicized at multiple CB3 meetings, and

WHEREAS this proposal review process was established so that the process was fully transparent; dates and criteria were clearly identified; the process was fully public and decisive and applied equally to all proposals; and all activities of the Task Force complied with Open Meetings law, and

WHEREAS the current application cycle began with an October 7, 2013 application deadline, and four applications were received before the deadline, with a total initial funding request of \$555,489 (later reduced to \$500,489), and one application was from the New York City Tree Trust ("Tree Trust"), a non-profit affiliated with the New York City Parks Department, for \$300,000 and

WHEREAS according to records of the Con Ed Task Force, \$966,996 remains to available to spend of the Fuel Switching and Steam Conversion funds provided under the Stipulations, assuming funding of

previously approved projects still under review by the New York City Law Department and/or Con Edison, so there are sufficient funds for this proposal, and

WHEREAS the Task Force met on October 29, 2013 and conducted an initial review of the Tree Trust application, and did not identify any additional information needed from the applicant, and

WHEREAS this application requests \$300,000 of a total cost of \$500,000 to fund a comprehensive street tree planting and tree pit enhancement program for (1) an area within one-half mile of the Con Ed plant, an area that reaches east to Avenue A and south to 5th Street, and that while technically including much of Stuyvesant Town would not have significant application north of 14th Street, and (2) the New York City Housing Authority (NYCHA) development known as Jacob Riis Houses and located directly south of the Con Ed plant, which lost a substantial number of trees in Superstorm Sandy, and

WHEREAS the funding of the other \$200,000 cost by the New York City Parks Department and the additional in-kind expenditure by NYCHA to remove the dead trees in Riis would, together with the use of Settlement Funds, accelerate planting and provide additional enhancements to new and existing tree pits in an area of Manhattan otherwise not slated for priority scheduling due to its relatively greater (though still insufficient) tree cover based on the City's program for intensive street tree planting, as well as materially speed the re-greening of the NYCHA development; and

WHEREAS the applicant's survey of the area indicates that after the initial round of work funded by Con Ed Settlement funds and Parks Department matching money completed in Fall 2013, there are at minimum 55 remaining available sites for street tree planting, as well as at least 205 existing planted tree pits that can be expanded and 276 tree beds that could receive ground cover/bulb planting and a tree guard to optimize growing conditions, and

WHEREAS the Task Force finds that the initial accelerated greening program has been implemented by the Tree Trust in accordance with prior funding conditions and that there is continued air quality, health and quality of life benefits to community in further funding of the program, and

WHEREAS the Tree Trust successfully worked with LESEC's Street Tree Stewardship program to engage businesses and residents in the tree pit planting and care activities, among other work, and will again work with LESEC on this second round of planting, which will be in addition to the contractually obligated two years of initial tree care by the contractor that plants the tree, and

WHEREAS, data provided by the Tree Trust assert that street trees consistently provide environmental benefits, including reduction of pollutants that can trigger asthma and other respiratory ailments, as well as enhance quality of life, and

WHEREAS the Tree Trust proposal is found to be fully consistent with the Stipulations and the CB3 Guidelines,

THEREFORE CB3 requests that \$300,000 be awarded to the New York Tree Trust for its Accelerated Greening program as detailed in its proposal of October 7, 2013, to be funded as follows: \$285,000 from the fuel-switching account and \$15,000 from the steam conversion account.

32 YES 0 NO 1 ABS 0 PNV MOTION PASSED (excluding Con Ed item 2, La Plaza Cultural and Cooper Square Community votes)

29 YES 0 NO 4 ABS 0 PNV MOTION PASSED (Con Ed item 2, La Plaza Cultural item)

29 YES 0 NO 4 ABS 0 PNV MOTION PASSED (Con Ed item 2, Cooper Square Community item)

Transportation & Public Safety and Environment Committee

No meeting scheduled in November

SLA & DCA Licensing Committee

Alex Minitano: Votes from no. 16 on are from the second night. These were just recommendations because there was no quorum. Someone will have to make a motion to vote on these motions.

Rogers: Motion to bring to full board all recommendations from the second session of SLA.

