

October 28, 2013

Telephone: (717) 783-9454

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John R. Seltzer

**Re: Club Holding Two Licenses**

Dear Mr. Seltzer:

ISSUE: Your correspondence of August 13, 2013 states that you represent Eintracht Singing Society Branch 25 A.T.S. (“Eintracht”). In addition to its licensed premises, Eintracht also owns a property on Fording Road in Neshannock Township, Lawrence County (“the Neshannock property”). The Neshannock property is used by the Eintracht members between May 1 and September 30. The Neshannock property contains a dining/meeting room, restrooms and a kitchen. Eintracht wants to license the Neshannock property with a club or catering club liquor license.

You inquire whether Eintracht can hold two (2) club liquor licenses, one (1) at its present location and another one (1) for the Neshannock property. If it cannot, you inquire whether the members of Eintracht, excluding the present officers, steward and manager, can incorporate another non-profit, non-stock club that could after one (1) year apply for a license for the Neshannock premises. In this scenario, the property would be owned by Eintracht and the new entity would have a lease with Eintracht. In light of this, you inquire whether this arrangement would be permissible, given that members of Eintracht would be the officers of the new entity.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that the Eintracht Singing Society holds Club Liquor License No. C-635 (LID 658) for the premises located at 108 Taylor Street, New Castle, Pennsylvania.

OPINION: The Board will not issue more than one (1) license at a time to a club. See generally Appeal of 1900 Beneficial Ass’n, 41 Berks 141, 73 Pa. D & C. 205 (1951) (club is not entitled to a second license at a place other than its domicile).

“Club” is defined, in relevant part, as “any reputable group of individuals associated together not for profit for legitimate purposes of mutual benefit, entertainment, fellowship or lawful convenience, having some primary interest and activity to which the sale of liquor or malt or brewed beverages shall be only secondary...” [47 P.S. § 1-102]. As referenced in your inquiry, if incorporated, the new club must be in

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continuous existence for at least one (1) year prior to qualify for a club license. There is nothing in the Liquor Code or the Board's Regulations which would prohibit members of a licensed club from forming another club which could then (subject to the above-referenced one (1) year requirement) apply for a separate club license. The Bureau of Licensing would have authority to review any such application for compliance with the Liquor Code and the Board's Regulations, and approval of such application would be at the discretion of the three (3)-member Board.

Nothing in the Liquor Code or the Board's Regulations would prohibit one (1) licensed club from leasing its licensed premises from another licensed club, assuming that no unlawful pecuniary interest is thereby created. [47 P.S. § 4-404, 40 Pa. Code §1.1].

**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. 13-439