



NEW YORK NIGHTLIFE ASSOCIATION

Serving New York's Bars, Clubs & Lounges

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NYNA NEWSLETTER

Fall 2008

Community Boards Push for 2:00 AM Closing !

An Open Letter from the Board of the New York Nightlife Association:

Do you or someone you know:

- Own a restaurant that does a lot of business in post 9pm seatings with people under 40?
- Work in a law firm or investment bank that uses the notion that “NY is the city that never sleeps” as a recruiting tool to attract the best and brightest students to move to NY or to keep them here when headhunters start calling with offers from other cities?
- Own a hotel that caters to a clientele looking for the “total” NY experience of culture, dining, and the best nightlife in America?
- Market to young singles looking to move to NY to experience the “New York” they’ve read about? and seen in movies for years?
- Promote the tourism industry, selling the 24/7 excitement of NY to your target audience?

Are you or someone you know:

- An employee at a nightlife venue wondering how you will pay your bills, continue in school or remain an artist without the income from that job or a NYC resident wondering where the tax dollars are going to come from to pay for essential services in this economic downturn?

When NY is turned into “Cleveland on the Hudson” by those who believe that living in the city means having the same level of quiet as a suburban New Jersey enclave, do you believe “New York City” will still resonate magically in the imaginations of people all over the world?

The attempt by some Community Boards, acting in concert with the SLA, to create a de facto 2:00 AM closing time in NY because they know they would face an uprising if they tried to legislate it, is one of the most insidious threats to ALL New Yorkers. No, it is not only a threat

to those people who enjoy going out to bars, lounges and clubs and don't want to have to rush out at 1:45 AM (undoubtedly to illegal after-hours clubs or to house parties in people's homes, just like in LA).

Nightlife is a \$10 Billion economic engine for NYC. Our industry generates hundreds of millions of dollars in tax revenues. Go to the NY Nightlife Regional Page at www.nysra.org and see our economic impact survey done by the highly respected firm, Audience Research Analysis.

To imagine that it is merely a matter of simplistically chopping off 2 hours of “undesirable” late night activity is not merely absurd, but is economic suicide for a city that depends on tourism and thrives on the energy and creativity of the best and brightest young people who opt to move here and endure all the difficulties of making it here because this is NEW YORK CITY, not Albany, not Syracuse, not Pittsburgh, not Boston...in short...**not anywhere but NEW YORK CITY**. Can you imagine a guest from Europe coming back to the hotel after a night out and not being able to stop at the lobby bar for a nightcap at 2:15 In New York City!!

When the City threatened us all with the “bad operator 1am closing” bill several years ago, NYNA did a survey of our members and found that 58% of our revenues came in after 1 am. Can you imagine the trickle down effect of crippling the nightlife industry? On restaurants? On retail? On service businesses like salons? On graduate students or art students paying their way through school on their tips? For those of you who don't understand how this is working, here's a sample: An applicant goes before a CB requesting a license. Since nearly every inch of Manhattan has more than 3 licenses within a 500 foot radius, that applicant is subject to even further scrutiny under the 500 foot law (passed to deal with a local problem in Queens but now used as a hammer in Manhattan. So, given that under the recent regime of the SLA, over 90% of the time a CB says “No” to an applicant, the SLA ratifies that denial, CBs have become (continued on Page 2)

PROBLEMS LIKE THIS WON'T GO AWAY WITHOUT YOUR SUPPORT !!

Open Letter..... (continued from Page 1)

VASTLY more powerful than was ever contemplated by the law, which only requires that the SLA “consult” with the Community Board. They know that whatever they say will be implemented by the SLA. Thus, when our applicant is told by his CB “either agree to our stipulation that you must close by 2am or we’ll recommend against your application to the SLA” essentially, they are holding a loaded gun to the applicant’s head and saying “agree or else...”.

As a result, the CBs in effect have absolute power right now to determine the future of NY as a hospitality and tourism destination. We have a great deal of respect for the people who serve on Community Boards. It is a real commitment of time and energy and takes people away from their jobs and/or families. Many people who sit on CBs around the city take their responsibility very seriously and work hard to keep open minds and to serve both the interests of residents and businesses within their ambit.

And there are real issues, some we can control as an industry (like making the effort needed to be a good neighbor and conducting the business we represented we would at the time of application) and some we cannot (like smokers on the street, zoning changes which allow residents to move onto blocks previously reserved for commercial and nightlife activity, lack of NYPD on some streets controlling quality of life issues).

However, none of the above justify a movement to try to change NY’s last call to 2 AM.

There are laws on the books to deal with problem operators and they should be enforced. In fact the SLA is instituting a new licensing procedure which will have different categories for different types of operations and diverging from your method of operation without approval can lead to license revocation.

