

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

SUBCOMMITTEE ON ZONING AND FRANCHISES

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February 8, 2012
Start: 9:57 a.m.
Recess: 10:12 a.m.

HELD AT: Council Chambers
City Hall

B E F O R E:
MARK S. WEPRIN
Chairperson

COUNCIL MEMBERS:
Leroy G. Comrie, Jr.
Daniel R. Garodnick
Robert Jackson
Jessica S. Lappin
Diana Reyna
Joel Rivera
Larry B. Seabrook
James Vacca
Albert Vann
Vincent M. Ignizio

A P P E A R A N C E S (CONTINUED)

Clara Perez
Owner
Basil Restaurant

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2 CHAIRPERSON WEPRIN: Good morning
3 everyone. My name is Mark Weprin. I am the chair
4 of the Zoning and Franchises Subcommittee, and I
5 joined today by the following members of our
6 committee, Council Member Al Vann, Council member
7 Leroy Comrie, Council Member Dan Garodnick,
8 Council Member Joel Rivera, Council Member Vincent
9 Ignizio and Council Member Diana Reyna. Today we
10 have two items on the agenda, two cafes. The
11 first of which is Land Use No. 557, a place called
12 Broken English, and we have a letter withdrawing
13 this application, and I will just read that into
14 the record.

15 Dear Council Member Weprin, we
16 would like to formally withdraw our application
17 for an undisclosed sidewalk café. Sincerely,
18 Savario Marki [phonetic] and CEO of Le Anfore
19 [phonetic] doing business as Broken English.

20 So that item has been withdrawn,
21 and then second item and last item on our agenda
22 today is Basil restaurant in Brooklyn and we have
23 Clara Perez [phonetic]. Clara, Ms. Perez, I
24 should say, please come up to the table here.
25 What I'd like to ask you to do once you figure out

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2 how the mics work 'cause they are not always so
3 easy, to please state your name for the record,
4 describe the application that you're asking for,
5 and the panel may have some questions. Okay, so
6 whenever you're ready, state your name. Go ahead.

7 CLARA PEREZ: My name is Clara
8 Perez, and the application is for an unenclosed
9 sidewalk café.

10 CHAIRPERSON WEPRIN: Could you just
11 describe—name your restaurant, where it is, and
12 what exactly you are asking for as far as tables
13 and tell me how it works... you know.

14 CLARA PEREZ: Please don't be
15 offended that I have no—I have an idea.

16 CHAIRPERSON WEPRIN: Okay.

17 CLARA PEREZ: We're located—this is
18 kosher wine and beer restaurant, and we're located
19 on Kingston Avenue between Eastern Parkway and
20 Lincoln Place. We're trying to make a couple of—I
21 saw the architect and the work on the designer
22 that they're doing, I think, a couple of chairs
23 and tables outside, so that we can in the
24 summertime serve people outside. That's it.

25 CHAIRPERSON WEPRIN: No problem.

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That's great. Are you the owner of the restaurant?

CLARA PEREZ: I'm one of the owners.

CHAIRPERSON WEPRIN: One of the owners of the restaurant--was a couple of items--I was told were a problem that they had spoken to you about. Are you familiar with this?

CLARA PEREZ: Yes.

CHAIRPERSON WEPRIN: Okay. Do you want to describe what they are, or should I ask you questions about them?

CLARA PEREZ: Approximately a year and a half ago--I wish I would have brought, but I didn't and I'm sorry. I had an attorney come into Basil and tell me that I know that you want to apply for a sidewalk café. To make a very long story short, I gave him \$5,000 and he gave me--I gave him everything he asked me for, all my partner and I's information, \$5,000. He told me that basically, he said he was going to apply for the sidewalk café we'd be ready for last spring/summer, and that in the meantime, the five tables and chairs that you have next door in the

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2 hotel that you own, you can bring them outside.
3 You're allowed four feet to operate in the summer
4 months. He applied online and he asked me for
5 more money and I gave him more money and the only
6 time—and no, and then somebody from the borough,
7 the community borough, came by a couple of times
8 and said that we were not allowed—not to me
9 specifically—although, they claim that somebody
10 said it to me specifically, but that is not the
11 case. They told another manager--we have other
12 managers working—that you're not allowed. Yes,
13 you're allowed. No, you're allowed. So I went—I
14 called and they told me that absolutely you're not
15 allowed, not only that, the Department of Consumer
16 Affairs doesn't have the right prints, nobody
17 updated me with all the right information, so I
18 physically went and basically, we didn't have
19 anything done, so I had to start from scratch.

20 CHAIRPERSON WEPRIN: Okay, and you
21 brought us here today. You came back from scratch
22 back here today. There are a couple of items—have
23 they talked to you about this bicycle that's in
24 front of the place?

25 CLARA PEREZ: Yes. Two weeks ago.

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2 Yes. A couple weeks ago, I had pneumonia, now
3 it's bronchitis, but they said that the bicycle
4 has to be removed, so we removed that. Somebody
5 just told me about the speakers. I wasn't aware
6 we have speakers and music outside-

7 CHAIRPERSON WEPRIN: [Interposing]
8 That plays to the outside that's in front of the
9 restaurant. I think there's a picture of it here.

