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RILEY RIPER HOLLIN & COLAGRECO
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August 28, 2020

Via email to: rvidoni@bethlehem-pa.gov

Robert G. Vidoni, Esquire
City Clerk
City of Bethlehem
10 East Church Street
Bethlehem, PA 18018

**Re: Request for a Hearing on the Intermunicipal Transfer of a Liquor License
into the City of Bethlehem, Lehigh County, Pennsylvania**

Dear Mr. Vidoni:

I represent Two Farms, Inc. d/b/a Royal Farms (“Royal Farms”) in connection with the transfer of Pennsylvania restaurant liquor license no. R-12146 (the “Liquor License”) to the proposed Royal Farms location at 2355 Avenue A, Bethlehem, Pennsylvania 18017 (“Store 234”). The Liquor License is currently associated with Louie’s Restaurant, located at 2071 31st Street SW, Allentown, PA 18103. Before Royal Farms entered into an Agreement of Sale to purchase the Liquor Licenses, it attempted to find a liquor license that was already for sale in the City of Bethlehem, but to no avail.

Please consider this to be Royal Farms’ formal request that the City hold an intermunicipal liquor license transfer hearing pursuant to 47 P.S. 461 and enact an ordinance that would approve an intermunicipal transfer of the Liquor License to Store 234.

Pursuant to 47 P.S. 4-461, the City must hold a hearing for the purpose of allowing the residents of the municipality to voice their opinions on the proposed intermunicipal transfer by Royal Farms. Under 47 P.S. 461, after the hearing, the City must approve or deny the requested transfer, by way of a resolution or ordinance, within 45 days of this request.

Notice of the hearing must be published once each week for two successive weeks in a newspaper of general circulation in the municipality. Pursuant to 47 P.S. 102, the notices must state the time and place of the hearing and the matter to be considered at the hearing (i.e., request by Two Farms, Inc. for an intermunicipal transfer of a liquor license). Section 102 also provides that the first publication shall not be more than 30 days before the date of the hearing and the second publication shall not be less than seven (7) days before the date of the hearing.

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You may recall that Royal Farms previously submitted the \$200 application fee. Royal Farms also agrees to cover the City's expenses for this hearing.

For your convenience, I am enclosing a sample approval resolution and a supplement that describes Royal Farms' operations with respect to beer and wine.

Should you have any questions or need any further information, please do not hesitate to contact me.

Sincerely,

/s/ Jonathan A. Jordan

Jonathan A. Jordan

JJ/kdj
Enclosures

Royal Farms Store #388

Store Address:

2355 Avenue A

Bethlehem, Pennsylvania 18017

SUPPLEMENT TO TWO FARMS, INC. d/b/a ROYAL FARMS APPLICATION FOR INTERMUNICIPAL TRANSFER OF A RESTAURANT LIQUOR LICENSE

Royal Farms is a family-owned business, based in Baltimore, Maryland, which operates convenience stores in the Mid-Atlantic Region. They opened their first store in 1959, and have grown to more than 200 stores. Royal Farms has approximately 18 stores in Pennsylvania, with more on the way.

Royal Farms currently sells take out beer and wine in Pennsylvania, Maryland and Virginia. They are currently selling beer and wine at the following fourteen (14) stores in Pennsylvania:

RF Store #118	101 Carlisle St., Hanover, PA 17331
RF Store #122	2605 S. Queen Street, York, PA 17402
RF Store #126	850 Hellam Street, Wrightsville, PA 17638
RF Store #129	450 N. Queen St., Littlestown, PA
RF Store #132	1780 Sumneytown Pk., Harleysville, PA 19438
RF Store #144	3120 Carlisle Rd., Dover, PA 17315
RF Store #162	1170 Loucks Rd York, PA 17404
RF Store #192	3314 Market St., Aston, PA 19014
RF Store #195	2130 West Chester Pike, Broomall, PA 19008
RF Store #202	105 Stewart Ave, Ridley Park, PA 19078
RF Store #240	935 Bethlehem Pike, Colmar, PA 18915
RF Store #242	2501 Church Street, Philadelphia, PA
RF Store #260	200 Rohrerstown Road, Lancaster, PA 17603
RF Store #272	3401 Concord Road, York, PA 17402

Royal Farms has received intermunicipal (where required) and PLCB approval for the following four (4) stores, subject to a final inspection PLCB inspection after construction of new improvements are complete and before sales begin:

RF Store #200	467 Sumneytown Pike, North Wales, PA 19454
RF Store #221	145 N MacDade Blvd., Glenolden, PA 19036
RF Store #147	933 Broad St, Delta, PA 17314
RF Store #225	5031 Horseshoe Pike, Downingtown, PA 19335

There are several more Royal Farms stores for which we have licenses under agreement and are in the process for seeking PLCB and/or intermunicipal approval for those licenses.

