

November 19, 2014

Carissa Catullo

**RE: Adjoining Pizzeria and Extended Hours Permit**

Dear Ms. Catullo:

ISSUE: This is in response to your e-mail sent on October 9, 2014, wherein you ask whether your licensed club would be permitted to rent out currently unused space on the top floor of the club's building to a local pizzeria. You advise that the only interior connection to the pizzeria from your club would be a window, through which orders for pizzeria food by club members would be placed and served. You further advise that there would be no interior door access between the club and the pizzeria, and the pizzeria would have its own publicly accessible entrance and exit. The pizzeria would also handle all of its own monetary exchanges for its sales.

Your second inquiry concerns an extended hours permit, wherein you ask for general information and ask if the extended hours permit can be used on a regular basis, or is limited to six (6) non-consecutive days per calendar year.

Records of the Pennsylvania Liquor Control Board ("Board") indicate that American Hungarian Social Association, of Munhall, Pennsylvania, holds Club Liquor License No. C-701 (LID 679) for the premises located at 936 East 8<sup>th</sup> Avenue, Munhall, Pennsylvania.

OPINION: Section 3.52 of the Board's Regulations prohibits a licensee from operating or permitting other persons to operate another business on the licensed premises. [40 Pa. Code § 3.52(a), (c)]. In addition, the licensed premises cannot have an inside passage or communication to or with any other business conducted by the licensee or other persons except as approved by the Board. [40 Pa. Code § 3.52(b)].

Section 3.53 of the Board's Regulations provides that "[w]here the Board has approved the operation of another business which has an inside passage or

communication to or with the licensed premises, storage and sales of liquor and malt or brewed beverages shall be confined strictly to the premises covered by the license.” [40 Pa. Code § 3.53]. Further, section 3.54 of the Board’s Regulations provides that “[w]here the Board has approved the operation of another business which has an inside passage or communication to or with the licensed premises, the extent of the licensed area shall be clearly indicated by a permanent partition at least 4 feet in height.” [40 Pa. Code § 3.54]. Pursuant to section 468(e) of the Liquor Code, the Board is not permitted to approve an interior connection that is greater than ten (10) feet wide between a licensed business and another business. [47 P.S. § 4-468].

Your request is being forwarded to the Bureau of Licensing for further processing.

Regarding your second inquiry, as you are likely aware, organizations which hold club liquor licenses may be open for the sale of liquor and malt or brewed beverages daily from 7:00 a.m. until 3:00 a.m. the following day. [47 P.S. § 4-406(a)]. No club licensee may sell liquor or malt or brewed beverages between the hours of 3:00 a.m. and 7:00 a.m. on any day. [Id.]. Patrons are required to leave that part of the premises habitually used for the serving of liquor or malt or brewed beverages not later than one-half (½) hour after the time the licensee is required to cease serving alcohol. [47 P.S. § 4-499(a)].

The Board may issue to a club an extended hours food permit, which would allow a club to remain open during those hours it would normally be closed, i.e., 3:00 a.m. until 7:00 a.m., for six (6) total days *during the two (2)-year term of its license*. [47 P.S. § 4-499(b.1)(emphasis added)]. Thus, patrons must vacate a club’s premises by 3:30 a.m., unless it is one (1) of the six (6) days during the two (2)-year licensing period for which a club may hold an extended hours food permit. Note that the extended hours food permit allows a club to sell only food and non-alcoholic beverages. [Id.]. No alcohol sales of any kind may occur during those extended hours.

You may obtain an application for an extended hours food permit online at [www.lcb.state.pa.us](http://www.lcb.state.pa.us), by clicking on “For Licensees,” then “Applications and Forms,” and finally selecting PLCB Form 318, “Application for Sunday Sales/Amusement Permit/Extended Hours Food License.” For additional information, you may contact the Bureau of Licensing at (717) 783-8250.

Please do not hesitate to contact this office if you have any 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 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. 14-589