

**STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

IN THE MATTER OF THE	)	
APPLICATION TO RELAX THE	)	
PROVISIONS OF N.J.A.C. 13:2-5.1(d)	)	SR 2023-07
WHICH ALLOWS A SOCIAL AFFAIR	)	SPECIAL RULING GRANTING
PERMITTEE TO OBTAIN NO MORE	)	RELAXATION
THAN TWELVE SOCIAL AFFAIR	)	
PERMITS IN A CALENDAR YEAR	)	
_____	)	

BY THE DIRECTOR:

The Division of Alcoholic Beverage Control (the “Division”) has received a request from the Central Jersey Arts Council (the “Council”), seeking relaxation of N.J.A.C. 13:2-5.1(d), which allows a social affair permittee to obtain no more than twelve social affair permits in a calendar year. Relaxation of the regulation is permitted pursuant to N.J.A.C. 13:2-9.1; in the absence of such relief, the applicant is not permitted to exceed twelve social affair permits in a calendar year.

On March 6, 2023, the Council filed an application requesting that an additional forty social affair permits be issued since they are expecting to exceed the permissible twelve social affairs permits for the 2023 calendar year. According to the Council, it is a not for profit organization formed in collaboration with the Borough of Carteret. The mission of the Council is to facilitate arts and cultural programing in the community. The proceeds the Council earns provides funding for free public programing to the community. This year, under twelve social affair permits, the Council has conducted the sale of alcoholic beverages at the Carteret Performing Arts and Events Center (“Performing Arts Center”).

The Performing Arts Center is located on property owned by Carteret, a political subdivision of the State of New Jersey. The Borough of Carteret has entered into an agreement with JBH Services, Inc. (“JBH”) to provide food and beverages at the Performing Arts Center, and has authorized JBH to be the food and beverage (alcoholic and non-alcoholic) concessionaire at this venue. However, JBH’s application for a Special Concessionaire Permit is still under review by the Division. Since a Special Concessionaire Permit has not yet been issued, the Council has conducted the sale of alcoholic beverages at the Performing Arts Center at twelve events pursuant to social affairs permits issued by the Division.

The instant request for relaxation is predicated on the fact that the Council needs relaxation of the twelve-permit standard in N.J.A.C. 13:2-5.1(d) in order to continue selling alcoholic beverages at the Performing Arts Center. The next scheduled event at the Performing Arts Center is on June 1<sup>st</sup> through June 3<sup>rd</sup>.

The Council maintains that the limitation of twelve social affair permits per calendar year creates an undue hardship because, absent the relief sought, it will not be able to sell alcoholic beverages to patrons of the Performing Arts Center. This will likely result in a lack of revenue to the Council and a diminution in the elevated services that patrons expect from attending events at the Performing Arts Center. The Performing Arts Center could also be adversely affected if the relief sought is not granted since the amenities patrons are used to would no longer be available. The Division recognizes that the relief being sought is temporary until JBH qualifies for a Special Concessionaire Permit.

Under N.J.A.C. 13:2-9.1, the Director may relax the provisions of a regulation, upon a showing of undue hardship, economic or otherwise; a determination that the waiver of the rule

does not unduly burden any affected party; and a demonstration that the waiver is consistent with the underlying purposes of Title 33 and the implementing rules.

Based on a review of the specific circumstances it appears that the Council will suffer some degree of hardship in the form of lost revenue if alcoholic beverages cannot be sold at upcoming events held at this venue. Similarly, patrons will also suffer hardship if alcoholic beverages are no longer available for purchase. Moreover, the Division is satisfied there does not appear to be any undue burden on any other party since the relief being sought is temporary until JBH qualifies for a Special Concessionaire Permit.<sup>1</sup> Finally, allowing this relaxation is not inconsistent with Title 33's statutory mandate to protect the public health, safety and welfare of the people of this State. It is also not inconsistent with the recent amendment to N.J.S.A. 33:1-74(b), which authorizes an increase in the number of temporary contingency permits issued at a single designated premises to a total of fifty-two in any one calendar year when the designated premises is owned by a municipality or the event is sponsored by a municipality.

In light of the foregoing, pursuant to N.J.A.C. 13:2-9.1, the Division will GRANT the request for relaxation of N.J.A.C. 13:2-5.1(d) allowing the issuance of forty additional social affair permits through December 31, 2023, provided applicant applies for individual permits, complies with all other requirements of N.J.A.C. 13:2-5.1, and the Licensing Bureau makes a satisfactory determination on the merits of each application.

---

<sup>1</sup> The approval in this Special Ruling terminates once the Special Concessionaire Permit is granted since there should be no need for the Council to continue to provide alcoholic beverage services once JBH is qualified. Any additional relief sought by The Council will be evaluated pursuant to N.J.S.A. 33:1-74(b).

The relief provided herein is based on information provided in the Council's application. Should the relief granted be inconsistent with Title 33 in actual practice or should the applicant violate the terms of its social affairs permit or any special conditions attached thereto this approval may be withdrawn or modified.



JAMES B. GRAZIANO  
DIRECTOR

Dated: May 30th , 2023  
JBG/MES/APW