



CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

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www.nyc.gov/mcb4

**Delores Rubin**  
Chair

**Jesse R. Bodine**  
District Manager

February 11, 2016

Mr. Richard Friendly  
And  
Mr. Scott Sternick  
Vodka Soda Bottoms Up  
315 West 46th Street  
New York, NY 10036

Re: Follow-up from Vodka Soda Bottoms Up/ 315 West 46 Street appearance at the January 11<sup>th</sup>, 2016 Quality of Life Meeting

Dear Mr. Friendly and Mr. Sternick:

Manhattan Community Board 4 (“MCB4”) writes to acknowledge that Mickey Spillane, Richard Winkelman, and Scott Sternick (“Owner and Management”) of Vodka Soda Bottoms Up (“Vodka”) appeared before its Quality of Life Committee (“QOL”) on January 11, 2016. The meeting was held as a result of numerous complaints received from the residents of 313 and 317 West 46<sup>th</sup> Street, as well as St. Luke’s Lutheran Church, which is directly across the street from Vodka. Approximately a dozen residents and a representative from the Church appeared at the meeting.

MCB4 appreciates Owner and Management’s expressed willingness to take immediate action to rectify constituent complaints, which stem from the alleged violation of a number of important New York State Liquor Authority (“SLA”) license stipulations, including **Occupancy and Use**, and, **Method of Operation**. MCB4 takes these complaints very seriously, as we do for all complaints received for other establishments in the confines of MCB4. These particular complaints are summarized as follows:

- Improper use of amplified music;
- Use of DJ;
- Dancing allowed without a Cabaret License; and
- Allegedly exceeding the number of patrons permitted on premises as per their Certificate of Occupancy

Complainants also voiced significant frustration regarding noise, sidewalk congestion and littering from patrons congregating outside of and/or lining up for entrance to your establishment, thereby causing the obstruction of adjoining building entrances as well.

## **EXISTING STIPULATIONS**

### Occupancy and Use

It is MCB4's understanding that Vodka has a public assembly permit from the Department of Buildings ("DOB") for 149 people (including employees.) In marketing materials (Facebook, November 27, 2015), it was posted by an entity purporting to officially represent Vodka that: "Over 1,100 Thirst Traps walked thru our doors last Friday". Residents are very concerned that more than 149 people (including employees) may be permitted access to the premises at any one time. Hundreds of pictures posted on a Facebook site (purporting to officially represent Vodka) show a jam-packed party-like dance space. MCB4 is concerned that Vodka may be allowing more people into their establishment than legally permitted by their Certificate of Occupancy (See enclosure).

### Description and Operation of Business

**MUSIC & DANCING:** The Method of Operation and License Type, to which Management agreed to in writing, is for a restaurant and bar only, and should be operated as such.

As you know, Vodka does not have a Cabaret License. Therefore, *dancing is strictly prohibited at all times.*

Accordingly, Vodka is not permitted to have a DJ, and must adhere to "Background Music" regulations. Background music is commonly understood to be amplified music/sound intended as an unobtrusive accompaniment to an activity, such as, in your case, dining in a restaurant. In any event, Vodka must comply with all relevant New York City codes and regulations as they relate to sound emanating from your establishment.

## **PROPOSED REMEDIATION**

### Communication

During the QOL January 2016 meeting, Management agreed to address the lack of effective communication between Vodka and neighboring residents, and expressed a willingness to create a positive working relationship. Unfortunately, the Committee must acknowledge that, to-date, Management's attempts to establish productive communications with residents have been highly inadequate. We continue to urge both you and the residents to make a best effort to develop a productive and effective means of civil discourse to assist in the resolution of the many continuing problems created by the operation of your establishment.

To that end, Richard Winkelman agreed to be Vodka's "point person" to address constituents' concerns. Mr. Winkelman agreed to work with complainants to ensure that his cellphone number (917) 806-9569 is circulated to nearby residents, as well as to St. Luke's Rev. Paul Schmiede.