We have received approximately seventeen (17) intermunicipal transfer approvals to date in Pennsylvania, and we have never been turned down.

Royal Farms is primarily trying to give an option for customers to purchase beer and wine to go, but the Liquor Control Board requires that we provide seating for at least 30. The seating for 30 is something that the PLCB requires, but we won't need it or use it. Royal Farms sells prepared foods for eat in and take out in all of their stores, and just about everyone chooses the take out option. In order to comply with the Liquor Code, Royal Farms is required to make individual bottles of beer available for consumption in the seating area – however, Royal Farms limits everyone to one beer per person. It's extremely rare for someone to sit and drink even one beer on the premises. This isn't going to be a bar or where you're going to meet your friends for drinks. Customers are limited to one beer on the premises. No consumption of alcohol outdoors or in the parking area (whether sitting in a car or otherwise). It's a brightly lit area, the tables and chairs aren't particularly comfortable for hanging out, there's no jukebox, no live bands, no DJ, no dancing, no tv, etc. So the seating area is just a formality that the PLCB requires, and we check the box, but they won't be used by the public.

In 2016, the state legislature enacted Act 39, which eliminated certain regulations which previously made it difficult for convenience stores that sell gasoline to also sell beer and wine to go. When the governor signed the law, that said that they were trying to “free the six pack”. The stated purposes of Act 39 included wanting to “[p]rovide for the operation of a retail system that promotes competition and convenience to ensure that the residents of this Commonwealth purchase products within this Commonwealth”. You can see this in the Preamble to Act 39. The state legislature expressly stated that competition is a good thing when it comes to alcohol sales, and that they would rather encourage people to buy alcohol in Pennsylvania than out-of-state. There's also case authority out there, in the form of appellate court decisions, which says there's nothing inherently wrong or detrimental to the community just because you have an establishment that wants a liquor license. A licensed establishment might be a rowdy dive bar, and if you put one of those in the middle of a residential neighborhood, you might have some community impacts that need to be mitigated. Royal Farms is a sophisticated, experienced convenience store operator with a long track record, and we won't have an adverse impact on the community.

The Liquor Code provides that an applicant can move a liquor license from one municipality to another, within a particular county. If the receiving municipality exceeds the quota of 1 license per 3,000 inhabitants, the applicant must request an intermunicipal transfer (incidentally, almost every municipality in the Philadelphia region is over quota. The quota used to be 1 license per 1,000 residents and was changed to 1 per 3,000 after prohibition ended).

The Pennsylvania Code, Title 40 § 7.61(b)(2), provides that: “Upon request for approval of an intermunicipal transfer of a license by the applicant, at least one public hearing shall be held by the receiving municipality for the purpose of receiving comments and recommendations of interested individuals residing within the municipality concerning the applicant's intent to transfer the license into the municipality”. The applicable caselaw authority provides that the receiving municipality cannot deny the request unless a finding is made, supported by substantial evidence, that doing so would adversely affect the welfare, health, peace and morals of the municipality or its residents.” That is the standard for tonight's hearing – the transfer must be

approved unless there is substantial evidence that it would adversely affect the welfare, health, peace and morals of the municipality or its residents.

Liquor licensed establishments can run the gamut from a convenience or grocery store, where you can get a six-pack to go, but virtually nobody drinks on the premises, to dive bars where people can order shots and mixed drinks, listen to music and hang out until late in the evening. Obviously, giving Royal Farms the ability to compete with its competitors by allowing them to offer take out sales will have a negligible impact on the community as opposed to if we had a dive bar here. The existing case law for intermunicipal transfers states that there's no presumption that a licensed establishment will have a per se negative impact on the community.

Royal Farms has an agreement to purchase the Liquor License, and we are requesting that the Board pass a resolution permitting this license to be transferred to Store 234. This would be the first step in the process - Royal Farms next would have to go through a very thorough application and review process with the Pennsylvania Liquor Control Board, and receive PLCB approval before the license can be transferred.

