

Cannabis in New York: The Marijuana Regulation and Taxation Act's Impact on New York City

August 17th, 2021

Presented by [Simon Malinowski](#) and [Council Member Keith Powers](#)

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Simon Malinowski 0:06

Morning, everyone, good afternoon. For those of you on the East Coast, this is Simone Malinowski of Harris Bricken. I apologize for the late start. We were dealing with some technical issues. And welcome to Harris Bricken, a webinar on cannabis in New York, the Marijuana Regulation and taxation act, and an exploration of its impact on New York City. Before we get started, this is one of the monthly series of webinars that we do at Harris Bricken, covering a wide variety of topics. I quickly just wanted to get on everyone's calendar that we have two fantastic webinars coming up. The first is on Thursday, September 9 at 3pm Eastern 12pm Pacific, entitled starting Academy and clinic what you need to know that's going to be hosted by my esteemed colleagues, Hilary Birkin, fence Lebowski and Ethan Minkin. And then later in September on Thursday, September 23, at 12pm, Eastern Time, 9am Pacific. I will be returning with Michael Dundas of navigator advisors. And we will be talking about building the cannabis business in New York from an operator's perspective. And our guest for today is a good friend of mine Councilmember Keith Powers of New York City's fourth district. I don't know if Keith has been able to join us just yet, and hence the previously discussed technical difficulties. But Councilmember powers represents Manhattan's fourth district in New York City's assembly. He represents a number of different neighborhoods, Carnegie Hill, Central Park, South, the garment district, Koreatown, Midtown East Midtown West Murray Hill, Peter Cooper, and Stuy town, and then a few other neighborhoods on the east side. And the reason that we thought that Keith would be a fantastic guest for today's webinar is that Keith has been a part of the New York City political sphere for a long time. He knows the ins and outs of both the political environment, but also really the city well, both Keith and I are native New Yorkers and grew up and so we were very excited about the prospect of cannabis industry, entering into New York, and the possibilities for New York City's specifically embracing the cannabis industry and the potential implications from an economic perspective, from a real estate perspective, and from a general social perspective with particular emphasis on the social inequity components of the mrta. So while we're waiting for Keith, to rejoin us, I thought that one of the kind of good ways of starting and this has been one of the kind of central questions that we have gotten since the mrta was passed. And, and I do want to at this point, just mentioned that if anyone has any questions during this webinar, there is a chat feature in the webinar where you can send your question in, and we will address them as we can. But one of the real kind of key questions that everyone has asked is, what's the state of New York's cannabis industry because everyone was very excited about the MRTA being passed in March. And really, since then, we've been in a holding pattern in a waiting game. We recently wrote an article on this subject. And we were in a situation and I think that the frustration was felt by just about everyone in the industry, that, you know, we expected things to happen. We expected nominations to take place with particular with respect to the cannabis control board, which is going to be the primary rulemaking body and the Office of cannabis management that's really going to be responsible for the administration of New York's cannabis industry. And, quite frankly, Governor Cuomo really hadn't done anything. The

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initial expectation had been that nominations would be made in June before the end of the last legislative session. That didn't happen. We can talk a little bit about why that took place.

But realistically, we were looking at a situation in which no one would have been appointed realistically until the end of 2021, which would have pushed just about all of the critical steps in the rulemaking process in the issuance of applications so that people are understood what the terms of the application would be including license fees, which is something that everyone has talked about, including questions about whether or not you could have both a retail license and an onsite consumption license. And unfortunately, we had been looking at a situation where that information just wasn't going to come because the people who needed to be appointed or nominated weren't being appointed or nominated. Now, as everyone, I assume, on this webcast knows, that situation changed dramatically last week, after the New York Attorney General's report that that effectively said that Governor Cuomo had sexually harassed a number of women, and that ultimately resulted in his resignation last week. And because of his resignation, and the incumbent, or the new coming, governor for the state of New York is Kathy Hawkgirl, who has spoken numerous times in the last year about embracing the cannabis industry in New York, in terms of the economic benefits that the state will derive from legalization and having a fully functional recreational industry. And while we are now in this two week waiting period before Governor Cuomo, actually leaves office and Governor Hochul steps in, and when Councilmember Powers rejoins us, we'll have an opportunity to talk about what that process looks like, and what the steps will be. We now kind of have this renewed sense of optimism in the industry that the process is now going to speed up. And as a brief refresher, I thought that it would be helpful to kind of go over, practically speaking, what's going to need to happen and what what the actual nominations are that we are all waiting for. And the way that the MRTA is set up is that there's kind of a somewhat delicate balance of power between the legislator and the executive office. And the executive office in New York's context is the governor. And so the governor has the right to appoint three of the five members to the cannabis control board. And one of those members is the chairperson of the cannabis control board. That nomination, and it's kind of separate from the appointments actually needs to be approved by the legislator, which is why one of the issues was kind of it becoming clear that some of Governor Cuomo's potential appointees or nominees weren't going to get approved, which I think a lot of people think is why he kind of intentionally slow the process down. And the governor is also responsible for nominating the chairperson, excuse me, the Executive Director of the Office of Cannabis Management, as well as appointing seven people to the cannabis advisory board, which has a 13 membership in total. And, you know, as I'm going through them and talking about them, you can see that there's kind of really very clearly a balance between the governor's office and the state legislature, which is really designed in such a way so that there are checks and balances in terms of who's being appointed. The way that the MRTA is structured is really with an emphasis of, of balancing interests, and that balance kind of interplays in a number of different ways. One is the interest between upstate New York, Albany, Buffalo, Rochester, are all of the kind of more rural areas of New York. And what's kind of referred to as downstate that primarily means New York City, Long Island and the surrounding areas. And, you know,