10 CLARA PEREZ: Yes, yes, yes.

11 CHAIRPERSON WEPRIN: And are you
12 able to remove those speakers or turn them off?

13 CLARA PEREZ: Well, if we have to,
14 we must. It's not a question.

15 [background conversation]

16 CHAIRPERSON WEPRIN: I apologize.
17 Okay. Just for the record for my colleagues,
18 Council member Tish James who represents this area
19 is fine with this application now, and so she gave
20 it the good to go. She's the one who originally
21 called it up, but we just-I understand you had a
22 lot of issues on the way coming here to getting to
23 this point where things weren't sold to you as
24 they were told they would be sold to you, but this
25 item...

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2 CLARA PEREZ: Yes, there's a couple
3 of things when I went to the borough community
4 board, I said to them, listen, I'm really sorry
5 this is not my... I'm an owner of a place I didn't
6 even know I was purchasing. I thought it was in
7 Manhattan, this restaurant. Anyway, I said to
8 them, I don't know anything about the restaurant
9 industry, but yeah I did, anyway, I said, so—and
10 they yelled at me and they said, that's not an
11 excuse. This is your restaurant. You own it.
12 You're a 50% owner. You should go find out what
13 all the rules are. You know what? It's my
14 fault, but I promise that from now on that's what
15 I'm going to do.

16 CHAIRPERSON WEPRIN: Well, I do
17 recommend normally just knowing what county the
18 restaurant is in. That's helpful. Please remove
19 the speakers. Obviously, you said you already
20 removed this bicycle sculpture or whatever it is,
21 thing in front. Just wondering if any members of
22 the Committee have any questions for Basil? Ah,
23 Diana Reyna, Council Member Reyna from Brooklyn.

24 COUNCIL MEMBER REYNA: Thank you so
25 much, Mr. Chair. I just want to highlight and get

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2 some clarity on the fact that we have an owner
3 sitting here of a restaurant whose story just
4 reflects the issues I have with sidewalk cafes and
5 the application process and the fact that we have
6 a Department of Small Business Services. I'm not
7 too sure if Clara... Your last name, I apologize?

8 CLARA PEREZ: Perez?

9 COUNCIL MEMBER REYNA: Perez. Ms.
10 Perez, the Department of Small Business Services,
11 have you requested any assistance from the
12 Department of Small Business Services? Do you
13 know of the Department of Small Business Services?
14 This is a Department that is supposed to be
15 assisting small business owners in the city of New
16 York, and I suggest that you certainly take the
17 time to visit with the Department of Small
18 Business Services to share your story because we
19 need to do a better job in trying to identify more
20 of your situations where this process is very
21 cumbersome and at the end, it doesn't function.
22 I'm not too sure what or how we can better the
23 process or perhaps, decrease the level of steps
24 that are duplicitous and at this juncture, you're
25 telling me that your lawyer failed you and your

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architect failed you.

CLARA PEREZ: That's correct.

Actually, what I want to you is that when I bought the restaurant, I bought it six months into it being done, so the plans and everything for the— all the plans were approved for the way the restaurant presently is. I bought it after it was operating three months. Three months into the operation of the restaurant I bought one of the owner's share. I was the manager from the beginning—the grand opening, I was the manager, but right now people come in there and tell me you're not allowed to have this, you're not allowed to have that, and yet, they were stamped and approved by somebody... You can't build something without the approval of the zoning people. Right? This is what I think, so when they come and tell me that—the firemen comes in and tells me you're going a fine because the fire... Well, the plans were sent first. First you send the plans. This is what I know. I know that first you send the plan. You get it approved, and then you build upon those plans. You just can't come along and build whatever you want on any

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2 street. I don't care if it's Brooklyn. I'm from
3 New Jersey, but still, so that part I don't get
4 and after—but I'm the owner and my partner, this
5 is his secondary. This is my business and his.
6 For him, this is one of the millions that he has,
7 so I'm the one that has to get informed. The
8 second thing is that the people that come in to
9 represent that—I don't know how they know, but
10 they know we're looking for a sidewalk café. You
11 need to have an expediter; that's what he called
12 himself, so he was from New Jersey, and anyway, we
13 paid him \$5,000 and he applied online. How come
14 the Department of Consumer Affairs, for example,
15 when they see that—I mean, he applied, and they
16 took my money basically from the beginning from
17 day one—

18 COUNCIL MEMBER REYNA:

19 [Interposing] So no one every reviewed anything?

20 CLARA PEREZ: Right, and then I
21 found out—you know how? I knocked on the door
22 because the borough kept telling me you're not
23 allowed to do this, you're not allowed. I called
24 my lawyer. He's telling me, they're not getting
25 back to me. So I physically went to the

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2 Department of Consumer Affairs, and she said, all
3 of this has to be done. I said, what? She said,
4 yeah, all of these things have to be done, so
5 you're never going to have it for this summer. I
6 don't have my paperwork, but believe me, that
7 this—I don't understand. How could this happen?
8 So she just looks at me and says, you have to
9 figure that out. So I said, okay. We started
10 again, and we have to give you the monies again,
11 and then I found out that if we do get the
12 sidewalk café, the license has to start from the
13 time that he applied, so we don't get any granted—

14 COUNCIL MEMBER REYNA:

15 [Interposing] Grandfathering?