Royal Farms has a policy of carding anyone under the age of 40 who attempts to purchase alcohol (or tobacco). Any time a bottle or can of beer or wine is scanned at the register, the bar code alerts the cashier to the fact that this is an alcoholic product and, unless the buyer is clearly older than 40, the cashier would be required to run the purchaser's photo ID through a scanner to verify that the purchaser is old enough to purchase the age restricted items. Any associate who sells alcohol to anyone under the age of twenty-one (21) or outside of specified hours of sale will be terminated immediately.

Royal Farms also sends mystery shoppers to their stores, at least once per month, to confirm that their employees are following the carding policies. If they pass, they get a green card saying excellent job. If they don't follow policy, they will get a red card saying they did not follow the policies. The red card also prompts disciplinary action up to and including termination. It is important to Royal Farms, and the brand image that they have created over the last sixty years, that their employees strictly follow the law at all times.

The typical Royal Farms store in has more than 40 security cameras, which are monitored by Royal Farms' corporate office in Baltimore, so we are able to watch and monitor everything that takes place in and around the store.

Royal Farms will comply with the Liquor Control Board's requirements with respect to the training of managers and employees involved in the sale of alcohol, which is known as RAMP (Responsible Alcohol Management Program) training.

All employees and workers having any contact with alcohol shall meet the minimum age requirements set forth under Pennsylvania law.

Since Pennsylvania liquor licenses do not have a separate category for sales at grocery or convenience stores, the license in question is for a restaurant, but would permit beer or wine sales, and store policy would be to cut off any sales after one beverage. This is not going to be a

place where people come to hang out and drink. It will be a well-lit, safe and secure place where customers may come and purchase prepared food and a six pack or 2 of beer to take home.

The limits for any transaction are 192 ounces of beer (2 six packs of 16 oz beers) or 3,000 mL of wine (4 regular sized bottles).

Patrons are limited to one beer per person on the premises, and no open containers out of the store or outdoors.

The store would be open 24 hours a day, but state rules only permit alcohol sales from 7 a.m. to 2 a.m. six days a week, and from 9 a.m. to 2 a.m. Sundays. Wine sales must stop at 11 p.m.

Enforcement of the carrying rules will be strict, because the liquor license could be suspended if those rules are not followed, and employees would be trained to monitor how much a customer consumes on site and make sure no outdoors consumption takes place.

RESOLUTION NO. 2020-_____

**A RESOLUTION OF THE CITY OF BETHLEHEM, COUNTY OF LEHIGH
COMMONWEALTH OF PENNSYLVANIA, APPROVING THE TRANSFER
OF RESTAURANT LIQUOR LICENSE NO. R-12146 INTO
THE CITY OF BETHLEHEM FROM THE CITY OF ALLENTOWN**

WHEREAS, Act 141 of 2000 (“the Act”) authorizes the Pennsylvania Liquor Control Board to approve, in certain instances, the transfer of restaurant liquor licenses across municipal boundaries within the same county regardless of the quota limitations provided for in Section 461 of the Liquor Code if, as in the City of Bethlehem sales of liquor and malt or brewed beverages are legal in the municipality receiving the license; and

WHEREAS, the Act requires the applicant to obtain from the receiving municipality a resolution approving the inter-municipal transfer of the liquor license prior to an applicant’s submission of an application to the Pennsylvania Liquor Control Board; and

WHEREAS, the Liquor Code stipulates that, prior to adoption of a resolution by the receiving municipality, at least one hearing be held for the purpose of permitting individuals residing within the municipality to make comments and recommendations regarding applicant’s intent to transfer a liquor license into the receiving municipality; and

WHEREAS, an application for transfer filed under the Act must contain a copy of the resolution adopted by the municipality approving the transfer of a liquor license into the municipality.

NOW, THEREFORE, BE IT RESOLVED, that Two Farms, Inc. d/b/a Royal Farms (hereinafter “Royal Farms”), has requested the approval of the City Council of the City of Bethlehem, Lehigh County, for the proposed transfer of Pennsylvania restaurant liquor license no. R-12146 (currently held by Louies Restaurant, 2071 31st Street SW, City of Allentown, Lehigh County, Pennsylvania 18103) by Royal Farms to restaurant facilities within the City of Bethlehem to be located at 2355 Avenue A, Bethlehem, Pennsylvania 18017, with the understanding that said transfer must be approved at a later date by the Pennsylvania Liquor Control Board; and

BE IT FURTHER RESOLVED, that the City Council of the City of Bethlehem has held a properly advertised public hearing pursuant to the notice provisions of Section 102 of the Liquor Code to receive comments on the proposed liquor license transfer; and

