

RESOLUTION: 171-20

**A RESOLUTION DENYING THE RENEWAL OF DEPTFORD BEVERAGE
COMPANY, INC.'S PLENARY RETAIL CONSUMPTION LICENSE NO. 0801-33-
006-002 FOR LICENSE TERM 2020-2021**

WHEREAS, Deptford Beverage Company, Inc. ("Deptford") is the holder of a Plenary Retail Consumption License No. 0801-33-006-002 (the "License"), issued by the Borough Council of the Borough of Clayton ("Borough"), Gloucester County, State of New Jersey ;
and

WHEREAS, the License was issued to Deptford by the Borough as a new license in 2007; and

WHEREAS, Deptford Beverage Company has sought an inactive renewal of the License from the State of New Jersey Division of Alcoholic Beverage Control ("ABC") pursuant to Special Rulings issued by ABC as follows:

1. Special Ruling issued November 1, 2010 under Docket Number 10-10-6741 for the 2010-11, 2011-12 and 2012-13 license terms (Supporting documentation unavailable at this time).
2. Special ruling issued March 18, 2014 under Docket Number 03-14-8445 for the 2013-2014, 2014-2015 and 2015-2016 license terms. (See attached Exhibit "A")
3. Special Ruling issued June 27, 2016 under Docket Number 06-16-192 for the 2016-17 and 2017-18 license terms. (See attached Exhibit "B")
4. Special Ruling issued October 12, 2018 under Docket Number 09-18-516 for the 2018-2019 and 2019-2020 license terms. (See attached Exhibit "C")
5. Special Ruling issued May 13, 2020 under Docket Number 04-20-35 for the 2020-

21 and 2021-22 license terms. (See attached Exhibit “D”); and

WHEREAS, Deptford indicated in its March 31, 2020 Affidavit in Support of Request for a Special Ruling that it was in current negotiations with a prospective buyer and had received a purchase offer as part of those negotiations subject to certain requirements as follows:

1. Licensee obtain a 12.39 Special Ruling for two terms beyond the forthcoming license term (i.e., through the 2023 license term) to enable buyer to obtain the necessary Municipal Land use approvals and begin development of the intended commercial space; and

WHEREAS, since the Special Ruling was issued on May 13, 2020, the Borough has not received any communication from Deptford nor have any applications been filed with the Borough for development of the commercial space; and

WHEREAS, the Borough, based upon information and belief, is aware that there is a potential buyer for the License but Deptford has failed to respond to and/or conclude negotiations with the prospective buyer for the sale of the License; and

WHEREAS, this License is the only available consumption license in the Borough of Clayton; and

WHEREAS, the Borough of Clayton has been continuously working towards redevelopment of the Downtown Delsea Drive Corridor; and

WHEREAS, the use and/or availability of the only plenary retail consumption license would help to spur economic growth and development in the community; and

WHEREAS, it has now been 13 years since this License was issued yet has not been

placed into use; and

WHEREAS, the Special Ruling by ABC dated May 13, 2020 permits consideration of a renewal based upon a determination that good cause exists for the Borough to consider the application but the Borough has the authority to either grant or deny the renewal in the reasonable exercise of the Borough's discretion; and

WHEREAS, the governing body of the Borough of Clayton is of the opinion that Deptford has not demonstrated a concerted effort or good faith negotiations to complete the current offer to purchase nor has Deptford communicated to the Borough any progress toward the sale of the License.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Clayton in the County of Gloucester and State of New Jersey as follows:

1. The governing body has considered Deptford's previous history of inactive license renewals, the request for the present renewal of the License for 2020-2021, the recent Affidavit in Support of a Request for a Special Ruling from ABC dated May 13, 2020 and does hereby **DENY** the renewal of the Plenary Consumption License No. 0801-33-006-002 issued to Deptford Beverage Company, Inc. for the 2020-2021 license term for the reasons set forth herein and does hereby incorporate herein the above Whereas clauses as part of the Borough's decision not to renew Deptford's License for the 2020-2021 license term.
2. A copy of this Resolution shall be forwarded to the Division of Alcoholic Beverage Control and to Deptford.

ADOPTED at a meeting of the Mayor and Council of the Borough of Clayton,
County of Gloucester, and State of New Jersey held on Thursday, September 24, 2020.

BOROUGH OF CLAYTON



THOMAS BIANCO, Mayor

Attest:



CHRISTINE NEWCOMB, Municipal Clerk

CERTIFICATION

I, Christine Newcomb, Municipal Clerk, of the Borough of Clayton, in the County
of Gloucester, do hereby certify that the foregoing Resolution was presented and duly
adopted by the Borough Council at a meeting of the Borough of Clayton held on Thursday,
September 24, 2020.

CHRISTINE NEWCOMB
Municipal Clerk

EXHIBIT “A”

Law Office
JOHN F. VASSALLO, JR.