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the mrta talks about having a balance of representatives in the governing bodies for New York's cannabis industry between those geographic areas.

And there's also really an emphasis on having appointments to these governing bodies of minorities, women, and basically individuals who fall under the umbrella of social inequity applicants, because one of the really important parts of the mrta one of the focuses is To provide equal representation to everyone who is involved with actually governing this industry. And, you know, a lot of the questions that we have received really have to do with what opportunities are going to be there for social and economic equity applicants, what resources are going to be able to be provided to them, because a lot of the failures that other states have experienced, have had to do with the fact that, you know, you can allocate a certain number of licenses or a certain number of slots to social and economic equity applicants. But without the resources, it's almost kind of a hollow gesture. And the reason for that is, is that almost by definition, the majority of people who are going to be applying for licenses in New York, have either never opened a business before, or almost certainly have never opened a cannabis business before. And so the degree of difficulty that's associated with doing that without actually having resources available, without having, well, both financial and expertise, a shared representation of social and economic equity applicants in the actual governing bodies, in terms of ideas, when the new governor will make appointments, and honestly, we had been hopeful that news on that would come out in the last 10 days. It hasn't. Quite frankly, it seems as though there are a lot of moving parts right now. I know that as soon to be governor hoel is meeting with Mayor de Blasio today. I think that it and again, Councilmember powers will speak to this as well. But Governor Cuomo his resignation was somewhat unexpected, despite the fact that the attorney general's report was as Stark as it was, and as damning as it was, and but everyone is now kind of scratched scrambling for this transition, and particularly in the context of COVID. And the kind of really resurgence of higher numbers and the Delta variant. And so the hope is, is that after the transition takes place on August 23, and this is one of the things that happens quickly, I would expect that it is because it is a kind of strong and easy political wind to have. There have been a number of the legislators who sponsored this legislation, the mrta, and who have been open and public about how this needs to happen, because you know, one that creates a lot of opportunities for employment to it's going to generate a lot of revenue for the state. And there's really no reason for this to be delayed any longer than it needs to be. So in terms of having a concrete idea of when these the nominations or appointments will start taking place. And the answer is we don't have concrete dates yet. But the hope and the expectation is that things will not really start to happen quickly, ideally in the month of August, if not at the beginning of September, because quite frankly, everyone is supportive is in support of it happening quickly. Another question that we got was about the role of attorneys in speaking to town boards.

As a quick refresher, the mrta provides that local municipalities have the right to opt out of the mrta with the proviso that it is limited to retail and onsite consumption licenses. And this is a conversation

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that we've had with numerous clients. And the short answer is that attorneys can advocate on behalf of their clients to town boards, there is a bit of a gray area between lobbying and advocacy from an attorney perspective. But one of one of the things that we really recommend to to all of our clients is to speak to the local administration. And if you haven't been clear idea of where you want to pursue

licensure and where you're intending on operating from a geographic perspective, and the retail or onsite consumption, or cultivation or processing and distribution, having the support of the local administration is really important. And you know everyone focuses on, on the fact that there's the opt out right for retail. On site consumption at but when you are moving into or developing a cultivation facility, there are all sorts of issues that you need to address that require participation with the local administration, obtaining permits, doing renovations, making sure that utilities are set up correctly. All of those things are a lot easier when you have the support of your local government. And one of the things that we'll talk about when one council member powers joins is that, you know, even though the municipalities aren't that in New York City specifically, it's not broken down by community board. One of the requirements in the RTA, when an applicant is submitting a license for retail or on site consumption, well, or for cultivation, or anything else within the five boroughs, and notification needs to be sent to the local community board.

Council Member Keith Powers 16:05

You're doing a good job I was listening, but I'm sorry about that, but thanks for having me.

Simon Malinowski 16:11

Thank you for joining us. I think everyone has gotten tired of me rambling for 20 minutes straight. I gave a brief introduction to you, I think it's probably a good opportunity to you to just quickly step in and kind of say which neighborhoods you represent and kind of your function as a city council member. Because I think for a lot of people, that's kind of an opaque position and you have tons of experience with it.

