

January 14, 2014

Telephone: (717) 783-9454

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Francisco J. Cordero
OLT Inc. t/a Brass Rail Deli
2824 Horseshoe Pike
P.O. Box 42
Campbelltown, PA 17010-0042

Re: Sale of Other Items at Restaurant

Dear Mr. Cordero:

ISSUE: This is in response to your e-mail sent on December 2, 2013, wherein you ask for approval to sell potato salad, macaroni salad, coleslaw, meatballs and cold cuts by the pound, whole pizzas, spaghetti sauces by the quart, buffalo wing sauce by the pint, loaves of bread, and rolls by the dozen or singly. You advise that you currently provide all of these items for consumption on the premises and would like to sell them “to go.”

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that OLT Inc., trading as Brass Rail Deli, holds Restaurant Liquor License R-15976 (LID 67026) for the premises located at 2824 Horseshoe Pike, Campbelltown, Pennsylvania.

OPINION: Please be advised that section 3.52 of the Board’s Regulations precludes a licensee from operating another business on licensed premises without Board approval. [40 Pa. Code § 3.52(c)]. This office has received requests from other restaurants to sell cheese and other food in bulk quantities to its customers, and such requests have been consistently rejected by the Board. Therefore, this office will not forward your request to the Board for consideration. Your restaurant may only sell food for consumption on the premises or individual portions of such food, as in the manner of “take-out.”

In the alternative, you would be permitted to establish a deli or grocery store at a location off of the licensed premises. Please note that section 3.52(b) of the Board’s Regulations provides that a licensed premises may not have an inside

passage or communication to or with any business conducted by the license or other persons except as approved by the Board. [40 Pa. Code § 3.52(b)]. In addition, section 3.54 provides:

[w]here the Board has approved the operation of another business which has an inside passage or communication to or with the licensed premises, the extent of the licensed area shall be clearly indicated by a permanent partition at least 4 feet in height.

[40 Pa. Code § 3.54]. Therefore, if you decide to establish a deli or grocery store that shares an interior connection with the licensed restaurant, you must contact the Board's Bureau of Licensing to seek approval of any such passage or connection.

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. 14-002