But we all have to make sure that 2 am doesn’t somehow become “acceptable”. Already, prominent restaurateurs and hoteliers have accepted a 2 am closing time for upcoming projects. Bar and lounge projects have simply died due to the demand. Licensees are being asked to accept 2 AM as a condition of license renewal.

We at NYNA consider this a **TOP** priority and are organizing a campaign to stop its spread. Look for a **WHAT YOU CAN DO** mailing and email coming soon.

NYSRA Forms Wage & Hour Taskforce to Seek Clarification of State Labor Laws

On June 25th, the four chapters of NYSRA in the New York city Region (Greater NYC, Brooklyn, Queens and Nightlife) met jointly to discuss a number of issues and concern. The principal subject discussed was the recent ultra-aggressive enforcement activity by the New York State Department of Labor (DOL).

This new change in attitude began in 2007 with the appointment of the new Commissioner of Labor, M. Patricia Smith. Ms. Smith had worked for former Governor Elliot Spitzer while he was Attorney General. A DOL press release on April 24, 2008 states, “While at the Attorney General’s office, then Labor Bureau Chief M. Patricia Smith pursued restaurants and hotels on behalf of bathroom attendants and food servers who worked for tips only, under difficult conditions and long hours. Smith was successful in identifying millions of dollars owed to hundreds of workers.” Unfortunately, the Commissioner’s experience with the industry has been negative and NYSRA and NYNA must now work to change it.

As a result of the spirited discussion on labor issues, an action taskforce was formed to prepare a “game plan” for proposing and promoting legislative reform and clarification of the labor laws and regulations in New York State. Participants in the taskforce include: Rob Bookman, NYNA Counsel; Melissa Fleischut, NYSRA Government Affairs Director; Chuck Hunt NYSRA EVP; Laurence Kretchmer, Bar Americain; Kevin Mahan, Gramercy Tavern; John Mautone, Dylan Prime; Marc Murphy, Landmarc; Carolyn Richmond, Esq., Fox Rothschild; Rick Sampson, NYSRA Pres. & CEO; and Marty Shapiro, Tribeca Grill.

The taskforce is taking a multi-pronged approach and will be seeking a meeting with Commissioner Smith to see what we can achieve through regulation clarification and revision. The group will also attempt to achieve legislative changes. An integral part of any plan will also involve a public relations campaign to educate regulators, legislators and the general public to promote a more positive image of the industry.

NYNA and restaurant members statewide have been asked to make a \$100 investment per establishment to fund this vital effort. **To make your investment, call Millie Viñas at (212) 398-9160, ext. 23.**



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NYNA--YOUR ASSOCIATION--ON THE JOB FOR YOU

“One Industry...One Voice”

The nightlife industry has come under intense scrutiny in recent years, and one of NYNA’s primary objectives has been to support the industry through a vigorous government relations strategy. This program includes lobbying for positive legislative changes while opposing proposals that will have a negative impact on the industry, testifying at public hearings, public media coverage of our positions, and encouraging our members to support political candidates who understand the impact and importance of the nightlife industry. Through our merger with the **NYS Restaurant Association** and their full time legislative affairs team in Albany and our continued relationship with one of the premier law firms in our industry in the City, Pesetsky and Bookman, NYNA is able to represent the nightlife community throughout the state. As a result of this collaboration, we are now “One Industry...One Voice.” Here are just a few of the many issues we have recently worked on, making NYSRA/NYNA the recognized leader in the industry

Licensing & Alcohol Service Matters

NYNA is currently leading the battle to oppose unreasonable restrictions in the issuance, and renewal of liquor licenses to our industry, as well as other anti industry measures. This is a grave threat to all our businesses. Together with our partner, the **NYS Restaurant Association**, we have successfully made the 2:00am closing time demand of many Community Boards an issue being reviewed by the State as well, and we are working to make it an issue with the new members of the State Liquor Authority. Also, for the second year in a row, we defeated an SLA proposal in Albany that would have all but eliminated bottle service throughout the State.

Noise Code: Open Doors & Windows

While we are always cognizant of our neighbors, we also work hard to prevent unintended negative consequences to our industry of seemingly innocent legislation. We recently had a bill amended to virtually exclude all of our industry from a requirement to keep all doors and windows closed when the air conditioner is on. This would have been a disaster for hundreds of bars and restaurants with sidewalk cafes and French doors. Because of NYSRA/NYNA’s vigilance and relationships with local government, we are not covered under this new law.

