

January 14, 2015

Jill E. Nagy, Esquire
Summers Nagy Law Offices
200 Spring Ridge Drive, #202
Reading, PA 19610

Re: Transfer of Fire Company Club License

Dear Attorney Nagy:

ISSUE: This is in response to your e-mail and letter of January 6, 2015, wherein you advise that the Liberty Steam Fire Company of Spring City (“the Fire Company”) exists as a single organization that includes fire fighters and social club operations. It is assumed, for purposes of this response, that you represent the Fire Company. For various reasons, the Fire Company is in the process of dividing itself into three (3) distinct entities: the Social Organization, the Fire Fighting Operation, and the Relief Association.

Currently, the Fire Company holds a liquor license, but you advise that you would like the liquor license to be held by the Social Organization “due to the costs associated with additional insurance requirements and the limited scope of the fire fighting organization.” You ask if the Fire Company’s license can be transferred to the Social Organization, despite the fact that the Social Organization has not been in existence for at least one (1) year.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that the Fire Company holds Catering Club Liquor License No. CC-4039 (LID 3573) for the premises at 118 Hall Street, Spring City, Pennsylvania.

OPINION: As you appear to be aware, section 102 of the Liquor Code defines a club as the following:

[A]ny reputable group of individuals associated together not for profit for legitimate purposes of mutual benefit, entertainment, fellowship or

lawful convenience, having some primary interest and activity to which the sale of liquor or malt and brewed beverages shall be only secondary, **which, if incorporated, has been in continuous existence and operation for at least one year**, and if first licensed after June sixteenth, one thousand nine hundred thirty-seven, shall have been incorporated in this Commonwealth, and, if unincorporated, for at least ten years, immediately preceding the date of its application for a license under this act, and which regularly occupies, as owner or lessee, a clubhouse or quarters for the use of its members....

[47 P.S. § 1-102 (emphasis added)]. The Liquor Code does not give the Board any discretion to disregard these requirements under any circumstances. Therefore, the Fire Company may transfer its license to the Social Organization only when the Social Organization meets the definition of a club as that term is defined in section 102.

Your letter referenced liability and insurance requirements as a factor in transferring the Fire Company's license. You may not be aware that the Pennsylvania Supreme Court held, in the case of Guinn v. Alburdis Fire Co., 614 A.2d 218 (Pa. 1992), that volunteer fire companies have governmental immunity under section 8541 of the Tort Claims Act [42 Pa.C.S. § 8541] even when they are not engaged in fire-fighting activities. Information available from the Fire Company's website indicates that it is a 100% volunteer organization; therefore, this case law may be of assistance to you.

Should you have any other questions and/or issues related to the Liquor Code or the Board's Regulations, please feel free to once 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.

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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. 15-002