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Judge Allows Divi Casino to Remain Open For Now

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Ernice Gilbert **November 13, 2020**

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Elderly couple walks to Divi Carina Bay Casino during the late afternoon of Thursday, Nov. 12. By. VI CONSORTIUM

Superior Court Judge Jomo Meade on Friday granted Grapetree Shores. Inc. and Treasure Bay VI Corp., owners of the Divi Carina Bay Resort and Casino, a stay on an order issued by the V.I. Casino Control Commission Tuesday that called for Treasure Bay to shut down the casino for 14 days, while levying a fine of \$500 on the resort for each day it remains closed to the public.

One of the companies' main arguments to Judge Meade was what they said would have been irreparable harm to their operations, including harm to employees. In a release issued Friday afternoon, Grapetree Shores and Treasure Bay VI Corp., said, "After listening to arguments from both parties, Judge Jomo Meade stayed the matter, allowing a formal briefing schedule over the next two months. Accordingly, the mandatory closure of the casino will not take place while the

case is being heard."

Susan Varnes, president of Treasure Bay, stated, "We are so relieved on behalf of all of our employees and community partners who have suffered so much during the five months we have been closed due to the pandemic. It would have been devastating to see anyone lose employment, especially around the holidays. We look forward to the opportunity to present our case in the Superior Court." Judge Meade at time of writing not set a date for the next proceeding.

The V.I.C.C.C. order, which Judge Meade's emergency injunction overrides, came after multiple reopening delays from the resort, which has been closed since 2017.

The V.I.C.C.C., which has jurisdiction over gaming facilities and their adjoining businesses such as resorts, had given Grapetree Shores and Treasure Bay VI an abundance of chances, with the owners of the resort and casino making and receiving multiple requests overtime calling for extensions to previously set reopening dates following Hurricane Maria's devastation to the properties.

The injunction gives the companies more time to build a case even while the casino continues to operate.

Backstory

In Dec. 1998, the V.I.C.C.C. issued Grapetree Shores and Treasure Bay VI licenses to own and operate the Divi Carina Bay Resort and Casino. The commission's Division of Gaming Enforcement ascertains the commission's rules and regulations as well as its agreements are enforced.

The year 2017 saw wide-scale devastation in the Virgin Islands following the passage of Hurricanes Irma and Maria. On St. Croix, which felt the brunt of Maria, Divi Carina Bay Resort was rendered unusable as heavy rain and hurricane-force winds exacted massive damage to the facility. Storm surge also affected the resort, whose rooms are basically located on the beach.



**Hurricane Maria ravaged the beachfront of the Divi Carina Bay Resort. The picture above shows construction work in March 2019
(Credit: VI Consortium)**

Beginning on Dec. 29, 2017, the commission started issuing temporary licenses to Grapetree Bay and Treasure Bay VI following the hurricane-induced closures. The first temporary license, which expired on June 4, 2018, was accompanied by a resolution which listed certain requirements for renovations for the destroyed properties and stated that the issuance of the temporary license "shall not authorize the commencement of casino gaming until such time as the requirements for hurricane renovations have been met and the V.I.C.C.C. approves the commencement of casino gaming."

Another temporary license, which also prohibited casino gaming, was granted on or about June 4, 2018, and expired on August 5, 2018.

Then on July 10, 2018, Andreas Conhoff on behalf of Grapetree Bay and Susan Varnes on behalf of Treasure Bay VI, communicated to the V.I.C.C.C. the following, "Rehabilitation, renovation and alteration of the approved hotel owned by GSI is underway, and said rehabilitation, renovation and alteration shall be completed on or before June 2019."

The correspondence also stated that the resort's East Wing, Center Core and West Wing would be completed between August 2018 and May 2019. The resort's New Wing and villas would be completed between November 2018 and May 2019, according to the correspondence.

Following this correspondence of hard timelines for reopening, the commission on August 6, 2018, granted the owners of the resort and casino another temporary license, which expired on February 2019. This time, however, the temporary license authorized casino gaming.

In January 2019, just before the temporary license which authorized casino gaming expired, the resort and casino owners provided the V.I.C.C.C. with an update which stated, "We therefore anticipate the resort to open in December 2019 subject to the availability of material and labor."

The commission on March 20, 2019 issued another temporary license which again authorized casino gaming, and Grapetree Shores and Treasure Bay VI provided a subsequent update: "If there should be any additional unforeseen delays, Divi Carina Bay Resort is committed to partially reopen the resort by Dec. 2019," the parties said. The Consortium attended the V.I.C.C.C. meeting where the Dec. 2019 reopening announcement was made, [and published a story on the good news](#).

But the good news never was, as on August 8, 2019, Grapetree Bay provided an update to the commission stating, "It is estimated that the renovation of the 200 rooms will be completed by the end of March 2020, and the restaurants, front desk, and lobby area by April 2020." A new update was provided on Sept. 20, 2019 and the commission said it was almost identical to what was provided on August 8, 2019 — although it pushed the planned reopening back by one month, from April to May of 2020.

The reopening date was pushed further back by Grapetree Shores during an Oct. 16, 2019 update, where the resort owner said, "We therefore anticipate a resort soft opening of August 2020 and the official opening date for the Carina Bay all-inclusive resort by Nov. 1, 2020.

The commission on Oct. 22, 2019, issued yet another temporary license to the resort and casino owners to continue casino gaming. In a resolution that accompanied the temporary license, the commission called for all repairs, renovations and construction to the villas, East Wing and West Wing sections to be completed so as to ensure rooms availability for occupancy by May 1, 2020.

The commission on January 16, 2020 issued another resolution and temporary license to the resort and casino owners that authorized casino gaming. At the time, Grapetree Shores and Treasure Bay VI kept their August 2020 soft opening and official opening of Nov. 1, 2020.

In March, the world was brought to its knees by the Covid-19 pandemic. However, Governor Albert Bryan's order allowed construction work as part of a list of essential jobs, which meant work on the resort should not have been affected.

The V.I.C.C.C. Division of Gaming Enforcement (DGE) on July 14 during a regular meeting moved to investigate and take appropriate action related to any violation of the commission's orders. And on Sept. 29, the DGE filed a motion for an order to show cause and to have Grapetree Shores and Treasure Bay appear before the commission to present evidence to show why the licenses issued to them shouldn't be suspended, revoked or, in the alternative, why each of the parties should not be fined. The commission on Oct. 5 issued a show cause order directing the parties to appear at a hearing on Oct. 13, and further directed the parties to file a written response to the Oct. 5 order no later than Oct. 8.

But instead of responding to the show cause order, Grapetree Shores and Treasure Bay filed a joint motion for reconsideration, and to either vacate or be granted an extension of time.

On Oct. 13, the parties sent a letter through their counsel advising that they would not attend the show cause hearing because they strongly believed the show cause hearing should be vacated, or that they be granted additional time. Meanwhile, a source close to the situation has told the Consortium that the resort owners planned to push reopening to January 2021.

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