

November 4, 2014

Charles Caputo, Esquire  
Caputo, Caputo & Regan, P.C.  
204 Fifth Avenue, 5<sup>th</sup> Floor  
Pittsburgh, PA 15222

**Re: Legal Implications Regarding the Service of Donated Alcohol**

Dear Mr. Caputo:

ISSUE: This is in response to your e-mail sent on October 8, 2014, wherein you request an Advisory Opinion on behalf of IX Liberty Center Owner LP and Westin Operator LLC (“Licensee”), holder of Hotel Liquor License No. H-6398 (LID 69121) for the premises at 1000 Penn Avenue, Pittsburgh, Pennsylvania. Licensee has contracted with a charitable foundation (“The Foundation”) that is hosting an event at the hotel on November 14, 2014. The Foundation is selling tickets to attendees. Licensee is willing to allow the Foundation to provide its own alcohol from donors or sponsors, and Licensee will serve the alcohol, provide mixers, soft drinks, and garnishes. It is your understanding that all of the alcohol has been donated to the Foundation and will be lawfully obtained in the Commonwealth of Pennsylvania.

You ask if there are any legal implications for Licensee or the Foundation as a result of the service of donated alcohol under the fact scenario above.

OPINION: There is nothing in the Liquor Code or the Board’s Regulations that prohibits an individual from bringing his or her own alcohol into any establishment, a practice commonly referred to as “BYOB,” whether or not the establishment possesses a license issued by the Board.

However, because the Foundation renting Licensee’s facility for a catered event is bringing its own alcohol, the Foundation would not be permitted to sell tickets to or charge an admission for the event, as this could be construed as the unlawful sale of alcohol. If the Foundation wants to sell tickets to or charge an admission for the event, then any alcohol made available or sold at the event must be provided by Licensee.

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In addition, it would not be permissible for the Foundation to give any donated alcohol to Licensee in lieu of alcohol used by Licensee at the event. Section 491(3) of the Liquor Code [47 P.S. § 4-491(3)] states that it shall be unlawful for any person within this Commonwealth, by himself or by an employee or agent, to attempt to purchase, directly or indirectly, or upon any pretense or device whatsoever, to purchase any liquor or alcohol from any person or source other than a Pennsylvania Liquor Store, except in accordance with the provisions of this act or the regulations of the Board.

Should you have any additional questions regarding this matter, the Liquor Code, or the Board's Regulations, 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. 14-566