

May 14, 2014

Telephone: (717) 783-9454

FAX: (717) 787-8820

Steve Chichester, General Manager  
Erie Maennerchor Club

**RE: Outside Extension**

Dear Mr. Chichester:

ISSUE: This office is in receipt of your e-mail dated April 16, 2014, in which you inquire about extending the licensed premises for the catering club which you manage to include an outside seating area. There is a paved parking lot that surrounds your building and you would like to fence in a portion of that lot, with dimensions of approximately thirty (30) feet by thirty (30) feet and accessible only by a doorway from the licensed premises. Tables and chairs would be set directly on the pavement. You state that you were previously advised that you would need a permanent structure attached to the building to have an outside serving area. You ask whether the catering club would be required to build a deck and not use the paved area for alcohol service to catering club members. You further clarified that you are asking whether licensing of an outside area requires a permanent structure.

Pennsylvania Liquor Control Board ("Board") records indicate that Erie Maennerchor is the holder of Catering Club Liquor License No. CC-1016 (LID 3074) for use by it at its premises located at 1607 State Street, Erie, Pennsylvania.

OPINION: Section 7.21(b)(2) of the Board's Regulations permits a licensee to extend its license to the immediate, abutting, adjacent, and contiguous vacant land. [40 Pa. Code § 7.21(b)(2)]. Such an extension can be requested on a temporary or permanent basis. Once approved, the additional licensed premises become subject to all restrictions within the Liquor Code and the Board's Regulations.

The forms necessary to apply for extension of licensed premises may be acquired from the Board's Bureau of Licensing ("Licensing") at (717) 783-8250, or via the Board's website, at <http://www.lcb.state.pa.us>, by selecting "Licensees," then "Applications/Forms," then "Application Packets," and then "Application Packet for Extension of Retail License to Cover Additional Premises."

Alternatively, section 406.1 of the Liquor Code allows the Board to approve the extension of a club liquor license to include a secondary service area with dimensions of at least one hundred seventy-five (175) square feet, enclosed on three (3) sides and with adequate seating. [47 P.S. § 4-406.1]. The secondary service area must be located on property having a minimum area of one (1) acre and, although it need not physically be connected to the original licensed premises, it must be on land which is immediate, abutting, adjacent or contiguous to the licensed premises with no intervening public thoroughfare. [Id.]. The original licensed premises and the secondary service area must be located on the same tract of land. “Tract” is defined as “a contiguous expanse of land under the control of one person.” [47 P.S. § 1-102].

Therefore, in response to your question, there is nothing in the Liquor Code or the Board’s Regulations that would specifically require a permanent structure for approval of an application for an extension to cover additional premises. Specifically, section 7.21(b)(2) of the Board’s Regulations only requires that such additional premises, at a minimum, be located on immediate, abutting, adjacent and contiguous vacant land. [40 Pa. Code § 7.21(b)(2)]. However, if you choose to apply for a secondary service area rather than just an extension of the existing licensed premises, section 406.1 of the Liquor Code requires that secondary service areas be enclosed on three (3) sides and include adequate seating. [47 P.S. § 4-406.1].

Finally, please be advised that it is the decision of Licensing, and ultimately the (3)-member Board, whether to grant a particular request for an extension of premises.

Please feel free to again contact this office if you have any additional questions or concerns 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.**

Steve Chichester  
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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

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