

June 1, 2020

VIA EMAIL DELIVERY

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554
Attn: Audio Division, Media Bureau

Re: W297CP, Bridgeport, CT
Facility ID No. 202762
Construction Permit File No. BNPFT-20180426ABB
Construction Deadline: June 8, 2021

Request for Tolling of Construction Permit

Dear Ms. Dortch:

Connoisseur Media Licenses, LLC (“Licensee”) holds the above-captioned construction permit (“Construction Permit”) to construct the facilities of W297CP, Bridgeport, CT. By its counsel and pursuant to Sections 1.3 and 73.3598(b) of the Commission’s Rules,¹ Licensee hereby requests tolling of the construction period for the Construction Permit.

The impact of COVID-19 pandemic has forced Licensee to stop work on the construction of its facilities as authorized by the Construction Permit. The Governor of the State of Connecticut issued a declaration of state of emergency on March 7, 2020 to help slow the spread of the COVID-19 virus. See Exhibit 1. The Governor has since issued over 40 Executive Orders to protect public health and safety and to mitigate the effects of the COVID-19 pandemic (collectively, the “Orders”). These Orders and the economic fall-out from the issuance of the Orders have made work on construction next to impossible (and not desirable, for public safety reasons). Because of this Act of God, tolling is appropriate, starting from the time between the recent actions that stopped progress, and remaining in effect for six months, absent earlier resolution of the COVID-19 closure.

¹ 47 C.F.R. §§ 1.3, 73.3598(b).

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Section 319(b) of the Communications Act of 1934, as amended, provides that a construction permit “will be automatically forfeited if the station is not ready for operation within the time specified or within such further time as the Commission may allow, *unless prevented by causes not under the control of the grantee.*”² The Commission has established procedures for tolling the construction period for construction permits when warranted.³ Specifically, Section 73.3598(b) provides that a construction period will toll when construction is prevented for certain “causes not under the control of the permittee.”⁴ To receive tolling, a permittee must demonstrate that it could not build due to a Commission-recognized encumbrance and that the permittee has had, in total, less than three unencumbered years to construct the facility.⁵

Licensee submits that tolling of the Construction Permit would be appropriate in this case because, due to circumstances not under the control of Licensee, construction of W297CP is being encumbered by delays caused by a worldwide pandemic of historic proportions. While the radio station is considered an essential business, to ensure safety of its employees during this health crisis, Licensee is operating with the limited staff necessary to provide essential operations at its facilities to minimize the spread of the virus. The Licensee is reluctant to commit employees and resources to preparations for construction and later to the construction itself during the current crisis. Similarly, in the current circumstances, the ability to schedule engineering and tower contractors to construct these new facilities is in doubt as is the economic capacity to make these commitments. Finally, Licensee anticipates that delays and limitations due to the pandemic will continue into the summer and possibly into the fall.

As such, completing construction in the current environment does not appear to be possible.⁶ Given the unique circumstances caused by the COVID-19 pandemic, Licensee’s inability to work on construction is beyond its ability to control and should be considered an “act of God,” which serves as a basis for tolling under Section 73.3598(b) of the Commission’s rules.

² 47 U.S.C. § 319(b).

³ 47 C.F.R. § 73.3598(b); *see also* 1998 Biennial Regulatory Review – Streamlining of Mass Media Applications, Rules and Processes, Report and Order, 13 FCC Rcd 23056 ¶¶ 83-90 (1998) (“Streamlining R&O”); 1998 Biennial Regulatory Review – Streamlining of Mass Media Applications, Rules and Processes, Memorandum Opinion and Order, 14 FCC Rcd 17525 ¶¶ 31-45 (1999) (“Streamlining MO&O”).

⁴ 47 C.F.R. § 73.3598(b).

⁵ *Wendell & Associates Request to Waive the Period to Construct Unbuilt Station WKNJ(AM), Harriman, New York*, Memorandum Opinion and Order, 17 FCC Rcd 18576, n.13 (2002).

⁶ *Cf. Streamlining R&O* ¶ 84.

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Licensee therefore submits that the public interest will be served by tolling the June 8, 2021 construction deadline for the Construction Permit, effective as of March 7, 2020 for six months, or until the date on which all orders affecting construction of W297CP's new facilities are lifted.

Respectfully submitted,

WILKINSON BARKER KNAUER, LLP

/David D. Oxenford/

David D. Oxenford

Kelly Donohue

Counsel for Connoisseur Media Licenses,
LLC

cc: Tom Hutton
Victoria McCauley



Ned Lamont
GOVERNOR
STATE OF CONNECTICUT

March 10, 2020

The Honorable Denise Merrill
Secretary of the State
State Capitol Hartford, CT 06106

Frederick J. Jortner
Clerk of the State House of Representatives
State Capitol
Hartford, CT 06016

Michael Jefferson
Clerk of the State Senate
State Capitol
Hartford, CT 06016

RE: Declaration of Public Health and Civil Preparedness Emergencies

Dear Secretary Merrill and Clerks of the General Assembly:

In response to the global pandemic of COVID 19 disease associated with a novel coronavirus that is currently affecting multiple countries and states and has resulted in the spread of infections in Connecticut and surrounding states, as well as resulting shortages of personal protective equipment and other supplies that could jeopardize public safety and civil preparedness, and in order to provide me and other appropriate officials with all authorities necessary to limit the spread of the COVID 19 coronavirus and protect public safety within the State of Connecticut, I hereby declare a public health emergency and civil preparedness emergency throughout the State, pursuant to Sections 19a-131a and 28-9 of the Connecticut General Statutes. Such public health emergency and civil preparedness emergency shall remain in effect through September 9th, 2020, unless terminated earlier by me.

Specifically, in accordance with Connecticut General Statutes Section 19a-131a (f), I hereby authorize and direct the Commissioner of Public Health to delegate the powers regarding isolation or quarantine to municipal and district directors of public health. Municipalities, local

health officials, and local education officials are directed to follow previously issued guidance and apply relevant principles of risk management to decisions about whether to cancel, modify, or postpone large gatherings, public events, or travel.

Orders regarding additional measures to protect public health and safety, including suspension or modification of specific statutes, will follow as I determine to be necessary.

I am filing this declaration with you under my hand and seal on this 10th day of March 2020.



N. Lamont

Ned Lamont
Governor

2:25 p.m.
TIME