50 Twin Hill Drive
Willingboro, New Jersey 08046-3724
(609) 841-7888
FAX: (609) 935-3250

John F. Vassallo, Jr.*
Tel. (609) 841-7888 Email: jack@abcnjlaw.com

Anne Marie Vassallo**
Tel. (609) 636-9540 Email: annemarie@abcnjlaw.com
**Also admitted in Maryland & Virginia

*Also "Of Counsel" to Law Offices of
Scott N Silver, P.C.
524 Maple Avenue
Linwood, NJ 08221-1213
(609) 927-0800
and
Skene Law Firm, P.C.
2614 Route 516
Old Bridge, NJ 08857-2306
(732) 727-5030

Please Reply to: Willingboro

February 28, 2014

Via UPS 2nd Day Air Overnight Delivery
Tracking No. 1Z 882 4FF 02 9038 4090

Chris Margounakis, Exec. Asst.
Office of Counsel to the Director
Division of Alcoholic Beverage Control
140 East Front St., 5th Floor
PO Box 087
Trenton, NJ 08625-0087

**Re: Special Ruling Petition Pursuant to N.J.S.A. 33:1-12.39
2013-2014, 2014-2015 & 2015-2016 License Terms
Deptford Beverage Company, Inc.
License No. 0801-33-006-001 (Clayton Borough)**

Dear Mr. Margounakis:

Enclosed, for my client, Deptford Beverage Company, Inc., please find original and copy of a special ruling petition pursuant to N.J.S.A. 33:1-12.39, together with Attorney Trust Account check no. 1594 for \$300.00 for the filing fee. We are requesting a special ruling for the 2013-2014, 2014-2015 and 2015-2016 license terms. The license is currently in litigation involving the licensee's shareholders and it is not clear when the litigation will be concluded.

By copy of this letter I am also sending a copy of the petition to Christine Newcomb, RMC, the Clayton Borough Clerk, with a request that if the Township has any comment on or objection to the special ruling that it be promptly communicated to you.

Please advise if there is any question or problem.

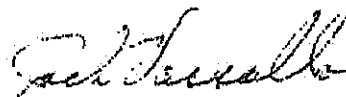
COPY

Chris Margounakis, Division of A.B.C.
Re: 12.39 petition: Deptford Beverage Co., Inc., Lic. No. 0801-33-006-001

February 28, 2014
Page 2

Thank you for your usual courtesies.

Sincerely yours,



John F. Vassallo, Jr.

JFV:bhs
Encl.

c: Christine Newcomb, RMC
Clayton Borough Clerk (w/encl)

Deptford Beverage Company, Inc.

JOHN F. VASSALLO, JR.
50 Twin Hill Drive
Willingboro, NJ 08046-3724
(609) 841-7888

Attorney for Deptford Beverage Company, Inc.

**STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

IN THE MATTER OF THE APPLICATION :
FOR THE EXTENSION OF THE RENEWAL :
OF THE LICENSE OF :

DEPTFORD BEVERAGE COMPANY, INC. :

HOLDER OF PLENARY RETAIL :
CONSUMPTION LICENSE NO. :
0801-33-006-001, ISSUED BY THE :
BOROUGH COUNCIL OF THE :
BOROUGH OF CLAYTON :

VERIFIED PETITION
SEEKING SPECIAL RULING
TO PERMIT RENEWAL OF
INACTIVE LICENSE
PURSUANT TO
N.J.S.A. 33:12.39
FOR THE
2013-2014, 2014-2015 &
2015-2016
LICENSE TERMS

: AGENCY DKT. NO.

To: Honorable Michael I. Halfacre
Director, Division of Alcoholic Beverage Control

The petition of Deptford Beverage Company, Inc., by Raymond MacKay, Jr., President, with a mailing address of 1225 Black Horse Pike, Blackwood, New Jersey, 08012, respectfully states:

1. Deptford Beverage Company, Inc., is the holder of Plenary Retail Consumption License No. 0801-33-006-001 (the "License"), issued by the Borough Council of the Borough of Clayton in Gloucester County.

2. This License was issued as a new license on July 1, 2007 and has been renewed in its inactive state, pursuant to a Special Ruling issued November 1, 2010 under docket number 10-10-6741 for the 2010-11, 2011-12, and 2012-13 license terms.

3. The instant petition is the second petition for Special Ruling.

4. The owners of this License have sought to place it at a location within the Borough of Clayton but have not located a suitable location that would support a business and enable it to be sustainable and profitable.

5. The License has been made available for sale but no serious buyers have offered to purchase it.

6. Activating or selling this License has been complicated further by the fact that the license has been, and continues to be, the subject of active litigation (N.J. Superior Court Docket GLO-L-208-13 and GLO-L-193-13) involving a dispute between the shareholders of the Licensee.

7. The Licensee filed the renewal application for the License and paid the renewal fees for the 2013-2014 license term with the Clerk of the Borough of Clayton on July 29, 2013.

8. The filing fee of \$300.00, as required by N.J.S.A. 33:1-12.39, being \$100.00 for each of the 2013-2014, 2014-2015 and 2015-2016 license terms, accompanies this petition.

WHEREFORE, Petitioner/Licensee, Deptford Beverage Company, Inc., by Raymond MacKay, Jr., President, respectfully requests the Director of the Division of Alcoholic Beverage Control to issue a Special Ruling pursuant to N.J.S.A. 33:1-12.39 authorizing the Borough Council of the Borough of Clayton

to consider the application for the renewal of Plenary Retail Consumption License No. 0801-33-006-001 in its inactive state for the 2013-2014 license term, and for the 2014-2015 and 2015-2016 license terms, if necessary, and to thereupon grant or deny the renewal of the License in the reasonable exercise of its discretion.



