

**TOWNSHIP OF WEST ORANGE, ESSEX COUNTY, NEW JERSEY
ALCOHOLIC BEVERAGE AND CONTROL BOARD**

RESOLUTION

WHEREAS, the Township Council of the Township of West Orange serves as the Township of West Orange Board of Alcoholic Beverage Control; and

WHEREAS, an Application has been filed by Las Palmeras, Inc. t/a La Dolce Vita Bar Restaurante (formerly Las Palmeras), 364 Valley Road, West Orange, NJ, for the renewal of its Plenary Retail Consumption License, bearing License #0722-33-045-005, for the License Period **July 1, 2020** through **June 30, 2021**, the annual renewal deadline extended by COVID-19 Executive Order to September 30, 2020; and

WHEREAS, the Licensee's application for renewal complies with the New Jersey State Laws regulating the sale, consumption, and distribution of alcoholic beverages; and

WHEREAS, the Licensee, in or about early June, 2016, resolved with the State of New Jersey at least ten (10) charges filed by the Office of the Attorney General, Department of Law and Public Safety, Division of Alcoholic Beverage Control, alleging that the Licensee had committed various and serious offenses during 2014, and seeking suspension of the license for 209 days, the resolution of which included payment of \$8,600 in lieu of a 72 day suspension, with 45 days held in abeyance for a period of 2 years, and the mitigating factor that the Township had imposed Special Conditions on this Licensee, including, but not limited to, the requirement to install and maintain a video security system, and the Township learning of such disposition shortly after the Licensee's License had been renewed for the 2016-2017 License term; and

WHEREAS, the Special Conditions existing on the Licensee for that License Term were as follows"

1. The Licensee shall hire one off-duty WOPD Officer or private security guard at prevailing rates to provide for exterior security at the Licensed Premises on Friday, Saturday and Sunday nights from 9:30 p.m., to 1:30 a.m.;
2. The Licensee shall hire a licensed security company to provide security for the interior of the Licensed Premises on Friday, Saturday and Sunday nights from 9:30 p.m., to 1:30 a.m.;
3. The Licensee shall install and maintain a video surveillance system to cover the interior of the Licensed Premises, including the bar area, the front and back entrances and exits and the front sidewalk area on Valley Road, which surveillance system shall be maintained in good working order and operating during all hours when the Licensed Premises is open for business, and recordings shall be kept and made available to the West Orange Police Department upon

request for at least thirty (30) days following the date of recording, and the Licensee shall cooperate with the West Orange Police Department in the implementation and maintenance of this video surveillance system; and that

4. The Licensee, every day it is open, shall close its doors to new customers at 12:30 a.m., shall cease the sale of alcoholic beverages at 1:00 a.m., and all customers shall be off the premise by 1:30 a.m.; and

WHEREAS, new ABC charges were brought by the Township against this Licensee in February, 2017, as follows: On or about November 27, 2016, at or about 11:20 p.m., in the Township of West Orange, County of Essex and State of New Jersey, at and about the Licensed premises of the Licensee located at 364 Valley Road, West Orange, New Jersey, the Licensee did conduct the premises so as to allow, permit or suffer in, upon and about that premises, an act of violence and disturbance, specifically a patron shoving and throwing a bottle at another patron, who was highly intoxicated, and causing a laceration above the victim's left eye, in violation *N.J.A.C. 13:2-23.6(a)2*, and the Licensee has violated *N.J.A.C. 13:2-23.6(b)*, in that it has repeatedly and over a period of at least the past three years allowed, permitted, or suffered in or upon the licensed premises assaults, acts of violence and/or disturbances, including, but not limited to seventeen incidents requiring police intervention in or about the year 2014, adversely affecting public safety or the rights of the public, to which a non-vult plea was entered and disposition made on June 1, 2016, by the State of New Jersey, Department of Law and Public Safety, Division of Alcoholic Beverage Control, Trans. No. R42991, as well as fifteen incidents of affrays, two incidents of aggravated assault, an incident of strong arm robbery, urinating in public, disorderly conduct, and ten noise complaints, all occurring in 2015, as well as twenty-one incidents of affrays, four incidents of simple assault, an aggravated assault, assault with a weapon, fighting, strong arm robbery, disorderly conduct, theft and noise complaints in 2016, all contrary to the public health, safety and welfare, requiring many calls to and interventions by the West Orange Police Department, such that the operation of this licensed premises has become, and its operation is, a nuisance, the Licensee unable to maintain control of its patrons and its licensed and surrounding premises; and