## Noise

Management has indicated on its Business License Permit stipulation form that a sound remediation plan was produced by Acoustilog, Inc. In light of the ongoing complaints, we request that this plan be reviewed, updated accordingly and implemented immediately by a certified noise consultant (See Enclosure). Further, we request that the noise consultant conducts comprehensive tests of noise levels in adjoining residences *during Vodka's busiest hours of operation*. Mr. Jesse Bodine, District Manager of MCB4, will be happy to work with you, your certified noise consultant and residents to schedule any sound readings.

Management proposed the installation of acoustical soundboards in 315 West 46th Street's common hallways, which is estimated to be completed by the end of February. (Update: During the writing of this letter, Management's attorney informed MCB4's District Manager, Jesse Bodine that Vodka has, "received permission from the landlord of their building to soundproof the inner and outer wall in the hallways and is working with a sound engineer." In addition, at QoL's February meeting, Vodka's management agreed to the immediate installation of sound baffling materials on the common walls that adjoin their establishment with 317 West 46th).

Furthermore, if given permission by building owners, *Management will consider installing insulated windows in the adjoining buildings if it is not cost prohibitive.*

In conclusion, MCB4 kindly requests written confirmation that you will adhere to the following:

1. All current DoB permits, license and occupancy regulations;
2. SLA and MCB4 stipulations, including:
  - a. no DJs;
  - b. no dancing;
  - c. amplified sound decibel levels that are in accordance with all New York City noise codes, as cited above; and
  - d. strict occupancy of 149 people (including employees) at any one time.
3. The cessation of posting commentary and/or pictures on all social media that Owner and Management controls which in any way markets Vodka as an establishment that specifically features dancing and the use of DJs (See Enclosure);
4. Please provide promptly any future sound remediation report or updates to your original report by a city approved acoustical sound engineer (see attached list.);
4. Please provide a timeline to enact remediation recommendations provided by the acoustical sound engineer;

5. Please provide details on any other sound remediation efforts that have, and will, be enacted;
6. Please provide a copy of your SLA approved permanent seating plan (including a diagram of table layout) if different than what was originally filed with MCB4; and
7. Please provide a draft of a security plan that will support the resolution of the complaints listed in this letter.

Kindly send your letter and supporting documents to Mr. Jesse Bodine at MCB4's district office no later than Monday, February 29<sup>th</sup>, 2016.

The members of MCB4's Quality of Life Committee look forward to your attendance at the March 7, 2016 meeting to discuss the results of your efforts.

Sincerely,



Delores Rubin  
Chair  
Community Board 4



David Pincus  
Co-Chair  
Quality of Life Committee



Tina DiFeliciano  
Co-Chair  
Quality of Life Committee

Enclosure

cc:

Hon. Brad Hoylman, State Senate  
Hon. Dick Gottfried, State Assembly  
Hon. Corey Johnson, City Council  
Michael Jones, Deputy Chief Executive Officer  
John Hart, Commanding Officer, Midtown North Precinct  
Michael Dugan, Detective, Midtown North Precinct  
Residents of West 46 Street



## APPROVED NOISE CONSULTANT LIST FOR COMMERCIAL MUSIC MITIGATION

Updated: January 20, 2016

Attached is a list of persons who have applied to be noise experts and have been approved under the DEP Noise Code.

As the premise/business owner, you should know there are a great many noise mitigation issues possible at each premises. Prior to retaining an expert, it is incumbent upon the owner to verify that the particular educational and actual experience is applicable to the owner's particular noise mitigation circumstances, as well as verifying the pricing for such services.

**NOTE:** The hiring of a consultant from this list does not shield the owner from a violation of the Noise Code should applicable noise levels be exceeded during a DEP inspection.

