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Benihana gets first Xanadu permit

(by Michael Lamendola - December 31, 2008)

Will pay state only \$2,000 per year to serve alcohol

Meadowlands Xanadu has officially been awarded the first of what is expected to be over 20 requests for low cost liquor licenses to serve venues within the shopping and entertainment complex that is slated to open next summer. The license, a special concessionaire permit issued by the Division of Alcoholic Beverage Control (ABC) with a \$2,000 annual fee was awarded to Benihana despite several objections by a group represented by bar and restaurant owners in East Rutherford and Hartz Mountain Industries.

The two groups, Hartz and the New Jersey Restaurant Association (NJRA) have objected to the low-cost permits, citing the value of liquor licenses in the borough that have sold recently for as high as \$600,000. Hartz, which was present at the Benihana hearing Nov. 20, also took objection to the permittees' exemptions they would have under East Rutherford's own ordinances, specifically an ordinance requiring 500 feet between licensed premises. The state, however, had ruled that the special permits were applicable to Xanadu because it sits on land owned by the New Jersey Sports and Exposition Authority (NJSEA), a state agency.

In October, ABC Director Jerry Fischer denied an attempt by the objecting entities to halt applications for the special permits at Xanadu, but reserved their rights to raise objections on the substance of the individual applications themselves. Benihana has been the only business in Xanadu to apply thus far for one of the special permits. Xanadu officials earlier this year stated that the complex may need up to 25 licenses to sufficiently satisfy restaurants, bars and entertainment venues expected to operate in the facility.

According to Fischer's final order granting the special permit on Dec. 19, he was assured by Meadowlands Xanadu security consultant Daniel DeLorenzi and Benihana regional manager Gittipong Dararouksa that the business was responsible enough to carry a liquor permit. Fischer cited for one the factor that the chain has three other New Jersey locations and has never had a violation of a liquor license in over 30 years of doing business in the state. Dararouksa testified that alcohol service at the restaurant, such as traditional Japanese sake, is an accent to the meal and bar service is not emphasized. He also emphasized that the restaurant has a small bar area, usually containing between eight and nine stools with some tables, which are usually only used when patrons are waiting to sit.

Another Hartz objection, however, was how Benihana would handle intoxicated individuals or crowds from events hosted at other sports complex facilities, such as a Giants or Jets game. DeLorenzi testified that protective security procedures in place on event and non-event days designed to screen out incoming intoxicated patrons before they reach restaurants such as Benihana would be in place, but said the likelihood of football fans patronizing Xanadu is low.

"Mr. DeLorenzi opined, however, that he did not anticipate a large influx of intoxicated football fans at Meadowlands Xanadu on game days, since his study of the situation revealed that football fans have a predisposition to remain near the stadium, especially if they are tailgating," wrote Fischer.

Fischer concluded that carry-over crowds from other events at the complex such as football games where alcohol is also served would not affect Benihana's ability to responsibly serve.

"First, Hartz's position that there is a culture of intoxication seems predicated on the unproven assumption that everyone leaving a Jets or Giants football game is intoxicated and out of control in search of more alcohol. Nothing in the record supports this hypothesis," wrote Fischer. "Secondly, even if sporting events at the Meadowlands present a need for special awareness, there is no evidence to suggest that effective conditions of operation and diligent management of responsibilities by the permittee would not be sufficient."

Benihana will not immediately be granted its permit, however, and must adhere to several conditions placed upon the permit's approval before having it formally issued. Benihana must first provide the ABC with "as constructed" drawings of its site and a certificate of occupancy. An on-site manager must also pass a criminal background check and ABC personnel must inspect the completed restaurant. Upon being granted, all employees that are to serve or deliver alcohol must have training in ServSafe, Techniques of Alcohol Management (TAMs) and Training for Intervention Procedures (TIPs). Benihana shall also maintain a membership in the Meadowlands Xanadu Alcohol Awareness Alliance and monitor activities as to not let any alcohol exit the restaurant.

As for the quantity of projected permits needed to satisfy Xanadu, Fischer wrote that Hartz's assumption that Xanadu would be the recipient of an excess of 20 special permits was a baseless projection.

"I have made no decision as to how many other applicants, if any, are appropriate for permitting at Meadowlands Xanadu, and if so, what conditions would be placed on such permits," wrote Fischer. "Each applicant for a special concessionaire permit will be analyzed individually and in the context in which they are presented."

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