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**The City of New York
Community Board 8 Manhattan**

October 20, 2022

Adam Roberts
Deputy Commissioner
State Liquor Authority
80 South Swan Street, Suite 900
Albany, NY 12210-8002

RE: 828/850 Madison Avenue Members' Club Inc, dba TBD, 840 Madison Avenue (Between 69th and 70th Streets) - New Application and Temporary Retail Permit for Liquor, Wine, Beer & Cider

Dear Deputy Commissioner Roberts,

Applications will only be approved based upon the applicant's agreement to the following stipulations:

- 1. The applicant will abide by the bicycle guidelines and will ensure that any third-party delivery provider that it contracts with shall abide by the bicycle guidelines.**
- 2. The applicant will keep the front of the establishment clean.**
- 3. The applicant will be denied if they participate in bar-crawls.**
- 4. The applicant will abide by applicable Covid-19 regulations at the time.**

At the October 19, 2022, Full Board meeting of Community Board 8 Manhattan, the board unanimously **approved** the following resolution by a vote of **40 in favor, 1 opposed, 0 abstentions and 0 not voting for cause:**

WHEREAS this is a New application for a Liquor, Wine, Beer, and Cider License; and

WHEREAS members from the public voiced their views both in objection and in support of the application; and

WHEREAS the applicant has engaged in a dialogue with the residents of the surrounding buildings; and

WHEREAS the applicant and the residents of the surrounding buildings have agreed to the attached draft stipulations to which the applicant will adhere; and

WHEREAS the applicant has also stipulated to continue to work with the residents to resolve any open areas of concern from the residents, in particular with respect to engineering, acoustic and odor; and

WHEREAS the applicant has agreed to Community Board 8's stipulations concerning delivery bikes and bar crawls; therefore

BE IT RESOLVED that the application is **APPROVED**, subject to:

The stipulations above

Please advise this office of any action taken regarding this matter.

Sincerely,

Russell Squire

Russell Squire
Chair

Abraham Salcedo

Abraham Salcedo
Chair, Street Life Committee

cc: Honorable Eric Adams, Mayor of the City of New York
Honorable Carolyn Maloney, 12th Congressional District Representative
Honorable Mark Levine, Manhattan Borough President
Honorable Liz Krueger, NYS Senator, 28th Senatorial District
Honorable José M. Serrano, NYS Senator, 29th Senatorial District
Honorable Edward Gibbs, NYS Assembly Member, 68th Assembly District
Honorable Dan Quart, NYS Assembly Member, 73rd Assembly District
Honorable Rebecca Seawright, NYS Assembly Member 76th Assembly District
Honorable Keith Powers, NYC Council Member, 4th Council District
Honorable Julie Menin, NYC Council Member, 5th Council District

WESTBURY PRIVATE MEMBERS' DINING CLUB

STIPULATIONS TO MANHATTAN COMMUNITY BOARD 8 AND THE NEW YORK STATE LIQUOR AUTHORITY

Vehicular Activity

The Club will manage vehicular activity relating to its activities so as to minimize congestion on East 69th Street and East 70th Street (each a Side street and together Side streets) and to respect the quiet residential nature of both Side streets. To that end, the Club agrees to take the following steps:

Passenger Pickups/Drop offs

- The Club will not operate a valet parking service, nor permit the operation of a valet parking service by a third party.
- Members and guests will be required to be picked up and dropped off only on Madison Avenue and not on Side streets, and this will be reflected in the Rules of the Club. (These Rules constitute the contract between the Member and the Club, including a code of conduct, and Membership may be terminated for violation of the Rules.)
- Members and guests will not be allowed to wait on either Side street and will be required to instruct their drivers not to wait for them on either Side street. Members will also be required to instruct drivers not to idle their engines while waiting on Madison Avenue. The foregoing will be reflected in the Rules of the Club.
- Members will be instructed not to use the 10 E 70th Street garage, and this will be reflected in the Rules of the Club.
- Members will be advised of and required to respect the residential nature of the neighborhood when arriving and departing and this will be reflected in the Rules of the Club.
- Security and cameras will be installed and will face west on both Side streets to monitor sidewalks and street activity during the period at least one hour prior to opening through one hour after the premises closes. Security Camera footage shall be kept available for a minimum period of one (1) calendar month with time and date stamping.
- There will be no rope line or queuing outside the Club.
- Door Staff will be responsible for monitoring and ensuring that these stipulations concerning Vehicular Activity are complied with.

