

IN THE MATTER OF THE	*	BEFORE THE ALCOHOLIC
APPLICATION OF RONALD EDWARD	*	
STONE & MARK EDWARD HEMMIS	*	BEVERAGE HEARING BOARD
ON BEHALF OF ELLICOTT ASSET	*	
MANAGEMENT, LLC T/A PHOENIX	*	OF
UPPER MAIN FOR A TRANSFER AND	*	
AN EXTENSION OF PREMISES FOR A	*	HOWARD COUNTY, MARYLAND
CLASS B BEER, WINE & LIQUOR	*	
7-DAY ON SALE LICENSE	*	Case No.: 21-08

DECISION AND ORDER

The Board of License Commissioners for Howard County, Maryland (the “Liquor Board”), pursuant to Rule 1.02(A) of the Liquor Board Rules and Regulations, has delegated the authority to hear and decide cases to the Alcoholic Beverage Hearing Board for Howard County, Maryland (the “Hearing Board”).

On January 26, 2021, using WebEx, a web-based on-line platform, the Hearing Board heard the application of Ronald Edward Stone and Mark Edward Hemmis (“Applicants”) on behalf of Ellicott Asset Management, LLC t/a Phoenix Upper Main (“Phoenix Upper Main”) for a transfer of a Class B Beer, Wine and Liquor, 7-day on-sale license from Raymond Bryant Andreassen, Timothy Thomas Kendzierski and Richard Craig Winter on behalf of Ellicott Mills Brewing Company, LLC t/a Ellicott Mills Brewing Company and for an extension of premises from 11,270 square feet to 8,358 square feet for one building and 2,912 square feet for separate building with a 1,898 square foot outside patio located at 8308-8316 Main Street, Ellicott City, Maryland 21043.

The hearing was properly advertised, and the property was posted pursuant to the Alcoholic Beverages Article of the Annotated Code of Maryland. The Applicants were not

represented by counsel but assisted by Martin Johnson, consultant and former Alcohol Inspector. George Goeller, neighbor to the subject property, was in opposition to the extension of the license portion of the application.

All the documents on file were incorporated into the record by reference.

SUMMARY OF TESTIMONY

Mark Edward Hemmis, 90% owner and authorized person, was sworn in and testified that he was the previous owner of the Phoenix Emporium for 20 years, which was located at 8049 Main Street at the bottom of Old Town Ellicott City and was purchased from George Goeller in 2001 and was in operation through March 30, 2020. Mr. Hemmis testified that the building was flooded twice, and Howard County Government purchased the building as of April 1, 2020. Mr. Hemmis testified that they purchased the Ellicott Mills Brewing Company property located at 8308 & 8316 Main Street. Mr. Hemmis testified that he held a liquor license with Eddie Stone, the proposed resident agent, for 20 years and has been operating at the new location since January 1, 2020 under a management agreement. Mr. Hemmis testified that Ellicott Mills has a brewery operation and he has been working with the Maryland Comptroller's Office to obtain a brewery license, however, it is contingent of the transfer of the license.

Martin Johnson was sworn in and presented a 1-minute video along with photographs of the proposed location.

Mr. Hemmis testified that he moved his business to 8308 & 8316 Main Street in order to remain in Old Town Ellicott City. Mr. Hemmis testified that he has retained the long-term staff from Ellicott Mills Brewing Company which includes 26 employees, 21 of which are alcohol awareness certified.

Mr. Hemmis testified that Howard County Government has permitted him to have temporary outdoor dining in the alleyway between the two buildings during State of Emergency due to COVID-19. Mr. Hemmis further testified that Howard County is the current owners of that alleyway and he has completed negotiations to purchase the alleyway from Howard County; however, the legal paperwork has not been completed. Mr. Hemmis testified that the current outdoor seating area contains six tables and a small outdoor bar which breaks down and can be removed if necessary. Mr. Hemmis testified that the County has retained an easement for safety, a utility easement and a 44-inch easement to comply with handicap requirements and for the safety of Main Street residents in case of emergency related to a possible flood and that there will be no tables permitted in the easement.

Mr. Hemmis testified that currently, due to COVID-19 restrictions, the 3-floor restaurant has been 50% operational and closes at 10 p.m. Mr. Hemmis testified that the building has been greatly redesigned - the main floor has 12 bar seats and 20 table seats; the second floor main dining room can seat 100 people; and the basement level has 40 seats. Mr. Hemmis testified that the ancillary building located at 8316 Main Street will be used for brewing and storage of beer kegs and that there would be no sales from this building.

