



**Written Testimony of  
Eli Yamin  
To The  
New York City Council Committee on Consumer Affairs  
Hearing on Proposed Int. No. 1652-A  
A Bill to Repeal the New York City Cabaret Law  
September 14, 2017**

Good afternoon Chairman Espinal and distinguished members of the City Council Committee on Consumer Affairs.

My name is Eli Yamin and I am Managing and Artistic Director of Jazz Power Initiative, a 501(c)(3) organization which teaches jazz drama, dance and music to New York City K-12 students, teachers, executives and senior citizens. This past year we received Su Casa Grants from Councilman Ydanis Rodriguez and Councilwoman Helen Rosenthal allowing us to provide 120 hours of jazz music and dance programming for seniors at sites in Manhattan and the Bronx. We provide work for over 20 professional jazz musicians, dancers and theatre artists.

Thank you for the opportunity to testify on Int. No. 1648-2017. I would like to thank Council Member Espinal and the sponsors of this bill for taking the initiative to repeal the Cabaret Law.

I have been a working jazz musician and educator in NYC for 27 years and have played in many swing and other dance bands. I am a composer, pianist, singer and have been an educator at Jazz at Lincoln Center, Marymount College, and Lehman College, CUNY.

The Cabaret Law needs to be repealed. It interferes with the jazz and dance culture previously nurtured in this city. Not only does the Cabaret Law interfere with the opportunities for my students to dance, but it certainly interferes with the ability of musicians to find work. I well remember the Giuliani crack-down on dancing in small clubs and restaurants when I played in popular swing bands – finding a venue to perform was made increasingly difficult. Even now, the co-leader of one of my early bands plays at Smalls, a jazz club which does not allow dancing, limiting his appeal to his dancer audience.

Musicians need venues with dancing to develop and evolve the music – the dancers are just other instruments and interact with the bands in two-way communication.

Dancing is also a family affair and encourage events which allow the entire family to participate in swing and salsa dancing, but it is hard to find legal venues if we charge an admission fee.

Jazz and dance came up together. They are linked by blood. During the glory days of the swing



era the musicians inspired the dancers and the dancers inspired the musicians. It went both ways. This inspiration sustained us through the Depression and provided some of the most integrated public spaces in our city in the 50s. Today, Latin dancing is an integral part of the Latin community.

New York City has had places where Jews, blacks, Latinos and many others could be moved by the music and movement and create lasting friendships rooted in love for our shared culture. We need this now more than ever. We need more live music where people can dance.

I started the not-for-profit Jazz Power Initiative precisely for this reason through these means. More diversity and understanding through friendships inspired by shared experiences in jazz music and movement. As an educational platform, the Jazz Power Initiative works and you can see the results on our website [www.jazzpower.org](http://www.jazzpower.org).

Please allow these opportunities blossom citywide by repealing the cabaret law. Allow the power of live music and dance to once again lift up our City bringing more unity, joy and release.

Thank you, Eli Yamin, musician, Managing and Artistic Director, Jazz Power Initiative

Café Tallulah  
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[www.CafeTallulah.com](http://www.CafeTallulah.com)

September 14, 2017

**Written Testimony of Gregory Hunt to the  
New York City Council Committee on Consumer Affairs  
Hearing on Proposed Int. No. 1652-A  
A Bill to Repeal the New York City Cabaret Law**

Good afternoon Chairman Espinal and distinguished members of the City Council Committee on Consumer Affairs.

My name is Gregory Hunt and I am the principal owner of Café Tallulah, a French Café located on the Upper West Side of Manhattan.

Thank you for the opportunity to testify on Int. No. 1648-2017. I would like to thank Council Member Espinal and the sponsors of this bill for taking the initiative to repeal the Cabaret Law.

The Cabaret Law needs to be repealed. The idea that if a restaurant does not have a Cabaret license, one person dancing can result in the shutting down of the entire establishment is absolutely absurd and has been for many years.

Our restaurant has a cocktail lounge, and we often have live music there. When we do, we have to walk around and tell people they can't dance. This even applies to 13-year-olds dancing at Bar Mitzvahs – that's how absurd the Cabaret Law is!

We are an upscale restaurant, not a night club. We have hosted many private events in our lounge, including events hosted by Barbara Walters, Diane Sawyer, and Whoopie Goldberg. If either Barbara, Diane or Whoopie had started dancing, we could have been shut down. This is ridiculous. If some guests want to dance – celebrities or non-celebrities - they should be allowed to without our business being shut down.

