



Federal Communications Commission
Washington, D.C. 20554

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Sent via electronic mail

In reply refer to: 1800B3-VM

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In re: KJUX(AM), Lemon Grove, CA
Facility ID No. 160820
File No. BNP-20070926AMO

K229DP, Lemon Grove, CA
Facility ID No. 201336
File No. BNPFT-20171201AKN

Tolling Request

Dear Mr. Naftalin:

On April 22, 2021, you filed a tolling request on behalf of Christyahna Broadcasting, Inc. (CB), permittee of AM station KJUX, Lemon Grove, California (File No. BNP-20070926AMO)(KJUX Permit), and FM translator K229DP, Lemon Grove, California (File No. BNPFT-20171201ADX) (K229DP Permit). The KJUX Permit was granted on August 29, 2018, for a three-year term expiring on August 29, 2021, and the K229DP Permit was granted on October 2, 2018 for a three-year term expiring October 2, 2021. The tolling request states that CB has been unable to construct or sell its facilities, and that tolling is warranted due to circumstances beyond the permittee's control. As detailed below, CB's request is denied.

CB requests that the Commission grant tolling for both permits because it has been unable to construct or sell the permits because of the impact of the COVID-19 pandemic. CB claims that it was unable to "muster" funds to build or to meet with local officials or prospective buyers because of fears of infection. It says it hired a broker with no success.

We deny CB's COVID-19 tolling request as inadequate for the following reasons. First, radio stations are essential services and are not subject to state-imposed COVID-19 restrictions.¹ Permittees are expected to use workarounds, such as social distancing, masking and virtual meetings to accomplish required business. Second, CB does not provide any evidence that it attempted to construct the Stations. It claims that the pandemic affected its ability to hold face-to-face meetings with local officials or prospective buyers, but does not explain specifically how the pandemic impacted its construction requirements. Third, CB does not explain why workarounds were not possible or considered to avoid

¹ See Cybersecurity and Infrastructure Security Agency, *Critical Infrastructure Sectors, Guidance on the Essential Critical Infrastructure Workforce*, <https://www.cisa.gov/critical-infrastructure-sectors> (Oct. 21, 2020) (communications sector is one of 16 critical infrastructure sectors); State of California Executive Order N-33-20 (Mar. 19, 2020) (excluding critical infrastructure sectors, including communications sector, from stay-at-home order in California).

face-to-face meeting concerns. Finally, the lack of funds is not a basis for tolling,² and the decision to sell the permits rather than construct them is a business decision within a permittee's control and is thus not a basis for tolling.³ In order to receive more time, CB's request should have included documentation demonstrating the specific steps it had taken to commence and complete construction and how COVID-19 had impacted those efforts. For example, CB could have provided (i) evidence that equipment was ordered on time but had been delayed due to shipment constraints or supply chain issues; (ii) correspondence from tower crews indicating that they were scheduled to install equipment but did not have the crew to send; (iii) invoices demonstrating expenditures to further construction; or (iv) leases for the tower site. CB has offered no such evidence or any similar evidence of an attempt to construct.

Accordingly, tolling is denied, and the KJUX Permit will expire on August 29, 2021, and the K229DP permit will expire on October 2, 2021.

Sincerely,

Albert Shuldiner

Albert Shuldiner
Chief, Audio Division
Media Bureau

² See 1998 Biennial Regulatory Review -- Streamlining of Mass Media Applications, Rules, and Processes, Memorandum Opinion and Order, MM Docket No. 98-43, 14 FCC Rcd 17525, 17539 (1999) (financial difficulties not grounds for tolling).

³ *Id.*