JOHN F. VASSALLO, JR.
Attorney for Petitioner/Licensee

Dated: January 31, 2014

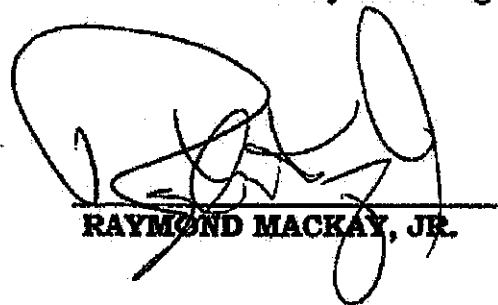
VERIFICATION

STATE OF NEW JERSEY)
) ss.:
COUNTY OF GLOUCESTER)

RAYMOND MACKAY, JR., of full age, being duly sworn according to law,
upon his oath deposes and says:

1. I am the President of Deptford Beverage Company, Inc. the holder
of Plenary Retail Consumption License No. 0801-33-006-001, issued by the
Borough Council of the Borough of Clayton, and the petitioner in the foregoing
application for a special ruling

2. The facts set forth in the petition are true to the best of my knowledge,
information and belief.


RAYMOND MACKAY, JR.

Sworn to and subscribed
before me this 16th day
of February, 2014.

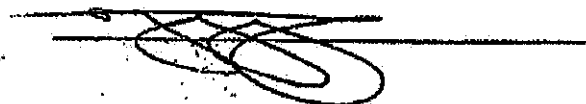


EXHIBIT “B”



CHRIS CHRISTIE
GOVERNOR

KIM GUADAGNO
Lt. GOVERNOR

STATE OF NEW JERSEY
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

P.O. BOX 087
TRENTON, NJ 08625-0087
PHONE: (609) 984-2830 FAX: (609) 633-6078
WWW.NJ.GOV/OAG/ABC

CHRISTOPHER S. PORRINO
ACTING ATTORNEY GENERAL

JONATHAN A. ORSEN
ACTING DIRECTOR

June 27, 2016

**RE: SPECIAL RULING TO PERMIT RENEWAL OF INACTIVE
LICENSE PURSUANT TO N.J.S.A. 33:1-12.39
FOR THE 2016-17 and 2017-18 LICENSE TERM(S);
LIC. NO. 0801-33-006-002
LIC. NAME: Deptford Beverage Company Inc
Docket No. 06-16-192.78921**

Dear Petitioner:

Enclosed please find a Special Ruling to permit consideration of a renewal application for the above-referenced inactive license pursuant to N.J.S.A. 33:1-12.39. As noted in the enclosed document, this Ruling merely determined that good cause exists for the issuing authority to consider your application. It is now within the purview of the local issuing authority to either grant or deny your renewal application in the reasonable exercise of its discretion.

Be advised that if your license is merely inactive and is sited at a premises, in order to activate this license during any of the license terms referenced above, you are required to file an amendment to your license application pursuant to N.J.A.C. 13:2-2.14. To properly file the amendment, pages 1, 2, and 11 of the 12 page license application must be filed with the local issuing authority not more than 10 days prior to, or 10 days after, opening the business. The local issuing authority will then present you with a current license certificate which must be prominently displayed where it can be readily seen by customers. N.J.A.C. 13:2-23.13(a)1.

However, if your license is a "pocket license," (a license not sited at a premises) and you wish to activate your license at a premises during any of the license terms referenced above, you must file a full 12-page application transferring the license from "pocket" status to the intended premises. Please contact your local issuing authority to comply with all requirements regarding the transfer.

I suggest that you contact the local issuing authority immediately to determine what steps are necessary to complete your license application renewal process.

Very truly yours,

Chris Margeenakis
Executive Assistant

c: ABC Licensing Bureau
Borough of Clayton Clerk



STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

LIC. NO. 0801-33-006-002

DOCKET NO. 06-16-192.78921

IN THE MATTER OF THE APPLICATION)
TO PERMIT THE RENEWAL OF AN)
INACTIVE LICENSE PURSUANT TO)
N.J.S.A. 33:1-12.39 FOR THE 2016-17 and)
2017-18 LICENSE TERM(S))

SPECIAL RULING

Deptford Beverage Company Inc)
)
)

BY THE DIRECTOR:

The petitioner or licensee has filed a verified petition requesting authorization for the local issuing authority to consider a renewal application for License No. 0801-33-006-002 for the license term(s) pursuant to the provisions of N.J.S.A. 33:1-12.39.

I have reviewed the petition filed in this matter and have considered all the facts and circumstances related to the inactive status of this license. I find that the petitioner or licensee has established good cause in accordance with the statutory requirements to warrant an application for renewal of the license for the 2016-17 and 2017-18 license term(s).

~~Accordingly, the municipal issuing authority is hereby authorized to consider the application for renewal of the inactive license for the 2016-17 and 2017-18 license term(s) and thereupon grant or deny such application in its reasonable exercise of discretion. This authorization does not constitute a license or permit to sell or import alcoholic beverages and requires the petitioner to obtain a valid liquor license and a valid liquor license clearance.~~

Please note that the approval granted herein is conditional, and is based upon the representations set forth in the petitioner's notarized letter(s). This approval is subject to review and/or modification should the factual circumstances warrant.