Applications within Saturated Areas

1. French Diner LLC, 188 Orchard St btwn E Houston & Stanton Sts (wb)

VOTE: Understanding that this is a sale of assets of a preexisting restaurant with a wine beer license, Community Board #3 moves to deny the application for a beer wine license for French Diner LLC, for the premise located at 188 Orchard Street, between East Houston Street and Stanton Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulation that

- 1) it will operate as a full-service French restaurant, with a kitchen open and serving food to within one (1) hour of closing,
 - 2) its hours of operation will be 12:00 P.M. to 1:00 A.M. Mondays through Thursdays, 12:00 P.M. to 2:00 A.M. Fridays, 10:30 A.M. to 2:00 A.M. Saturdays and 10:30 A.M. to 12:00 A.M. Sundays,
 - 3) it will play ambient background music only, consisting of recorded music, and not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged,
 - 4) it will have a closed fixed façade with no open doors or windows, including the windows in the back of the business which will be closed at all times,
 - 5) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
 - 6) it will not have "happy hours,"
 - 7) it will not host pub crawls or party buses,
 - 8) it will lower any speakers from the ceiling and install a limiter which will be overseen by the owner manager and will check the sound and bass of its music system with the affected residents of the building, and
 - 9) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.
2. Brownstone Lounge & Grill, 240 E 4th St (op) (aka 50 Ave B)
withdrawn

3. To be Determined, 49 Clinton St btwn Rivington & Stanton Sts (op)

VOTE: Understanding that this is an application for a full on-premise liquor license for a location which was previously a restaurant with a full on-premise liquor license, Community Board #3 moves to deny the application for a full on-premise liquor license for Asazu Inc., for the premise located at 49 Clinton Street, between Rivington Street and Stanton Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulation 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 12:00 P.M. to 12:00 A.M. Sundays, 5:00 P.M. to 12:00 A.M. Mondays through Thursdays, 5:00 P.M. to 1:30 A.M. Fridays and 12:00 P.M. to 1:30 A.M. Saturdays,
- 3) it will play ambient background music only, consisting of recorded music, and not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged,
- 4) it will not commercially use any outdoor areas,
- 5) it will have a closed fixed façade with no open doors or windows,
- 6) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
- 7) it will not have "happy hours,"
- 8) it will not host pub crawls or party buses, and
- 9) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.

Alterations

4. Rockwood Music Hall (Ken Rock Enterprises LLC), 192 Allen St btwn E Houston & Stanton Sts (op/acoustic music in basement)

VOTE: Understanding that this applicant has operated its business for eight (8) years without complaints, Community Board #3 moves to deny the application for an alteration of the full on-premise liquor license of Ken Rock Enterprises, doing business as Rockwood Music Hall, for the premise located at 192 Allen Street, between East Houston Street and Stanton Street, to wit permitting live music amplified by a public address system in the basement of the Orchard Street storefront at the rear of 192 Allen Street and permitting its use of the door on the Orchard Street storefront as a regular ingress and egress, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulation that

- 1) it will operate as a music venue with live music amplified by a public address system, including having live music in the basement of the Orchard Street storefront, and have food service during its hours of operation,
- 2) it will have a close fixed façade with no open doors or windows,
- 3) its hours of operation will be 12:00 P.M. to 2:00 A.M. Mondays through Wednesdays, 12:00 P.M. to 3:00 A.M. Thursdays through Saturdays and 12:00 P.M. to 1:00 A.M. Sundays,
- 4) it will have only ambient background music, consisting of recorded music, and not have live music, DJs, promoted events or scheduled performances on the ground floor of the Orchard Street side of the business,
- 5) it will use the ground floor of the Orchard Street side of the business as a waiting area only and will not have wait lines on the sidewalk on Orchard Street,

- 6) it will employ a security guard to keep the sidewalk in front of its business on Orchard Street free of people and noise,
 - 7) it will hang sound baffling curtains along the Orchard Street facade, and
 - 8) it will not commercially use any outdoor areas.
5. Forgetmenot (Plan a Group LLC), 138 Division St btwn Ludlow & Orchard Sts (op/expand space)
VOTE: To deny the application for an alteration of the full on-premise liquor license of Plan A Group LLC, doing business as Forgetmenot, for the premise located at 138 Division Street, between Ludlow Street and Orchard Street, to wit extending its full on-premise liquor license into the storefront in the rear of the business, located at 42-44 Canal Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulation that
- 1) it will operate as a full-service Mediterranean grill restaurant, with a kitchen open and serving food during all hours of operation,
 - 2) its hours of operation will be 11:00 A.M. to 1:00 A.M. Mondays through Fridays and 10:00 A.M. to 1:00 A.M. Saturdays and Sundays,
 - 3) it will play ambient background music only, consisting of recorded music, and not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged,
 - 4) it will close its sidewalk café located on Division Street no later than 10:00 P.M. all days and it will not seek to have a sidewalk café on Canal Street,
 - 5) it will close any façade doors and windows on the Division Street side of its business at 10:00 P.M. every night and will close any façade doors and windows on the Canal Street side of its business at 5:00 P.M. every night,
 - 6) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
 - 7) it will not have "happy hours,"
 - 8) it will not host pub crawls or party buses,
 - 9) it will insure that there are no wait lines outside, and
 - 10) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.
6. Nublu (Tatu LLC), 151 Ave C btwn E 9th & E 10th Stts (op/expand to upstairs)
VOTE: To approve the application for an alteration of the full on-premise liquor license of Tatu LLC, doing business as Nublu, for the premise located at 151 Avenue C, between East 9th Street and East 10th Street, to wit adding a nine and a half (9½) foot stand-up bar with six (6) stools to its mezzanine and creating theatre seats along the mezzanine.