16 CLARA PEREZ: --for--

17 COUNCIL MEMBER REYNA: Credit?

18 CLARA PEREZ: Nothing, so I should
19 find out about how small businesses operate and I
20 should find out. You're right. Somewhere along
21 the line, someone else has to take a little bit—

22 COUNCIL MEMBER REYNA:

23 [Interposing] I just want to make sure—

24 [crosstalk]

25 CLARA PEREZ: --responsibility for

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this.

COUNCIL MEMBER REYNA: Your lawyer and your architect failed you, and I just want to make sure that we note this on the record as part of the issues that I know I have been raising concerning sidewalk cafes in my own district, and the process as to how it failed the small business owner because the Department of Consumer Affairs is not directly issuing what would be a listing of what it is that the small business owner is supposed to be following, but rather, the small business owner is relying on the architect and its lawyer to follow a process that they normally see as a rubber stamping process.

CHAIRPERSON WEPRIN: Thank you very much, Council Member Reyna.

CLARA PEREZ: [Interposing] I have another—

CHAIRPERSON WEPRIN: Ms. Perez, it's okay. We understand a lot of issues. Council Member Reyna raised a number of them with the Department of Consumer Affairs. I know the chair of the Consumer Affairs Committee who sits to my left is also worried about this. We're

1
2 sorry that you had such a difficult time getting
3 here. We're glad you found your way. Hopefully,
4 you'll be very successful there in Brooklyn.

5 CLARA PEREZ: Can I ask you a
6 question?

7 CHAIRPERSON WEPRIN: Sure, go
8 ahead. A quick one.

9 CLARA PEREZ: Have you been in
10 Brooklyn, that area? Do you see that we're
11 trying to better area? Did you see the
12 restaurant, what it looks like?

13 COUNCIL MEMBER REYNA:
14 [Interposing] - - I am one of 17 members in
15 Brooklyn, and so is Council Member Vann at the
16 tail end, and so, this particular sidewalk café is
17 something that's becoming quite of interest in the
18 borough of Brooklyn and is increasing with time,
19 but if we don't do it right from the beginning
20 then this community suffers with bad practices,
21 and so that's what we're trying to make sure we're
22 not engaging in. Thank you.

23 CLARA PEREZ: Oprah Winfrey's going
24 to have us in her channel on Monday. She came to
25 Basil.

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2 CHAIRPERSON WEPRIN: Alright. A
3 little commercial there too. You guys can
4 continue this after, if you'd like.

5 CLARA PEREZ: Okay, I'm sorry.

6 CHAIRPERSON WEPRIN: Thank you very
7 much, Ms. Perez. What I'd like to do is close
8 this hearing and put it for a vote. I want to
9 remind the members that Land Use No. 557, Broken
10 English café, has been withdrawn, and we're going
11 to have a motion to file pursuant to withdrawal,
12 and then we will also couple that with Land Use
13 No. 558, which is the item we just heard, Basil
14 Restaurant, which will be featured on Oprah next
15 week. It's 20125051, and again, we've got Council
16 Member James' area where she is fine with this
17 now. I'd like to couple those and put this to a
18 vote. Christian Hilton, the counsel, will call
19 the roll on this item, and we will hope for an aye
20 vote. Thank you.

21 COUNSEL: Chair Weprin?

22 CHAIRPERSON WEPRIN: Aye.

23 COUNSEL: Council Member Rivera?

24 COUNCIL MEMBER RIVERA: I vote aye.

25 COUNSEL: Council Member Reyna?

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COUNCIL MEMBER REYNA: Aye.

COUNSEL: Council Member Comrie?

COUNCIL MEMBER COMRIE: Aye.

COUNSEL: Council Member Seabrook?

COUNCIL MEMBER SEABROOK: Aye.

COUNSEL: Council Member Vann?

COUNCIL MEMBER VANN: Aye.

COUNSEL: Council Member Garodnick?

COUNCIL MEMBER GARODNICK: Aye.

COUNSEL: Council Member Lappin?

COUNCIL MEMBER LAPPIN: Aye.

COUNSEL: Council Member Ignizio?

COUNCIL MEMBER IGNIZIO: Yes.

COUNSEL: By vote of nine in the affirmative, none in the negative and no abstentions, L.U. 558 is approved and L.U. 557, motion to file pursuant with withdrawal is approved and referred to the full Land Use Committee.

CHAIRPERSON WEPRIN: Alright.

Well, with that, I have not heard from any of the missing members that they're on their way, so I am going to adjourn the meeting and thank you all for coming, and congratulations, Ms. Perez. Thank

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you. Meeting is adjourned.

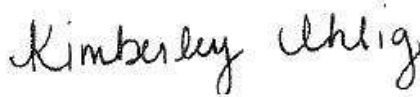
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[gavel]

C E R T I F I C A T E

I, Kimberley Uhlig certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature _____

Date 3/4/12