Council Member Keith Powers 16:44

Yeah, first of all, thank you. And I really apologize, I was scrambling to try to get this to work. I ended up running up to my office here in Midtown, but I'm City Councilmember Keith Powers, I represent Midtown where I'm sitting all the way down to Stuy town. That's on 14th Street and all the way up to the Upper East Side and 98th Street. I represent all of these Midtown, a big chunk of the tourism district here in the city, and the neighborhoods of Carnegie Hill, Turtle Bay, Murray Hill, waterside sites in town, upper Eastside and much more and really excited to be here even a little bit late. And I apologize.

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Simon Malinowski 17:21

Better late than ever. And thank you again, for joining. You know, I think a good starting place now that we're jumping into the substantive stuff is one of the things that everyone's really curious about. And then you have been open about Governor Cuomo needing to resign before the New York Attorney General's office issued their findings. You know, now that that has thankfully happened, and we are in a situation of being able to write the ship for lack of a better phrase. And what happens now kind of procedurally?

Council Member Keith Powers 17:56

Yeah, great question. So everybody knows I think that the governor had last week, last Tuesday, he had made a decision to resign and wait, have you many allegations that have come out about him and the report from the Attorney General detailing those allegations and providing a new one and going in and confirming a number of the stories that were reported on in March. So the governor is resigning, he has about a week left of his term here to finish out and then we have a new governor, who is a lieutenant governor, Kathy Hocu, she will be choosing her own lieutenant governor as well. And then we are probably facing a new political dynamic here in the city as folks think about whether to run for that office for some folks are well positioned to do it or others move up the ladder as people start to run against each other. So uncertainty is Kathy Hocu, our lieutenant governor is our governor starting next week to choose a new lieutenant governor, but then there's going to be both a political re shifting happening here in the state and also a policy re shifting as we talk about a new person and new level, either new level priorities or a new way of handling existing priorities, whether it's COVID, or kind of, and, you know, bringing a new style to the office of Governor.

Simon Malinowski 19:23

And that that's, that's exactly I think the sort of insight that we're all looking for. And, you know, from the public statements that seem to be Governor Hocu's has made the kind of indication has been that particularly from an economic perspective, she is prepared to embrace the cannabis industry, because of, you know, two things job creation and tax revenue. Have you had any indication as to whether or not that's going to continue if you know, because, you know, Governor Cuomo had made a lot of noise about being in favor of bolstering the industry. But I think, at least it's my opinion that that came. And part of the reason that this legislation passed when it did was because it was around the end of the turn of the year in the beginning of 2021, when there was get another political crisis that he needed to get out from under and that this was a nice political win. Whereas now, we're really in a situation where we need to start getting the tangible the potential tangible benefits of this legislation.

Council Member Keith Powers 20:34

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Yeah. Oh, yeah. A couple of things. I'd say. One is earlier in his tenure as governor, Governor Cuomo had, actually especially agitation, I think reservation about legalizing marijuana, and had, I think, taken more conservative viewpoint of it. But the politics has really shifted in New York State, the State Senate notably became democrat rather than Republican controlled, and it was much more favorable to it. And I think the political dynamics here around cannabis has really changed as other states have done it, there's a huge a huge opportunity for revenue in the state of jobs. And also just a new way of looking at it. And I think many of our views on it were very outdated. So they have passed the legislation to do it. But he passing a bill is no good if you don't implement it. And so we do anything, we can pass laws, but it's really in this the governor's power is to execute and implement and set that and set of processes up. And the legislation here gave him a lot of power, whether it's appointing board members setting up the agency, and directing traffic after the legislature passes it. So what we had seen recently is he was playing a little bit of politics with this implementation and gets things that he wanted. And so hey, I think you have something authority passed, which is good, you don't have to worry about whether they're going to legalize it or not. But now it's the doing. And I think there's momentum in the doing now, with him leaving because it's most likely not going to be as much of a political football, but it's going to be about actually executing and doing and moving things. And I think with a new governor, she's going to be looking to have a better relationship with the legislature who are going to she's really going to be their support, as she goes into an election last year and also to govern. And I think this is important to a lot of legislators here in the state and the city, particularly. So I think it's mostly a positive for people whose three that I think we have a new leader, and she'll probably be looking about the doings of the job. And the last thing is he is also an upstander. I think there's a big benefit upstate, for this industry, in addition to the downstate and so I think you may just see a little bit of a different worldview around our geographic worldview here.

Simon Malinowski 22:46

I mean, I think that working with the legislature is a really good point. And and there you to have the sponsors of the marta really been outwardly and publicly critical of of the delays that we've experienced since the legislation was passed, primarily Senator Liz Krueger, and crystal people Stokes from Buffalo, both of whom, who really were integral in getting this passed and really know that created the legislation themselves. So I think that's a fantastic point. And again, I think something that that gives us optimism that things are going to really start moving sooner rather than later.

