

DRAFT: 5/30/14

TO: Manhattan Community Board 4
FROM: Balanced Business Working Group of MCB4
DATE: June __, 2014

Manhattan Community Board 4 formed the Balanced Business Working Group in response to community concerns about the district's decreasing diversity of the retail and service businesses necessary in a residential community, the increased concentration of alcohol-serving establishments, and the issues and problems accompanying those establishments (particularly on residential side streets).

The working group held three meetings with the community over the past several months and discussed at length the specific issues and problems, the community's goals, and possible solutions.

As part of its work, the working group, assisted by members of the community, surveyed the mix of businesses on the avenue blocks in the district, recording the nature of the businesses and the street frontage of each business. A summary of that survey is attached.

As discussed during these meetings, the working group believes that there are two prongs to any solution: (1) limiting the concentration of alcohol-serving establishments on the avenues and the spread of such establishments to residential side streets; and (2) attracting a full diversity of affordable retail and service businesses in the district.

In connection with the first prong, the working group has prepared the attached draft of an MCB4 Policy Regarding Concentration and Location of Alcohol-Serving Establishments, which the working group recommends be adopted by MCB4.

**MCB4 POLICY REGARDING CONCENTRATION AND LOCATION
OF ALCOHOL-SERVING ESTABLISHMENTS**

Issues and Concerns

- MCB4 hears an increasing number of complaints and concerns from community residents regarding the disruption to reasonable quality of life caused by the increasing number of alcohol-serving establishments in this district. Although it recognizes that alcohol-serving establishments are an important component of the commercial make-up of the district, MCB4 has observed that problems with respect to noise, sidewalk congestion, traffic, and anti-social behavior increase notably when such establishments are heavily concentrated or located on predominantly residential blocks.
- Problems associated with alcohol-serving establishments include increased noise and sidewalk congestion when their patrons enter and leave, often in groups, and when they smoke on sidewalks outside these establishments; increased traffic as their patrons drive into and out of the neighborhood and circle the streets seeking parking; and disruption to the sleep of community residents because the noise inevitably accompanying these establishments typically continues into the early morning given that they commonly operate with late night hours.
- These problems multiply exponentially when alcohol-serving establishments are heavily concentrated in a particular area. Such concentration also has the unfortunate corollary of driving out of the area the types of retail stores and service businesses necessary to serve a residential community. The location and convenience of these retail and service businesses are particularly important to the senior citizens who make up a significant proportion of this district's population.
- Many of the side streets in this district -- which includes the Special Clinton District, created to preserve and strengthen the residential character of that area -- are primarily residential in nature. Often, these blocks consist of low-rise residential building stock, including century-old structures poorly insulated from street noise. MCB4 has found that the quality of life for residents on such streets is inevitably disrupted by the increased noise, congestion, and traffic that accompany alcohol-serving establishments located on such streets.
- Issues of increased pedestrian and vehicular traffic are of particular concern because of the already-crowded conditions in much of the district. For example, the sidewalks along Ninth Avenue in Clinton/Hell's Kitchen are narrower than the typical avenue sidewalks because of the additional traffic lane on Ninth Avenue for access to the Lincoln Tunnel. The presence of the Lincoln Tunnel in the center of the district itself creates a notable amount of vehicular traffic passing through the district.
- MCB4 has also noted the statistics in a recent New York City Department of Health community health survey that found that, in 2012, the percentages of residents in the

Clinton/Hell's Kitchen neighborhood -- a major part of MCB4 -- who engaged in heavy drinking (10.50%) and binge drinking (34%) were almost double the city-wide percentages (5.90% and 19.70%, respectively). This survey also found that both heavy drinking and binge drinking had increased significantly in Clinton/Hell's Kitchen from 2010 to 2102 and had increased at a much higher rate than the city-wide averages. MCB4 is concerned that the rapid proliferation of alcohol-serving establishments in this district may be a contributing factor to these disturbing statistics.