New Liquor License Applications

7. To be Determined, 8 Extra Pl btwn Bowery & 2nd Ave (op)
VOTE: To deny the application for a full on-premise liquor license for a corporation to be determined, with principals David Chang and Andrew Salmon, for the premise located at 8 Extra Place, between Bowery and Second Avenue, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulation that
- 1) it will operate as a full-service American and French 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 12:00 A.M. Sundays through Wednesdays and 12:00 P.M. to 1:00 A.M. Thursdays through Saturdays,
 - 3) it will not commercially use any outdoor areas,
 - 4) it will play ambient background music only, consisting of recorded music, and not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged,
 - 5) it will have a closed fixed façade with no open doors or windows,
 - 6) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
 - 7) it will not have "happy hours,"
 - 8) it will not host pub crawls or party buses,
 - 9) it will insure that there are no wait lines outside, and
 - 10) 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-premise liquor license although this is a location within five hundred (500) feet of numerous full on-premise liquor licenses because 1) this applicant has been operating a restaurant with the same method of operation, including a reservations only policy, at 171 First Avenue for six (6) years without complaints, 2) it operates additional restaurants and businesses in this neighborhood without complaints, and 3) it provided numerous signatures from block residents in support of this application.
8. The Stanton Social (Stanton Surf Club LLC), 99 Stanton St (op)
 withdrawn
9. DY Schnitz LLC, 177 1st Ave btwn E 10th & E 11th Sts (wb)

VOTE: To deny the application for a wine beer license for DY Schnitz LLC, for the premise located at 177 First Avenue, between East 10th Street and East 11th Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulation that

- 1) it will operate as a quick-serve Eastern European restaurant, with a kitchen open and serving food during all hours of operation,
 - 2) its hours of operation will be 11:00 A.M. to 10:00 P.M. Mondays through Wednesdays, 11:00 A.M. to 12:30 A.M. Thursdays through Saturdays and 12:00 P.M. to 10:00 P.M. Sundays,
 - 3) it will not commercially use any outdoor areas,
 - 4) it will play ambient background music only, consisting of recorded music, and not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged,
 - 5) it will have a closed fixed façade with no open doors or windows,
 - 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 an upgrade in class of its liquor license,
 - 8) it will not have "happy hours,"
 - 9) it will not host pub crawls or party buses, and
 - 10) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.
10. Root & Bone (Root & Bone LLC), 200 E 3rd St btwn Aves A & B (op)

VOTE: Understanding that this applicant has entered into a Memorandum of Understanding with the Lower Avenue B Block Associations (attached hereto), Community Board #3 moves to deny the application for a full on-premise liquor license for Root & Bone LLC, with a proposed business name of Root & Bone, for the premise located at 200 East 3rd Street, between Avenue A and Avenue B, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulation that

- 1) it will operate as a full-service restaurant, specifically a Modern Southern food restaurant, with a kitchen open and serving food during all hours of operation,
- 2) its hours of operation will be 11:00 A.M. to 12:00 A.M. Mondays through Thursdays, 11:00 A.M. to 2:00 A.M. Fridays and Saturdays and 11:00 A.M. to 12:00 A.M. Sundays, but it may have its indoor takeout section open to 2:00 A.M. Sundays through Thursdays and 4:00 A.M. Fridays and Saturdays,
- 3) it will play ambient background music only, consisting of recorded music, and not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged,
- 4) it will have a closed fixed façade with no open doors or windows,
- 5) it will not commercially use any outdoor areas,
- 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 "happy hours,"
- 9) it will insure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk, and
- 10) 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-premise liquor license although this is a location within five hundred (500) feet of numerous full on-premise liquor licenses because 1) this applicant has extensive experience in the restaurant business, 2) it has entered into a memorandum of understanding with area residents regarding its method of operation, and 3) it provided numerous signatures from area residents in support of this application.

