

October 4, 2013

Telephone: (717) 783-9454
FAX: (717) 787-8820

Tami Beggs

RE: Walk-in cooler

Dear Ms. Beggs:

ISSUE: This office is in receipt of your e-mail of September 13, 2013, in which you advise that you and your husband own a licensed establishment which is contemplating an internal modification in which it would install a “walk-in cooler” on the existing premises. Although you would add a cooler for six (6)-pack to-go beer and back-up beer storage, you would not modify the existing “beer room,” and the seating capacity would remain the same. You ask whether this would require any interaction between the establishment and the Pennsylvania Liquor Control Board (“Board”), and whether this would raise handicap accessibility issues, as you state that the establishment is “grandfathered” in that regard.

Records maintained by the Board indicate that Fitzies, Inc. holds Restaurant Liquor License No. R-16782 (LID 59545) for use by it at premises located at 143 Village Road, P.O. Box 133, Listie, Pennsylvania.

OPINION: Assuming that the proposed modification will not extend the area which is already licensed, your establishment should send a letter to the Board’s Bureau of Licensing (“Licensing”) informing the Board of the establishment’s intention and how the affected portions of the licensed premises will be reconfigured. Be advised that it is Licensing, initially, and the Board, ultimately, which decides whether a request to reconfigure or extend licensed premises complies with the Liquor Code and the Board’s Regulations. Be further advised that even if such a request were approved, you would still be required to meet the definition of “restaurant” in section 102 of the Liquor Code, with tables and chairs sufficient to accommodate thirty (30) persons at one time. [47 P.S. § 1-102].

Be advised that if, as a result of the renovation, the licensed operations of the establishment must cease, the establishment would need to place its license into safekeeping within fifteen (15) days of discontinuing licensed operations. [47 P.S.

§ 4-474]. After placing the license into safekeeping, the establishment would have no authority to sell alcohol on the formerly licensed premises, unless and until the licensee applied to have the liquor license returned from safekeeping. [40 Pa. Code § 4.31(e)].

With regard to the “grandfathered” status of your establishment as to accessibility, please be advised that there is nothing in the Liquor Code or the Board’s Regulations which answers your question. However, please be advised that the Pennsylvania Human Relations Act prohibits discrimination based on such factors as age, gender, ethnicity, and disability. [43 P.S. § 955]. Accordingly, you may wish to contact the Pennsylvania Human Relations Commission, at (717) 787-4410 or online at www.phrc.state.pa.us, or a private attorney experienced in that area.

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. 13-443