JONATHAN A. ORSEN
ACTING DIRECTOR

DATED: June 27, 2016

SCOTT N SILVER

Attorney at Law
- A Professional Corporation -
524 Maple Avenue
Linwood, NJ 08221

SNAGX@AOL.COM

609-927-0800
FAX: 609-927-0333

OF COUNSEL

JOHN F. VASSALLO, JR.
jack@abcnjlaw.com
(609) 841-7888

OF COUNSEL

ANNE MARIE VASSALLO
annemarie@abcnjlaw.com
(609) 636-9540

OF COUNSEL

JASON MICHAEL ROSS

June 8, 2016

Chris Margounakis, Exec. Asst.
Division of Alcoholic Beverage Control
PO Box 087
Trenton, NJ 08625-0087

Re: Special Ruling Petition Pursuant to N.J.S.A. 33:1-12.39
2016-2017 & 2017-2018 License Terms
Deptford Beverage Company, Inc.
License No. 0801-33-006-002(Clayton Borough)

Dear Mr. Margounakis:

Enclosed, for my client, Deptford Beverage Company, Inc., please find original and copy of a special ruling petition pursuant to N.J.S.A. 33:1-12.39, together with Deptford Beverage Company, Inc.'s check for \$200.00 for the filing fee. We are requesting a special ruling for the 2016-2017 and 2017-2018 license terms. The license is currently under contract to be transferred and the renewal of the license is necessary in order to finalize the contract. The additional license term will provide the buyer with a chance to place to license into active use.

By copy of this letter I am also sending a copy of the petition to Christine Newcomb the Clayton Borough Clerk, with a request that if the Township has any comment on or objection to the special ruling that it be promptly communicated to you.

Please advise if there is any question or problem.

Thank you for your usual courtesies.

Sincerely yours,


Anne Marie Vassallo

c: Christine Newcomb, RMC
Clayton Borough Clerk (w/encl)
Deptford Beverage Company, Inc.

Anne Marie Vassallo, Esq.
Scott N Silver, P.C.
524 Maple Avenue
Linwood, NJ 08221
(609) 927-0800

Attorney for Deptford Beverage Company, Inc.

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

IN THE MATTER OF THE APPLICATION :
FOR THE EXTENSION OF THE RENEWAL :
OF THE LICENSE OF :

DEPTFORD BEVERAGE COMPANY, INC. :

HOLDER OF PLENARY RETAIL :
CONSUMPTION LICENSE NO. :
0801-33-006-002, ISSUED BY THE :
BOROUGH COUNCIL OF THE :
BOROUGH OF CLAYTON :

VERIFIED PETITION
SEEKING SPECIAL RULING
TO PERMIT RENEWAL OF
INACTIVE LICENSE
PURSUANT TO
N.J.S.A. 33:12.39
FOR THE
2016-2017 & 2017-2018
LICENSE TERMS

AGENCY DKT. NO.

To: Honorable Jonathan N. Orsen
Acting Director, Division of Alcoholic Beverage Control

The petition of Deptford Beverage Company, Inc., by Raymond Mackay, Jr.,
President, with a mailing address of 1225 Black Horse Pike, Blackwood, New Jersey,
08012, respectfully states:

1. Deptford Beverage Company, Inc., is the holder of Plenary Retail
Consumption License No. 0801-33-006-002 (the "License"), issued by the Borough
Council of the Borough of Clayton in Gloucester County.

2. This License was issued as a new license on July 1, 2007, and has been renewed in its inactive state pursuant to a Special Ruling issued November 1, 2010, under docket number 10-10-6741 for the 2010-11, 2011-12, and 2012-13 license terms. The license was similarly renewed in its inactive state pursuant to a Special Ruling issued March 18, 2014 under docket number 03-14-8445 for the 2013-2014, 2014-2015 and 2015-2016 license terms.

3. The instant petition is the third overall petition for Special Ruling.

4. The owner of this License endeavored to place it at a location within the Borough of Clayton but was not able to identify a suitable locale that would support a business and enable it to be sustainable and profitable.

5. The License has been made available for sale so that another Licensee may utilize it.

6. The owner of this License has identified a willing and able buyer and the parties have negotiated and prepared a contract for the sale of this License. The License must be renewed before it can be transferred to the contract purchaser and also before the purchaser can activate the license.

7. The Licensee seeks a Special Ruling under N.J.S.A. 33:1-12.39 for two license terms both to enable the necessary current renewal of the License as well as to provide the identified purchaser with time to place the License into active use.

8. The Licensee paid the renewal fees for the 2016-2017 license term with the Clerk of the Borough of Clayton on or about May 23, 2016, and filed the online License renewal application through the Division's POSSE system and paid the State fee on or about that same date.

VERIFICATION

STATE OF NEW JERSEY)
) ss.:
COUNTY OF GLOUCESTER)

RAYMOND MACKAY, JR., of full age, being duly sworn according to law, upon his oath deposes and says:

1. I am the President of Deptford Beverage Company, Inc. the holder of Plenary Retail Consumption License No. 0801-33-006-002, issued by the Borough Council of the Borough of Clayton, and the petitioner in the foregoing application for a special ruling

2. The facts set forth in the petition are true to the best of my knowledge, information and belief.

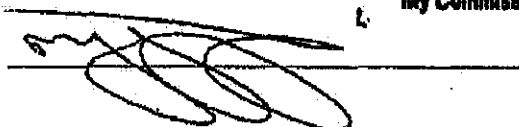


RAYMOND MACKAY, JR.

Sworn to and subscribed

before me this 5 day

of June, 2016.



MICHAEL J WHITE
ID # 2326188
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires March 10, 2020

Anne Marie Vassallo, Esq.
Scott N Silver, P.C.
524 Maple Avenue
Linwood, NJ 08221
(609) 927-0800

Attorney for Deptford Beverage Company, Inc.