11. 9 East First Street LLC, 9 E 1st St (op)
withdrawn

12. Dirt Candy (Big Candy LLC), 86 Allen St btwn Broome & Grand Sts (op)

VOTE: To deny the application for a full on-premise liquor license for Big Candy LLC, with a proposed business name of Dirt Candy, for the premise located at 86 Allen Street, between Broome Street and Grand Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulation that

- 1) it will operate as a full-service vegetarian restaurant, with a kitchen open and serving food to within one (1) hour of closing,
- 2) its hours of operation will be 11:00 A.M. to 2:00 A.M. all days,
- 3) it will play ambient background music only, consisting of recorded music, and not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged,
- 4) it will have a closed fixed façade with no open doors or windows,
- 5) it will not commercially use any outdoor areas,
- 6) it will install soundproofing,
- 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 "happy hours," and
- 10) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.
- 13. To be Determined, 269 E Houston St (op)
withdrawn
- 14. Gaia Lounge (Sams 1 Lounge Inc), 103 E 2nd St (wb)
withdrawn
- 15. Moonstruck (88 2nd Ave Food Corp), 88 2nd Ave (op)
withdrawn

16. Recommendation to close loophole in ABC illegal beverage act

VOTE: WHEREAS, the New York State Alcohol Beverage and Control law does not allow patrons to be served an unlimited number of drinks during any set period of time for a fixed price, such as but not limited to, offerings of free drinks or multiple drinks for free or for the price of a single drink or for a low initial price followed by a price increment per hour or other period of time, or for such a minor amount that in the judgment of the New York State Liquor Authority, the pricing would constitute an attempt to circumvent the intent and purposes of the law; and

WHEREAS, this law does not apply to private functions not opened to the public, such as weddings, banquets or receptions, or other similar functions, or to a package of food and beverages where the service of alcoholic beverages is incidental to the event or function; and

WHEREAS, the intent of placing such restrictions on unlimited drink specials, especially when offered during a limited time period, is to discourage unhealthy drinking habits and behaviors which are not respectful of the community; and

WHEREAS, some businesses are now apparently circumventing this restriction on illegal drink specials by advertising "private parties" on the internet and asking people to sign an online guest list so that alcohol companies can and do promote free alcohol for a limited time period at an event which in all other respects is open to the public; now

THEREFORE, Community Board #3 asks that our local elected officials and the New York State Liquor Authority create legislation that will prohibit this loophole in the law.

Applications within Saturated Areas

17. AAA Ichiban Inc, 198A Orchard St btwn E Houston & Stanton Sts (wb)

VOTE: To deny the application for a wine beer license for AAA Ichiban Inc., doing business as AAA Ichiban, for the premise located at 198A Orchard Street, between East Houston Street and Stanton Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulation that

- 1) it will operate as a full-service Japanese restaurant, with a kitchen open and serving food to within one (1) hour of closing,
- 2) its hours of operation will be 11:30 A.M. to 11:30 P.M. Mondays through Thursdays, 12:00 P.M. to 12:00 A.M. Fridays and Saturdays and 12:00 P.M. to 11:00 P.M. Sundays,
- 3) it will not commercially use any outdoor areas,
- 4) it will play ambient background music only, consisting of recorded music, and not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged,
- 5) it will have a closed fixed façade with no open doors or windows,
- 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 an upgrade in class of its liquor license,
- 8) it will not have "happy hours,"
- 9) it will not host pub crawls or party buses, and
- 10) 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 wine beer license although this is a location within five hundred (500) feet of numerous licensed business because 1) this applicant has been operating its restaurant with the same method of operation for one (1) year without complaints, 2) this location was previously occupied by a Japanese restaurant with a wine beer license, and 3) it is operating with daytime hours and early evening closing hours.