WHEREAS, counsel for the Licensee had advised that the Licensee employed a new Co-Manager in February, 2017, and had voluntarily self-imposed certain time constraints on its operation since that time, which were greater constraints than those currently existing Special Conditions, in an effort to eliminate the incidents which have given rise to the pending and earlier ABC charges and Special Conditions during the past several years; and

WHEREAS, the West Orange Township ABC Board and the Licensee agreed with respect to said pending charges to proceed as follows:

The Township ABC Board shall adjourn the hearing on the pending ABC charges for a period of 90 days, from the currently scheduled June 27, 2017, to the second regular Council Meeting in September, or first such meeting in October, 2017, and shall then determine based upon the Licensee's operation in the interim whether there is a need to

go forward with prosecution of those charges, or to forego them in view of the Licensee's improved and acceptable operation during 2017; and

The Licensee agrees to continue its to date self-imposed modifications to the previously imposed Special Condition no. 4, closing its doors to new customers at 12:00 a.m., rather than 12:30 a.m., ceasing the sale of alcoholic beverages at 12:15 a.m., rather than at 1:00 a.m., and having all customers off the premises by 1:00 a.m., instead of at 1:30 a.m., all of those limitations applicable every day the Licensee is open; and

The Licensee understands and acknowledges that Special Conditions 1 and 2, previously imposed and to continue for the 2017-2018 License Term, contemplate that any security company and security guard, or officer, shall be licensed and registered pursuant to the "Security Officer Registration Act" ("SORA"), *N.J.Stat. §45:19A-1, et seq.*, the terms "security guard" and "security officer" meaning the same thing, and, if not already in full compliance with "SORA", full compliance shall be achieved within sixty (60) days of enactment of this Resolution; and

WHEREAS, twenty-two new charges were brought against this Licensee and hearings held on those charges on July 10, 2018 and August 21, 2018, twelve of those charges having been sustained as evidenced in ABC Board Resolution 598-18, dated August 21, 2018, as follows:

- Violation of N.J.A.C. 13:2-23.6(a) 2 - Prohibition Against Any Brawl, Act of Violence, Disturbance, or Unnecessary Noise on Premises relating to an incident occurring on or about October 9, 2017;
- Violation of N.J.A.C. 13:2-23.6(a) 2 - Prohibition Against Any Brawl, Act of Violence, Disturbance, or Unnecessary Noise on Premises relating to an incident occurring on or about January 13, 2018;
- Violation of N.J.A.C. 13:2-23.6(b) - Prohibition Against Operation of Liquor License Business in a Manner Which Fails to Avoid Acts of Violence and Disturbances so as to Constitute a Nuisance Contrary to the Public Health, Safety and Welfare, relating to numerous incidents occurring over the last three years;
- Violation of N.J.A.C. 13:2-23.13, Requirement to Maintain copies of current license certificate; application; list of employees on the licensed premises, resulting from an ABC inspection occurring on October 13, 2017, during which an incomplete E141a Form was produced by the Licensee;
- Violation of N.J.S.A. 33:1-31(h), for violation of any ordinance, resolution or regulation of the issuing authority, the Licensee at the time of the October 9, 2017, assault incident not in compliance with one of its Special Conditions of operation in that its video surveillance system was not operating properly and not properly maintained to ensure such proper operation, not recording the incident occurring on that date, a violation of the Special Condition;
- Violation of N.J.S.A. 33:1-25 and 1-26, for circumvention of the application and licensing process and effectively sharing profits with unlisted and unlicensed owners,