Council Member Keith Powers 23:25

I think, right, yeah, I think my office is right down the hallway from Liz Krueger that was the main sponsor, and we've talked about it a lot. And I think a lot of folks are optimistic about having a new start with a new governor to be able to, like refocus and shift the priorities. And I have to do the politics every day of trying to manage that relationship with the governor.

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Simon Malinowski 23:48

So I think this is probably a good transition to talking about, you know, the general economic implications of this legislation on New York City specifically, which, you know, obviously, you are as, as grounded in the New York world as you possibly could be, both between our respective upbringings, but also the district that you represent, you know, I, based on the way that the legislation is structured, and in with particular, the ban on vertical integration, but also a lot of the different ways that they have required both labor unions and an emphasis on social and economic equity hiring, which is separate and apart from the actual application process. You know, to me, it seems like this is a tremendous opportunity from an economic perspective for the city. Right, you know, the the chief among them is job creation and tourism, because, you know, tourists haven't really come back the same way that I think that We had all hoped that they quickly would. And obviously, the Delta variant has a lot to do with that. But I was kind of curious, I'm sure that everyone else want to, we want to hear your thoughts on, you know, the potential economic impact of the legislation on the city.

Council Member Keith Powers 25:15

Yeah, I think we're gonna appeal to everything coming forward. Now, because of some of the I mean, in addition to their demeanor, it's kind of a depth a number of different ways we were thinking about this when they were doing it one was obviously about just the straight legalization of it in terms of people are doing it, let's just create a pathway to making it legal to is the criminal justice aspect of this. So people that have been entrapped to the criminal justice system over something that is so commonplace and acceptable and accepted. And third is the opportunities when it comes to revenue. Totally, you know, tourism and job creation, I think, you know, the way that I see a lot of states, legalizing because we don't have a federal solution for the state by state, they're making their own rules and their own system is probably causing a lot of frustration for people are in the industry. But no farming, farming and growth is happening is inside of the state, you're having the retail that's happening. Right here, I'm in Midtown, there's going to be I'm sure retail happening right here with jobs, good, hopefully good paying jobs, that are going to be right around the corner, there's going to be the tourism aspect of it, which is either like local and regional stores if people can't get it in their state and come to New York for the opportunity to do it. But also, obviously, the dollars for people that are coming here every year, 60 million plus people are coming here pre pandemic, lots of opportunity for people to spend their dollars here to have a more enjoyable experience here while they're visiting. I don't think there's going to be adjacent businesses to this too. I mean, I think that a lot of what we're looking at is just another retail business. But you know, whether it's folks are doing some stuff in the sort of more deliveries data standpoint, I think, I think just like, it's just a totally new opportunity with other areas for growth. But I think in a lot of ways, it's just a new retail that that's going to be opened in New York State. And it's going to be have an opportunity to create new jobs, take new space, and be another revenue raiser for the state. And it's probably well over well over two.

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Simon Malinowski 27:16

I mean, I think that the ancillary business thing is, is a fantastic point, that, you know, obviously the revenue that's going to be generated from the industry directly as it's going to be what it's going to be, obviously, it's going to have appeal to residents, it's going to have an appeal to tourists, you're coming from places where adult use cannabis isn't legal. But you know, and I'm kind of bleeding into the next topic that I think we were going to talk about in terms of real estate, but one of the industries that's been hit really hard, has been restaurant and bars. And, you know, there is the retail part of this, which is people buying and being able to have smoker consume anywhere that you can smoker consume tobacco, which, you know, I think everyone's kind of familiar with the side effects of consuming, which often leads to, you know, getting hungry or hanging out with people or doing any of those number of things. And you can just see how it could drive foot traffic to not only restaurants and bars, but other retail establishments in you know, in the Time Square or in Union Square, or somewhere in Chelsea or and saw her in any of the other neighborhoods in the city. Because you once you have the people there, and particularly if it's tourists, they're going to shop. And, you know, I I really only can see it as a benefit from an economic perspective for adjacent businesses, particularly because, you know, we can use the draw of people coming back because it's starting, but it hasn't really fully happened yet.

