

October 21, 2013

Telephone: (717) 783-9454

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Sheila Farrell

Re: Historic Building Exemption

Dear Ms. Farrell:

ISSUE: This is in response to your e-mail sent on September 4, 2013, wherein you ask if your licensed premises is eligible for exemption from the minimum room requirement for a hotel license. You advise that the licensed premises was built in 1849 and is listed on the National Register for Historic Places.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Rohman’s Pub, Inc., holds Hotel Liquor License No. H-148 (LID 39941) for the premises located at 103 Rohman Road, Shohola, Pennsylvania.

OPINION: Initially, it should be noted that Board records indicate that you were recently cited by the Pennsylvania State Police, Bureau of Liquor Control Enforcement, and charged with not being a *bona fide* hotel, in that bedrooms maintained for the accommodations of guests are insufficient in number and/or inadequately equipped. It is the Board’s policy not to address the circumstances relating to an open citation; however, a general explanation of the law will be provided below. If you are seeking particular details about your license, you may wish to contact the Board’s Bureau of Licensing at 717-783-8250.

Section 102 of the Liquor Code defines a “hotel” as follows:

‘HOTEL’ shall mean any reputable place operated by responsible persons of good reputation where the public may, for a consideration, obtain sleeping accommodations and meals and which, in a city, has at least ten, and in any other place at least six, permanent bedrooms for the use of guests, a public dining room or rooms operated by the same management accommodating at least thirty persons at one time, and a kitchen, apart from the public dining room or rooms, in which food is regularly prepared for the public.

[47 P.S. § 1-102].

Section 461 of the Liquor Code also establishes the current minimum requirements for a premises to obtain a hotel liquor license. [47 P.S. § 4-461]. The general definition at section 461(c) of a “hotel” is now as follows:

c. The word ‘HOTEL’ as used in this section shall mean any reputable place operated by a responsible person of good reputation where the public may, for a consideration, obtain sleeping accommodations, and which shall have the following number of bedrooms and requirements in each case--at least one-half of the required number of bedrooms shall be regularly available to transient guests seven days weekly, except in resort areas; at least one-third of such bedrooms shall be equipped with hot and cold water, a lavatory, commode, bathtub or shower and a clothes closet; and an additional one-third of the total of such required rooms shall be equipped with lavatory and commode:

1. In municipalities having a population of less than three thousand, at least twelve permanent bedrooms for the use of guests.

[47 P.S. § 4-461(c)(1)]. Shohola Township has a population of less than three thousand, and therefore an applicant for a new hotel liquor license would be required to have at least twelve (12) permanent bedrooms for the use of guests.

Section 461(c)(8.1) provides an exception from the room requirements if the license was issued prior to 1965 and is located in a municipality having a population of less than ten thousand (10,000) during the 2000 Federal Decennial Census. In researching this matter with the Board’s Bureau of Licensing, this office learned that your license was issued prior to 1949, and therefore, you are not required to have twelve permanent bedrooms for your guests.

However, you must continue to meet the definition of a “hotel” under section 102, as noted above, unless an exemption is obtained. You may request an exemption from the above-stated room requirement by writing to the Board’s Bureau of Licensing, according to the provisions set forth in 461(c)(9.1):

Upon application to and subject to inspection by the board, hotel licensees under clause (8.1) of this subsection shall no longer be required to maintain bedrooms for public accommodation. However, areas required and designated as bedrooms for public accommodation prior to the effective date

of this clause may not subsequently be used as licensed serving areas. Such areas may be used as licensed storage area consistent with this act and existing regulations.

[47 P.S. § 4-461(c)(9.1)].

Accordingly, if you request such an exemption from the Board's Bureau of Licensing, and the request is approved, you would not need to maintain any bedrooms for public accommodation. Please note, however, that nothing in the statute allows such exemption to be applied retroactively.

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

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