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By E-Mail

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

Dear Ms. Gravel,

I would appreciate a response to my February 18, 2019 letter. In case you misplaced that letter, I enclose a copy.

I also enclose a copy of the December 13, 1989 CPC Report which is self-described as “a comprehensive review Zoning Resolution as it concerns entertainment establishments in order to create a more appropriate, up-to-date regulatory framework for controlling such uses.” The Report acknowledges that the regulatory changes were made in response to the 1986 and 1988 *Chiasson* decisions holding that parts of the Zoning Resolution were unconstitutional restrictions on the freedom of expression. So, other methods were introduced by DCP to achieve the same effect, which is self-evident in the mark-up of the proposed legislation included in the Report.

As I reviewed the Zoning Resolution and in particular the confusing Use Group 6 and Use Group 12 provisions, I realized that most of the objectionable anti-dancing and anti-musician provisions of the ZR were added as a consequence of this ill-considered 1989 Review.

One example is the poorly written Use Group 6-A and Use Group 6-C provisions, which make no sense and are not aided by any definitions at all. The blanket requirement of waiting space in Use Group 12 whenever there is even one person dancing is another ill-considered requirement. The lack of a definition of how to compute occupancy in establishments with multiple “rooms” in one location is another ill-considered act. The limitation of cover charges in Use Group 6-A directly targets income to musicians. The poor drafting also resulted in the failure to include M2 and M3 in Use Group 12 other

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than by indirection. The requirement of waiting areas in M1, M2, and M3 seems to make no sense at all.

So, I am requesting that CPC undertake a new well-considered review of the regulatory framework for entertainment establishments. In order to avoid perpetuating some of the ill-considered provisions introduced as a result of the 1989 review, the review should take a zero-based approach, analyzing the policies underlying each restriction and importantly providing definitions which seek to clarify the confusion created by the current scheme.

I am also again asking the CPC to prepare mapping to show areas where dancing is allowed, where dancing is allowed with conditions, where dancing is allowed only with the approval of the BSA, and where dancing is flatly prohibited. The mapping should include a cross reference to the particular ZR section justifying the mapping. [Note that reference to Appendix A is insufficient.]

I am making every effort to draw to the attention of others the 1989 review – history is destiny, correct? Mayor Giuliani is not the only villain as popularly depicted: he picked up on the sentiments of the 1989 review and enforced the restrictions to the extreme.

Once the history is well understood, I am sure others will be pressing for a comprehensive zero-based review. It is inevitable, and CPC cannot do this in just a few days, and I hope the CPC begins a careful review, not with the intent to justify the current regulatory scheme, but to analyze from the ground up.

I await your response.

Sincerely,



Alan D. Sugarman

cc: Ariel Palitz, apalitz@media.nyc.gov
Sarah Ellmore, sellmore@planning.nyc.gov