



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Press Release

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CITY WINS TAVERN ON THE GREEN TRADEMARK CASE

FEDERAL JUDGE FINDS THAT THE CITY OWNS THE LEGENDARY NAME

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New York, March 10, 2010 – A federal judge today affirmed New York City's claim to the renowned "Tavern on the Green" name, ending a trademark dispute with the restaurant's former operators -- the LeRoy family -- over rights to the name. The decision cancels Warner LeRoy's registration of the name as a trademark on grounds of fraud, and states that LeRoy engaged in a deliberate attempt to mislead the Patent and Trademark Office. The City now has the right to continue to use the "Tavern on the Green" name for the storied restaurant.

"This is a major victory for the City and all New Yorkers. We have ensured that the legacy of the long-treasured restaurant will be preserved for generations to come," said Corporation Counsel Michael A. Cardozo.

"We applaud the court's decision to recognize the city's right to the name 'Tavern on the Green,' which was first bestowed upon the landmark restaurant by Parks Commissioner Robert Moses in 1934," said Parks & Recreation Commissioner Adrian Benepe. "With new operator Dean Poll, we look forward to continuing this fine dining experience in one of the city's most historic and bucolic settings for years to come."

In her decision, Judge Miriam Cedarbaum of the Southern District noted, "The city chose the name and each concessionaire and made significant investments to ensure the success of the restaurant – such that 'Tavern on the Green' was closely associated in the public mind with a building owned by the City and located in New York's Central Park."

In October 2009, the City and the LeRoy family filed dueling trademark claims in the Bankruptcy Court, with each party claiming exclusive ownership to the "Tavern on the Green" name as a trademark for restaurant services. The City – as the long-time property owner of the landmark location – claims ownership of the name by reason of the continuing operation of the restaurant in Central Park, by a series of different concessionaires, including the LeRoys under the "Tavern" name, beginning in 1934.

The City had not been aware that the LeRoys had obtained a federal registration for the name. The LeRoy family operated the restaurant under a license agreement with the City that commenced in 1973 and expired at the end of 2009. The LeRoy companies filed for bankruptcy after the City selected restaurateur Dean J. Poll for a new license to operate the restaurant for the next 20 years.

In December 2009, the City successfully petitioned to have the trademark dispute heard by the U. S. District Court for the Southern District instead of the bankruptcy court because of the complicated nature of the issues involved in the dispute. The District Court only rarely exercises its power to hear matters that are pending in the bankruptcy court. The District Court also agreed to hear the case and issue a decision on an expedited basis, which is also unusual.

The district court proceeding was handled by Gerald Singleton, Senior IP Counsel. Howard Friedman, Deputy Chief, Contracts & Real Estate supervised the City's overall efforts. Other members of the team included Katherine Winningham (Senior IP Counsel), Gabriela Cacuci (Senior Bankruptcy Counsel), Rita Dumain (Chief, Tax and Bankruptcy Litigation).

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