

May 14, 2014

Telephone: (717) 783-9454

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Scott Beagin

Re: Dispute with Neighboring Business and Control of License

Dear Mr. Beagin:

ISSUE: This is in response to your e-mail sent on May 12, 2014, wherein you advise that you are the “front end” manager at the Speakeasy Lounge Bar & Grille, which is legally known as Conquistador LLC. You called this office last week and sent your e-mail as a follow-up to that conversation.

You advise that your business has been going through a dispute with the neighboring business, Carriage House Country Club, LLC (“Carriage House”), which is the hotel/timeshare property your location is attached to. It is understood that Carriage House does not hold a liquor license. Your liquor license covers areas on the Carriage House premises, including the pool area, the catwalk around the pool, and an outside deck area. It is assumed that you have the legal right to occupy such areas.

Representatives of Carriage House claim that they have notified the Pennsylvania Liquor Control Board (“Board”) and that they have “nullified and removed” your license from the aforementioned licensed areas. You have contacted the Board and learned that such action has not happened and moreover, Carriage House lacks the authority to control your license.

Carriage House is threatening to pursue trespassing charges if you or your customers use the restrooms, although you indicate that the restrooms are a shared common area which was included in the sales agreement when the business was purchased. Regardless, Carriage House has issued a deadline of May 15, 2014, although it is not clear from your e-mail what Carriage House expects to happen by May 15, 2014, and what the repercussions will be if it does not happen.

You ask the Board for a written explanation of the fact that your license still covers the areas in question, and that Carriage House cannot remove those areas from coverage by the license without the consent of Conquistador.

Records of the Board indicate that Conquistador LLC holds Restaurant Liquor License No. R-21193 (LID 55808) for the premises at Rte. 314 and Manor Drive, Pocono Manor, Pennsylvania.

OPINION: A liquor license is a privilege between the Board and the licensee. [47 P.S. § 4-468(d)]. The licensee retains all privileges of the license until the Board receives either a Court Order or a Writ of Execution and a Sheriff's Bill of Sale directing or stating otherwise, or a sworn affidavit executed by counsel, representing that licensee is in default of an agreement that authorizes a third party to control the license in the event of such default and that all necessary and required procedures have been followed pursuant to any underlying agreements and applicable laws. Without one (1) of the above documents, a third party such as Carriage House has no authority to restrict or interfere with the use of the liquor license.

However, the rights of a licensee are dependent upon the right to occupy the licensed premises. It is unclear from the facts you have provided whether Carriage House has the authority to control access to the premises. Please be advised that the Board will not become involved in resolving the property rights in a dispute between a licensee and third parties. [Befwick of Philadelphia, Inc. v. Cobblestones, Inc., 466 Pa. 488, 353 A.2d 459 (1976)].

Enclosed please find a copy of records from the Board's Bureau of Licensing, indicating which areas are covered by the liquor license. The first record is a letter dated March 30, 2006, from Jerry W. Waters, Sr., then-Director of Licensing, identifying the location and size of areas that are covered by the license. The second record is a two (2) page sketch of the licensed premises which corresponds to the letter by Mr. Waters. Please note that there are no other records in the file pertaining to the specifics of the licensed premises, such as a change or removal of a licensed area from coverage by the license.

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

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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. 14-211