Policy Recommendations

- **Preserve Residential Character and Quality of Life by Limiting Alcohol-Serving Establishments on Primarily-Residential Side Streets.**
 - To preserve residential quality of life, MCB4 will pursue changes to the zoning of residential side streets to advance residential quality of life by addressing the issues and concerns above.
 - For these same reasons, MCB4 rarely recommends approval of applications for liquor licenses (including transfer and alteration applications) for establishments located on primarily residential side streets and, in particular, disfavors applications for any establishment that does not agree to close and vacate its premises no later than 11:00 p.m. MCB4 rarely recommends approval of applications for sidewalk cafes on residential side streets because they are especially disruptive to nearby residents.
 - In considering an application, MCB4 will give the concerns of surrounding residents' strong consideration, with significant support for the applicant from immediately-affected residents an important factor in a determination to recommend approval of an application on a primarily residential side street.
- **Avoid Over-Concentration on the Avenues.**
 - MCB4 has surveyed the types of businesses located on the most commercial avenue blocks in the district and has found that many avenue blocks are over-concentrated with alcohol-serving establishments, which on some blocks exceed 50% of the street footage of all lots on the block. To avoid the problems that accompany the over-concentration of alcohol-serving establishments and taking into account the provisions of the New York Alcoholic Beverage Control Law commonly referred to as the "500 Foot Rule," MCB4 rarely recommends approval of applications for full on-premises liquor licenses (including transfers and alterations of such licenses) on avenue locations in over-concentrated areas.
 - MCB4 deems an area over-concentrated if the street footage of all establishments serving full liquor on the avenue block containing the applicant and the blocks on either side of applicant (a total of three blocks, both sides of the block, considered in total) constitutes more than 25% of the street footage of all lots located on those three avenue blocks. This three-block radius is roughly co-extensive with the distance of 500 feet that serves as the measurement standard for the 500 Foot Rule.

- As an example, in an avenue block with typical 25-foot storefronts, an over-concentrated area would involve, in a three-block span, 12 or more 25-foot storefronts (or 24 or more 12-foot storefronts) occupied by establishments serving full liquor. For purposes of this calculation, establishments serving full liquor shall include any establishment licensed to serve all types alcohol for consumption on its premises (including, without limitation, on-premises licenses, hotel licenses, catering establishment licenses, and cabaret liquor licenses, but excluding wine-and/or-beer licenses). For corner establishments, only their street footage on the avenue (and not on the side street) is included in the concentration calculation. This policy will not apply to renewals of existing licenses that do not seek any changes to the license.
- For these same reasons, MCB4 discourages applicants and property owners from seeking to open an establishment with a full on-premises license at a location in an over-concentrated area (as defined above) that falls within the 500 Foot Rule and that has not been previously licensed.
- In considering an application in an over-concentrated area, MCB4 will give the concerns of surrounding residents' strong consideration (including concerns regarding operating hours and method of operation), with significant support for the applicant from immediately-affected residents an important factor in a determination to recommend approval of an application in an over-concentrated area.
- The presence of bars and restaurants in buildings that also contain residential units presents a particular set of concerns for the residents of such buildings because noise (both amplified sound and patron noise) and odors frequently escape from those establishments into the residential units and patrons frequently congregate in front of such buildings, beneath residential windows, disrupting residential quality of life with late-night noise and smoking. Accordingly, MCB4 will expect applicants in buildings that contain residential units to take steps to deal with such concerns and an overall protection of residential quality of life and be prepared to discuss their responses to these concerns with MCB4. These steps could include such actions as the installation of adequate sound-proofing and kitchen ventilation, earlier closing hours, monitoring the adjacent sidewalk to prevent excessive noise and intrusive smoking by patrons, and arranging for garbage to be collected in the manner least noisy and intrusive for nearby residents.
- **Criteria to Improve Residential Quality of Life.**
 - Community residents regularly turn to MCB4 for help in resolving issues with the operation of alcohol-serving establishments that undermine reasonable residential quality of life. Through its history with such complaints, MCB4 has learned that several aspects of the operation of such establishments are particularly likely to lead to complaints and concerns.
 - Accordingly, MCB4 requests that alcohol-serving establishments in the district adhere to a list of operational best practices. MCB4 rarely recommends approval of an application for a liquor license unless the applicant agrees to comply with MCB4's best practices.

These practices are listed in the MCB4 agreement for method of operations that an applicant signs and are updated from time-to-time to reflect the most current information MCB4 has collected.

- In considering applications, MCB4 will view as a positive factor applicants that agree to close by 2:00 a.m. or earlier.
- MCB4 has learned that an applicant's character and the history of operations and complaints at other establishments owned or operated by an applicant for a liquor license are often highly predictive of issues and problems at a new establishment. Accordingly, MCB4 will continue to give serious weight to an applicant's character and prior history with licensed establishments, including the relationship between those establishments and the community, when determining whether to recommend the approval of a liquor license application.
- To preserve reasonable residential quality of life, MCB4 will continue to enforce the MCB4 Rear Yard/Rooftop Policy for Liquor Licenses and will apply that policy to all outdoor space, including front yards, rear yards, rooftops, and sidewalk cafes. As the title of the policy makes clear, this policy applies to all liquor licenses and all alcohol-serving establishments.