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

IN THE MATTER OF THE APPLICATION :
FOR THE EXTENSION OF THE RENEWAL :
OF THE LICENSE OF :

DEPTFORD BEVERAGE COMPANY, INC. :

HOLDER OF PLENARY RETAIL
CONSUMPTION LICENSE NO.
0801-33-006-002, ISSUED BY THE
BOROUGH COUNCIL OF THE
BOROUGH OF CLAYTON

VERIFIED PETITION
SEEKING SPECIAL RULING
TO PERMIT RENEWAL OF
INACTIVE LICENSE
PURSUANT TO
N.J.S.A. 33:12.39
FOR THE
2016-2017 & 2017-2018
LICENSE TERMS

CERTIFICATION OF SERVICE

I am the attorney for the Petitioner/Licensee in this matter.

I hereby certify that on June 8, 2016, I served a copy of the attached Verified Petition upon the Municipal Clerk of the Borough of Clayton by depositing a copy in the United States mail, first class postage prepaid, addressed to:

Clayton Borough Clerk
Christine Newcomb, RMC
125 N Delsea Dr
Clayton, NJ 08312

I am aware that if this statement is willfully false, I am subject to punishment.



Scott N Silver

Dated: June 8, 2016

EXHIBIT “C”



STATE OF NEW JERSEY

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
P.O. BOX 087

TRENTON, NJ 08625-0087
PHONE: (609) 984-2830 FAX: (609) 633-6078
WWW.NJGOV/OAG/ABC

PHILIP D. MURPHY
Governor

SHIELA Y. OLIVER
Lt. Governor

GURBIR S. GREWAL
Attorney General

DAVID P. RIBLE
Director

October 12, 2018

Anne Marie Vassallo, Esq.
Scott N. Silver, Attorney at Law
524 Maple Avenue
Linwood, New Jersey 08221

**RE: SPECIAL RULING TO PERMIT RENEWAL OF INACTIVE
LICENSE PURSUANT TO N.J.S.A. 33:1-12.39 FOR THE 2018-2019 & 2019-2020 LICENSE TERM;
LIC. NO. 0801-33-006-002
LIC. NAME: Deptford Beverage Company, Inc.
Docket No. 09-18-516 Job No. 257951**

Dear Attorney Vassallo:


Enclosed please find a Special Ruling to permit consideration of a renewal application for the above referenced inactive license pursuant to N.J.S.A. 33:1-12.39. As noted in the enclosed document, this Ruling merely determined that good cause exists for the issuing authority to consider your application. It is now within the purview of the local issuing authority to either grant or deny your renewal application in the reasonable exercise of its discretion.

Be advised that if your license is merely inactive and is sited at a premises, in order to activate this license during any of the license terms referenced above, you are required to file an amendment to your license application pursuant to N.J.A.C. 13:2-2.14. To properly file the amendment, pages 1, 2, and 11 of the 12-page license application must be filed with the local issuing authority not more than 10 days prior to, or 10 days after, opening the business. The local issuing authority will then present you with a current license certificate which must be prominently displayed where it can be readily seen by customers. N.J.A.C. 13:2-23.13(a)1.

However, if your license is a "pocket license," (a license not sited at a premises) and you wish to activate your license at a premises during any of the license terms referenced above, you must file a full 12-page application transferring the license from "pocket" status to the intended premises. Please contact your local issuing authority to comply with all requirements regarding the transfer.

I suggest that you contact the local issuing authority immediately to determine what steps are necessary to complete your license application renewal process.

Very truly yours,


Lisa Ellison Barata
Deputy Attorney General

c: ABC Licensing Bureau
Christine Newcomb, Clayton Borough Municipal Clerk VIA MAIL



STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

LIC. NO. 0801-33-006-002

DOCKET NO. 09-18-516

JOB NO. 257951

IN THE MATTER OF THE APPLICATION TO)
PERMIT THE RENEWAL OF AN INACTIVE)
LICENSE PURSUANT TO N.J.S.A. 33:1-12.39)
FOR THE 2018-2019 AND 2019-2020 LICENSE)
TERM(S))

SPECIAL RULING

DEPTFORD BEVERAGE COMPANY, INC.)
_____))
))

Anne Marie Vassallo, Esq., Attorney for Licensee

BY THE DIRECTOR:

The petitioner or licensee has filed a verified petition requesting authorization for the local issuing authority to consider a renewal application for License No. 0801-33-006-002 for the 2018-2019 and 2019-2020 license term(s) pursuant to the provisions of N.J.S.A. 33:1-12.39.

I have reviewed the petition filed in this matter and have considered all the facts and circumstances related to the inactive status of this license. I find that the petitioner or licensee has established good cause in accordance with the statutory requirements to warrant an application for renewal of the license for the license term(s).

Accordingly, the municipal issuing authority is hereby authorized to consider the application for renewal of the subject license for the 2018-2019 and 2019-2020 license term(s) and to thereupon grant or deny said application in the reasonable exercise of its discretion. This authorization does not abrogate the licensee's obligation to timely submit the license renewal application and requisite fees prior to any consideration of renewal, including obtaining a tax clearance.

Please note that the approval granted herein is conditional, and is based upon the representations set forth in the petitioner's notarized letter(s). This approval is subject to review and/or modification should the factual circumstances warrant.



