BORSTEINTURKEL PC
Attorneys at Law

Leon Baer Borstein, Esq.
Admitted in New York
Avram Solomon Turkel, Esq.
Admitted in New York & New Jersey
Tanya Helfand, Esq., Of Counsel
Admitted in New York & New Jersey

Written Testimony of
Avram Solomon Turkel, Esq.

New York City Council
Consumer Affairs Committee Oversight Hearing on Cabaret Law Reform

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My name is Avram Turkel, I am an attorney admitted to the New York bar and I practice here in New York City. From the years 2003-2005 I was legislative director to New York City Council Member Alan Gerson of District 1, lower Manhattan. Together with many of the good people you are hearing from today, Council Member Gerson's office spent considerable time and energy attempting to move forward the repeal of New York's Cabaret Laws in order to implement a fairer and more just regulatory framework. One that would not limit dancing for its own sake but that would permit small venue owners to come into compliance with law while still protecting mixed use residential communities from safety and quality of life hazards without completely disconnecting them from one of this City's more significant sources of cultural wealth economic revenue. This hearing is a long time coming and the Council should be congratulated for it.

The so called Cabaret Laws are many made one. The regulatory framework is an amalgam of law, codes, rules and zoning that regulate whether any venue may feature and allow social dancing. The City's important and existing building, penal, noise and fire code serve to ensure the safety of patrons and customers, the ease of operating a neighborhood business and the quality of life of neighborhood residents. However, the City's zoning code, and particularly one section called Use Group 12 unreasonably and comprehensively restricts venues from legally featuring dancing in neighborhoods of New York City zoned as "mixed use" residential and commercial. Truly, when a venue is not zoned Use Group 12 it cannot feature legal dancing under any circumstances, but when a venue is in a mixed use district it cannot obtain a Use Group 12 zoning. The regime is unreasonable and inequitable to neighborhood bars and restaurants and their local patrons. The only repeal is to amend the zoning text.

Use Group 12 zoning is what actually makes dancing off limits and illegal in our small neighborhood venues. Use Group 12 was specifically intended only for "...fairly large

entertainment facilities which: (1) have a wide service area and generate considerable pedestrian, automotive, or truck traffic: and (2) are therefore, appropriate only in secondary, major or central commercial areas." *N.Y.C. Zoning Resolution Article 3, Ch.2 32-21*. The zoning is intended to keep these types of venues away from residential and mixed use neighborhoods. Nevertheless, Use Group 12 applies to all establishments with capacity of over 200 persons or "*of any capacity with dancing*." *Id* at (A) (emphasis added). Large clubs such as those in the Meatpacking District are built to hold capacities above 200 persons, and thus Use Group 12 would apply whether or not they featured dancing. Those venues do not need repeal and are properly regulated based on their scale. However, a neighborhood bar or restaurant likely has a capacity of well under 200 persons and is already in a mixed use district. That same venue is nevertheless restricted from *ever* featuring any dancing because it cannot be zoned Use Group 12. The City is regulating small local venues as it would large destination venues even though the activities in each are so different in scope as to be different in kind. In order for the City to create a pathway towards legalized dancing in all of its precincts Use Group 12 zoning must be amended to remove the clause "of any capacity with dancing." *Id* at (A).

Amendment of the Use Group 12 text would also be particularly just because its practical effect is preserving a de facto monopoly on social dancing for large clubs by criminalizing what would otherwise be lawful social dancing in neighborhood venues. The City should not stand behind any zoning that gives an economic advantage to so few while limiting the free enterprise of so many. Certainly not when there is no causal connection between a venue featuring dancing and increased foot and motor traffic, which is the stated purpose of Use Group 12. Not when the proper regulation is for safety and quality of life issues such as noise and not for zoning. Not when communities benefit from small businesses that cater to local tastes. Not when it is so many communities whom the Cabaret Laws were originally intended to stifle, who are still not given equal access to legalization.

Use Group 12 regulates dancing for its own sake, it serves no purpose and is pernicious in its effect. This Council would be right to amend the Administrative Code concerning the Cabaret Laws, but should also consider that the Zoning regulations must be altered in order to truly repeal.

Respectfully submitted,

Avram Solomon Turkel, Esq.