



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Press Release

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For Immediate Release

COURT DISMISSES COMPTROLLER'S CHALLENGE TO NEW YORK CITY / SNAPPLE BEVERAGE CORP. VENDING AGREEMENT

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New York, July 29, 2004 -- The Supreme Court, New York County, today ruled in favor of the Mayor; the Marketing Development Corporation (MDC), which is more commonly known as NYC Marketing; and the Department of Citywide Administrative Services (DCAS) in its efforts to implement a concession with Snapple Beverage Corp. Terming the agreement "an innovative project" which will be of "great benefit to the City of New York, and its residents and taxpayers," the Court rejected the efforts of Comptroller William C. Thompson to challenge the Snapple agreement.

The concession grants Snapple the right to be the exclusive vending machine vendor of iced teas, chocolate drink and water in City-owned and -controlled facilities, and is expected to provide cash and other benefits to the City aggregating \$126 million over its five-year term. The ruling was based on the Court's finding that the objections to the agreement asserted in court by the Comptroller had been waived by his failure to assert them in his original letter purporting to reject the agreement's registration. The Court also opined that because in its view all City marketing efforts involving intellectual property rights should be viewed as a concession, in the future, they are subject to review by the City's Franchise and Concession Review Committee (FCRC).

"We are gratified that the Court sustained our ongoing efforts to enhance the City's revenues through strategic partnerships such as the Snapple arrangement," said Corporation Counsel Michael A. Cardozo. "However, we disagree with the Court's opinion that intellectual property such as efforts to market the City's image constitute a 'concession,' like a restaurant in a park. We anticipate a successful appeal of that portion of the Court's decision," Mr. Cardozo said.

New York City Law Department Commercial and Real Estate Litigation Division Deputy Chief Jonathan S. Becker and Assistant Corporation Counsel Warren Shaw represented the Mayor, MDC and DCAS. They were assisted by Daniel Muller, Chief of the Law Department's Contracts and Real Estate Division; Senior Counsel Howard Friedman of the same division; Senior Counsel Spencer Fisher of the Legal Counsel Division; and MDC's General Counsel Bryan Grimaldi.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 90,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its web site can be accessed through the City government home page at www.nyc.gov or via direct link at www.nyc.gov/html/law/home.html.

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