18. Cantina LES (Black Fish LLC), 8-10 Ave B (op)
no vote necessary

19. JMDR 127 Ludlow LLC, 127 Ludlow St btwn Delancey & Rivington Sts (op)

VOTE: To deny the application for a for a full on-premise liquor license for JMDR 127 Ludlow LLC, for the premise located at 127 Ludlow Street, between Rivington Street and Delancey Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulation that

- 1) it will operate as a full-service Asian fusion 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 1:00 A.M. Mondays through Wednesdays, 5:00 P.M. to 2:00 A.M. Thursdays and Fridays, 1:00 P.M. to 2:00 A.M. Saturdays and 1:00 P.M. to 1:00 A.M. Sundays,
- 3) it will not commercially use any outdoor areas,
- 4) it will play ambient background music only, consisting of recorded music, and not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged,
- 5) it will close any façade doors and windows at 10:00 P.M. every night,
- 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 an upgrade in class of its liquor license,
- 8) it may have "happy hours" between 5:00 P.M. and 7:00 P.M. every night,
- 9) it will not host pub crawls or party buses,
- 10) it will have no more than two (2) televisions or monitors within its business,
- 11) it will insure that there are no wait lines outside and will designate an employee to oversee patrons and noise on the sidewalk, and
- 12) 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-premise liquor license although this is a location within five hundred (500) feet of numerous full on-premise liquor licensed business because 1) this applicant is seeking to occupy a location which had been a bar with a full on-premise liquor license for at least the preceding fourteen (14) years, 2) the applicant furnished one hundred forty (140) signatures from area resident in support of its application, and 3) one of the principals has been the sole operator of 137 Essex Street for the past two (2) years and has operated this business without apparent complaints.

20. Yemma Bar Corp, 125 Rivington St (op)
withdrawn

21. (Voted on by a quorum) Whynot Coffee & Wine (Whynot Orchard LLC), 175 Orchard St btwn E Houston & Stanton Sts (wb)

VOTE: WHEREAS, Whynot Orchard LLC is seeking a wine beer license to operate a coffee wine cocktail cafe, with a proposed business name of Whynot Coffee & Wine, for the premise located at 175 Orchard Street, between East Houston Street and Stanton Street; and

WHEREAS, this is an application for coffee, wine and cocktail bar with a proposed certificate of occupancy of seventy-four (74) people, no kitchen, two (2) standup bars, proposed hours of operation of 7:00 A.M. to 1:00 A.M. Sundays through Thursdays and 7:00 A.M. to 2:00 A.M. Fridays and Saturdays and recorded and live music; and

WHEREAS, this is a previously unlicensed location which was formerly a clothing store; and

WHEREAS, this applicant has only five (5) months experience operating a similar business in Community Board #2 which has only had a beer wine license since September of 2013 and further, has no experience operating any business in this area; and

WHEREAS, there are numerous coffee, wine and cocktail bars in this area, as well as numerous businesses which offer internet service and numerous art galleries; and

WHEREAS, this applicant has conceded that there are at fifty-seven (57) liquor licenses within five hundred (500) feet of this location and there are actually fifty (50) liquor licensed establishments within a two (2) block radius of this location; and

WHEREAS, while this applicant furnished signatures in support of this business, it conceded that an unknown amount are from area businesses rather than from affected residential tenants; and

WHEREAS, although the applicant stated that it would eliminate one of the two bars in its proposed plans and amend its closing hours to 12:00 A.M. weekdays and 1:00 A.M. Fridays and Saturdays, it refused to agree not to apply for a upgrade in class of a wine beer license it obtained and stated that it would seek a full on-premise liquor license in the future; and

WHEREAS, this block is already overwhelmed by pedestrian and vehicular traffic and loud noise from patrons and cars as a result of all of the existing licensed businesses which has resulted in the local police precinct closing the streets surrounding this two block area on weekend nights to insure public safety; now

THEREFORE, BE IT RESOLVED that Community Board #3 moves to deny the application for a wine beer license for Whynot Orchard LLC, with a proposed business name of Whynot Coffee & Wine, for the premise located at 175 Orchard Street, between East Houston Street and Stanton Street.

Alterations

22. The Delancey (ADR Restaurant Inc), 168 Delancey St btwn Clinton & Attorney Sts (op/add live music in basement only)

VOTE: WHEREAS, ADR Restaurant Inc., doing business as the The Delancey Bar, is seeking an alteration of its full on-premise liquor license, located at 168 Delancey Street, between Clinton Street and Attorney Street, to wit changing its method of operation from a restaurant to a tavern and permitting live scheduled music in its basement; and

WHEREAS, Community Board #3 first heard the application for a full on-premise liquor license for this business, then using the corporate name Bedford 212, in November of 2003 and denied said application because it understood that it proposed to operate as a multi-level bar with an open rooftop; and

WHEREAS, Community Board #3 has now learned that the applicant apparently then applied to the New York State Liquor Authority and was granted a full on-premise liquor license by purporting to be a restaurant; now

THEREFORE, Community Board #3 will not now approve the alteration of the full on-premise liquor license of ADR Restaurant Inc., doing business as The Delancey Bar, to wit changing its method of operation from a restaurant to a tavern and permitting live scheduled music in its basement, to conform its legal method of operation to its actual operations.