Council Member Keith Powers 29:03

Well, I would say like one of the urgency we should have in terms of getting everything set up, is understanding that this is one way to help people come back. And it's a revenue raiser and it has a number of benefits to a city that's trying to climb out of a really difficult year. We should have done we should be doing this anyway, legalizing it and and, and creating the regulations for everything. But with the delays that we talked about, that were put in place. I think the situation we're in right now speaks to moving with urgency, not delay. And when you talk about and the second thing I'd say is, when I look at some of the parameters that I've set up for this business, it does see some of it seems to mirror the way that alcoholic beverage industry is set up in New York State with tears and you know, community board involvement and things like that. And part of that is good. We have a model that we can look at directly for how we should allow communities to be involved and we're finding happiness and things like that. At the same time, we don't want to be so rigid, as this old business comes into New York state that we can't move to other places, for instance, are we doing it as retail? Are we doing it in restaurants and bars? And they're creating opportunities for them or other places to become? You know, involved in this industry? Are we how are we ushering through things like delivery, demand and delivery? So I think that, you know, what we want to have is a way to continue to have flexibility in the law. And also, I think the one question why I think we'll talk about is, what is the role of the actual localities and not just opt out? But how are they involved in terms of, you know, spearheading the conversation, and this is a big step into a new place, and not have many of us have experience with so we should be open minded, we should be remain flexible, and also figure out what regulations make the most sense to kind of find that balance here in the city in another town or village in the state?

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Simon Malinowski 30:57

Now, I know that this is really it's all kind of develop and quickly and again, you know, it's it's kind of hard to have tangible conversations about what everything is going to look like, exactly, because of all of the delays in the rules and regulations. But on the community board level, which, you know, you and I have talked about is really important. It's an actual step in the process for when you're submitting a license or an application for license in New York City. Have you heard anything on the community board level in terms of how people are, are thinking about the legislation in the industry, and either embracing it or rejecting it, depending on whether or not it's, you know, purely a more commercial neighborhood versus more residential?

Council Member Keith Powers 31:45

Yeah, I think I'm some of my community board, I was in Korea down, I was then down, people who are five, six and eight, they kind of represent pieces of Midtown to the Upper East Side, and Stuy town. And I think they all represent different areas, one of the Upper East Side, highly residential, different worldview, maybe than other places, they've done little town from either drag sides in town, also residential. And the community, we're five we're sitting right next to is really Midtown. And when you think about Midtown, and you can see really big opportunities to raise a lot of revenue in Midtown. The retail is the space and the character mazes look different anyway, because it's right there in the heart of other big retail in Midtown. And, you know, and they're not adjacent to schools, or parks or neighbors, who might just have some sort of starting concerns about what am I needed for them, I am more optimistic than I think maybe others are about this ability to integrate this industry to the city, but, but the standard stuff is always going to be raised. And so some committee boards have just kind of raised I think the beginning concerns about like, you know, any particular consumption and how consumption app is a quality of life and things like that, I don't think we've gotten yet to the fighting and what the fight that what they might look for when it comes to deciding. But let me tell you, let me give you the most for anybody who's interested in this and most adjacent example, which is the signing of like a bar or restaurant, because it feels like it's gonna mirror that a little bit. The big difference obviously, is like, you know, drunk people walking out at 4am with a bar. But what happens with the community board process is when you submit a license, they get a liquor license in New York, not avoid beer and wine license, a liquor license, you have to go before our community board, they issue an advisory opinion, that opinion goes to a State Liquor Authority, and some of the terms or conditions they put on, it may or may not be incorporated into your liquor license. So a bar or restaurant may have noise or hours of operation or things like that, that might be adjusted based on the feedback from the community. They also there's hard and fast rules about how close you can be to a church or school, how close you can be in proximity to other licensed establishment. So you just might think that that's the way that community boards are going to think about it is the way they already do, which is about for the granting of liquor licenses, there's obviously going to be some more moderate or conservative voices on some of these boards that might not want it. So really being coming forward. And thinking about this as highway integrate myself into the community by going into community board and being viewing them as a partner. There's so many, I guess, a major differences between like a club in New York City or a rowdy

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bar or something like that. But there's processes that are set up here. So a community board is basically in every neighborhood, the city appointed members, so from the city council, some from the borough president. I'll say what a vote president is some other time and there are 50 people that represent their community and give advisory opinion. So as part of this process in New York City, you're half the profit I believe you also appear before them to get an advisory And then from them and we don't know much more, I think about what that will really mean and have standing of outstanding level half. But that's the process. So, you know, if you're if you're looking at being licensed in a certain area, a good step might be to is your, you know, battle good relationship with the community board going in, and to make sure they understand your model, and you can alleviate any fears that they might have about what this means. And I think, I don't believe this is going to be like, so many vision for CT people, I think is the ordinary New Yorkers walking in, gone home, but but I think that's, you know, one thing that people are going to have on their mind. So, you know, it's going to be a learning process, I think, early on in terms of how people view this and how they work with the local communities where they're excited.