Mr. Hemmis testified that Phoenix Upper Main will be a full-service American style restaurant, including a menu of sandwiches. Mr. Hemmis testified that he is very familiar with the Liquor Board Rules and very familiar with Detective Mark Baxter, the Alcohol Inspector. Mr. Hemmis testified that he lives in Catonsville, which is two miles from Phoenix Upper Main and that he plans to be on site 7 days a week and will work 70-80 hours per week. Mr. Hemmis testified that the proposed resident agent, Eddie Stone, will stop in the Phoenix Upper Main 2-3 nights per week. Mr. Hemmis stated that there is a large staff and he has retained

everyone during COVID-19 as he will need a well-trained staff in place when COVID-19 is over. Mr. Hemmis testified that the hours of operation for the outside patio is currently until 10 p.m. per State mandate, however, prior to the mandate, the outdoor premises would be permitted to be open until midnight with any music ending at 11 p.m.

George Goeller, neighbor in opposition to this application, was sworn in and testified that he is not opposed to the patio area as a temporary fix, but in the long term, is opposed to the outdoor patio area because of the noise that it creates. Mr. Goeller testified that his property is located on a hill directly across the street from the parking lot and only 20 feet away from his property line, and that he can hear music and conversation from his home. Mr. Goeller testified that he is opposed to the outdoor patio area as it will disturb the peace of the neighborhood. He also testified that Mr. Hemmis does not own the outdoor alleyway nor does he have a lease, where he has requested to extend the license. Upon questioning from Mr. Hemmis, Mr. Goeller stated that he has not filed any complaints concerning the noise issue and that there is noise from other restaurants in the vicinity as well and that he has not filed noise complaints. Mr. Goeller testified that the recent allowances for temporary outdoor seating due to the State of Emergency has increased the noise levels. However, he has not made complaints because he knows the bars and restaurants need help during the State of Emergency.

Mr. Hemmis, in rebuttal testimony, testified that he has worked extraordinary close with the police and has had this property inspected related to noise issues so that his business will not affect the neighbors and that he is in compliance with the law and having an outdoor patio is well within his rights. Mr. Hemmis testified that the music is not amplified, that music is played at reasonable levels and that there is only one outdoor speaker which is pointed away

from Mr. Goeller's home. Mr. Hemmis testified that music will be stopped at 11 p.m. due to a noise ordinance, however, customers may remain outside later than 11 p.m.

Mr. Hemmis testified that he has a strained relationship with Mr. Goeller over financial issues and that Mr. Goeller owned the original Phoenix Emporium building and was Mr. Hemmis' landlord before selling it to him.

The Board indicated that the proper verification would be done to confirm that Mr. Hemmis has a lease or owns the 1,898 square foot outside patio/alleyway identified during the testimony as 8312 Main Street. The Board further indicated that if Mr. Hemmis does not own or lease the alleyway that the license would not be granted for that requested area.

Pursuant to Rule 6.13 of the Liquor Board Rules and Regulations, the Applicants waived their right to request the Liquor Board to hear the case.

As of the issuance of this Decision and Order, Mr. Hemmis does not own or have a lease for the 1,898 square foot outside patio/alleyway identified during the testimony as 8312 Main Street.

Based on the evidence presented at the hearing, the Alcoholic Beverage Hearing Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Hearing Board finds that Ronald Edward Stone and Mark Edward Hemmis, on behalf of Ellicott Asset Management, LLC t/a Phoenix Upper Main have applied for a transfer of a Class B Beer, Wine and Liquor, 7-day on-sale license from Raymond Bryant Andreassen, Timothy Thomas Kendzierski and Richard Craig Winter on behalf of Ellicott Mills Brewing Company, LLC t/a Ellicott Mills Brewing Company and an

for an extension of premises from 11,270 square feet to 8,358 square feet for one building and 2,912 square feet for separate building with a 1,898 square foot outside patio located at 8308-8316 Main Street, Ellicott City, Maryland 21043.

2. Mr. Hemmis does not have a lease or ownership of 1,898 square foot outside patio/alleyway; thus, he cannot be issued a permanent extension of premises for that area.

3. The Hearing Board finds that the Applicants are fit and proper persons to hold an alcoholic beverage license.

4. The Hearing Board finds that the granting of the application not including the requested permanent extension of premises for the 1,898 square foot outside patio/alleyway is necessary for the accommodation of the public.

