

September 30, 2013

Telephone: 717-783-9454

Fax: 717-787-8820

John Weygandt
Stargazer's Vineyard
1024 Wheatland Drive
Coatesville, Pa 19320

RE: Additional Board Approved Location

Dear Mr. Weygandt:

ISSUE: This office is in receipt of your e-mail of August 30, 2013, wherein you advise that you are presently a Board approved additional location of Strasburg Cellars, Ltd. ("Strasburg"). You indicate you are applying for approval to be licensed in conjunction with Strasburg at the same location. You state that you were advised by a member of the Pennsylvania Liquor Control Board's ("Board") Bureau of Licensing ("Licensing") that you will be required to execute a conditional licensing agreement ("CLA") in order to accomplish your goal. You seek a copy of a form agreement.

Board records indicate that indicate that Stargazers Vineyard, LLC holds Limited Winery License No. LK-276 (LID 61220) for use by it at premises located at 1024 Wheatland Drive, Coatesville, Pennsylvania. Additionally, Board records indicate that Strasburg Cellars, Ltd. holds Limited Winery License No. LK-95 (LID 8912) for use by it at premises located at 5687 Strasburg Road, Gap, Pennsylvania.

OPINION: As you appear aware, section 505.2(a)(3) of the Liquor Code provides that licensed limited wineries may, separately or in conjunction with other limited wineries, sell alcoholic cider, wine and wine coolers produced by the limited winery, on no more than five (5) Board-approved locations other than the licensed premises. [47 P.S. § 5-505.2(a)(3)].

In the scenario you have presented, you wish to no longer operate only a satellite location with Strasburg at the current premises, but to the contrary, now seek to establish production at that location. Section 505.2(a)(3) sets forth the

requirements for satellite locations and states, in pertinent part, that a limited winery may:

Separately or in conjunction with other limited wineries, sell alcoholic cider, wine and wine coolers produced by the limited winery on no more than five (5) board-approved locations other than the licensed premises, **with no bottling or production requirement** at those additional board-approved locations and under such conditions and regulations as the board may enforce, to the board, to individuals and to brewery, hotel, restaurant, club and public service liquor licensees.

[47 P.S. § 5-505.2(a)(3) (emphasis added)]. Accordingly, the Liquor Code does not require bottling or production operations at a satellite location, but leaves open the possibility that bottling or production operations may occur at a satellite location.

Consequently, there would be no prohibition to manufacturing at the proposed location under the Liquor Code, and thus, a conditional licensing agreement is not required, provided the premises is clearly delineated between Strasburg and Stargazers.

Be aware, however, that if you decide to have bottling or production operations at the satellite location, and you decide to enter into a lease for the premises, section 411(d) of the Liquor Code prohibits a hotel licensee, restaurant licensee or its officers, directors, shareholders, agent or employees from having any interest in the ownership or leasehold of any property or from having any interest in any mortgage lien against any property used by a manufacturer in the manufacturing of liquor or malt or brewed beverages. [47 P.S. § 4-411(d)]. Accordingly, such retail licensees may not be your landlord at such a facility.

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS BASED ARE SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD

Very truly yours,

FAITH S. DIEHL
CHIEF COUNSEL

cc: Pennsylvania State Police,
Bureau of Liquor Control Enforcement
Jerry W. Waters, Director of Office of Regulatory Affairs
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 13-430