



Billybey Marina Services, LLC

September 23, 2022

VIA EMAIL

Caroline Salguero
PortSide New York
190 Pioneer Street
Brooklyn, NY 11231
carolina@portsidenewyork.org

Re: Violation of Use Permit – Cease and Desist

Dear Ms. Salguero:

It has come to the attention of Billybey Marina Services, LLC (“Billybey”) that PortSide New York (“PortSide”) has impermissibly expanded its use of Atlantic Basin to include a portion of Pier 11 adjacent to the Berth Site of the Mary Whalen vessel. More specifically, PortSide has painted the adjacent pier deck area, and placed café tables, chairs, a “free community library,” children’s play area with toys, and other amenities in the area, which is being advertised as a “24/7” destination called “PortSide Park” on a website affiliated with PortSide. (See <https://portsidenewyork.org/portside-park> and the picture annexed hereto as Exhibit A).

PortSide’s use of the upland area in this manner is not permitted by the terms of the Use Permit between Billybey and PortSide, dated as of January 1, 2022 (the “Permit”),¹ which allows PortSide to use Atlantic Basin solely for berthing the Mary Whalen at the Berth Site specified in the Permit and for boarding and public access to the Vessel. Other activities may be permitted with Billybey’s consent, but even those other activities are only allowed “upon the Vessel.” (See Permit Sections 1(h) and 2(a)).

Moreover, pursuant Section 23 of the Permit, PortSide is required to comply with the DockNYC Rules and Regulations (annexed to the Permit as Exhibit B), which prohibit any conduct that creates an inordinate risk of injury to persons or damage to property. Locating a children’s play area adjacent to an entrance to Atlantic Basin used on a regular basis by large trucks is dangerous and creates an inordinate risk of injury to persons in violation of the Rules and Regulations. This existing risk will be further exacerbated when marine construction work at Atlantic Basin for the NYC Ferry Homeport 2 project begins on September 26, 2022.

¹ Capitalized terms used herein without definition shall have the same meanings as those set forth in the Permit.



Billybey Marina Services, LLC

Accordingly, at the request of the New York City Economic Development Corporation (“NYCEDC”), Billybey hereby demands that PortSide cease and desist its unauthorized and dangerous use of the upland area adjacent to the Berth Site, and that you immediately vacate the area and restore it to its original condition by removing all equipment and other property. Billybey further demands that PortSide remove any and all advertising of “PortSide Park,” including on its website as well as the signage posted at Atlantic Basin (a picture of which is annexed hereto as Exhibit B).

Finally, we remind you that pursuant to the terms of the Permit, PortSide is solely liable for injuries to any and all persons, including death, and damage to any and all property, arising out of or related to the operations under this Permit. PortSide is also obligated to indemnify, defend, and hold Billybey, the City, NYCEDC, the Port Authority, and their respective officials and employees, harmless against any and all claims, demands, judgments, liabilities, settlements, damages, costs, and expenses of whatever kind or nature arising out of or related to Portside’s failure to comply with the law or any requirements of the Permit. (*See* Permit Section 8).

Failure to comply with Billybey’s directive as set forth herein and to immediately cure the violation of the Permit may result in the termination of PortSide’s short-term revocable Use Permit. Billybey reserves all rights and remedies.

Thank you in advance for your understanding and cooperation.

Sincerely,

A handwritten signature in blue ink that reads "Donald J. Liloia".

Donald J. Liloia
Senior Vice President

DJL/th

cc: Felix M. Ceballos (NYCEDC)

EXHIBIT A



EXHIBIT B