With regard to the notion that we would have to hire security guards every time someone gets up and dances – this would be prohibitively expensive for us, and totally unnecessary given the nature of our clientele. It would prevent us from allowing dancing. We are respectfully asking that this requirement be removed from the language contained in the repeal.

If a security guard is not mandatory, I would ask that the language be clarified to make it absolutely clear that there is no requirement to hire security guards for restaurants.

Also, I would regret if this new definition of Nightlife Establishment makes its way into zoning law modifications. It does not make sense for restaurants which have separate lounges/party spaces. This definition will end up covering establishments which ought not to be part of any prohibition or regulation of dancing or nightlife under the zoning law or building code."

Respectfully submitted,  
Gregory Hunt  
Principal Owner  
Café Tallulah  
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**Written Testimony of  
Mercedes Ellington  
To The  
New York City Council Committee on Consumer Affairs  
Hearing on Proposed Int. No. 1652-A  
A Bill to Repeal the New York City Cabaret Law  
September 14, 2017**

Good afternoon Chairman Espinal and distinguished members of the City Council Committee on Consumer Affairs.

First I'd like to thank all of you for giving me the opportunity to testify on Int. No. 1648-2017.

I would like to thank Council Member Espinal and the sponsors of this bill for taking the initiative to repeal the existing Cabaret Law thereby reuniting LIVE music with LIVE dance.

Who am I?

My name is Mercedes Ellington and on behalf of my musical Ellington family headed by my grandfather Edward Kennedy 'Duke' Ellington (who insisted the entire family and close friends call him 'Uncle Edward'), and my father, Mercer, who called him 'Pop'. My Dad picked up the baton after my grandfather's death in 1974 and most notably conducted the band-on stage- for "Sophisticated Ladies" on Broadway, and now I have picked up the baton as Founder and President of The Duke Ellington Center For the Arts- a 501C3 Educational entity.

I am a performer, choreographer/director, producer and historian (of sorts).

I was sent to kindergarten at 18 months of age and when I was 3, I made my stage debut as a snowflake in the Nutcracker Suite in a local uptown

dance recital. I majored in dance and received a BS degree from the Juilliard School of Music in 1960.

I've been dancing ever since.

The year JFK was assassinated was my first year as a June Taylor Dancer on the Jackie Gleason Show- and it caused quite a stir as you can imagine.

I currently participate in Ballroom Dance Competitions in the Rhythm Category: samba, rhumba, cha cha, paso doble and jive.

But enough about me...and my qualifications to speak on behalf of the Cabaret Law repeal, let's get to the current situation.

The freedom to be 'Beyond Category', to explore and express through music and dance is our human responsibility.

The current Cabaret Laws were designed to restrict, curtail and separate these freedoms. Moving and dancing is a natural response to the sounds we hear coming from our musicians.

Please repeal the Cabaret Law. It has no place here in the greatest city on earth.

My grandfather's orchestra was at one time the 'house band' at the original Cotton Club in Harlem. The club boasted its fare of bands of color and white only audiences. Yet the Savoy Ballroom a few blocks away packed in 5000 dancers a night in an integrated situation.

Astor Piazzola, the famous Tango composer used to frequent the Cotton Club and was said to be inspired by Ellington to break out of his traditional tango musical structure and create extended compositions. Both composers were inspired to write their music for dancers. Both composers were

highly criticized for straying from the 'normal', 'accepted' structure of their compositions.

These days, musicians seldom get opportunities to play in clubs or restaurants, and then, dancing is not allowed.

Musicians inspire dancers inspire musicians.

Please repeal the Cabaret Law. The 'Dance Police' who are able to shut down clubs when a few enthusiastic patrons get up and move to the music, can turn their attention to other really disruptive situations- and maybe they'll feel a little better if they start to swing and sway themselves!

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MUCHMORE'S CAFE, LLC,

Civil Action No. 14-cv-5668 RRM-RER

Plaintiff,

-against-

**AFFIDAVIT OF  
PEDRO GIRAUDO**

CITY OF NEW YORK,

Defendant.

