

November 21, 2014

Joe Acla, General Manager
Association of Property Owners of The Hideout, Inc.
640 The Hideout
Lake Ariel, PA 18436
VIA REGULAR MAIL

RE: Interpretation of Proposed Club Bylaw

Dear Mr. Acla:

ISSUE: This is in response to your letter inquiry of November 7, 2014, in which you ask for a binding advisory opinion interpreting whether your proposed new social membership bylaws comply with all applicable Liquor Code and Pennsylvania Liquor Control Board (“Board”) Regulations. Specifically, you ask whether you have accurately addressed the issues of how one becomes a social member of the club, how the club allows social members to enter the licensed premises, the proposed investigation process, and the proposed time frame. You note that your proposed process includes an application being reviewed by your Public Safety Manager, then by review and decision of your Board, with a decision being made and communicated to the potential new social member after seven (7) days.

Board records indicate that Association of Property Owners of The Hideout, Inc. holds Catering Club Liquor License No. CC-5776 (LID 37061) for use by it at premises located at Lakeview Court, 640 The Hideout, in Lake Ariel, Pennsylvania. You are the Board-approved manager. Additionally, Association of Property Owners of The Hideout, Inc. holds Privately-Owned Private Golf Course License No. PGC-21 (LID 38647) for use by it at the premises located at North Fairway Drive, 640 The Hideout, in Lake Ariel, Pennsylvania. George Gearhart is the Board-approved manager.

OPINION: The requirements for memberships in a club are governed by the club’s constitution and/or bylaws, and each club’s procedures must be consistent

with its constitution and bylaws. [40 Pa. Code § 5.81]. Section 102 of the Liquor Code requires that members be admitted only after submission of an application, an investigation of the application, a vote on the application, and dues are charged and collected. [47 P.S. § 1-102]. However, the Liquor Code and the Board's Regulations are silent on the issue of precisely how a club determines eligibility of potential members for different classes of membership.

As noted, the Board's Regulations require a club to follow their constitution and bylaws. [40 Pa. Code § 5.82]. Please be advised that the interpretation of your club's bylaws is up to the discretion of your club, and neither the Board nor this office will become involved in reviewing a club's interpretation of its own bylaws outside the scope of an appeal in an enforcement action. You may want to consider seeking the assistance of private counsel in confirming the appropriateness of the information described in your e-mail.

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. 14-596