DAVID P. RIBLE
DIRECTOR

DATED: October 11th, 2018

DPR/PTU

RECEIVED AUG 13 2018

SCOTT N SILVER

Attorney at Law
- A Professional Corporation -

524 Maple Avenue
Linwood, NJ 08221

609-927-0800
FAX: 609-927-0333

SNAGX@AOL.COM

OF COUNSEL

JOHN F. VASSALLO, JR.
jfv@abcnjlaw.com
(609) 841-7888

OF COUNSEL

ANNE MARIE VASSALLO
annemarie@abcnjlaw.com
(609) 636-9540

OF COUNSEL

JASON MICHAEL ROSS

August 9, 2018

Via USPS

Director of Alcoholic Beverage Control
Attn: Office of Counsel to the Director
Division of Alcoholic Beverage Control
140 East Front St., 5th Floor
PO Box 087
Trenton, NJ 08625-0087

**Re: Special Ruling Petition Pursuant to N.J.S.A. 33:1-12.39
2018-2019 & 2019-2020 License Terms
Deptford Beverage Company, Inc.
License No. 0801-33-006-002 (Clayton Borough)**

Dear Director:

Enclosed, for our client, Deptford Beverage Company, Inc., please find original and copy of a special ruling petition pursuant to N.J.S.A. 33:1-12.39, together with Deptford Beverage Company, Inc.'s check for \$200.00 for the filing fee. We are requesting a special ruling for the 2018-2019 and 2019-2020 license terms.

The licensee has been in on-going negotiations with a property owner and his commercial real estate broker since March in pursuit of a location at which to site the license. In addition, the licensee has been in regular communications with Clayton Borough Officials to keep them apprised both of the progress of negotiations and also of the hopeful plan for readying the property for the license's future activation, if that property can be secured at a reasonable price.

By copy of this letter I am also sending a copy of the petition to Christine Newcomb, RMC, the Clayton Borough Clerk, with a request that if the Borough has any comment on or objection to the special ruling that it be promptly communicated to you.

Anne Marie Vassallo, Esq.
Scott N Silver, P.C.
524 Maple Avenue
Linwood, NJ 08221
(609) 927-0800

Attorney for Deptford Beverage Company, Inc.

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

IN THE MATTER OF THE APPLICATION :
FOR THE EXTENSION OF THE RENEWAL :
OF THE LICENSE OF :

DEPTFORD BEVERAGE COMPANY, INC. :

HOLDER OF PLENARY RETAIL
CONSUMPTION LICENSE NO. :
0801-33-006-002, ISSUED BY THE :
BOROUGH COUNCIL OF THE :
BOROUGH OF CLAYTON :

VERIFIED PETITION
SEEKING SPECIAL RULING
TO PERMIT RENEWAL OF
INACTIVE LICENSE
PURSUANT TO
N.J.S.A. 33:12.39
FOR THE
2018-2019 & 2019-2020
LICENSE TERMS

AGENCY DKT. NO.

To: Honorable David P. Rible
Director, Division of Alcoholic Beverage Control

The Petition of Deptford Beverage Company, Inc., by Raymond MacKay, Jr.,
President, with a mailing address of 1225 Black Horse Pike, Blackwood, New Jersey,
08012, respectfully states:

1. Deptford Beverage Company, Inc., is the holder of Plenary Retail
Consumption License No. 0801-33-006-002 (the "License"), issued by the Borough
Council of the Borough of Clayton in Gloucester County.

2. This License was issued by the Borough as a new license on July 1, 2007, and has been renewed in its inactive state pursuant to three multi-year Special Rulings issued by the Division of ABC.

3. Siting and subsequently activating this License has proven to be a Herculean task due to the confluence of numerous unfavorable circumstances: (a) the real-estate severity of the economic recession that followed immediately upon the Licensee's 2007 purchase of the Borough's newly-issued License; (b) litigation which kept the License in a "suit pending," and non-useable state for four years; (c) a dearth of affordably-priced commercial rental buildings or spaces for purchase in the Borough of Clayton that would provide the needed customer traffic, functional space and parking availability to achieve a viable consumption-license business.

4. The License has been made available for sale for several years, but no buyer emerged who could complete the sale. As recently as 2016, Licensee's counsel prepared a contract for sale of the license to a ready and able third-party buyer, only to have the buyer decide to purchase a consumption license in a different New Jersey municipality.

5. Mr. MacKay is cognizant of the fact that the Borough of Clayton and its governing body share his desire to see this License in use and he has redoubled his efforts to work hand-in-hand with the municipality to bring about active use of this License.

6. Following confusion regarding the License's renewal for the previous License term and looking to engage the knowledge of the municipal officials in his search for a viable space to site the License, Mr. MacKay met with Borough of Clayton Mayor Bianco, the Borough Solicitor and the Borough Engineer in February 2018 to

gain a greater understanding of the Borough's vision in terms of economic development and to discuss the feasibility of potential locations at which to site the License. Mr. MacKay has continued to keep Mayor Bianco apprised of the status of his efforts toward purchasing a space at which to use the license.

7. On the heels of the February meeting, Mr. MacKay has been in negotiations, through a commercial real estate broker, for the purchase of a property on South Delsea Drive in the Borough of Clayton at which it can, ultimately, site and activate the License. The property has been vacant for some time and will require substantial site work and construction to be restored to useable condition.

8. Negotiations for the property have been protracted with the seller taking several weeks or a month or more to respond to Mr. MacKay's offers and the seller's then altering the requested terms with each round of negotiations, such as changes to the broker's commission structure, changes to the purchase price, etc.

9. Mr. MacKay has kept the municipal officials informed of the status of the negotiations on the property.

10. Consummating the purchase of the property is only the first step as the potential development needed to achieve Petitioner's vision for this property requires obtaining sufficient parking access; and the construction, itself, may require municipal land use approvals which elongate the timeframe for activating the License.

