

May 16, 2014

Telephone: (717) 783-9454

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Katie Lena
Membership Director
Ligonier Country Club
E: Wine Festival

Dear Ms. Lena:

ISSUE: This office is in receipt of your e-mail, dated April 16, 2014, wherein you state that you work at Ligonier County Club and are planning a wine festival for September. You intend to apply for a limited winery exposition permit once a date is set. You inquire if you would be allowed to sell liquor the day of the festival or if the license is void for that day.

Records maintained by the Pennsylvania Liquor Control Board ("Board") indicate that Ligonier Country Club Inc. holds Catering Club Liquor License No. CC-3928 (LID 3547) for premises located at Route 711 Star Route South, Ligonier, Pennsylvania.

OPINION: Section 505.2 of the Liquor Code specifies that only a limited winery licensee may apply for a wine exposition permit. Limited wineries are wineries licensed by the Board that may produce alcoholic ciders, wines and wine coolers, subject to certain exceptions. [47 P.S. § 5-505.2]. Accordingly, your catering club license would not qualify for a wine exposition permit.

Please note that wine festivals are permissible in Pennsylvania, so long as they are conducted in accordance with the guidelines set forth in § 13.211 of the Board's Regulations [40 Pa. Code § 13.211]. As explained in Board Advisory Notice No. 10 (6th Revision), one (1) of the requirements is that there is no purchase requirement associated with the event. If there is any fee associated with the event, the payment of such fee may be construed as a sale of the wine being offered. [47 P.S. § 1-102]. Because the sale of alcohol without a license is illegal in Pennsylvania, participating wineries could not sell wine at the festival unless they obtain a wine exposition permit from the Board. [47 P.S. § 5-505.2(a)(4)].

Limited wineries participating in your festival would be able to apply for wine exposition permits. These permits allow the limited wineries to participate in wine

and food expositions off their licensed premises, to sell wine by the bottle, and to sell or give away samples up to one (1) ounce. [47 P.S. § 5-505.2]. Each permit can be used for only up to thirty (30) consecutive days and the total number of days for all of the special permits cannot exceed one hundred (100) days per calendar year.

Wine and food expositions are defined as “affairs held indoors or outdoors with the primary intent of educating those in attendance of the availability, nature, and quality of Pennsylvania-produced wines in conjunction with suitable food displays, demonstrations and sales,” and may include other activities such as arts and crafts, musical activities, cultural and agricultural exhibits, and farmers markets. [47 P.S. § 5-505.2 (a)(4)]. In order to sell wine, the limited wineries must be located on an unlicensed portion of your premises or you must de-license the portion of the premises that will be used. Be advised that if you de-license a portion of the premises, there is a long and complicated procedure to re-license the premises. For additional information on this process, you should contact the Bureau of Licensing at 717-783-8250.

Please note that the liquor license of the country club does not become “void” for the day, but would remain in effect. Sales from your licensed premises would be permissible as in the usual course of business. Be advised that 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)].

If you intend to sell tickets to the proposed wine festival, it would be permissible only if the tickets and advertising made clear that the charge was for admission to the event and non-alcoholic drink, food and entertainment. In addition, were anyone to request free admission purely for the purpose of tasting the wines, the individual must be admitted, free of charge.

It should be noted that 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). Licensees are specifically prohibited by Liquor Code section 493(1) [47 P.S. § 4-493(1)] from selling, furnishing and/or giving alcohol, and from permitting the sale, furnishing or giving of alcohol, to minors or visibly intoxicated persons. Therefore, the Country Club would be liable and may be subject to fines and/or license suspension or revocation when alcohol is sold, furnished or given to

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minors or visibly intoxicated persons in the Country Club areas, regardless of whether the alcohol is supplied by the Country Club or a third party, and regardless of whether or not the Country Club had knowledge of the incident.

Should you have any additional questions, do not hesitate to contact this office.

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. 14-227