New Liquor License Applications

23. To be Determined, 134 1st Ave (op)
withdrawn

24. East Broadway Tower Corp, 95 Henry St (wb)
withdrawn

25. Creative Restaurant Concepts LLC, 178 Stanton St btwn Clinton & Attorney Sts (op)

VOTE: To deny the application for a wine beer license for Creative Restaurant Concepts LLC, for the premise located at 178 Stanton Street, between Clinton Street and Attorney Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulation that

- 1) it will operate as a full-service restaurant, specifically a contemporary American restaurant, with a kitchen open and serving food during all hours of operation,
- 2) its hours of operation will be 4:30 P.M. to 2:00 A.M. Mondays through Wednesdays, 4:30 P.M. to 4:00 A.M. Thursdays and Fridays, 11:00 A.M. to 4:00 A.M. Saturdays and 11:00 A.M. to 2:00 A.M. Sundays,
- 3) it will play ambient background music only, consisting of recorded music, and not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged,
- 4) it will have a closed fixed façade with no open doors or windows,
- 5) it will not commercially use any outdoor areas,
- 6) it will install soundproofing, consistent with a plan created by a sound engineer,
- 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 "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, and
- 11) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.

26. Retro Bar & Grill (HI Delancey Restaurant LLC), 148-150 Delancey St btwn Suffolk & Clinton Sts (op)

VOTE: Understanding that this is a sale of assets of a preexisting restaurant with full on-premise liquor license to the original licensee, Community Board #3 moves to deny the application for a full on-premise liquor license for HI Delancey Restaurant LLC, with a proposed business name of Retro Bar & Grill, for the premise located at 148-150 Delancey Street, between Suffolk Street and Clinton Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulation that

- 1) it will operate as a full-service American restaurant, with a kitchen open and serving food during all hours of operation,
- 2) its hours of operation will be from 6:30 A.M. to 12:00 A.M. all days,
- 3) it will have a closed fixed façade with no open doors or windows,
- 4) it will play ambient recorded background music and will not have DJs, live music, promoted events, scheduled performances or any events at which a cover fee will be charged,
- 5) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,

- 6) it will not host pub crawls or party buses,
 - 7) it will not have "happy hours," and
 - 8) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.
27. Sensei (Sensei Fine Arts), 278 Grand St 2nd fl btwn Forsyth & Eldridge Sts (wb)
- VOTE:** To deny the application for a wine beer license for Sensei Fine Arts, with a proposed business name of Sensei, for the premise located at 278 Grand Street, second floor, between Forsyth Street and Eldridge Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulation that
- 1) it will operate as a tavern and art gallery with a prep area open and serving food during all hours of operation,
 - 2) its hours of operation will be 12:00 P.M. to 12:00 A.M. Sundays through Thursdays and 12:00 P.M. to 2:00 A.M. Fridays and Saturdays,
 - 3) it will play ambient background music only, consisting of recorded music, and not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged, with the exception of promoted art events consistent with its operation as an art gallery,
 - 4) it will have a closed fixed façade with no open doors or windows,
 - 5) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
 - 6) it will not have "happy hours,"
 - 7) it will not host pub crawls or party buses,
 - 8) it will designate an employee to oversee patrons and noise on the sidewalk, and
 - 9) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.
28. Rivington F & B LLC, 155 Rivington St btwn Clinton & Suffolk Sts (op)
- VOTE:** Understanding that this is a sale of assets of a preexisting tavern with a full on-premise liquor license, Community Board #3 moves to deny the application for a full on-premise liquor license for LLC, for the premise located at 155 Rivington Street, between Clinton Street and Suffolk Street, unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulation that
- 1) it will operate as a tavern with a prep area open and serving food during all hours of operation,
 - 2) its hours of operation will be 5:00 P.M. to 4:00 A.M. Mondays through Fridays and 3:00 P.M. to 4:00 A.M. Saturdays and Sundays,
 - 3) it will play recorded music and may have DJs but will not have live music, promoted events, scheduled performances or any event at which a cover fee will be charged,
 - 4) it will not commercially use any outdoor areas,
 - 5) it will have a closed fixed façade with no open doors or windows,
 - 6) it will employ at least one (1) security guard Mondays through Fridays and at least two (2) security guards Saturdays and Sundays,
 - 7) it will install soundproofing 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 designate an employee to oversee patrons and noise on the sidewalk,
 - 11) it will agree that Jonas Pelli will have exclusive control over the management and operations of the business, and
 - 12) it will provide a telephone number for residents to call with complaints and immediately address any resident complaints.
29. Ginger (Gold River Restaurant Corp), 109 1st Ave btwn E 7th St & St Marks Pl (upgrade/op)
- VOTE:** To deny the application for a change in class of the existing beer wine license for Gold River Restaurant Corp., doing business as Ginger, 109 First Avenue, between East 7th Street and St. Marks Place, to a full on-premise liquor license unless the applicant agrees before the SLA to make as conditions of its license the following signed notarized stipulation 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 indoors will be 4:30 P.M. to 10:30 P.M. all days,
 - 3) it will play ambient background music only, consisting of recorded music, and not have live music, DJs, promoted events, scheduled performances or any event at which a cover fee will be charged,
 - 4) it will close any façade doors and windows at 10:00 P.M. every night,
 - 5) it will not commercially use any outdoor areas,
 - 6) it will not apply for any alteration in its method of operation without first appearing before Community Board #3,
 - 7) it will not have "happy hours,"
 - 8) it will not host pub crawls or party buses, and

