

October 22, 2014

Chuck Kovach  
Director of Food and Beverage  
Savor Mohegan Sun Arena @ Casey Plaza  
255 Highland Park Blvd.  
Wilkes Barre, PA 18702

**RE: Public Venue Liquor License Extension and Happy Hour Specials**

Dear Mr. Kovach:

ISSUE: This office is in receipt of your e-mail dated September 25, 2014, wherein you state that you are anticipating an expansion beyond your walls with the addition of a restaurant/bar, and you inquire as to the process by which to add it to your current license. You also inquire as to the regulations as to happy hour specials in the new location.

Records maintained by the Pennsylvania Liquor Control Board (“Board”) indicate that the SMG Food and Beverage, LLC, t/a Savor Mohegan Sun Arena @ Casey Plaza (“Arena”), holds Public Venue Liquor License No. PV-116 (LID 62160) for premises located at 255 Highland Park Blvd., Wilkes-Barre, Pennsylvania. Board records further indicate that the entire concourse level and club box-suite levels of the Arena are currently licensed.

OPINION: As you are aware, section 412(a) of the Liquor Code [47 P.S. § 4-412(a)] authorizes the Board to issue a restaurant liquor license to public venues, as defined in section 102 of the Liquor Code. [47 P.S. § 1-102]. 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)]. Since the addition of the proposed restaurant/bar is outside of the currently licensed area, your licensee must submit an application to extend its licensed premises with the Board. [40 Pa. Code § 7.21]. 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.” Please note

that requests for approval of extension of premises are evaluated by Licensing, not this office.

As you had indicated, the anticipated extension of premises will involve new construction; in such cases, the Board may grant prior approval for the extension. An applicant may request "prior approval" of the extended area if physical alterations or new construction will be required. [40 Pa. Code § 7.23]. Before an application is considered by the Board, Licensing will conduct an inspection of the premises to ensure that the additional premises is completely equipped to carry on the licensed business.

Please note that once the extension is approved, the subject area becomes subject to restrictions applicable to public venue licenses as set forth in section 412 of the Liquor Code [47 P.S. § 4-412] and the Board's Regulations. In addition, you should be aware that even if a licensed premises has different alcohol prices in different sections of the premises, it may only have one (1) happy hour per day and one (1) daily drink special per day pursuant to the Board's Regulations. [40 Pa. Code § 13.102].

In the happy hour, you are permitted to discount any or all alcoholic beverages for a period of time not to exceed four (4) consecutive hours or nonconsecutive hours per day and a maximum fourteen (14) hours per week. [47 P.S. 4-406(g)]. During this time, the price of alcoholic beverages may not change. Further, the happy hour cannot extend beyond 12:00 midnight. [40 Pa. Code § 13.102(a)]. Be advised that section 406(g) of the Liquor Code [47 P.S. § 4-406(g)] requires notice of all happy hours to be posted on the licensed premises seven (7) days prior to the happy hour.

In a daily drink special, you are permitted to offer one (1) specific type of alcoholic beverage at a discounted price all day, or for a portion of the day. [40 Pa. Code § 13.102(b)(2)]. A specific type of alcoholic beverage means either a specific registered brand of malt or brewed beverages, a type of wine, a type of distilled spirits or a mixed drink. [*Id.*]. For example, a specific brand of beer such as "Blue Hound Pilsner" or "Brendan's Cream Stout" or "Oil City Light," may be discounted, but not "all draft" or "all bottled" beer or "all Blue Hound products." Daily wine drink specials could be "Chardonnay" or "Merlot," but not "all white wine" or "all red wine" or "all Kendall wines." Permissible spirits specials would be "Rum and Cola" or "all brandy drinks," but not "all well drinks" or "all Jackson's products." [See Board Advisory Notice No. 16]. Like a happy

hour, a daily drink special must end by midnight; there can be no discounting of alcoholic beverages between midnight and your closing time of 2:00 a.m.

The conduct of these specials must comply with the parameters of the public venue license. Public venue licensees are authorized to sell alcoholic beverages only one (1) hour before, during and one (1) hour after certain enumerated events. [47 P.S. § 4-412(f)(1)]. Sales of alcoholic beverages before, during, and after all professional and amateur athletic events on the premises shall be limited to sales of malt or brewed beverages in shatterproof containers. Sales of alcoholic beverages before, during, and after performing arts events or other entertainment events may consist of liquor or malt or brewed beverages in shatterproof containers. [47 P.S. § 4-412(f)(2)].

Should you have any further questions regarding this matter, please 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, Assistant Director, Bureau of Licensing  
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 14-553