11. The Licensee seeks a Special Ruling under N.J.S.A. 33:1-12.39 for two license terms. This should enable both the necessary current renewal of the License, and hopefully allow sufficient time for the consummating the contemplated real property purchase, as well as preparing the needed engineering plans, filing for and receiving the land use approvals, permitting the project, and finally, constructing the building. If

Petitioner were to request repeated single-year Special Rulings its costs, as well as the administrative costs to the Borough of Clayton, would be multiplied accordingly. Thus, the requesting of a multi-year Special Ruling provides greater efficiency and cost-savings to Petitioner as well as to the Borough of Clayton.

12. Nonetheless, Petitioner may end up needing additional Special Rulings for renewal of the License if finalizing a purchase and the subsequent land use approvals, permitting and construction take longer than expected.

13. To date, Petitioner has expended in excess of \$300,000 in purchasing this License directly from the Borough of Clayton, and subsequently renewing the License, defending the License and in preparing to undertake the additional investment of several hundred-thousand dollars in pursuit of creating an economically-successful operation for actively using the License.

14. Accordingly, maintaining the License is of utmost importance to the viability of the project. That is, the License is the "sine qua non" of the project.

15. The Licensee paid the renewal fees for the 2018-2019 license term with the Clerk of the Borough of Clayton on or about June 7, 2018, and filed the online License renewal application through the Division's POSSE system on June 11, 2018 and paid the State fee on or about that same date.

16. The filing fee of \$200.00, as required by *N.J.S.A. 33:1-12.39*, being \$100.00 for each of the 2018-2019 and 2019-2020 license terms, accompanies this Petition.

WHEREFORE, Petitioner/Licensee, Deptford Beverage Company, Inc., by Raymond MacKay, Jr., President, respectfully requests the Director of the Division of Alcoholic Beverage Control to issue a Special Ruling pursuant to *N.J.S.A. 33:1-12.39*

authorizing the Borough Council of the Borough of Clayton to consider the application for the renewal of Plenary Retail Consumption License No. 0801-33-006-002 in its inactive state for the 2018-2019 license term, and for the 2019-2020 license term, if necessary, and to thereupon grant or deny the renewal of the License in the reasonable exercise of its discretion.

Scott N Silver, P.C.

Attorney for Petitioner/Licensee.

Deptford Beverage Company, Inc.

By:



ANNE MARIE VASSALLO

Attorney for Petitioner/Licensee

Dated: July 31, 2018

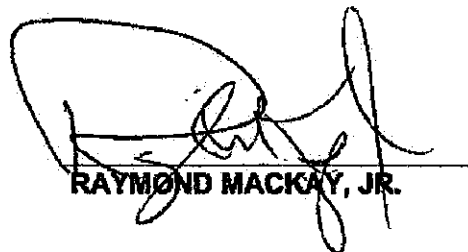
VERIFICATION

STATE OF NEW JERSEY)
) ss.:
COUNTY OF GLOUCESTER)

RAYMOND MACKAY, JR., of full age, being duly sworn according to law, upon his oath deposes and says:

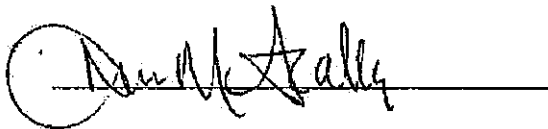
1. I am the President of Deptford Beverage Company, Inc. the holder of Plenary Retail Consumption License No. 0801-33-006-002, issued by the Borough Council of the Borough of Clayton, and the petitioner in the foregoing application for a special ruling

2. The facts set forth in the petition are true to the best of my knowledge, information and belief.


RAYMOND MACKAY, JR.

Sworn to and subscribed

before me this 1st day
of August, 2018.



DONNA M SCALLY
ID # 2326682
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires March 23, 2020

EXHIBIT “D”



STATE OF NEW JERSEY

**OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

**P.O. BOX 087
TRENTON, NJ 08625-0087**

**PHONE: (609) 984-2830 FAX: (609) 633-6078
WWW.NJ.GOV/OAG/ABC**

PHILIP D. MURPHY
Governor

SHIELA Y. OLIVER
Lt. Governor

GURBIR S. GREWAL
Attorney General

JAMES B. GRAZIANO
Acting Director

May 13, 2020

Deptford Beverage Company Inc.
1225 Black Horse Pike
Blackwood, New Jersey, 08012

**RE: SPECIAL RULING TO PERMIT RENEWAL OF INACTIVE
LICENSE PURSUANT TO N.J.S.A. 33:1-12.39 FOR THE 2020-2021 and 2021-2022 LICENSE TERM(S);
LIC. NO. 0801-33-006-002
LIC. NAME: DEPTFORD BEVERAGE COMPANY INC
Docket No. 04-20-35 Job No. 362612**

Dear Raymond MacKay Jr.:

Enclosed please find a Special Ruling to permit consideration of a renewal application for the above referenced inactive license pursuant to N.J.S.A. 33:1-12.39. As noted in the enclosed document, this Ruling merely determined that good cause exists for the issuing authority to consider your application. It is now within the purview of the local issuing authority to either grant or deny your renewal application in the reasonable exercise of its discretion.