- 9) 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-premise liquor license although this is a location within five hundred (500) feet of numerous full on-premise liquor licenses because 1) this business has been operating without complaint for the past twelve (12) years, and 2) it has operated as a full-service restaurant with early closing hours.

30. Ethos Meze (167 AA Rest Corp), 167 Ave A (op) (saturated area)
withdrawn

33 YES 0 NO 0 ABS 0 PNV MOTION PASSED

Arts Task Force

1. LES History Month - May 2014
no vote necessary
2. LES Cultural Resources Guide -- continued discussion & status update
no vote necessary
3. The Arts & Economic Development on the LES
no vote necessary
4. LES Arts Jobs Training Program
no vote necessary

Parks, Recreation, Cultural Affairs, Landmarks, & Waterfront Committee

No meeting scheduled in November

Land Use, Zoning, Public & Private Housing Committee

1. EDC: update on our progress studying the feasibility of a multi-purpose levee
no vote necessary
2. BSA 266-13-BZ, 515 E 5th St: request variance of ZR23-145 to legalize enlargement of a 6-story family dwelling

VOTE: Community Board 3 Resolution to Oppose the requested zoning variance for BSA 266-13-BZ at 515 East 5th Street to legalize enlargement of a 6-story family dwelling

WHEREAS, the construction of the 6th and 7th floors at 515 East 5th Street has been deemed illegal and the permit declared unlawful in three separate decisions at the Board of Standards and Appeals since 2007, and

WHEREAS, there has been longstanding opposition to the landlord developing the two additional stories on the subject premises, and

WHEREAS, the Tenants Association as appellant has prevailed in two cases before the BSA which lead directly to the pending application (by resolution dated November 11, 2007, the BSA agreed with the Tenants Association and its elected representatives that construction of a vertical enlargement—6th and 7th floors added to an already-existing 5-story tenement—was contrary to zoning resolution 23-69-2--Sliver Law), and

WHEREAS, the case was so precedent-setting that it triggered an internal Department of Buildings memorandum notifying all of its employees that henceforth any Multiple Dwelling Law provisions should be strictly enforced, and

WHEREAS, the hardship claimed by the applicant is self-created. The BSA has previously ruled that the MDL provisions are not in any way ambiguous. The practical difficulties claimed as grounds for a variance have most certainly been created by the owner with full knowledge of their implications from the onset of construction, as demonstrated by the opposition of the tenants, the DOB and the elected officials of the city since 2006. The applicant, rather than submitting plans compliant with the law at the outset, professionally-certified the job forgoing DOB plan exam altogether, and

WHEREAS, the decision at the BSA of September 13, 2013 denied the owner's application for vesting under the old (R7-2) zoning regulations, and

WHEREAS, the present application for a zoning variance under the new (R7B) regulations does not meet the specifications under ZR-72-21, namely:

- 1) that the physical conditions of the lot size are not unique, but exactly the same as those surrounding it prior to development,