Simon Malinowski 35:45

I you know, obviously, don't hear this on a regular basis, as you do from a ground level. But, you know, I think that that's generally what we're hearing. And one of the things that I mentioned, while we were waiting, which was that putting the right foot forward as part of any municipality, regardless of whether or not it's a community board, or, you know, the local town that has chosen not to opt out, and having the support of your municipality is just always beneficial. And particularly in this circumstance, where the really does seem like there's going to be the opportunity for job creation. And already, from a legislative perspective, we know that a lot of the addressing concerns are going to be addressed from demonstrating effective security protocols to prohibiting adult use cannabis from getting hands of minors, and the school and House of Worship distances. And so, you know, I agree with you, I think that advocacy, to the community board in terms of like really demonstrating that it's not purely a, we're here to make as much money as possible, and get out. This, I think, really important. And now, I think this is probably a pretty good transition to really talking about the potential impact of the industry on the real estate market in New York. And you know, I think it's it they're both worlds that you and I are, are really familiar with and integrated into and you know, one of the things that I still find really shocking, about COVID and unfortunately, it's not not really that surprising anymore, is the impact it's had on on retail storefronts, and obviously, some of that was happening pre COVID. But, you know, if you walk down some of the major commercial thoroughways, you know, Broadway between Union Square and Hausman Street. So really, if every four retail storefronts has the For Rent sign in it, which is an area where, you know, 10 years ago, you never would see it, because, you know, you were basically guaranteed to be able to make rent. Hey, you know, what are your thoughts on the ways that this new industry could impact real estate in the city?

Council Member Keith Powers 38:18

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Yeah, and I just wouldn't know. Because I think somebody asked, and the thing somebody asked for the liquor license is zoning right now and that I just give a clarity. And it's kind of real estate focused, which is that right now, in New York State, you can't be within a 20 foot rule, meaning you cannot be a liquor license within 200 feet of a church or a school or synagogue, or religious establishment, which is a protection that you've had for a very long time and works in some areas doesn't work as well in other areas. But you can have a beer or wine license, you can have a full liquor license. And then there's a 500 foot rule, which is that you can't be with a well, if you are within three other licenses, you have a special hearing.

Simon Malinowski 38:57

And that's going to be a really interesting part of the way that they issued the rules and regs if you know when they do, which is we don't yet really have an idea as to whether or not they're going to be geographic limitations on the number of licenses, because this is coming from top down. And that I mean, that is, is I think, really both an economic consideration and a safety and kind of social benefit consideration. Because, you know, the question is, is it really to whose benefit is that if there are three, three retail stores in a three block radius? It probably doesn't benefit anyone. But you know, this is something that we expect will be addressed from a regulatory perspective.

Council Member Keith Powers 39:44

Yeah, yeah. And so the the real estate question you had about the retail. I mean, I think everybody has seen and heard the stories of New York retail, whether it's a mom and pop businesses or even chains that are struggling to make it we have the COVID part That story, but we have the pre pandemic part of the story, which is a changing economic climate in this world, retails struggling for a lot of different reasons, including obviously competition from online retail, the Amazons, and so forth. And businesses that are changing rapidly because the world changes, I feel like, you know, rapidly, and, and then rents and all the other considerations that want to have to have, and business model, things like that. So we were already living in a world where the, the there was intense, intense pressure on folks who are in the retail space to be able to stay and remain competitive. So we were dealing with that right and any independent of it, not for the good news in many areas is that a lot of federal relief and local and state relief that came in, I think, at least kept a lot of them sort of able to stay here. But the question is, how long for some of them who were able to stay afloat, but are going to enable or able to negotiate a new sublease or something like that, but the retail business dynamic, but now we're going to be facing a big catch up period or changes in tourism, or anything, if you're a Midtown business restaurant or something like that, like you may be facing a real decline in business for a long time. So we know the retail climate is already volatile. Now facing the pressures of a pandemic. I think, of course, I people should be excited that there's a new business coming in as I have tremendous potential tremendous growth potential, and can help stabilize some of those spaces. I, you know, there's a lot to be optimistic about the cannabis industry coming in, and the early phases of it, if we can get them up and running and

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get them moving, urgently. But it's another business model here that's now able to take up space in critical areas where we need it. So I think there's a lot of reason to be optimistic about that, again, there might be a couple of things to do is look at how we regulate them to see, you know, how much we prohibit them from going to certain spaces. So many ask this question I saw like, some may not be located in areas, even they may be diseased. So we have rezonings, like, you know, you have to probably, if you're a commercial business, you have to be in a commercially zoned area. So, you know, there may be looking at ways to zone appropriately for some of them. There's going to be some regulatory burdens here. But I think there's some should be some, of course, some optimism towards adding in another new category of possible retail for the city. I think, with a what we're facing now, we've been facing pre pandemic, that that is a gauge for the city in the state.

