July 18, 2014

Telephone: 717-783-9454
Fax: 717-787-8820

William Reese
VIA EMAIL: fmbillreese@yahoo.com

RE: Hotel and Brewery

Dear Mr. Reese:

ISSUE: This office is in receipt of your email of June 26, 2014, wherein you advise you are the manager of a hotel licensee. You are inquiring if your license would allow you to hold a "G" license[1] so that you can "brew, serve and sell beer/malted beverages."

Pennsylvania Liquor Control Board ("Board") records indicate that Logan's Country Inns, Inc., is the holder of Hotel Liquor License No. H-5559 (LID 27166) for use by it at premises located at 50 Huntingdon Drive, South Sterling, Pennsylvania.

OPINION: Sections 411 and 443 of the Liquor Code generally prohibit someone from simultaneously holding an interest in both a retail license, such as restaurant or hotel, and a manufacturing license. [47 P.S. §§ 4-411, 4-443]. Section 438(c) of the Liquor Code prohibits a person from possessing more than one class of license. [47 P.S. § 4-438(c)]. However, sections 411 and 438 provide an exception which states:

> ...an entity may acquire both a manufacturer's license or a limited winery license and a hotel, restaurant or retail dispenser license for use at the same location and more than one location may be so licensed.

[47 P.S. §§ 4-411, 4-438(c)].

Your plan for a brewery would be permissible so long as the location holding the hotel ("H") liquor license and the brewery ("G") license are the same. This configuration is known as a "couplet." Please note that section 446(a)(4) of the Liquor Code requires that the brewery produce at least two hundred fifty (250) barrels

[1] It is assumed you mean a brewery license.

of malt or brewed beverage per year in order to also hold an H license in connection with the brewery. [47 P.S. § 4-446(a)(4)].

In addition, as a holder of both an H license and a G license, the malt or brewed beverages produced at the brewery would need to follow the three (3)-tier distribution system used by outside breweries:

> [I]f any malt or brewed beverage is to be distributed in this Commonwealth it shall be only through specific importing distributors who shall have first been given distributing rights for such products in designated geographical areas through the distribution system required for out-of-State manufacturers under section 431(b) as well as all other pertinent sections of this act.

[Id.]. However, the G license holder may provide to its own H licensee those malt or brewed beverages that it manufactures, since no sale is involved.

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. 14-426