- 2) that there is not only a reasonable possibility that the development of the lot could be made bringing a reasonable return, as all the surrounding lots have done, but that the **units in question have been continually occupied since 2006 without a certificate of occupancy resulting in revenues of close to a million dollars to the owner**, thereby negating any argument of hardship,
- 3) that the construction has already altered the essential character of the neighborhood, being the only development of its kind on the block and depriving neighboring buildings of light and air, and is detrimental to public welfare in that it is in violation of numerous MDL requirements, especially those of fire safety,
- 4) that the variance is not the minimum necessary to afford relief but is designed to allow the owner to keep a substantial portion of the illegal construction, and

WHEREAS, the DOB has filed an objection on August 19, 2013 based on the fact that the building exceeds maximum permitted height and floor to air ratio, and

WHEREAS, if granted, the variance would undermine the rezoning of the area, which CB#3 sought and was successful in securing in November 2008. This application seeks, not five years later, to overrule the R7B zoning district which is of limited size, covering only the mid-blocks of three blocks which a City Planning study, done at the time of the rezoning, found were indeed less dense than the remainder of the area. Granting even a single variance to one typical building in the area will undermine the 2008 zoning and invite future variance applications.

WHEREAS the continuation of these related cases over a number of years without resolution represents a drain of energy and resources on the Board, the city, and the community, and

WHEREAS, the owner of this property has notoriously side-stepped provisions of the New York City building and zoning codes to construct and renovate several structures in our community, and the actions of the owner have harassed the existing tenants in such buildings causing a great deal of hardship.

THEREFORE be it resolved that CB3 opposes this application for BSA 266-13-BZ at 515 East 5th Street, a zoning variance, and asks the BSA to deny such an application.

3. Inclusionary Housing application at 438 E 12 Street

VOTE: Resolution to Support the Inclusionary Housing Program Application for 438 East 12th Street

WHEREAS, the building to be developed at 438 E 12 Street includes 158 units, of which 22 are permanently affordable in compliance with the inclusionary housing program; and an additional ten 421-A units affordable for 35 years,

WHEREAS, the development complies with the inclusionary housing requirement included in the Lower East Side Rezoning plan;

THEREFORE BE IT RESOLVED that Community Board 3 approves the Inclusionary Housing Program application for 438 E 12 Street;

WE FURTHERMORE expect that

- the in-building amenities available to market-rate tenants will also be affordable for those tenants in affordable units
- a 10 pm closing time be considered for the rooftop in consideration of residents of neighboring buildings
- commercial tenants be encouraged to close by midnight to address noise complaints affecting the neighborhood,
- during construction a liaison will be available for residents to contact to address issues,
- local hiring be encouraged for position made available during in the building.

4. Chinatown Working Group proposal

no vote necessary

33 YES 0 NO 0 ABS 0 PNV MOTION PASSED

Members Present at Last Vote:

David Adams	[P]	Jimmy Cheng	[A]	Morris Fajtelewicz	[P]
Dominic Berg	[P]	MyPhuong Chung	[P]	Flora Ferng	[P]
Karen Blatt	[P]	David Crane	[A]	Shoshannah Frydman	[A]
Justin Carroll	[P]	Stephanie Dominici	[A]	Gloria Goldenberg	[A]

Jan Hanvik	[P]	Alysha Lewis-Coleman	[A]	Carlina Rivera	[P]
Ayo Harrington	[P]	Gigi Li	[P]	James Rogers	[P]
Herman F. Hewitt	[P]	William LoSasso	[P]	Richard F. Ropiak	[P]
Anne K. Johnson	[P]	Chad Marlow	[P]	Susan Scheer	[P]
Linda Jones	[P]	Bernard Marti	[P]	Nancy Sparrow-Bartow	[A]
Vaylateena Jones	[P]	Penina Mezei	[A]	Wilson Tang	[A]
Meghan Joye	[P]	Alexandra Militano	[P]	Elinor Tatum	[leave]
Lisa Kaplan	[P]	Chiun Ng	[A]	Julie Ulmet	[A]
Carol Kostik	[P]	Ariel Palitz	[P]	Josephine Velez	[A]
Ben Landy	[P]	Thomas Parker	[P]	Rodney Washington	[A]
Mae Lee	[P]	Teresa Pedroza	[A]	Justin Yu	[A]
John Leo	[P]	Carolyn Ratcliffe	[P]	Thomas Yu	[P]
Ricky Leung	[P]	Joyce Ravitz	[A]		

Meeting Adjourned