Simon Malinowski 42:43

Yeah, and I, you know, obviously, I agree with all that one of the things I'm really interested to see is how the rules and regulations come out in terms of the onsite consumption lounges. And, you know, I think one of the potential benefits of that is, you know, obviously, as part of the impact of COVID on real estate has been the impact on restaurants and bars, and, you know, obviously, they, it was an industry that was hit really hard. And this does appear to be a potential option for you know, bar owners or landlords who have restaurant or bar spaces to pivot. Of course, the interesting thing is going to be whether or not it's regulated in the most efficient manner. And, you know, one of just one example is we still don't really have a clear indication as to the extent to which we'll be able to sell food at an onsite consumption locations. Obviously, there's a there's a bright line between cannabis and alcohol, which makes which makes sense and particularly while this industry is it's in its infancy in New York, and kind of, I think everyone wants to wait and see how things play out. But you know, the idea of having places where you can both consume cannabis but then also stay in eat. You could see being really appealing to both landlords and potential applicants.

Council Member Keith Powers 44:18

Yeah. I think that the one thing so like you've got a couple of examples to pull from here but one is I start with is like, again, I kind of really do think that we're going to look at a lot this like sort of how we regulate the Apple Health beverages a in the state and the for instance, like if you look at how ridiculous some of the rules are around that, like wine stores can sell cherries and they can sell like they're like actually bills and all the light like themselves, some extra product that might be like considered food products, because like the store and they're treated separately, you can't buy wine in a supermarket. That's why Morton Williams and Trader Joe's and stores like that set up their own wine stores right adjacent to it in the cigar lounges that are still the grand Father one, there are some roles have added, you know, how have you how you can do food and stuff like that. And so I think what a want to do is make sure that if what's the one big consideration here is always going to be if people are eating, we actually we have so much strong protections against secondhand smoke that I think you want to make

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sure if you're smoking it, but I think there are limits. But like there's just these rule, but I think a lot of different draw blinds for people about where they think how they want to expose people to stop and how they want to integrate restaurant. So I think it's a big opportunity, I think there's going to be interesting discussion points around where you should draw the lines on that stuff. But as you said, from a retail standpoint, it's a huge, there's a huge, you know, revenue possibility for a lot of the folks in these phases, if you you know, give them as much as they possibly can get to be ready, I think it would really buoy a lot of these businesses that have been struggling.

Simon Malinowski 45:57

So I think one of one of kind of an interesting question here is, obviously, as things develop, I think that we all expect that this, the city legislature is going to step in and and at least try to, you know, focus on on the things that are important to you, all of your constituents, all of the other council members constituents. Do you have any kind of thoughts? Or have you had any discussions with other council members about potential regulatory or legislative directions? And now, obviously, we're still in the waiting game for what what the state, the state does on the state level? But, you know, I think one of the things that most people are probably curious about, or what, from the city perspective, whether or not there have been any discussions?

Council Member Keith Powers 46:51

I, you know, I think people have thought about I know, I thought about it as they were doing the failed legislation about whether there would be a handoff down to the city level, this deject, because I always say, like, the state will pass the law, but the council ever gets second play. And so, you know, what is the counselor getting complaints about, they might get complaints about, you know, people being legal and how people are consuming or using it, it could be about a particular establishment that is being problematic, whether it's around, you know, the controlling people, or, you know, just sort of normal conditions that a neighbor could add when it's like, noise and things like that. It could be about, you know, honestly, we just get calls from time, like, like, I give an example of a smoke shop, open up just down the block from a school in my district, and we got a lot of parents who are calling about a purchase proximity to stop. So, you know, think about yourself as a curmudgeonly, be like be but but just like, as a couple who be, you know, what would you face if you what were the issues you would face, if you live on the same block as a site or something like that. And those are the normal complaints we get, I don't know that I can just wait, there's going to be some big broad new set of issues, they might be the same old things that we would hear from, but in a new sort of format, which is about people and people being noisy or problematic. And then also just the sort of potentially to be, you know, at the average, sort of the advertisement of it, I guess, for people who are maybe not yet comfortable with that. Those are the things but also, you know, we'll see evolution and and in the world and welfare localities jump in, and major cities, particularly to best set the standards and regulate that. That could be lots of regulations, we've done, for instance, about like, a third party app seamless and grubhub and

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doorDash. I've been involved in the same environment. So there's a lot of ways we like new emerging technology and figuring out how you regulate those obviously, Uber same thing, like I guess, those are like the online version as well. But like, I guess I'm saying is like, we often as modernization happens, we start to see a few years, and I think have started starting to realize that like there was an unintended or on you know, unintended consequences, an issue to be addressed. So there's I can't pick everything right now. But I think the starting point I see is like so many just basic quality of life, things that you might hear from people. And one way to curtail those as if you're somebody who's coming into that industry is to anticipate those ahead of time, and to try to address build those into your business model rather than letting them kind of slip out.