Be advised that if your license is merely inactive and is sited at a premises, in order to activate this license during any of the license terms referenced above, you are required to file an amendment to your license application pursuant to N.J.A.C. 13:2-2.14. To properly file the amendment, pages 1, 2, and 11 of the 12-page license application must be filed with the local issuing authority not more than 10 days prior to, or 10 days after, opening the business. The local issuing authority will then present you with a current license certificate which must be prominently displayed where it can be readily seen by customers. N.J.A.C. 13:2-23.13(a)1.

However, if your license is a "pocket license," (a license not sited at a premises) and you wish to activate your license at a premises during any of the license terms referenced above, you must file a full 12-page application transferring the license from "pocket" status to the intended premises. Please contact your local issuing authority to comply with all requirements regarding the transfer.

I suggest that you contact the local issuing authority immediately to determine what steps are necessary to complete your license application renewal process.

Very truly yours,

/s/ Jillian Mahoney

Jillian Mahoney
Deputy Attorney General

c: Tia Johnson, ABC Licensing Bureau VIA EMAIL
Christine Newcomb, Municipal Clerk VIA EMAIL



STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

LICENSE NO: 0801 - 33 - 006 - 002

NAME OF LICENSEE: Deptford Beverage Company, Inc.
Via: n/a
IN THE MATTER OF A
SPECIAL RULING PURSUANT TO N.J.S.A. 33:1-12.39
FOR LICENSE TERM(S) 2019-20, 2020-21, 2021-22, 2022-23
(circle term(s) requested)

"VERIFIED PETITION FORM"
AFFIDAVIT IN
SUPPORT OF REQUEST
FOR A SPECIAL RULING

(LIST PRIOR TERM(S) IF
NOT ALREADY RECEIVED)

I, I am Raymond MacKay, Jr. President
(NAME) (POSITION OR TITLE)

Contact email address is: rmackey1234@comcast.net and annemarie@abcnjlaw.com

I make this affidavit in support of a request for a Special Ruling pursuant to N.J.S.A. 33:1-12.39 with the Division of Alcoholic Beverage Control ("Division"). I am fully familiar with the facts stated herein, and am authorized to make this request on behalf of Deptford Beverage Company, Inc.
(LICENSEE)

2. Briefly state the reasons why the license has remained inactive, and the prognosis for activation of the license. NOTE: Along with this REQUIRED form, you MAY submit documentation which shows steps taken to activate the license. Attach additional pages if needed.
Petitioner respectfully requests the granting of this Special Ruling to enable the sale of this License, which is the only available Plenary Retail Consumption License in Clayton. Petitioner has had difficulties finding suitable and reasonably-priced commercial space within the municipality and has recently suffered health issues. A contract for sale of the License in 2018 fell through when the Buyer opted to purchase a License in a different So. Jersey municipality. Petitioner has received a purchase offer recently and the contract is in negotiations. Among Buyer's requirements is that Petitioner obtain a 12.39 Special Ruling for two terms beyond the forthcoming license term (i.e. through the 2023 license term). This condition is intended to enable Buyer to obtain the necessary municipal land use approvals and begin development of the intended commercial space. Petitioner respectfully requests the granting of this Special Ruling request so that Petitioner will be able to meet this condition of the License's sale.

3. Provide complete contact information including your mailing address, telephone number, and fax number. Failure to provide this information will delay the processing of the Special Ruling.

Mailing Address: 1225 Black Horse Pike Blackwood New Jersey 08012
(STREET) (CITY/TOWN) (STATE) (ZIP)
Personal Phone: - Business Phone: 856 - 228 - 5075 Fax: n/a

PLEASE MAIL THIS DOCUMENT, ANY OPTIONAL SUPPORTING DOCUMENTATION AND MONEY ORDER OR CHECK TO:
Division of ABC, 140 East Front Street, PO Box 987, Trenton, NJ 08625-0987 ATTN: Petitions

Note: You must include a \$100 filing fee for E-CLT term requests, made payable to the Division of ABC.

I certify that I have provided a copy of this Verified Petition Form to the municipality, submitted on 4/13/2020
Borough of Clayton (DATE)

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

[Signature]
(SIGNATURE) Raymond MacKay, Jr.
3/31/2020
(DATE)

[Signature] JAMES E GABEL, ESQUIRE
(SIGNATURE OF NOTARY/ATTORNEY-AT-LAW)
March 31, 2020
(DATE)
52 NORTH BROAD STREET
WOODBURY NJ 08096

NOTE: AFFIANT'S SIGNATURE MUST BE NOTARIZED BEFORE A NOTARY PUBLIC OR AN ATTORNEY AT LAW.

This section for Division of Alcoholic Beverage Control Use ONLY:

JOB NUMBER: 362612

DOCKET NUMBER: 01-20-35

I have reviewed the petition filed in this matter and have considered all the facts and circumstances related to the inactive status of this license. I find that the petitioner or licensee has established good cause in accordance with the statutory requirements to warrant an application for renewal of the license for the license term(s). Accordingly, the municipal issuing authority is hereby authorized to consider the application for renewal of the subject license for the 2020-2021 & 2021-2022 license term(s) and to thereupon grant or deny said application in the reasonable exercise of its discretion. This authorization does not abrogate the licensee's obligation to timely submit the license renewal application and requisite fees prior to any consideration of renewal, including obtaining a tax clearance. Please note that the approval granted herein is conditional, and is based upon the representations set forth in the petitioner's notarized verified petition form. This approval is subject to review and/or modification should the factual circumstances warrant.

May 13, 2020
Date

[Signature]
Director