

February 26, 2014

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Pete Fabiano, General Manager
Sodexo Operations LLC

RE: Third Party Event with Donated Alcohol at Public Venue

Dear Mr. Fabiano:

ISSUE: This office is in receipt of your e-mail dated January 14, 2014, in which you recount a proposed event to take place at your licensed premises, and for which you request applicable rules and regulations. Your entity has a public venue license. A third party non-profit organization wishes to hold a ticketed event at your location. The third party non-profit will provide food to be served by your employees or agents to ticket-holding attendees.

The third party non-profit will also provide alcohol that it has received as a donation. This donated alcohol will be served by your employees or agents at no charge to those event attendees presenting a drink ticket provided by the third party non-profit. Your entity will also sell its own lawfully purchased alcohol on a cash basis to those attendees wishing to purchase same.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Sodexo Operations LLC, trading as Riverhounds Event Center, holds Public Venue License No. PV-149 (LID 67047) for use by it at premises located at 510 West Station Square Drive, Pittsburgh, Pennsylvania. You are the Board-approved manager.

OPINION: As you know, section 412(a) of the Liquor Code [47 P.S. § 4-412(a)] authorizes the Board to issue a restaurant liquor license to public venues, as defined in section 102 of the Liquor Code. [47 P.S. § 1-102]. The liquor license authorizes the licensee to sell alcoholic beverages only on the licensed areas of its

premises. [47 P.S. § 4-406(a.1); 40 Pa. Code § 7.21(a)]. It is important to keep in mind that any sales of alcohol by a public venue must take place with the occurrence of another event being held pursuant to the licensure (such as an athletic performance, performing arts event, trade show, convention or banquet), and in keeping with the restrictions on hours of service, types of containers and other rules and regulations as set forth in section 412 of the Liquor Code. [47 P.S. § 4-412(f)].

You do not clearly indicate whether the tickets to be provided to event patrons by the third party non-profit will be given to these patrons at no cost, or whether the third party non-profit is selling these tickets. If the tickets are given at no cost, then there is nothing in the Liquor Code or Board's Regulations that would prohibit the donation of alcohol by a licensee to an unlicensed entity such as the third party non-profit in your proposal, for subsequent service by your employees or agents at a catered function at your licensed premises.

Because your establishment is licensed by the Board, it is suggested that when a third party entity wants to provide the alcohol for its event, whether donated or purchased, you should require the client to provide proof that the wine, spirits, or beer was lawfully acquired in Pennsylvania. Licensees are strictly liable for violations of the Liquor Code and its attendant laws and regulations that occur on the licensed premises. [Pennsylvania Liquor Control Board v. TLK, Inc., 544 A.2d 931 (Pa. 1988)]. Failure to require such proof may place you at risk of citation, which may result in a suspension or revocation of the license, or a fine of up to one thousand dollars (\$1,000.00). [47 P.S. § 4-471(b)].

On the other hand, if the third party non-profit is selling these event tickets (to include food and the donated alcohol), this would be considered a "sale" of alcohol as defined in the Liquor Code. [47 P.S. § 1-102]. You could not "re-sell" the donated alcohol, even though you would not be imposing any charge on the ticketholders. The "consideration" in this scenario would be acceptance of the purchased drink ticket in lieu of cash.

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

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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. 14-045