

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

TEMPORARY AUTHORIZATION
TO OPERATE PERMIT NO. 65842
INVESTIGATION NO. H-2018-51393

IN THE MATTER OF THE REQUEST)	
TO IMPOSE SPECIAL CONDITIONS)	
ON A TEMPORARY PERMIT)	CONSENT ORDER
PURSUANT TO <u>N.J.S.A. 33:1-32</u>)	
)	
LANDMARK EWING, LLC t/a)	
LANDMARK AMERICANA)	

William C. Fay, IV, Esq., Attorney for Licensee (Proetta & Oliver, attorneys)

Richard E. Karczewski, Jr., Esq., Deputy Attorney General, Division of Alcoholic
Beverage Control, Enforcement Bureau

BY THE ACTING DIRECTOR:

This matter comes before me following the December 19, 2018 submission by Deputy Attorney General Richard E. Karczewski in support of the Division of Alcoholic Beverage Control's Enforcement Bureau's ("Enforcement Bureau") request to impose conditions on Landmark Ewing LLC's ("Landmark" or "Permittee") temporary authorization permit 65842 ("TAP 65842"). In an effort to provide the parties with an opportunity to be heard on the requested imposition of conditions, I issued a Scheduling Order on December 21, 2018, informing the Permittee of the Enforcement Bureau's request, providing a date certain by which Permittee was to reply, and scheduling a tentative date for a hearing if Permittee should request one. Attorney William C. Fay, IV, on behalf of Landmark, filed a brief on December 27, 2018 in opposition to the Enforcement Bureau's motion to impose conditions and requesting a hearing. Following review of the briefs and the proposed witness list provided by Landmark, and briefs and exhibits filed by the Enforcement Bureau, I informed counsel by letter of January 8, 2019 that a hearing would be held.

On January 10, 2019, the parties appeared before me at a hearing to address the issue of whether Special Conditions should be imposed on TAP 65842, and if so, what those conditions should be.

After the hearing commenced, I granted a brief adjournment to afford the parties an opportunity to discuss with me necessary and proper conditions to be imposed on TAP 65842. The parties agreed that a Consent Order should be entered imposing Special

Conditions on TAP 65842, which shall be in effect until such time as the Consent Order is amended or rescinded, or until a Special Concessionaire Permit is issued or revoked. This Consent Order memorializes the parties' agreement.

ACCORDINGLY, IT IS on this 14 day of January, 2019, hereby ORDERED, with the consent of the parties, that the following Special Conditions are imposed upon the TAP 65842, and shall remain in force and effect until further Order amending or rescinding this Consent Order, or until such time as a Special Concessionaire Permit is issued or revoked:

1. The permitted premises must close on or before 10:00 PM Sunday, Monday, Tuesday and Wednesday evenings. Alcoholic beverages shall not be sold, served, or delivered after 9:15 PM on Sunday, Monday, Tuesday and Wednesday evenings. The permitted premises must close on or before 12:00 AM (midnight) on Thursday, Friday, and Saturday evenings. Alcoholic beverages shall not be sold, served, or delivered after 11:00 PM on Thursday, Friday and Saturday evenings. At the respective closing times, all patrons must be off the permitted premises;
2. Permittee shall schedule and conduct monthly meetings with The College of New Jersey ("TCNJ") police to discuss operation of the permitted premises and law enforcement concerns. This meeting may be subject to cancellation with the consent of both parties. If necessary, TCNJ police may submit comments to the Director following the monthly meetings. These comments will be considered at permit renewal on a monthly basis;
3. Permittee, in conjunction with TCNJ police, shall discuss and address security concerns at the permitted premises and create a security plan, which may include a Security Officer Registration Act-certified security guard and/or current or former law enforcement officers to be located at the premises during operating hours. The security plan shall, at minimum, address policy and procedure for preventing the overconsumption of alcoholic beverages, underage drinking, and crowd control. The security plan is subject to review and modification on a month-to-month basis and shall be subject to Director approval;
4. Permittee shall offer no drink specials, deals, or promotions on the permitted premises or via other media, including social media. Permittee shall sell only one alcoholic beverage per patron at a time (pitchers, "fish bowls", "buckets of beer" and the like shall not be permitted);
5. All alcoholic beverages shall be sold, delivered and dispensed in accordance with industry standards (a five-ounce pour for wine, a twelve-ounce bottle or can for malt alcoholic beverages, a sixteen-ounce draft pour for malt alcoholic beverages). Cocktails and mixed drinks shall not contain more than two ounces

of distilled spirits. Permittee shall not offer or deliver free alcoholic beverages to any patron "on the house";

6. The "Breathalyzer Test" shall be removed from the premises as the Director does not consider this an appropriate method under the circumstances for curtailing overconsumption;
7. Permittee shall maintain its security cameras in their current location and video shall be held in an accessible format for a minimum of forty-five (45) days. Video shall be turned over to law enforcement, including personnel from the Division of Alcoholic Beverage Control, within forty-eight (48) hours of request;
8. Permittee shall provide TCNJ police at least seventy-two (72) hour notice prior to the date of any special event, defined as any occurrence of the offering of music by a DJ or live band/group/performer, any type of act, performance or display of any nature, any type of holiday or theme event, and any type of major sporting event with significance or notoriety to the local community, during which the Permittee can expect an increase in alcohol sales (major boxing match, Super Bowl, March Madness, World Series, etc.); and it is further,

ORDERED that the Permittee shall implement the above-referenced Special Conditions on or before January 15, 2019. With respect to Condition (3) above, Permittee shall submit a security plan to the Director no later than January 22, 2019; and it is further,

ORDERED that TAP 65842 shall be renewed until February 15, 2019, after which renewals of the Temporary Permit will be considered on a month-to-month basis, subject to the foregoing conditions or any other conditions that the Acting Director may impose based upon a review of any comments received by the Division pursuant to conditions (2) and (3) above; and it is further,

ORDERED that should there be action by the Permittee that violates the Special Conditions imposed by this Order, or any violation under Title 33 or the corresponding regulations, either party may file a motion with me, after giving timely notice to opposing counsel, requesting a hearing on an emergent basis before the Acting Director, for purposes of considering the modification of the terms and conditions within the Order.



JAMES B. GRAZIANO
ACTING DIRECTOR

We are authorized and do hereby consent to the entry,
form and substance of the above Order.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: REK by (Kms)
Richard E. Karczewski, Jr.
Deputy Attorney General
On Behalf of Division of ABC
Enforcement Bureau

Dated: 1/14/19

LAW OFFICES OF PROETTA & OLIVER

By: W 12
William C. Fay, IV, Esq.
On Behalf of Landmark Ewing LLC

Dated: 1/11/19

JBG/PTU