Simon Malinowski 49:39

Yeah, and I think that makes perfect sense. And that I think that it's the right approach. And again, you know, I think that the analogy of the state passes a legislation and then the city council members hear about it makes perfect sense. Which is why you know, you guys have to be light on your feet. In terms of trying to find ways of solving these problems on a local level as they come up as a quick administrative thing, I know that we started a little bit late. So I think that will probably run for another eight to 10 minutes. I figured now would probably be a good time for going over a few questions. So one of the questions that we had was about whether or not there'll be a rule or regulation establishing a cannabis business near school and kids? And the answer to that is yes, the the mrta does include an express requirement that any retail establishment be at least I believe, 500 feet away from a school, or 200 feet away from a house of worship. So it is something that's contemplated, and then, you know, obviously, as Councilmember powers mentioned, you know, community boards will play their own role in this and probably give their own recommendations for you know, whether or not someone submits an application for a specific location, close to a school, whether or not they think there should be additional conditions put in. Now, another question that a few people have asked about is whether or not there will be tax breaks or help concerning social and economic equity applicants? And the answer is, as of now, we do have an indication that there will be help, particularly financial and kind of broad guidance help. We don't know exactly what that will be yet, in the mrta. They talk about the creation of a fund for social and economic equity applicants, the economic development fund in the city will potentially provide zero or no interest or low interest loans. I've also heard Councilwoman crystal people Stokes talk about grants for social and economic equity applicants, which I you know, I think just about everyone agrees would be a great thing. And so at this point, we're really just waiting to see how that really plays out from a regulatory perspective. Keith, I don't know if you mentioned whether or not the city is discussing municipal zoning restrictions. I can't imagine that there have been any of those discussions yet, because everything is so early.

Council Member Keith Powers 52:49

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Yeah. I don't know of discussion that I'm aware of about municipal zoning regulations. And I think the law covers some of the things that people might be generally asking for, and you still have zoning in particular, and we have to approve a lot of the council ourselves. But really, it's so much led by the mayor, and obviously, we have a new mayor coming in, in a few months by the end that's rolling out. But no, I don't know any regulations on zoning that are happening, the only thing I mentioned was, you know, potentially somebody might have to look at his face and say, I would have to rezone this to make it, you know, usable as a commercial space. But otherwise, no discussion about changes in zoning, like rabid or anything like that.

Simon Malinowski 53:31

Another question we had, and then I'll kind of break this up into two responses. But one of the questions was is how will the potential consequences of legalization of marijuana be monitored? and by whom? And will the results be availed made available to the public? And I think that there's probably a formal answer to this and an informal answer. The formal answer is in pursuance of the terms of the marta, the cannabis control board is required to give a report on the industry to the legislature by January 1 of 2023. And so, fingers crossed, that means that we have a functioning industry by January 1 2023. But that's kind of the formal reporting requirement. I think, and correct me if I'm wrong, but the kind of informal reporting is, is that from a local government perspective, everyone is going to be monitoring how this legislation and the impact the industry impacts their, their constituents, right? And then kind of planning accordingly.

Council Member Keith Powers 54:39

We are so open complaint or at times, I mean, just just meaning we respond to what our constituents are calling us about. And you know, when there's a business, any business that is causing a particular problem, we are highly responsive to it. And so those sometimes really shape our opinions by the way, that was like sort of the The stuff that comes into our office, but I think economically, we'll be looking at the impact of the industry with job creation and revenue for the state, we'll be looking at any sort of negative consequences. impact on retail, I don't know if it will be a measured way to totally do that. But we'll have to look at it. There are a lot of complaints of concern that were raised were about driving and you know, things like that, like safety. So I think there'll be some sort of, you know, keeping an eye on on all that. Yeah, I think there's going to be some a lot of early looks at this. And I would, I would really implore people to try to get this really right out of the gate. Because, you know, for there's no, there's no second chance at a first impression is like in the old line. So we really want to make sure this is, you know, is rolled out the right way. And I think that add to that you could see some really some early reactions to it, or at early adjustments to it. So I think that, but there'll be some of them, I got an informal monitoring, but I'm sure we'll be doing monitoring of I could be especially the economic impact to the state.

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Simon Malinowski 56:10

And I don't think I could put a better call on it myself. I think we're now the full hour and 10 after our official start time. I wanted to thank you again. Councilmember powers for joining us. If you want to reach out to Councilmember powers, his email address is k powers at Council, c o u n c i l . n y c . g o v . I want to thank all of our viewers slash listeners for joining us today. And again, we apologize for the technical difficulties and starting a little bit late. And I just wanted to throw another quick reminder about our two upcoming webinars. The first on September 9 at 3pm, Eastern 12pm Pacific, starting a ketamine clinic what you need to know now and the second on September 23 at 12pm Eastern 9am Pacific building a cannabis business in New York and operator's perspective. Keith, thank you again for your time. This I think was incredibly informative. And quite frankly, it was just fun to sit and talk about this for an hour, which I'm sure we'll do again soon. Anyway, and thank you again to all of our viewers and listeners for joining and hopefully we'll see you all on September 9.

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