- specifically, with women hired to entertain customers, in and about October, 2017;
- Violation of N.J.A.C. 13:2-23.13(a)(2), requiring Class C Licensees to have a photostatic or other true copy of the current license application as well as the last filed long-form application (if the current application is short form), kept on the Licensed premises in order to conduct the licensed business, at the time of an ABC investigation on October 13, 2017;
 - Violation of N.J.A.C. 13:2-23.32 (e), requiring that for an unlimited period of time licensees must keep permanent records of account truly and accurately containing a record of all moneys invested in the licensed business, etc., such documents able to be stored off the licensed premises but produced within 7 days of a request by the Director, the issuing authority or agents or representatives thereof, occurring during an ABC inspection on October 13, 2017;
 - Violation of N.J.S.A. 33:1-31(h), Suspension or revocation of license for any violation of any ordinance, resolution or regulation of the issuing authority or governing body, on January 8, 2018, the Licensee remaining open after the closing time required by its Special Conditions;
 - Violation of N.J.S.A. 33:1-31(h), Suspension or revocation of license for any violation of any ordinance, resolution or regulation of the issuing authority or governing body on January 13, 2018, the Licensee remaining open after the closing time required by its Special Conditions;
 - Violation of N.J.S.A. 33:1-31(h), Suspension or revocation of license for any violation of any ordinance, resolution or regulation of the issuing authority, on or about July 9, 2017, the Licensee remaining open after the closing time required by its Special Conditions;
 - Violation of N.J.S.A. 33:1-31(h), Suspension or revocation of license for any violation of any ordinance, resolution or regulation of the issuing authority on or about July 24, 2017, the Licensee remaining open after the closing time required by its Special Conditions; and the penalties imposed having been consolidated, including a thirty-day suspension of the License with fifteen days held in abeyance; and

WHEREAS, new incidents have occurred since resolution of those charges and for which charges were prepared as well as some additional charges being in the process of preparation and prosecution of all of them anticipated in the very near future; and

WHEREAS, the purpose of the ABC regulatory scheme is to protect the health, safety and welfare of the people of the State of New Jersey, and the fostering of moderate and responsible use and consumption of alcoholic beverages, and the proposed special conditions being logically related to the regulatory scheme and being reasonable efforts to promote the purposes of that scheme;

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST ORANGE, serving as the Township's Board of Alcoholic Beverage Control, does hereby approve the renewal of the Plenary Retail Consumption License heretofore issued to the Licensee bearing License #0722-33-045-005, for the 2020 - 2021 Licensing term, said renewal being subject to the following Special Conditions pursuant to N.J.S.A. 33:1-32, all of which Special Conditions having been found by the Board to be

necessary and proper to accomplish the objects of Title 33 and secure compliance with its provisions, and submitted promptly for approval by the Director of the Division of Alcoholic Beverage Control in accordance with law:

1. The Licensee shall hire one off-duty WOPD Officer or private security guard at prevailing rates to provide for exterior security at the Licensed Premises on Friday, Saturday and Sunday nights from 9:30 p.m., to 1:30 a.m.;
2. The Licensee shall hire a licensed security company to provide security for the interior of the Licensed Premises on Friday, Saturday and Sunday nights from 9:30 p.m., to closing at 1:00 a.m.;
3. The Licensee shall install and maintain a video surveillance system to cover the interior of the Licensed Premises, including the bar area, the front and back entrances and exits and the front sidewalk area on Valley Road, which surveillance system shall be maintained in good working order and operating during all hours when the Licensed Premises is open for business, and recordings shall be kept and made available to the West Orange Police Department upon request for at least thirty (30) days following the date of recording, and the Licensee shall cooperate with the West Orange Police Department in the implementation and maintenance of this video surveillance system; and that
4. The Licensee, every day it is open, shall close its doors to new customers at 12:00 a.m., shall cease the sale of alcoholic beverages at 12:15 a.m., and all customers shall be off the premises by 1:00 a.m.; and

AND BE IT FURTHER RESOLVED, that a copy of this Resolution shall be provided to the Director of the Division of Alcoholic Beverage Control of the State of New Jersey for the Director's approval before implementation and for that Division's records, and shall be maintained in the Township's permanent Alcoholic Beverage Control records.

The above Resolution was passed by the Township Council of the Township of West Orange serving as the West Orange Board of Alcoholic Beverage Control at the Board's regular meeting held on **September 22, 2020**.

**Michele Casalino, Council President and
ABC Board Chairman**

**Karen J. Carnevale, Municipal Clerk/
Secretary to the ABC Board**

Adopted: September 22, 2020