Commercial Deliveries/Collections

- All deliveries and collections, including of food, will be made on Madison Avenue regardless of whether the No Parking Zone that has been requested of the Department of Transportation is granted.
- Food deliveries will be hand carted to the East 70th Street service entrance.
- All non-food items will be brought in and out via a Madison Avenue entrance.

Sanitation

The Club will manage its recycling and garbage pickups so as to minimize congestion on the Side streets and to respect the quiet residential nature of the Side streets. To that end, the Club agrees to take the following steps:

- There will be two scheduled garbage collections per day, both from Madison Avenue, with garbage hand carted from the East 70th Street service entrance to trucks on Madison Avenue.
- Times for garbage collections will conform to the extent possible with wishes of residents and neighbors; all to comply with NYC ordinances and with the objective of avoiding disturbance to the neighborhood.
- Food waste will be stored in a refrigerated room and garbage will not be brought out through the East 70th Street service entrance until the scheduled pickup time, in order to avoid garbage being left standing on the sidewalk. Garbage will not be left on the sidewalk unattended. The Club will seek to ensure telephonic communication between its staff and the garbage operators in pursuit of this objective.
- The foregoing shall also apply to recycling collections, which it is anticipated will be handled by the same carter.
- Cleaning of the sidewalk frontage, including on East 70th Street, will be performed daily and in particular after deliveries and garbage/recycling collections.

Mechanical Equipment

The Club acknowledges that its proposed operation and the mechanical equipment it will be using has raised issues of odor, noise, and vibrations. To eliminate the impact of these upon the residential neighbors, the Club will take at a minimum the following steps:

- The Club will comply with the requirements in its attached Mechanical & Electrical Survey, including the following drawings: Preliminary AC Unit Layout as of 9/16/22, Preliminary Selections, dated August 12, 2022, Preliminary FCU units, Exhibits A and B issued by BWA Architects and dated August 15, 2022, with Exhibit A as revised on October 17, 2022 (collectively the “Mechanical & Electrical Study”) and the SLA Acoustical Study, dated October 7, 2022, issued by Lewis S. Goodfriend and Equity Environmental Engineering, as modified by a letter dated October 17, 2022 issued by Equity Environmental (collectively the “Acoustical Study”), all of which are appended hereto in their entirety, including without limitation the following: both kitchen exhausts will extend vertically side by side and shall be mechanically cleaned and exhausted to Bulkhead 2 of 828-850 Madison Avenue (the “Westbury building”), as shown on revised Exhibit A to the Mechanical & Electrical Study and exhaust air outflow will be directed away from 10 East 70th Street’s HVAC air intake.
- The Club will comply with the placement of equipment as set forth in the Mechanical & Electrical Study.
- Prior to the Club’s beginning operation, the Club shall have its Project Engineer and Acoustician certify that that the exhaust systems have been installed in accordance with and comply with the New York City Mechanical and Noise Codes.
- All mechanical equipment will be noise attenuated in compliance with all applicable law, rules, and regulations.

- All mechanical equipment will be subject to ongoing maintenance on a regular basis by third party vendors to ensure that no noise is audible within apartments in the Westbury building, neighboring buildings, or outdoor space of the neighboring buildings, including the outdoor seating area at 10 East 70th Street.
- All mechanical equipment will be tested no less than once per year by an acoustician to make sure it is operating within proper noise/vibration tolerances and proof thereof shall be submitted to the neighbors upon request.
- Without limiting the foregoing, the mechanical equipment will be maintained in such a way as to insure there will be no food or garbage odor outside the premises leased by the Club, including without limitation the kitchens.
- All HVAC equipment will be located within the Club's leased space and the designated common areas of the Westbury building, and will comply with all applicable law, rules and regulations, including as to noise attenuation and odor. Without limiting the foregoing there will be no exterior compressors.
- The Club agrees to be bound by the recommendations of its Acoustician and will follow same.
- To further isolate sound and prevent its spread toward neighboring buildings, the Club will apply appropriate sound attenuation to its Western walls, including the Western walls of both kitchens.
- Compliance with the above criteria shall not absolve the Club from compliance with all other pertinent sections of the New York City Mechanical Codes.