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**PEDRO GIRAUDO**, being duly sworn, states the following under penalty of perjury:

1. I am not a party to this action. I am a professional musician residing in Jersey City, New Jersey.
2. I perform primarily within the City of New York. I am originally from Córdoba Argentina, moving to New York City in 1996. I submit this Affidavit in support of the application of Muchmore's Cafe, LLC ("Muchmore's") for a judgment declaring the New York City Cabaret Law to be unconstitutional.
3. For many years, I have worked as a professional musician in New York City, primarily in the genres of tango, Latin music and Jazz. I have collaborated with artists such as Grammy Award winners Pablo Ziegler and Paquito D'Rivera. Most recently, my work on the 2014 "Tangos" recording with Ruben Blades won two Grammy awards. I have performed in many countries from all parts of the world and have been commissioned for compositions for string orchestra. My tango orchestra was selected by Lincoln Center in July to play the largest NYC public tango dance event in 2015 to be held at Midsummer Night Swing next to the Metropolitan Opera house. As an Argentinian, I have a special affinity for tango and folk music, and indeed express my affinity for tango not just in my playing and composition, but also as a social tango dancer. Most tango and salsa musicians (like the music they play) have Latin American origins. Tango and Latin music is inherently dance music and in live performance, a special pleasure for me is the interaction between musicians and dancers on the floor,

and the quality and expressiveness of the music is definitely inhibited when there are no dancers expressing the music through their bodies and then the musicians responding.

4. I understand that under the Cabaret Law, a cabaret is defined as "Any room, place or space in the city in which any musical entertainment, singing, dancing or other form of amusement is permitted in connection with the restaurant business or the business of directly or indirectly selling to the public food or drink, except eating or drinking places, which provide incidental musical entertainment, without dancing, either by mechanical devices, or by not more than three persons." I also understand that only a tiny number of establishments in New York City have a Cabaret License.

5. As a musician working within these genres, this makes my life and career exceedingly difficult and inhibits my artistic expression. "Tango" can mean either the dance or the music, and no distinction is drawn because no distinction exists. When an established tango musician is performing, and people are present who like tango music, it is virtually inevitable that people will dance. This applies to salsa equally. This is because most people attracted to these genres dance. Thus, if a venue does not allow dancing, and I am allowed to play at all, the audience who will come and pay to hear me is substantially reduced. In addition, I also often have a tango dance couple perform to my live music, but this causes fears among venue owners that customers will be even more likely to dance dance.

6. People who like tango and salsa music have very few options in this City. Most bars and restaurants appear unwilling to host tango or salsa music because they know people would dance, and their businesses and livelihoods could be jeopardized. Of the few places that hold Cabaret Licenses, I understand that a large proportion are places like strip clubs and discotheques that are not interested in or appropriate for hosting live tango or salsa music. In areas of the City where there are large Latin populations, there are effectively no establishments with cabaret license for live merengue (Dominicans), salsa ( Puerto Ricans), and samba (Brazilians) music, definitely dance music, which obviously is a limitation on the artistic expression of those musicians.

7. Virtually all the establishments that host live music in New York City that I am aware of

do so in connection with the bar or restaurant business. The music business is notoriously difficult from a financial perspective, and New York City rents are notoriously expensive. In my experience, places that host live music rely on food and beverage sales to be able to stay in business. For any revenues that are generated from ticket sales, the venues generally take out a percentage to cover "house costs" like security and sound engineers, with whatever modest sums are left-over (if any) going to the musicians.

8. If music-hosting venues were required to hire an army of security guards to immediately stop anyone that starts to move rhythmically, the above business model simply would not work, unless perhaps the venues stopped paying musicians anything. Instead, most of them appear to simply avoid hosting genres of music such as tango and salsa. It is my understanding that Muchmore's, for example, does not host tango or salsa music. While I would be interested in organizing a performance there, and they have offered to host me if this lawsuit is successful, they have indicated to me that they cannot host such genres of music now because the Cabaret Law would make it too risky and expensive.

9. I fully support Muchmore's efforts to challenge the Cabaret Law. If the Court finds that Muchmore's cannot assert the First Amendment rights of tango and salsa musicians such as me, I would be open to the possibility of being added as plaintiff to address these issues.

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Pedro Giraudó

Sworn to before me this  
15<sup>th</sup> day of May 2015

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Notary Public

**Alan D. Sugarman**  
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**Written Testimony of**  
**Alan D. Sugarman**  
**To The**  
**New York City Council Committee on Consumer Affairs**  
**Hearing on Proposed Int. No. 1652-A**  
**A Bill to Repeal the New York City Cabaret Law**  
**September 14, 2017**

I support the repeal of the cabaret law if for no other reason than its erratic unconstitutional enforcement, *as well as the use of “dancing” as an element of noise regulation, the discrimination against legitimate restaurant and bar owners, the suppression of musicians playing danceable music, and as an affront to the 2.4 million Latinos in this City for whom dance is integral to Latin culture.*<sup>1</sup>

The Cabaret Law is widely ignored but still has an impact on smaller venues which are not willing to risk violation of even a rarely enforced law.

I bring to your attention that on November 29, 2017, the Hilton Hotel on 54th Street, which has no Cabaret License, is hosting a Gala benefit open to the public by the Alvin Ailey Dance Company featuring patron dancing.<sup>2</sup> Most hotels ignore the Cabaret Law.