Reform of Environmental Control Board

NYNA/NYSRA joined the leadership of the City Council to announce passage of legislation we had suggested and lobbied for, to reform the way ECB holds hearings. ECB

is the largest administrative tribunal in the city. Tens of thousands of summonses are adjudicated there instead of Court for a wide range of issues such as noise code, building code, sanitation code and fire code. Yet it is widely perceived as a kangaroo court. The new laws will institute a number of reforms which would help level the playing field for all small businesses. NYNA is the “go to” association in this effort.

Contributions to NYNA Lawful Again

Together with other statewide business associations, we led the effort to pass new legislation, which the Governor signed, to amend the gifts and services provision of the ABC Law so as to clarify that the industry Consent Decree does NOT prohibit the paying of dues or making contributions by liquor companies or distributors to NYNA. This was an important 1st Amendment victory for all of us, making it clear, once again, that we can all choose to belong to and financially support any organizations we want to.

Best Practices for Nightlife Establishments

Developed in cooperation with NYNA and the New York City Police Department, a precedent setting series of guidelines for what is expected of our industry, were established and released to the industry with a flurry of national media attention. The guidelines were a huge step forward in Police/industry relations. Commissioner Kelly personally devoted much time to this effort as well as the rollout meeting to discuss the guidelines at Police Plaza, attended by an overflow crowd of over 700 nightlife owners and managers. “Best Practices” is being discussed as an innovative change at a national conference on Nightlife issues being held this November in San Francisco and will feature our Counsel, Rob Bookman, as a speaker.

New Community Board/SLA Forms

A new law signed by the Governor, will require that the State Liquor Authority develop a standardized form which applicants for a new liquor license or a renewal would submit to the local municipality or the community board.

On behalf of the Association, we opposed this legislation because it did not mandate that this new form supersede all the different forms now used by 52 community boards. Under current law, certain applicants already have to provide notice to a locality, but there is not a standard form used to provide notice. We made our positions known and as a result, we will work with the SLA when it develops its regulation so that this can be turned into a positive. One form for the entire City would be a huge plus for new applicants and renewals.

SLA: NEW RULES FOR NEW YEAR'S EVE ALL NIGHT PERMITS

The SLA has issued new rules concerning the application process for New Year's Eve all night permits. Applications must be filed **at least 45 days in advance** (for this year, on or before November 17th!). Notice of the licensee's intent to apply for the permit must be sent to the appropriate NYPD precinct. **You must include with your application proof that this notice was mailed.** This can be (1) a copy of the notice and a certified mail receipt card or (2) the original, or a copy of the notice stamped and signed by the police department. In deciding whether to issue the permit, the SLA will consider the licensee's disciplinary history and security plans. The permit must be displayed in a conspicuous place where the event will be held.

WELCOME NEW NYNA MEMBERS !!

Arena/Circle

**Blue Owl • Body Restaurant & Lounge
Bowery Wine Company • Crystal Cafe
Delano Cafe • Employees Only
Element • Galapagos Art Space
Gramercy Theatre • Hiro Ballroom
Josie Woods • Klimat • Mad Dog & Beans
Mars Bar • Real's Lounge
Roberts Steakhouse • Ruby • Shade
Suite 308 • Talay • The Box
The Herbert Holler Group
The No Malice Palace
Xai Xai Wine Bar**

NYNA MEMBERSHIP CAN PAY FOR ITSELF

NYNA's affiliation with the New York State Restaurant Association has made a wide variety of benefits and services available to nightlife operators. Participation in one or more of these programs can result in savings far in excess of your membership investment. Here's a list:

- **Information Hot Line** provides a live personal response to questions on laws, regulations and all industry subjects.
- **Members Alerts and Newsletters**—frequent up-to-date information on current industry issues and events.
- **Industry Advocacy**—you are represented by our lobbying teams in NYC, Albany and Washington.
- **Annual Industry Suppliers Guide**, a 200 page sourcebook for vendors and service providers in the NYC metro area.
- **Responsible Alcohol Service Classes** can result in insurance discounts as well as an affirmative defense. A seven hour class approved by the State Liquor Authority.
- **NYC Foodhandlers Certification** 2½ day classes offered in English or Spanish.
- **Credit Card Processing**—low rate structure, full service program without hidden fees.
- **Payroll Processing**—Discounted, industry knowledgeable program includes all required reports and filings
- **Music Licensing Discounts** for ASCAP, BMI and SESAC
- **Worker's Compensation Insurance** with a 25% up-front discount and annual dividends averaging around 40%.
- **NYS Disability Insurance** with the same low rate for male and female employees.
- **Group Health Insurance** for as few as a single employee, both POS and HMO plans available.
- **Fishbowl**'s unique marketing program offers exclusive NYSRA rates on customizable e-marketing services.

*For further information about any of these programs,
call Leslie Crunden at (212) 398-9160, ext. 33*