

October 20, 2014

Charlene Lutz

RE: Manager Inquiry

Dear Ms. Lutz:

ISSUE: This is in response to your e-mail of September 9, 2014, and a follow-up telephone conversation on September 12, 2014, in which you inquire who may be named as the manager on a restaurant license. Specifically, you ask whether the general manager of the homeowners association may be named, although that individual is not physically in the subject restaurant. If not, you inquire whether the restaurant chef may be named, as he is physically present in the restaurant at least forty (40) hours per week.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Treasure Lake Property Owners’ Association, trading as Pirate’s Cove, is the holder of Restaurant Liquor License No. R-20888 (LID 59709) for the premises located at 3871 Bay Road in Dubois, Pennsylvania. Lori Corcoran is the current Board-approved manager of record.

OPINION: The answer to your present inquiry is fact specific and would be dependent upon the circumstances involving the particular individuals being considered for the manager position. Generally, section 5.23(a) of the Board’s Regulations [40 Pa. Code § 5.23(a)] provides that a licensee shall appoint an individual as manager for each licensed establishment and the manager shall devote full time and attention to the licensed business. [40 Pa. Code § 5.23(a)]. This individual must be approved by the Board.

The requirement that a manager devote full time and attention to the licensed business does not necessarily require forty (40) hours per week, and may require less than or more than forty (40) hours per week. Further, a designated manager may not be employed or engaged in another business unless he or she applies for prior written approval from the Board. [40 Pa. Code § 5.23(d)]. It should be noted that while the Board’s Bureau of Licensing (“Licensing”) evaluates the specifics of each application on a case-by-case basis, Licensing typically approves those applications in which a

manager is scheduled to work at least thirty-five (35) hours per week.

Therefore, as a practical matter, it would not be possible for an otherwise-employed homeowners' association general manager who will not be on the subject licensed premises to devote full time and attention, in the capacity of a Board-approved manager, to the licensed premises. The chef, however, may well be an appropriate candidate for this position.

Any change to the Board-approved manager must be reported within fifteen (15) days by use of proper application to the Board. [40 Pa. Code § 5.23(c)]. You are thus advised to file an Application for Approval of Appointment of Manager, which document is available on the Board's website at www.lcb.state.pa.us, then select "Licensees," then select "Applications and Forms," then select PLCB Form 706 having the above-stated title. Instructions and fees are listed at the end of the application document.

If you require further assistance, please do not hesitate to again 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. 14-548