5. The Hearing Board finds that the granting of the application not including the requested permanent extension of premises for the 1,898 square foot outside patio/alleyway will not unduly disturb the peace and safety of the residents of the neighborhood.

CONCLUSIONS OF LAW

1. The Hearing Board finds that Ronald Edward Stone and Mark Edward Hemmis, on behalf of Ellicott Asset Management, LLC t/a Phoenix Upper Main have applied for a transfer of a Class B Beer, Wine and Liquor, 7-day on-sale license from Raymond Bryant Andreassen, Timothy Thomas Kendzierski and Richard Craig Winter on behalf of Ellicott Mills Brewing Company, LLC t/a Ellicott Mills Brewing Company and an for an extension of premises from 11,270 square feet to 8,358 square feet for one building and 2,912 square feet for separate building with a 1,898 square foot outside patio located at 8308-8316 Main Street, Ellicott City, Maryland 21043.

2. Mr. Hemmis does not have a lease or ownership of 1,898 square foot outside

patio/alleyway; thus, he cannot be issued a permanent extension of premises for that area.

3. The Hearing Board finds that the Applicants are fit and proper persons to hold an alcoholic beverage license.

4. The Hearing Board finds that the granting of the application not including the requested permanent extension of premises for the 1,898 square foot outside patio/alleyway is necessary for the accommodation of the public.

5. The Hearing Board finds that the granting of the application not including the requested permanent extension of premises for the 1,898 square foot outside patio/alleyway will not unduly disturb the peace and safety of the residents of the neighborhood.

ORDER

For the foregoing reasons, it is this 17th day of May, 2021, by the Alcoholic Beverage Hearing Board of Howard County **ORDERED** that the application of Ronald Edward Stone and Mark Edward Hemmis, on behalf of Ellicott Asset Management, LLC t/a Phoenix Upper Main for a transfer of a Class B Beer, Wine and Liquor, 7-day on-sale license from Raymond Bryant Andreassen, Timothy Thomas Kendzierski and Richard Craig Winter on behalf of Ellicott Mills Brewing Company, LLC t/a Ellicott Mills Brewing Company for a 11,270 square feet (8,358 square feet for one building and 2,912 square feet for a second building) located at 8308 & 8316 Main Street, Ellicott City, Maryland 21043, be and the same is hereby **GRANTED**, subject to the following conditions:

(a) That the Applicants comply with all State and County Rules and Regulations; and

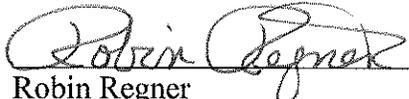
(b) That the Applicants satisfy any requirements necessary to obtain the license by August 15, 2021, unless that deadline is extended by the Board

upon good cause shown; and

- (c) Failure to comply with these conditions shall render this Proposed
- (d) Decision and Order null and void.

ATTEST:

**ALCOHOLIC BEVERAGE HEARING
BOARD OF HOWARD COUNTY,
MARYLAND**



Robin Regner
Board Administrator

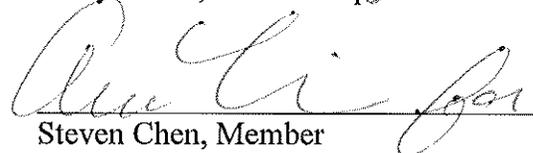


Mary Bird, Chairperson

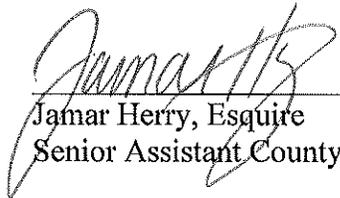


Harry Evans, Vice Chairperson

**REVIEWED BY HOWARD COUNTY
OFFICE OF LAW
GARY W. KUC
COUNTY SOLICITOR**



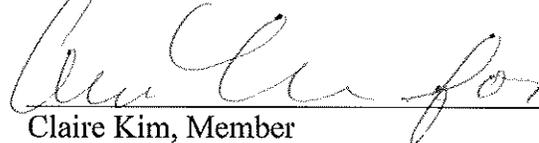
Steven Chen, Member



Jamar Herry, Esquire
Senior Assistant County Solicitor



Charley C. Sung, Member



Claire Kim, Member

**ANY PERSON AGGRIEVED BY THIS DECISION AND ORDER MAY APPEAL
THE DECISION TO THE LIQUOR BOARD WITHIN TEN DAYS OF THE DATE
OF THE DECISION, IN ACCORD WITH RULE 6.14 OF THE RULES AND
REGULATIONS OF THE LIQUOR BOARD**