

February 27, 2014

Telephone: (717) 783-9454

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Dennis Shreve
Restaurant Manager
The Clubs at Colonial Ridge
Squires Restaurant

RE: Required Donation of Kegs

Dear Mr. Shreve:

ISSUE: This office is in receipt of your e-mail dated January 29, 2014, wherein you advise that you are booking a golf outing in which there will be two (2) donated kegs to use on the course and for which you have required that the party donate an additional two (2) kegs to you. You inquire whether this is legal.

Records maintained by the Pennsylvania Liquor Control Board (“Board”) indicate that Colonial Golf and Tennis Club LLC, holds Privately-Owned Public Golf Course Liquor License No. PGR-305 (LID 61946) for the premises located at 4901 Linglestown Road, Harrisburg, Pennsylvania, and also holds Privately-Owned Public Golf Course Liquor License No. PGR-336 (LID 66681) for the premises located at 3940 Linglestown Road, Harrisburg, Pennsylvania.

OPINION: Section 4-406(e) of the Liquor Code allows the holder of a restaurant or club license located on a golf course to sell, furnish or give alcoholic beverages, liquor and malt or brewed beverages, on unlicensed portions of the golf course, as long as the alcoholic beverages remain on the golf course, restaurant or club premises. [47 P.S. § 4-406(e), 47 P.S. § 4-442(e)(3)]. A golf course is defined in section 102 of the Liquor Code as “a course having a minimum of nine (9) holes and a total length of twenty-five hundred (2,500) yards.” [40 P.S. § 1-102].

There is nothing in the Liquor Code or the Board’s Regulations that prohibits an individual or a group from bringing alcohol into any establishment, whether or not the establishment possesses a license issued by the Board. The establishment is, therefore, free to allow or prohibit individuals or groups from bringing their own alcohol onto its premises. If you decide to prohibit customers from providing their

own alcohol, such prohibition may not be done in an unlawfully discriminatory manner. If you decide to allow golfers to provide their own alcohol, you may want to check with your local municipality to inquire if there are any local ordinances that restrict “bring your own” alcohol establishments.

It is also suggested that if you permit your customers to bring their own alcohol, you may wish to ask them to bring a receipt for the purchase of the alcohol, to show that it was lawfully procured. Sections 491 and 492 of the Liquor Code make it unlawful for any person to possess any beer, wine or spirits within Pennsylvania that have not been purchased through a Pennsylvania wine and spirits store, a licensed limited winery, or from an entity licensed to sell malt or brewed beverages for off-premises consumption. [47 P.S. §§ 4-491, 4-492].

Licensees may be strictly liable for violations of the Liquor Code and/or Board Regulations which occur on the golf course. Pennsylvania Liquor Control Bd. v. TLK, Inc., 518 Pa. 500, 544 A.2d 931 (1988); Pennsylvania State Police, Bureau of Liquor Control Enforcement v. Goodfellas, 850 A.2d 868 (Pa. Cmwlth. 2004). The potential penalties for Liquor Code or Board Regulation violations range from a fine to license suspension or revocation, or both. [47 P.S. § 4-471(b)].

Accordingly, the booking party may be permitted to bring the kegs for its own use.

Your proposed requirement that the party donate kegs to you is not permissible. Section 13.51 of the Board’s Regulations prohibits the exchange between licensees of different classes [40 Pa. Code § 13.51]. If the booking party is a licensee, under no circumstances could you accept any donated alcohol from it. If the booking party is not a licensee, the exchange is prohibited as an illegal sale. The sale of alcohol is illegal in Pennsylvania unless the entity selling the alcohol has a license or permit from the Board. [47 P. S. § 4-491(1), 4-492(2),(3)]. The Liquor Code defines a “sale” as any transfer of liquor, alcohol or malt or brewed beverages for consideration. [47 P.S. § 1-102]. Your requirement that the party donate kegs to you would accordingly be an illegal transfer of alcohol. Such a requirement on your part is clearly defined as an unlawful act and is prohibited.

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. 14-052