

December 23, 2014

Denis Brooks
Deer Creek Winery LLC
3333 Soapfat Road
Shippenville, PA 16254-3031

RE: Operation of Bed and Breakfast with Limited Winery

Dear Mr. Brooks:

ISSUE: This correspondence is in response to your e-mail sent on November 6, 2014, wherein you indicate that you would like to seek permission to build and operate a new bed and breakfast business attached to your limited winery. You indicate that the winery area would be locked during closed business hours. You also indicate that you would like to “share” staff and operate as one (1) combined business entity, that being a “winery and inn.” Accordingly, you seek advice on whether this is permissible and, if so, what steps must be taken.

The Pennsylvania Liquor Control Board’s (“Board”) records indicate that Deer Creek Winery LLC holds Limited Winery License No. LK-280 (LID 61463) for use at the premises located at 3333 Soapfat Road, Shippenville, Pennsylvania.

OPINION: Section 3.52(b) of the Board’s Regulations provides that “licensed premises may not have an inside passage or communication to or with any business conducted by the licensee or other persons except as approved by the Board.” [40 Pa. Code § 3.52(b)]. Similarly, section 3.52(c) of the Board’s Regulations provides that “[a] licensee may not conduct another business on the licensed premises without Board approval.” [40 Pa. Code § 3.52(c)]. Moreover, 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]. Furthermore, 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]. Additionally, section 468 of the Liquor Code provides that “[n]otwithstanding any other provision of law, the board may not approve an interior connection that is greater than ten feet wide between a licensed business and another business.” [47 P.S. § 4-468].

Therefore, if the bed and breakfast business that you are considering will be conducted on your licensed premises or if it will have an interior connection with your licensed premises, you would need to seek approval from the Board and satisfy the requirements set forth above. In order to request approval from the Board, you should submit a letter to the Board’s Bureau of Licensing at the following address: PLCB, Bureau of Licensing, P.O. Box 8940, Harrisburg, PA 17105-8940. The letter should clearly identify what you are seeking approval for, and it would also be helpful for you to include a written diagram depicting where the different business operations will be conducted. The Bureau of Licensing will then forward your request to the three (3)-member Board, which will, in its discretion, approve or refuse the request.

If you decide that you would like to extend the licensed portions of your premises as part of the endeavor that you are considering, then you would also need to file a “PLCB-1708 – Application for Extension of Wholesale License to Cover Additional Premises” with the Bureau of Licensing. This application may be obtained by calling the Bureau of Licensing at 717-783-8250 or by visiting the Board’s website at www.lcb.state.pa.us, placing your cursor over “Licensees,” followed by “Applications/Forms Overview,” selecting the link for “Forms,” and then selecting the link for the application from the list that follows.

In terms of sharing staff, please be advised that section 5.21(d) of the Board’s Regulations provides, in pertinent part, that “[t]he designated manager shall devote full time to the licensed business and may not be employed or engaged in another business unless prior written approval is obtained from the Board.” [40 Pa. Code § 5.21(d)]. Thus, if you are considering having the Board-approved manager for the current limited winery business also serve as the manager of, or perform other functions relative to, the bed and breakfast aspect of the proposed business, this would require separate Board approval. Such approval may be requested in the same manner set forth above relative to requests to conduct another business on licensed premises or to have an interior connection with another business.

Finally, it is recommended that you seek the advice of private counsel relative to any changes that you are considering to your current business operations.

Should you have any further questions or concerns regarding 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. 14-629