

March 31, 2014

Telephone: (717) 783-9454

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Mary Culbert
Residence Inn Conshohocken
191 Washington Street
Conshohocken, PA 19428-2065

Re: Hotel Bar Food

Dear Ms. Culbert:

ISSUE: This is in response to your e-mail sent on February 17, 2014, wherein you advise that you are the general manager for a select service hotel with one hundred thirty-seven (137) suites and which offers hot breakfast daily, beer and wine at your market near the front desk, and complimentary lite fare dinner. You further advise that you are in the process of renovating and adding a small bar which would be open Monday through Sunday, from approximately 5:00 p.m. to 11:00 p.m. You ask whether the hotel would be required to provide food options at the bar or whether snacks would be sufficient.

Records maintained by the Pennsylvania Liquor Control Board (“Board”) indicate that Wolvik Swct, Inc., Tower Bridge Inn Associates, L.P. & WHG Tower Bridge Management Company, LLC, t/a Residence Inn, holds Hotel Liquor License No. H-6004 (LID 54668) for use by it at 191 Washington Street in Conshohocken, Pennsylvania.

OPINION: 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].

The statute does not provide that a certain type of food or a certain number of courses must be provided. Pennsylvania courts have concluded that an establishment is not a bona fide restaurant when there is insufficient food or facilities to feed thirty (30) people. See Appeal of Albus, 149 A.2d 163 (Pa. Super. 1959) (*the kitchen was ten (10) feet by four (4) feet; there were twelve (12) sandwiches available, which could be served on ten (10) pieces of china*); Pennsylvania Liquor Control Bd. v. Dobrinoff, 471 A.2d 941 (Pa. Cmwlth. 1984) (*the food supply on hand consisted of two (2) pounds of chicken necks, a half-pound of cheese, a gallon of pickles, and three (3) cans, each, of sauerkraut and tomato sauce*); Mitchell v. Pennsylvania Liquor Control Bd., 476 A. 2d 479 (Pa. Cmwlth. 1984) (*a liquor control enforcement officer visited the licensed premises on four (4) occasions and ordered a sandwich each time, but the licensee was never able to serve the officer a sandwich; the officer never saw a menu or any other patrons eating*).

This office has previously advised that preparing and providing hot dogs and an occasional offering of “full dinners” meets the food requirement of section 102. This office has further advised that there is nothing in the Liquor Code or Board’s regulations that prohibits a licensee from offering food that is prepackaged so long as it is prepared at the premises, and that nothing requires that food be made from scratch in order for a licensee to meet the requirements of section 102. That said, the Board looks at each situation on a case-by-case basis, should the situation arise.

In your case, if the Board’s Bureau of Licensing (“Licensing”) has already approved the sale of alcohol on the licensed premises at your hotel, Licensing would generally not need to approve the addition of an additional service bar. However, the aforementioned hotel requirements have been provided as the full extent of the renovations referenced in your e-mail are not known by this office.

In response to your specific question, there is nothing in the Liquor Code or the Board’s Regulations which requires a hotel licensee to offer a menu of food items at the hotel bar, as opposed to snacks. However, pursuant to section 102 of the Liquor Code, you would still be required to have “a kitchen, apart from the public dining room or rooms, in which food is regularly prepared for the public.” [47 P.S. § 1-102].

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Please feel free to again contact this office if you have any further questions regarding this matter, the Liquor Code, or the Board's Regulations.

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. 14-113