

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

IN THE MATTER OF THE WINCHESTER GARDENS	)	
SOCIAL CLUB REQUEST FOR WAIVER	)	SR 2024-03
UNDER N.J.A.C. 13:2-8.3 AND 13:2-8.4 FOR	)	GRANTING REQUEST FOR WAIVER
ISSUANCE OF A CLUB LICENSE PURSUANT	)	OF N.J.A.C. 13:2-8.3
TO N.J.S.A. 33:1-12(5)	)	AND N.J.A.C. 13:2-8.4
_____	)	

BY THE INTERIM DIRECTOR:

**I. Background.**

The Division of Alcoholic Beverage Control (“Division” or “ABC”) received a waiver request pursuant to N.J.A.C. 13:2-8.5(b) submitted by the Winchester Gardens Social Club, Inc., (“Social Club”), to be sited at 333 Elmwood Avenue, in Maplewood, New Jersey (“Winchester Gardens”). The Social Club is a 501(c)(7) nonprofit organization. Its stated purpose is to enhance the social environment at Winchester Gardens. Communal dining is a popular feature with most residents taking their meals in the dining room; residents have voiced a desire to enjoy alcoholic beverages with their meals and to have a formal bar and lounge near the dining area where they can socialize and serve alcoholic beverages during special events and celebrations. The Social Club needs a waiver because it does not meet all of the requirements for qualifying for a Club License pursuant to N.J.S.A. 33:1-12(5) and its implementing regulations.

A Club License is a “Class C License” under N.J.S.A. 33:1-12(5) that permits the holder of such license to sell alcoholic beverages for immediate consumption on the licensed premises and only to *bona fide* members of the club and their guests. Under N.J.A.C. 13:2-8.1, a *bona fide* club consists of sixty or more persons, of legal drinking age,

operating solely for benevolent, charitable, fraternal, social, religious, recreational, athletic or similar purposes and not for private gain. Under N.J.A.C. 13:2-8.3 a *bona fide* club must have been in active operation in New Jersey for at least three years continuously immediately prior to its submission of its application for a Club License. In addition, under N.J.A.C. 13:2-8.4, a club must have been in exclusive possession and use of a clubhouse for at least three years continuously immediately prior to the submission of its application for a license.

The Social Club satisfies the regulatory requirements that it is a *bona fide* club. However, the Social Club does not satisfy the requirements that a club must have been in active operation, and exclusive possession and use of a clubhouse for at least three years continuously immediately prior to its submission of its application for a Club License. N.J.A.C. 13:2-8.3; N.J.A.C. 13:2-8.4.

The Social Club is requesting relaxation of N.J.A.C. 13:2-8.3, and N.J.A.C. 13:2-8.4, pursuant to N.J.A.C. 13:2-8.5(b), which authorizes the Director to relax certain regulatory requirements upon a showing of “special cause.”

The Social Club has submitted to the Division the following list of documents in support of its waiver request:

- 1) Cover Letters, including discussion of “Special Cause” pursuant to N.J.A.C. 13:2-8.5(b), with Exhibits, and supplemental amended Exhibits based upon recommendations of the Division:
  - a) Exhibit 1: Certificate of Incorporation dated Nov. 4, 2022; and revised version dated February 29, 2024;
  - b) Exhibit 2: Initial Resolution dated November 8, 2023, supporting the Social Club’s application for a club license, and
    - (A) Certificate of Incorporation; (B) Bylaws (executed August 1, 2024); (C) Conflict of Interest Policy; (D) Application for Membership;
  - c) Exhibit 3: Draft Lease (executed July 24, 2024);

- d) Exhibit 4: Floor Plan;
  - e) Exhibit 5: Letter to Mayor Frank McGehee, expressing the Social Club's interest in a club license and its intent to apply for a waiver from the Division;
  - f) Exhibit 6: Township of Maplewood Committee Minutes;
  - g) Exhibit 7: 12-page Liquor License Application; and
  - h) Exhibit 8: List of Members.
- 2) IRS Determination Letter, indicating tax-exempt status under IRC Section 501(c)7, dated June 26, 2023;
  - 3) Copy of 2022 Tax Return;
  - 4) Notice of publication including dates and name of newspaper, as required in the application;
  - 5) Copy of publication notice;
  - 6) The Social Club's list of Officers, including names and addresses;
  - 7) Each Member's filed written application submitted to the Social Club's appropriate body, as set forth in its Bylaws;
  - 8) Documentation, including the date, that the filed written application of each Member was accepted and approved by the Social Club's appropriate body, as set forth in its Bylaws, which must be at least three days subsequent to the filing of the prospective Member's filed written application; and
  - 9) Affidavit, dated March 5, 2024, from Township of Maplewood Clerk Elizabeth J. Fritzen, in support of initial Resolution 362-23, stating that there have been no written objections to the Township regarding the issuance of a club license to the Applicant, and no member of the public has appeared to object to the Application.

In its letters to the Division, counsel explained that Winchester Gardens is a continuing care retirement community ("CCRC") that provides independent living, assisted living, and skilled nursing, along with an array of amenities, including but not limited to, dining facilities, a beauty salon, and recreational activities programming to its residents. The Social Club explained that in an effort to enhance the social environment within Winchester Gardens, it formed the Social Club as a not-for-profit social club qualified to obtain and maintain a club license permitting the purchase, storage, and service of alcoholic beverages to club members and their guests.

Having only recently formed the Social Club and designated the Clubhouse location within Winchester Gardens, the Social Club acknowledges that it does not satisfy the provision

that the Club must have been “in active operation in the State of New Jersey for at least three years continuously immediately prior to the submission of its application for a license (N.J.A.C. 13:2-8.3); and the provision that the Club shall have been “in exclusive possession of a clubhouse or club quarters for at least three years continuously immediately prior to submission of its application for a license.” N.J.A.C. 13:2-8.4.

