

SUSPENSION

A RESOLUTION TO BE SUBMITTED BY LEGISLATORS TODARO, LORIGO, GREENE, AND MILLS

Re: Support for permanently lifting COVID-19 restrictions on Erie County Restaurants

WHEREAS, restaurants and bars across New York State have seen their businesses reduced by Governor Cuomo’s Executive Orders since March of 2020. During the past ten months, the Orders from Governor Cuomo have closed restaurants altogether, restricted their hours of operation, limited their capacity, restricted the types of services offered, and exposed them to excessive Health Department scrutiny; and

WHEREAS, the Office of the Governor of New York recently reported statistics on the top 30 exposure sources for COVID-19. The data shows that restaurants account for just 1.43% of the spread of COVID-19, with 73.84% of cases coming from household spread. Despite the low reported rate of infection coming from restaurants, the Governor’s mandates continue to impose harsh restrictions on the ability of these businesses to operate, especially here in Erie County; and

WHEREAS, Governor Cuomo placed Erie County in an “Orange Zone” Micro-cluster on November 18th, 2020. This decision has stood with minimal change despite several other regions in NYS surpassing Erie County in positivity rate and ICU capacity, while remaining free of Micro-cluster designations or retaining a Yellow Zone designation; and

WHEREAS, the owners of almost 90 bars and restaurants, nearly 40 of whom are in Erie County, are challenging the Governor’s Executive Orders as unconstitutional in an attempt to save their livelihood. These challenges come on the heels of challenges by over 300 NYC bars and restaurants challenging similar restrictions; and

WHEREAS, the owners of restaurants that have spoken about against these restrictions have been unfairly targeted by government agencies and outspoken residents for exercising their right to legally challenge the Governor’s Orders in the Courts; and

WHEREAS, it is an obligation of this body to protect the rights of these business owners to challenge Executive Orders they feel are arbitrary, capricious, unconstitutional, or an abuse of governmental discretion; and

WHEREAS, these business owners should be free to exercise their right to pursue these legal remedies without the fear of harassment, retaliation, or threat of retaliation from government agencies; and

WHEREAS, the recent court ruling by Judge Nowak in favor of a select number of restaurants located in Erie County only provides a limited preliminary injunction. This is a temporary judicial remedy that provides relief only for the duration of the trial.

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NOW, THEREFORE, BE IT

RESOLVED, that this honorable body supports the owners of restaurants and bars in Erie County, and expressly supports those who have joined together to seek legal remedy in the Courts to protect their rights from Executive overreach; and, be it further

RESOLVED, that this honorable body condemns any retaliation against the businesses seeking legal redress against New York State; and, be it further

RESOLVED, that this body urges the New York State legislature to pass legislation that protects businesses actively engaged in exercising their legal rights through the Courts to challenge governmental actions they believe are unfair, arbitrary, or unconstitutional; and, be it further

RESOLVED, that this honorable body denounces any attempts to harm the ability of these establishments to operate, solely for exercising their right to legally challenge an arbitrary and unequal imposition of Executive Orders; and, be it further

RESOLVED, that this honorable body urges the Governor to significantly reduce, or entirely lift, the restrictions he has placed on bars and restaurants in Erie County and the rest of New York State; and, be it further

RESOLVED, that certified copies of this resolution be sent to Governor Andrew Cuomo, the Western New York delegation to the New York State Senate and Assembly, and any other party deemed necessary and proper.

Fiscal Impact: None for resolution