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**The City of New York
Community Board 8 Manhattan
Small Business Committee
Wednesday, September 29, 2021 – 6:30 PM
This meeting was conducted via Zoom**

MINUTES:

CB8 Members Present: Gayle Baron, Michele Birnbaum, Lori Bores, Alida Camp, Valerie Mason, John Philips, Barbara Rudder, Barry Schneider, Rami Sigal and Cos Spagnoletti

Debra Guzov and Jonathan Bing, attorneys, addressed the indoor vaccine mandate to provide clarity and information to those businesses required to comply with the mandate.

The idea behind the mandate is to bring New York to normalcy, allowing enjoyment of the activities and culture the city offers. The Key to NYC creates a floor not a ceiling. Businesses may ask for more than the city requires, such as Broadway theatres has done. The restaurant industry generally supports the mandate.

Emergency Executive Order 98 is the foundation of the mayor's ability to order the mandate for every entertainment venue, including all employees and patrons, volunteers and contractors. The businesses must be able to check vaccine status and verify identification. Only one vaccine dose is required.

The businesses affected include restaurants, bars, private clubs, fitness centers, even with outdoor classes, cultural centers, entertainment venues. There must be visible signage with certain required elements. The city sign is available online for print-out.

A good practice was suggested of putting the vaccine requirement on a sandwich board outside or other larger notification for anyone wanting to enter, particularly for visitors from other areas who may not expect vaccination rules to be enforced.

There are certain exemptions for restaurants and other food service establishments where the vaccine mandate does not apply. For example, establishments offering takeout and delivery only, patrons inside only to pay a bill, use the restroom or for employees changing in a locker room or other limited purposes, no indoor sit-down tables available for dining.

If there is an outdoor café, the requirement does not apply to patrons of the outdoor café. Private residences, offices whose facilities are open only to residences and office workers, respectively, poll sites, art galleries and other retail establishments, community and senior centers are not required to comply. Hotels, other than their restaurants and gyms, are not required to comply. There is no push to require outdoor dining to comply with the vaccine requirement even though in the winter, they can be as closed as indoor spaces. There was some discussion of DOB requirements for outdoor dining, but that is beyond the scope of the vaccine requirement presentation.

There are certain exceptions, such as for children under 12.

If social distancing is unable to be maintained, masks are required except for eating and drinking.

There are a variety of apps that could help businesses, but a photo of the CDC card and state- or city-issued ID that matches the vaccine card are sufficient to comply. Businesses are not required to verify the vaccine card's accuracy, but best practices would be to file a complaint to the Attorney General's office if a business suspects a vaccine card is fake.

The process should be documented. Requirements should be included in employee handbooks, for example. A written procedure, with intention to follow it, and showing it has been followed, is the best way to ensure there are no issues with enforcement.

To establish compliance, an establishment needs the poster, either the city-provided or own poster, implementation plan available for inspection to show how it will check vaccination status, how establishment plans to check and maintain information for regular customers.

Debra recommended training in de-escalation of conflict that may arise from asking for vaccine proof. If anyone is interested in penalties for individuals who assault workers asking for vaccine status, Debra suggested contacting City representatives.

Certain exceptions apply for quick entries/exits, although masks and social distancing are required.

Failure to comply will lead to enforcement with impositions of fines of thousands of dollars, although only warnings have been issued.

There are requirements to accommodate employees who cannot be vaccinated for disabilities, not a refusal to have one by developing an alternative, if there is no threat to others or imposition of a financial hardship on the business. Patrons must also be accommodated, but the issue is not fully determined.

If NYS promulgates rules, those may supersede NYC's vaccine mandate.

Jonathan referred to the frequently updated FAQs on the Key to the City website. Businesses subject to the mandate should check the FAQs regularly.

Tests are not a substitute for the indoor vaccine mandate.

Debra and Jonathan suggested speaking to attorneys or HR departments for advice.

Questions may be addressed to Debra at dguzov@guzovllc.com and Jonathan at BingJ@gtlaw.com.

Updates are posted on their LinkedIn pages.

Alida Camp and Valerie Mason, Co-Chairs