Therefore, the Social Club is applying for a Club License waiver to operate and sell alcohol to its members and their guests at their recently established clubhouse within the Winchester Gardens CCRC at 333 Elmwood Avenue, in Maplewood, New Jersey, without having to wait the three-year period.

## **II. Legal Analysis.**

It is the Director’s duty to supervise the manufacture, distribution and sale of alcoholic beverages in a manner that fulfills the public policies and legislative purposes of the Alcoholic Beverage Control Act (“ABC Act”). Of particular relevance to Club Licenses, these policies and purposes include, “to strictly regulate alcoholic beverages to protect the health, safety and welfare of the people of this State” and “to foster moderation and responsibility in the use and consumption of alcoholic beverages.” N.J.S.A. 33:1-3.1(b)(1) and (2).

An applicant for a Club License who does not meet the three-year requirement of continuous active operation with exclusive possession and use of a clubhouse in N.J.A.C. 13:2-8.3 and -8.4, may apply to the Director of the Division for relaxation of these regulatory requirements upon a showing of “special cause.” See N.J.A.C. 13:2-8.5(b). The Division uses its general relaxation standard in N.J.A.C. 13:2-9.1 in determining whether the “special cause” standard has been satisfied.

N.J.A.C. 13:2-9.1 provides:

The rules may be relaxed by the Director upon a showing of undue hardship, economic or otherwise, on a licensee; that the waiver of the rule would not unduly

burden any affected parties; and that the waiver is consistent with the underlying purposes of Title 33 and the implementing rules. Waiver requests must be submitted in writing to the Director and shall include all documentation which supports the applicant's request for a waiver.

**A. Application of N.J.A.C. 13:2-9.1 to the Winchester Gardens Social Club's Club License Waiver Application.**

As background, the Social Club represented that Winchester Gardens has been serving senior residents of the Maplewood community for 100 years and has had a Residents Association in place for decades. But the informality of the Residents Association did not lend itself to qualifying for a license. To remedy that, the Social Club filed a Certificate of Incorporation for a nonprofit corporation named "Winchester Gardens Social Club, Inc." on November 4, 2022. Since the formal establishment of the Social Club, approximately 110 members meeting the qualifications of the Bylaws have applied to join.

Based on the Division's review of the Social Club's submissions and representations, the Division finds that it has satisfied the first prong of the relaxation regulation such that a denial of its application would cause it "undue hardship, economic or otherwise." Specifically, the Division finds that a denial would cause the Social Club an economic hardship as well as a social inconvenience to its members and their guests. Residents would then only be able to enjoy alcoholic beverages either by traveling to a liquor store to purchase alcohol, which might be difficult or impossible due to mobility constraints, or by visiting dining establishments outside their all-inclusive community, which would be duplicative of their prepaid meal plan and could become cost prohibitive over time.

Regarding the second prong, the Division finds that granting this relaxation will not unduly burden any affected parties. The Social Club is privately operated and will provide a service only to its members and their guests; it will not be open to the public. Its operation

will have minimal to no impact on plenary retail consumption licensed establishments in the area because these licensees are not in competition with the Social Club.

Finally, regarding prong three, the Division finds that granting the relief sought is not inconsistent with the underlying purposes of Title 33 and the implementing regulations. A Club License at this location will allow the members and their guests to enjoy an alcoholic beverage at meals, organized social events, and activities held where they reside. Being afforded the privilege of a club license will have a positive effect on the quality of social life at Winchester Gardens, increase the recreational options available to residents, eliminate the inconvenience and added expense of traveling to liquor stores or dining establishments outside the community, and does not appear to undermine the fundamental principles set forth in Title 33.

Further, based on the Division's review of the Social Club's submissions and representations, the Division finds that the Club is a *bona fide* Club as defined by N.J.S.A. 33:1-12(5) and N.J.A.C. 13:2-8.1 having 60 or more members of legal drinking age, operating solely for social purposes, and not for private gain. Moreover, the Township of Maplewood is in support of the Social Club and there have been no objections to the Social Club's application for a club license.

### **III. Conclusion.**

After the Social Club resolved all outstanding matters regarding their submissions, the Division assessed the Social Club's complete application on its merits and was able to conclude that it had met the standard defined above. N.J.A.C. 13:2-9.1.

Thus, the Division finds that the Social Club has established "special cause" in accordance with the requirements of N.J.A.C. 13:2-9.1. The Division finds that relaxation of the provisions in N.J.A.C. 13:2-8.3 and -8.4 under the circumstances described herein is

warranted. Granting this relaxation request will allow the members and their guests to enjoy an alcoholic beverage during the Social Club's gatherings and events and to enhance the overall social experience at Winchester Gardens.

Based on the foregoing, the Division grants the Winchester Gardens Social Club's club license waiver request of provisions N.J.A.C. 13:2-8.3 and -8.4. The issuing authority is authorized to consider its Club license application for a new Club License for the 2024-2025 license term. The issuing authority may consider granting or denying said application in a reasonable exercise of its discretion. Additionally, please be advised that the Township of Maplewood must conduct a background check investigation of the Club's application and determine the qualifications of Officers and Directors under N.J.A.C. 13:2-8.6. If a Club License is issued, the Winchester Gardens Social Club must comply with the ABC Act and all applicable regulations, including N.J.A.C. 13:2-8.

Please be further advised that this relief granted by the Director is based upon the representations and submissions as set forth in the Petitioner's *ex parte* letters. The relief granted is subject to review and/or modification should the factual circumstances warrant.



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KIRSTIN L. KRUEGER  
INTERIM DIRECTOR

DATED: August 22, 2024  
KLK/ABC