

At I.A.S. Part 37 of the Supreme Court of the State of New York, held in and for the County of New York, at the Courthouse located at 60 Centre Street, New York, New York, on the 11<sup>th</sup> of September, 2020.

PRESENT: HON. A. Engoron, J.S.C

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
: :  
: :  
In the Matter of Application of, :  
: :  
: :  
The Cloister East, Inc. D/B/A Cloister Café, :  
: :  
Drobenko Bros Realty Inc., :  
: :  
Jaroslaw Drobenko, Nicholas Drobenko, :  
: :  
John Drobenko, and Walter Drobenko :  
: :  
: :  
Petitioners, :  
: :

For an Order and Judgment Pursuant to  
CPLR Article 78

-against-

The New York State Liquor Authority, :  
: :  
VINCENT BRADLEY, as chairman, :  
: :  
New York State Liquor Authority; LILY FAN, :  
: :  
as commissioner, New York State Liquor :  
: :  
Authority; GREELEY FORD, as commissioner, :  
: :  
New York State Liquor Authority; :  
: :  
GARY MEYERHOFF, as general counsel, :  
: :  
New York State Liquor Authority; :  
: :  
MARGARITA MARSICO, as associate :  
: :  
counsel, New York State Liquor Authority; :  
: :  
THOMAS DONOHUE, as secretary to the :  
: :  
Authority, New York State Liquor Authority; :  
: :  
CHARLES STRAVALLE, as investigator, :  
: :  
New York State Liquor Authority :  
: :  
each sued in their individual capacities. :  
: :

Respondents.  
-----X

Index No.: 157157/20

Oral Argument Requested

**APPLICATION BY ORDER TO SHOW CAUSE  
FOR TEMPORARY RESTRAINING,  
INJUNCTIVE RELIEF, DECLARATORY  
RELIEF AND OTHER RELATED RELIEF**

ms # 001 : PI

UPON reading and filing of the annexed Verified Petition of The Cloister East, Inc. D/B/A Cloister Café, Drobenko Bros Realty Inc., Jaroslaw Drobenko, Nicholas Drobenko, John Drobenko, and Walter Drobenko, verified on September 4, 2020 (the "Verified Petition"); the Affidavit of Nicholas Drobenko, <sup>sworn to on 9/4/20,</sup> the Affirmation of Jacob Pargament, <sup>dated 9/2/20</sup> and further exhibits and Petitioners' Memorandum of Law in Support of Their Article 78 Petition and Application by Order to Show Cause seeking a Temporary Restraining Order, Injunctive Relief, Declaratory Relief, and Other Related Relief, dated September 4, 2020

<sup>LET</sup>  
~~IT IS HEREBY ORDERED~~ that Respondents The New York State Liquor Authority, VINCENT BRADLEY, as chairman; LILY FAN, as commissioner; GREELEY FORD, as commissioner; GARY MEYERHOFF, as general counsel; MARGARITA MARSICO, as associate counsel; THOMAS DONOHUE, as secretary to the Authority; CHARLES STRAVALLE, as investigator, or their respective attorneys, show cause before this Court, at IAS Part 37 of the Supreme Court of the State of New York, County of New York, located at the New York County Courthouse, at 60 Centie Street, Courtroom 418, New York, New York 10007 on the 5 day of October, 2020 at 2:30 P.m., or as soon thereafter as counsel may be heard, why an order should not be issued pursuant to CPLR 6301, 6311, and 7803:

- (i) Annuling and vacating Respondents' Summary Order of Suspension, and
- (ii) Holding a prompt and meaningful post-deprivation hearing.

IT IS FURTHER ORDERED, pending the hearing ~~and determination~~ by the Court on this Order to Show Cause, ~~and until such further Order to Show Cause~~, the temporary order of suspension of Plaintiff Cloister East's liquor license held by Nicholas Drobenko is hereby vacated;

  
JSC

IT IS FURTHER ORDERED that Respondents show cause before this Court at the same time and place why a judgment and order should not be entered, pursuant to CPLR Article 78:

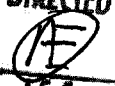
- (i) **Finding** Ordering that Petitioners' constitutional right to due process has been violated;
- (ii) Ordering Respondents to pay Petitioners their costs, fees, and disbursements incurred in connection with this **Special Proceeding** action; and
- (iii) Such other and further relief as this Court may deem just and proper.


IT IS FURTHER ORDERED that Petitioners shall serve a copy of this Order to Show Cause, together with the papers upon which it is based, on Respondents counsel by email and hand delivery to the New York State Liquor Authority's Office of Counsel, located at 105 W 125<sup>th</sup> Street, New York, NY 10027 on or before September 15 2020; and

IT IS FURTHER ORDERED that Respondents shall serve upon counsel for Petitioners, Robert D. Garson, [rg@gs2law.com](mailto:rg@gs2law.com), any answering and responsive papers to the Verified Petition and Application by Order to Show Cause by email and hand delivery on or before the 29<sup>th</sup> day of September, 2020; and

IT IS FURTHER ORDERED that reply papers, if any, be served upon Respondents so as to be received no later than 24 hours before the date and time set forth herein for the hearing of this Application.

*Any credible evidence of a significant future infraction will result in immediate reinstatement of the suspension.*

ORAL ARGUMENT  
DIRECTED  
  
JSC

ENTER: 

, J.S.C.

Please email Principal Law Clerk Allison Greenfield @ [ARGREENF@NYCOURTS.GOV](mailto:ARGREENF@NYCOURTS.GOV) for scheduling information (Skype or MS Teams)