

November 18, 2014

Becki Miller
Club Manager
VFW Post 2006 Home Association, Inc.
1045 South Morgan Street
Meadville, PA 16335-4155

RE: Catering Club Opening to the Public

Dear Ms. Miller:

ISSUE: This correspondence is in response to your e-mail dated October 21, 2014, wherein you ask whether your catering club is permitted to be open to the public for food and non-alcoholic beverages. If this is permitted, you also ask the following questions: whether a separate public entrance or a separate members-only entrance would need to be available; whether public patrons would be permitted to use the existing restrooms in the bar area or whether other restrooms would need to be added in the public dining room; whether your club would need to have any sort of permanent walls separating the dining room from the bar area; and whether members would be permitted to take alcohol from the bar area into the public dining room.

The Pennsylvania Liquor Control Board's ("Board") records indicate that the VFW Post 2006 Home Association, Inc. holds Catering Club Liquor License No. CC-5580 (LID 3992) for use at the premises located at 1045 South Morgan Street, Meadville, Pennsylvania.

OPINION: Initially, please be advised that the Liquor Code generally prohibits a club licensee from selling alcohol to individuals who are non-members of the club, or who are not active members of another club that is chartered by the same state or national organization. [47 P.S. § 4-406(a)(1)]. Any club licensee that is either an incorporated unit of a national veteran's organization or an affiliated organization, as defined in section 461.1 of the Liquor Code [47 P.S. § 4-461.1], is permitted to sell liquor or malt or brewed beverages to any active member of another club that is chartered by the same national veteran's organization, or to any member of a nationally-chartered auxiliary associated with the same national veteran's organization. [47 P.S. § 4-406(a)(1)]. Section 461.1 of the Liquor Code defines an "incorporated unit of a national veterans' organization" as "any incorporated post, branch, camp, detachment, lodge or other subordinate unit of a national veterans' organization having one hundred or more paid up members and organized for a period of a least one year prior to filing the application for a license." [47 P.S. § 4-461.1]. "Affiliated organization"

is defined as “home associations, home corporations, auxiliaries, ‘sons of’ or similar organizations which are directly affiliated with an incorporated unit or a national veteran’s organization.” [Id.]

The general prohibition on selling alcohol to non-members does not, however, preclude a club member from purchasing alcoholic beverages for non-member guests; nor does it preclude the non-member from being served alcohol purchased by a club member.

Moreover, patrons of a catering club licensee are permitted to purchase alcoholic beverages from the club even if they are non-members, as long as they are a part of a “catered event.” The Board’s Regulations define “catered events” as those involving the furnishing of liquor or malt or brewed beverages, or both, to be served with food prepared on the premises, or brought onto the premises already prepared, for the accommodation of groups of people who are using the facilities by prior arrangement at least twenty-four (24) hours in advance of the time of the function and which are paid for by the third party. [40 Pa. Code § 5.83(a)]. Records must be kept showing the date and time catering arrangements were made, the name of the person or the organization making the arrangements, and the approximate number of persons to be accommodated. [40 Pa. Code § 5.83(b)]. A catered event must be conducted for a third party, and cannot be self-sponsored by the licensee.

Turning now to your main inquiry, please be advised that there is nothing in the Pennsylvania Liquor Code or the Board’s Regulations that prohibits a club or catering club licensee from being open to the public (i.e., to non-members) for the sale of food and non-alcoholic beverages anywhere on its licensed premises. However, it should be noted that the Board’s Regulations require that the operations of a licensed club must conform to the club’s constitution and bylaws at all times. [40 Pa. Code § 5.81]. Thus, if your club’s constitution or bylaws contain any provisions prohibiting the club from being open to the public for the sale of food and non-alcoholic beverages, your club would be required to adhere to such provisions.

Finally, as to your other questions, please be advised that there is nothing in the Liquor Code or the Board’s Regulations that would: require a separate public entrance or a separate members-only entrance to be available; prohibit public patrons from using the existing restrooms in the bar area; require your club to have any sort of permanent walls separating the dining room from the bar area; or prohibit members from taking alcohol from the bar area into the dining room, assuming that the dining room is licensed for the sale and service of alcohol. Again, however, if your club’s

Becki Miller
November 18, 2014
Page 3

constitution and bylaws have any provisions addressing these issues, your club would be required to adhere to the same.

If you have any further questions or concerns 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. 14-588