

Alan D. Sugarman
Attorney At Law

17 W. 70 Street
Suite 4
New York, NY 10023
212-873-1371
mobile 917-208-1516
fax 212-202-3524
sugarman@sugarlaw.com
www.sugarlaw.com

February 12, 2019

By E-Mail

Sarah Ellmore
Planner Borough of Manhattan
Manhattan Borough Office
New York City Department of City Planning
120 Broadway, 30th Floor
New York, NY 10271
sellmore@planning.nyc.gov

Re: Zoning Resolution Provisions Affecting Dancing and Music V1.0
Modification of Resolution to Implement Cabaret Law Repeal

Dear Ms. Ellmore,

When I spoke to you in December, 2018, I mentioned that I was conducting an analysis of provisions of the Zoning Resolution affecting dancing and music. I had contacted you because you were on the panel for the Manhattan Nightlife Town Hall and I had asked a question as to this issue.

The review of the Zoning Resolution has become more complex. After some false starts, I decided I needed to create an extract of such provisions in a single bookmarked Acrobat file, which I enclose. I have highlighted the relevant provisions.

I have not completed my analysis, but one important point is the absence of definitions, for example, of “dancing,” “cover charge,” or “showtime.” I also have performed some research into the granting of Special Permits allowing dancing by the BSA. I could only find three establishments with a Special Permit for dancing currently in effect. Clearly, this escape hatch is not working.

I now understand the regulations for Special Districts often supersede regulations as to Use Group 6 and 12. For that reason, the Appendix of Use Groups is not accurate. I also understand now that some of the districts in Use Group 6 are also in Use Group 12.

As to mapping, what is needed is to show the extent of restrictions against dancing and music with a map of districts/subdistricts in Use Group 6 and not in Use Group 12, and then excluding subdistricts superseded by Special District provisions. Appropriately,

Sarah Ellmore
February 12, 2019
Page of 2 of 3

CPC should supervise this mapping. ZoLa is not up to this task without expert GIS software support.

I will be submitting an analysis as to these issues in the near future and will include a case analysis of the three-year Special Permit granted last year to the Red Rooster on Lenox Avenue in Harlem. Nothing north of the Red Rooster can allow dancing even with a Special Permit.

I would also like to know if there is a resource that shows the history of amendments adopted as a result of the 1989 City Planning report¹ and amendments made thereafter up to 2000.

I note that the 1989 report stated in its preamble that the purpose of the proposed amendments was to “impose more restrictive regulations on larger entertainment establishments and those with dancing.” The report does not even suggest what aspects there are about dancing which require more restrictive regulation on establishments which allow dancing of any type and with any number of dancers and with any size dance floor. The report seems to indicate that restrictions on dancing needed to be expanded because the New York courts had declared unconstitutional Zoning Resolution restrictions of music and musicians. So, to regulate nightlife, it seems the City focused on dancing.

Finally, I am providing a copy of this letter to the Office of Nightlife Executive Director Ariel Palitz. I am not exactly sure what the Nightlife Advisory Board is working on as to regulatory changes affecting dancing, but I assume that at least a few of the Advisory Board members will be pressing this issue. I am not certain as to which members have this under their mantle who also have a familiarity with the Zoning Resolution and the procedure for amendment.

It is my understanding that modifications to the Zoning Resolution are in the ordinary course initiated by the Department of City Planning and the City Planning Commission under the Uniform Land Use Review Procedure. I hope that DCP will seize the initiative.

Sincerely,



Alan D. Sugarman

cc:

¹ New York City Planning Commission Report, Entertainment Use Text Amendment, Calendar No. 36, (CPC ULURP No. 890808) December 13, 1989 available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/890808.a.pdf>

Sarah Ellmore
February 12, 2019
Page of 3 of 3

Ariel Palitz, apalitz@media.nyc.gov
Sue Carling, scarling@planning.nyc.gov

Attachment Available At:

<http://zortmusic.com/CabaretLaw/ZR/ZR-Dancing-and-Music-Regulations-Version-1.pdf>