I bring to your attention the article “The Best Places to Dance in NYC” as appears on the web site of the NYC Official Guide.<sup>3</sup> Many of the places do not have Cabaret Licenses. City officials are on the board of NYC & Company which published this Official Guide.

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<sup>1</sup> Italicized language was not included in the verbal presentation of this statement.

<sup>2</sup> <https://www.alvinailey.org/support/opening-night-gala-benefit>  
<https://www.alvinailey.org/opening-night-gala-benefit-tickets>

<sup>3</sup> <https://www.nycgo.com/articles/the-best-places-to-dance-in-nyc>  
<https://www.nycgo.com/articles/the-best-places-to-dance-in-nyc>

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September 14, 2017  
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It is not fair or appropriate for some powerful or favored venues to not face enforcement, while others do.

The law affects all age and cultural demographics, and not just the narrow demographic of house and free-style club dancers.

Proprietors of small bars and restaurants who wish to use small event rooms for social dancing should not be subject to over-bearing regulation intended to apply to large club-dancing venues.

It is appropriate to consider zoning reform incorporating number of patrons and size of assembly space as appropriate factors in monitoring noise and congestion producing activities. However, the proposed last-minute definition of Nightlife Establishments is not workable.<sup>4</sup>

As to another topic, many proponents of reform have adopted rhetoric as to racism, safe spaces, weaponizing etc. to distract from the issues of noise and congestion.

There are legitimate concerns as to noise and congestion, issues that motivated the 1926 adoption of the law. To assert that those having these concerns are complicit in racism, as was stated in the earlier hearing, is not only untrue and insulting, but portends trouble when modifications to the zoning resolution are proposed at the Community Board level.

With my testimony, today, I submit a copy of the 1926 Cabaret Law – perhaps some of the assembled here today might take the time to read it for the first time. *Despite exaggerated claims, there is nothing explicitly racist in the text of the law. It is false to state that the 1926 law text incorporates limitations on more than 3-musicians as an attack on Harlem Jazz Clubs, for that provision was not adopted until 1961. The 1926 Cabaret Law had no references to cabaret cards.*

Many of the same repeal supporters improperly cite the work of Professor Michael Lerner, historian, author of *Dry Prohibition* published by Harvard University, and consultant to the Ken Burns *Prohibition* Documentary, to support the claim that the 1926 Law was intended to prevent interracial mingling in Harlem jazz clubs, as inaccurately stated in this Committee's

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<sup>4</sup> The latest version of the bill provides for security monitoring and registration of security guards for the following entities:

Nightlife establishment. The term "nightlife establishment" means an establishment that is (i) open to the public after 12:00 a.m. at least one day each week; (ii) is required to have a license to sell liquor at retail pursuant to the alcohol beverage control law; and (iii) satisfies at least two of the following factors:

1. At least 2500 square feet of such establishment is open to the public;
2. Has an occupancy load of at least 150 persons as described on the certificate of occupancy; or
3. Imposes a fee for admission at least once a week.

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September 14, 2017  
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Briefing Paper.<sup>5</sup> Professor Lerner states the opposite: that there is little evidence to support those assertions. This is discussed in detail in my August 10, 2017 letter to the Committee which I will file with this letter.

*The other support as to claimed racism cited in the Briefing Paper is conjecture, without supporting evidence, found in a book by the lawyer who had filed three cases against the Cabaret Law. Even there, the lawyer relies upon the use of the phrase “running wild” as evidence of racism, while apparently oblivious to the fact that “Running Wild” was a contemporaneous allusion to the highly popular Broadway review of the same name in 1923, which featured two songs “Running Wild” and “The Charleston” and sparked the 1925 Charleston craze by Flappers and others.*

This legislation is the first step in modernizing the regulation of dancing. The Zoning Resolutions needs modification. The fire and building codes refer to dancing, without defining dancing. Oddly, these codes in some instances allow greater density of patrons for dining, than dancing, though in a fire, tables are obstructions. These codes need zero-based analysis. To be fair, these codes should apply equally to non-profits, clubs, catering halls, membership organizations, and religious institutions.

It is important that dancing no longer be a factor in any of these codes and regulations. A room crowded shoulder-to-shoulder requires the same fire safety and construction protections, whether patrons are dancing or not.

Sincerely,



Alan D. Sugarman

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<sup>5</sup> <http://legistar.council.nyc.gov/View.ashx?M=F&ID=5271616&GUID=274BA6D7-6DCC-4CF8-AA16-10BE9AE3E93E>