



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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CHRISTINE BERTHET
Chair

JESSE R. BODINE
District Manager

May 7, 2015

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

Re: Xai Xai Wine Bar LLC
d/b/a Xai Xai
369 West 51st Street (8th/9th Avenues)
ALTERATION APPLICATION

Dear Chairman Rosen:

Manhattan Community Board 4 (MCB4) recommends **denial** of the alteration application of Xai Xai Wine Bar LLC d/b/a Xai Xai to extend its On-Premise license to a sidewalk café. Given the long history of complaints with respect to this establishment and the disruption to the residential quality of life that would be caused by the requested alteration, allowing the alteration would not serve, and would be contrary to, the public interest.

Xai Xai has been the subject of multiple complaints from community members going back to 2008 and has appeared before MCB4's Business Licenses and Permits (BLP) and Quality of Life (QoL) Committees several times in our attempts to address the community's concerns. For example, although Xai Xai stipulated in its MCB4 Liquor License Application Questionnaire in 2010 (when it sought to upgrade to an On-Premise license) that the floor-to-ceiling French doors that comprise its façade would be kept closed, that stipulation -- based on reports of community residents and CB4 members -- has been repeatedly and consistently ignored and violated. The result is that the entire front of the establishment has been open to the sidewalk and the street, spilling amplified music and patron noise into this residential block.

The problems at Xai Xai increased in 2014 when the Department of Consumer Affairs (DCA), over MCB4's objection, granted Xai Xai's application for a sidewalk café. Most seriously, and as the SLA is aware, Xai Xai served alcohol at the sidewalk café without seeking an alteration to its license to permit it to do so. Xai Xai also appeared to violate city regulations regarding sidewalk café operations, for example, by expanding its operation beyond the space permitted by the DCA, by not arranging the café furniture in

accordance with the DCA-approved sidewalk plan, and by not ensuring that its service staff used only the three-foot waiter service aisle approved by the DCA. Despite having these issues repeatedly called to its attention, Xai Xai refused to correct them.

This establishment falls within the 500 foot rule as there are **38 (thirty-eight)** On-Premise liquor licenses within 500 feet of this address (per the SLA's website) and granting the alteration to this establishment's license would not be in the public interest. Allowing alcohol service at the sidewalk café will likely increase the noise and congestion caused by the café, in a mid-block location on a residential block. The refusal by Xai Xai to adhere to its stipulation to keep its French doors closed already has subjected residents of this block to excessive and late-night noise emanating from this establishment. Given Xai Xai's failures to adhere to its stipulations and city regulations, as outlined above, it is a serious concern that, if Xai Xai were granted the expanded alcohol service sought by the alteration application, these problematic practices would expand over the larger space sought in the application.

When Xai Xai presented its alteration application at the April 14, 2015 meeting of MCB4's BLP Committee, multiple individuals spoke in support of Xai Xai because they enjoy their visits there. Those comments, however, were considered in conjunction with the comments of the individuals and block associations who have suffered from the nuisances created by this operator and who raised their problems and concerns regarding Xai Xai, both at this meeting and in other meetings and communications with MCB4 extending back several years. We also note that, at the BLP meeting, Xai Xai proposed agreeing to close the sidewalk café at 8:00 p.m. Given Xai Xai's track record of failing to comply with its agreements with MCB4 and the community, however, MCB4 had no confidence that Xai Xai would adhere to an agreed-to earlier closing time or would conduct the expanded operations that it seeks in a community-minded fashion.

Thank you for your attention to this application and MCB4's concerns.
Sincerely,



Christine Berthet
Chair

[signed 5/7/15]

Burt Lazarin
Co-Chair
Business License & Permits
Committee



Frank Holozubiec
Co-Chair
Business License & Permits
Committee