Music / Noise Mitigation

The Club acknowledges that its proposed operation has raised issues of noise and vibrations from music. To eliminate the impact of these upon the residential neighbors, the Club will take at a minimum the following steps:

- The Club agrees to comply with the recommendations of its Acoustician as to sound isolation, including without limitation as to sound systems, including with respect to requiring and setting a high-pass filter set. Without limiting the foregoing, electronic limiters shall be included in all sound systems, and prior to the Club's beginning operation, the sound systems and limiters shall be tested and calibrated in consultation between the Club's Acoustician (Equity Environmental Engineering) and the neighbors' Acoustician (Longman Lindsay), both Acousticians to behave reasonably, to ensure that no noise or vibration is audible beyond the Club.
- No noise/music/voices/vibrations/impacts emanating from the Club shall be detectible beyond the premises, including in particular in neighboring residential buildings or their outdoor areas.
- Noise and vibration from other sources, including other tenants, commercial traffic, etc. shall not constitute a lower limit on or waiver of these sound and vibration mitigation requirements.
- Music will be essentially ambient and played at a level appropriate to the Club's emphasis on dining and conversation.
- Live music will be limited to piano and small ensembles.

- There will be no dancing.
- The Club shall demonstrate by testing that the various constructions and finishes included in the build out result in compliance with the criteria that no amplified sounds from any equipment and proposed activities are discernible in any interior or exterior space beyond the Club and shall make any necessary adjustments in their construction so as to satisfy such requirement.
- In the event of a complaint of perceived noise or vibration resulting from the Club's operations, the Club shall act quickly to resolve such complaints.
- Compliance with the above criteria shall not absolve the Club from compliance with all other pertinent sections of the New York City Noise and Building Codes.

Events

The following rules, encompassing the previous rules relating to Music / Noise Mitigation, will apply to all private events ("Functions") so as to limit their effect on the neighborhood:

- Member buyouts (a member renting out the entire Club) will be restricted to two (2) times per year in total (that is, for all Members collectively, not for each Member) with advance notice of fifteen (15) days to neighbors by hand and by email sent to such physical and email addresses as are provided by the neighbors.
- No non-member or third-party buyout Functions and no promoters will be permitted whatsoever.
- All Functions, excepting Member buyouts, will be restricted to a maximum of 200 persons and will take place only during the hours the Club is permitted to be open.
- All Functions must be hosted by a Member, who must be physically present during the Function.
- Functions (including weddings and other celebratory events) will only be allowed if they comply with these Stipulations, including as to Music/Noise Mitigation, and will be policed by Senior Staff. Senior Staff will be directly involved in negotiating the terms of an event agreement with a Member, with particular attention to the size of the event and the type of music/entertainment involved.
- No dancing will be permitted.
- No sound systems will be permitted except in accordance with the recommendation of the Club's Acoustical Study.
- Members hosting functions will be required to conform to these Stipulations and failure to do so may result in loss of Membership.
- These Stipulations concerning Functions will be reflected in the Rules of the Club and there will in addition be a specific contract, to be entered into by a Member when hosting a Function, requiring compliance on the part of all attendees.

Hours of Operation / Staff Logistics

- Monday through Wednesday 7 am to Midnight
- Thursday through Saturday 7 am to 1 am

- Sunday Noon to 11 pm

Staff will be required to respect the residential nature of the neighborhood when arriving and departing. Reasonable endeavors will be made to minimize sidewalk congestion as shifts change, including ensuring that Staff use all entrances to the Club. Staff will be instructed not to loiter in the vicinity of the building before or after shifts or during breaks.

Outdoor Smoking Restrictions

Both Members and Staff will be prohibited from smoking in the doorways or on the sidewalks adjacent to the Westbury and neighboring buildings.

Security / Community Contact / Rapid Response

The Managers, Door Staff, and Receptionists will have a dedicated cell phone number which will be made available to the Community Board, local police precinct, and neighbors / residents. There will at all times be a member of Senior Staff on call 24/7 with authority to handle and resolve any situation or emergency which may arise.

Landlord's Consent

The Applicant will obtain its Landlord's consent to these Stipulations prior to commencing its operation.

NY Department of Buildings Review Process

All Alteration Type 1 and 2 Applications will be subject to full DOB Staff Review.