**Note:** Any consultant that does not have current contact information may be removed from this list.

**Daniel Abatemarco**

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**Shawn Lehouillier**  
5★ This bar/club/restaurant is an amazing place. Great food, drinks, sound system and crowd. The staff is amazing and fun. My new favorite place to go!!!  
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Tell people what you think  
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- Therapy NYC**  
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**Vodka Soda / Bottoms Up** added 106 new photos from November 11 to the album: **Vodka Soda & Bottoms Up: OPENING NIGHT!!!** — with Thomas Whitfield and 2 others at **Vodka Soda / Bottoms Up**.  
November 11 ·

On Wednesday, November 11th, 2015, we opened our Doors & were completely blown away by more than 1,300 of you who turned out that night to see the new bars. Your reception was one of warmth, excitement, and unbelievable support & we can't thank you enough for that. We look forward to sharing many more incredible moments with you at Hells Kitchen's newest hotspot! 😊



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RECOMMENDED GAMES MORE



- Luisa Ribeiro likes Cristina Jesus's post.
- Cesar Capuzzo likes Gerson Barone's post.
- Anthony Alfieri likes Ray Pearson's post.

- Els Goossens
- Dany Pirolli
- Meriell Cunha
- Marcos Pirolli
- Vince Zamora

GROUP CONVERSATIONS

- Eben, Dany, Eduardo

Turn on chat to see who's available.

Chaiana da Silva-Bruck also commented on her photo.  
a few seconds ago

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Shawn Lehouillier 5★ This bar/club/restaurant is an amazing place. Great food, drinks, sound system and crowd. The staff is amazing and fun. My new favorite place to go!!! November 12, 2015 · Like · Comment · 4

Tell people what you think ★★★★★

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Vodka Soda / Bottoms Up added 106 new photos from November 14 to the album: Scene Queen Saturdays @ Vodka Soda & Bottoms Up! — with Mike Piscadlo and 6 others. November 14 · 103

Our FIRST Scene Queen Saturdays took off this past weekend at NYC's newest gay bar and man, she SURE did! Over 1,100 scene queens swung by and partied the night away with the one & only DJ 2Face spinnin' the goods. Join us THIS WEEKEND as we do it all over again...but better. 😊



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TRENDING AMONG FRIENDS



RECOMMENDED GAMES



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- Cesar Capuzzo likes Gerson Barone's post.
- Anthony Alfieri likes Ray Pearson's post.

- Els Goossens
- Dany Pirolli
- Meriell Cunha
- Marcos Pirolli
- Vince Zamora

GROUP CONVERSATIONS

- Eben, Dany, Eduardo

Turn on chat to see who's available.

the right volume. The bar staff are friendly and quick to serve you your drinks. I look forward to many fun nights at Bottoms up/Vodka soda.  
November 12, 2015 ·  
Like · Comment · 4

 Shawn Lehouillier  
5★ This bar/club/restaurant is an amazing place. Great food, drinks, sound system and crowd. The staff is amazing and fun. My new favorite place to go!!!  
November 12, 2015 ·  
Like · Comment · 4

 Tell people what you think  
★★★★★

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Gay Bar Like
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Gay Bar Like

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 **Vodka Soda / Bottoms Up** added 110 new photos from November 21 to the album: **SCENE QUEEN SATURDAYS NOV 21!** — with Ben Reznik and 3 others.  
November 21 ·

Last Saturday was INSANE with over 1300 scene queens swinging by Hell's Kitchen's new IT spot, VODKA SODA & BOTTOMS UP! We're doing it ALL over again TONIGHT, 9PM 'til 4AM, with DJ 2Face & \$8 cocktails all-party-long. See you ALL later at VSBUI!



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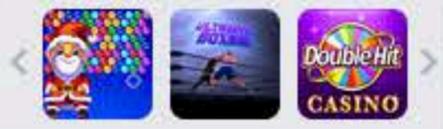


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TRENDING AMONG FRIENDS



RECOMMENDED GAMES



 Edilaine Guisani Gama was tagged in her own photo.

 Paulo Cortez likes Greenpeace Brasil's photo.

 Luiz Carlos Cunha likes Abdalla Mifleh's post.

-  Els Goossens
-  Dany Pirolli
-  Merelli Cunha
-  Marcos Pirolli
-  Vince Zamora
-  Bruno Pirolli

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