

October 23, 2014

Karen Starks  
Bluebonnet Consulting, Inc.

**RE: Hotel and Golf Course Licenses**

Dear Ms. Starks:

ISSUE: This office is in receipt of your e-mail dated September 4, 2014, wherein you indicate that you offer consulting services for various licenses. You state that one of your clients holds both a hotel license and a golf course license. You explain that a public road previously separated the hotel premises and the golf course premises. You indicate that the public road has since been converted to a private road. Based on a previous telephone conversation with this office, you explained that the private road does not have an outlet and only leads to the hotel, which you indicated was the Omni Bedford Springs Resort. You ask if you may now extend the hotel license to include the golf course, thereby dispensing with your need for a golf course license.

On September 12, 2014, you contacted this office by telephone to ask a follow-up question related to your September 4, 2014 e-mail. During that conversation, you indicated that the golf course has a separate deed and a separate address from the hotel. You ask if this will affect your ability to extend the hotel license to include the golf course. Additionally, you ask how minors would need to be treated if the hotel license, rather than a golf course license, covered the golf course.

Pennsylvania Liquor Control Board ("Board") records indicate that Bedford Resort Partners Ltd. and Omni Hotels Management Corporation ("Bedford Resort") holds Hotel Liquor License No. H-6204 (LID 62820) for use by it at premises located at 2215 Business Route 220, Bedford, Pennsylvania. Board records also indicate that Bedford Resorts holds Privately-owned Public Golf Course Liquor License No. PGR-309 (LID 62824) for use by it at premises located at 2138 Business Route 220, Bedford, Pennsylvania.

Further, please note that Board records reflect that there is a pending transfer of Hotel Liquor License No. H-6204 (LID 62820) and Privately-owned Public Golf

Course Liquor License No. PGR-309 (LID 62824) to Omni Bedford Springs Resort, LLC and Omni Hotels Management Corporation.

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. Additionally, please note that the Board has discretion to approve an application for extension to an area that is not immediate, abutting, adjacent or contiguous; however, typically such an area must be on the same premises or location as the licensed premises. [Roberts v. Pennsylvania Liquor Control Board, 604 A.2d 1152 (1992)]. Finally, please note that it is the Board's Bureau of Licensing ("Licensing"), initially, and the three (3) member Board, ultimately, that decides whether to approve a particular extension application. [See Roberts v. Pennsylvania Liquor Control Bd., 604 A.2d 1152 (Pa. Cmwlth. 1992)].

Considering the above, it is possible for a hotel licensee to extend its premises to include a golf course which is separated from the hotel premises by a private road, provided that the hotel licensee obtains approval to operate another business on the licensed premises. However, approval of such an extension ultimately rests with the Board.

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."

Further, as you are aware, the extended area will be subject to all restrictions and requirements under the Liquor Code and Board Regulations, including prohibiting minors from frequenting the location. The general rule in Pennsylvania is that minors may not be present in an establishment licensed to sell alcoholic beverages. Pennsylvania law defines a minor as a "person under the age of 21 years." [1 Pa. C.S.A. § 1991]. There are five (5) exceptions to the general rule for retail licensees such as hotels. These exceptions are as follows:

1. Minors with parents ("Parent exception")

If a minor is with one (1) or both of the minor's parents, then the minor is permitted to be on the premises. The minor and parent(s) can sit anywhere on the

premises, including the bar area, and alcoholic beverages can be served to the parent(s) or to any other adult with the minor.

## 2. Minors with legal guardians (“Guardian exception”)

If a minor is with a legal guardian, then the minor is permitted to be on the premises. The minor and the legal guardian can sit anywhere on the premises, including the bar area, and alcoholic beverages can be served to the guardian or to any other adult with the minor.

## 3. Minors under proper supervision (“Proper supervision exception”)

If a minor is under proper supervision, then the minor is permitted to be on the premises. Section 102 of the Liquor Code defines proper supervision as someone who is at least twenty-five (25) years of age, who is directly responsible for the care and conduct of the minor while on the premises, and who keeps the minor within his or her sight or hearing. Proper supervisors are generally unpaid volunteers. However, licensees or their employees are allowed to act as proper supervisors as long as they are not performing any other employment-related duties at the same time. [47 P.S. § 1-102].

If a minor is in the premises under proper supervision, the minor can sit anywhere on the premises, including the bar area, and alcoholic beverages can be served to any adults with the minor.

Proper supervisors can only supervise a limited number of minors. In Philadelphia, that number is five (5). In the rest of Pennsylvania, the number is twenty (20), i.e., one (1) proper supervisor can supervise up to twenty (20) minors. Notwithstanding the above limitations, if the minors are on the premises as part of a school-endorsed function, each proper supervisor can supervise up to fifty (50) minors.

Regardless of relationship, someone who is eighteen (18) years old may be properly supervised by anyone who is twenty-five (25) or older, as long as that person is directly responsible for the care and conduct of the minor while on the premises, and keeps the minor within his or her sight or hearing.

## 4. Minors attending a social gathering (“Social gathering exception”)

If a minor is attending a social gathering, then the minor is permitted to be on the premises. A social gathering is an event marketed to or catering to minors, in whole or in part, for which at least forty-eight (48) hours advance notice has been given to the Pennsylvania State Police, Bureau of Liquor Control Enforcement (“Bureau”). No alcohol can be served to anyone, even adults, at a social gathering and all alcohol must be removed from or secured by lock and key at the licensed premises.

#### 5. Minors at food-oriented establishments (“Pizza Hut exception”)

If a restaurant, hotel, or retail dispenser licensed premises has gross sales of food and non-alcoholic beverages equal to fifty percent (50%) or more of its combined gross sales of both food and alcoholic beverages, then minors are permitted on the premises. [40 Pa. Code § 5.321]. The presence of a parent, legal guardian, or proper supervisor is not necessary.

Minors present under the Pizza Hut exception are not permitted to sit in the bar section of the premises. Further, no alcoholic beverages can be served to any adult at the table or booth where the minor is seated (unless the minor is also there with a parent, legal guardian, or proper supervisor), without risk of citation by the Bureau for having minors frequent the premises. Please note that this exception does not apply to clubs.

Minors are not permitted on licensed premises unless they fall under one (1) of the above-listed exceptions. Be advised that it does not matter if a minor is age six (6), age eighteen (18) or age twenty (20); the same rules apply. It should also be noted that an establishment is permitted to make house rules that place additional limits as to when and where minors are allowed on the premises.

With regard to your specific question, if the hotel licensee is extended to include the golf course area, then the aforementioned rules would be applicable to the golf course area as well. However, please note that if the golf course remained unlicensed, minors would be permitted to frequent the unlicensed golf course without being subject to the provisions set forth above. [47 P.S. § 4-406(e)(1)].

Next, regarding the employment on minors of licensed premises, please be advised that section 493(13) of the Liquor Code generally makes it unlawful for any hotel, restaurant, or club liquor licensee, or any retail dispenser, to employ or to permit any minor under the age of eighteen (18) to serve any alcoholic beverages or to

employ or permit any minor under the age of sixteen (16) to render any service whatsoever in the licensed premises. [47 P.S. § 4-493(13)]. However, minors between the ages of sixteen (16) and eighteen (18) may be employed in licensed premises to serve food, clear tables and perform other similar duties, not to include the dispensing or serving of alcoholic beverages. [Id.].

Additionally, there is a provision in the Board's Regulations that permits a seventeen (17)-year-old minor to be treated as though he or she is eighteen (18) years old for purposes of employment if he or she is a high school graduate, or if he or she has been declared to have attained his or her academic potential by the chief administrator of the school district where the minor resides. [40 Pa. Code § 5.14]. In that case, the licensee must have in its possession on the licensed premises, to be produced on demand, a certified copy of the diploma or certificate of graduation or a letter on the official stationery of the minor's school district and over the signature of the chief administrator of the school district, declaring that the minor has attained his or her academic potential. [Id.].

Further, a ski resort, golf course, or amusement park licensee may employ minors who are fourteen (14) or fifteen (15) years of age to perform duties in rooms or areas of the licensed premises in which alcohol is not being concurrently dispensed, served, or stored in an unsecured manner. [Id.].

Considering the above, if you choose to license the golf course area by extending the hotel license, the provision regarding the employment of minors who are fourteen (14) or fifteen (15) years would no longer be applicable to you.

Lastly, please note that employment of minors is primarily an issue handled by the Pennsylvania Department of Labor and Industry. Thus, you may also wish to contact that agency regarding this issue.

Please do not hesitate to contact this office should you have additional questions.

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

Karen Starks  
October 23, 2014  
Page 6

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. 14-560