

February 27, 2015

Zachary Brooks
Dining Services Manager
Erie Yacht Club

E: Service at Unlicensed Boat House

Dear Mr. Brooks:

ISSUE: Your e-mail of January 23, 2015 states that you have built a boat house on your property and your club is considering using it for catered functions. Your license covers a clubhouse but does not cover the new boat house. There is no physical connection between the new boat house and the clubhouse. You inquire whether it is legally acceptable to have customers, clients and members bring their own alcohol (“BYOB”) for boat house catering functions and have the licensee serve the alcohol and charge a fee for this service and/or for cups, ice and similar items.

In addition, you have been advised that no business pertaining to the boat house is allowed to be conducted in the clubhouse. Assuming this is accurate, you inquire whether this means that all meetings, appointments, conversations and planning pertaining to events being catered at the boat house must take place at the boat house; whether, if a client is having an event at the boat house, you must meet with the client at the boat house rather than the clubhouse; whether you are allowed to use supplies such as cups, glasses, plates and utensils from the clubhouse to cater events at the boat house; and whether food prepared at the clubhouse is allowed to be served at the boat house.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Erie Yacht Club holds Catering Club Liquor License No. CC-2187 (LID 3265) for use by it at the premises located at 1 Ravine Drive, P.O. Box 648, Erie, Pennsylvania.

OPINION: A licensee is authorized to sell alcoholic beverages only on the licensed areas of its premises. [47 P.S. § 4-406(a.1); 40 Pa. Code § 7.21(a)]. However, there is nothing in the Liquor Code or the Board’s Regulations that prohibits an individual from bringing his or her own alcohol into any

establishment, a practice commonly referred to as “BYOB,” whether or not the establishment possesses a license issued by the Board.

A licensee may, but is not required to, charge a corkage fee to handle any product brought onto the premises by patrons. A licensee may also charge for cups, ice and similar items in such circumstances.

Additionally, please be advised that the local municipality in which your club is located may have ordinances banning BYOBs or laws concerning BYOBs or open containers of alcohol within the municipality. Therefore, you may wish to contact your local municipality regarding the same.

Furthermore, please be advised that, even when BYOB activities are occurring, your establishment remains responsible for ensuring that alcohol is not furnished or given to minors or visibly intoxicated persons, and failure to do so may result in a citation for violating section 493(1) of the Liquor Code. [47 P.S. § 4-493(1)].

Regarding your other area of inquiry, nothing in the Liquor Code or the Board’s Regulations would appear to prohibit business pertaining to the unlicensed boat house to be conducted in the clubhouse, as described in your inquiry. Section 3.52(c) of the Board’s Regulations [40 Pa. Code § 3.52(c)] prohibits a licensee from conducting another business on the licensed premises without Board approval; however, as described in your inquiry, it appears that the activities in question do not constitute the conduct of another business, but are closely related to the activities conducted pursuant to your catering club license.

Section 5.81 of the Board’s Regulations [40 Pa. Code § 5.81] requires a club licensee to adhere to the provisions of its constitution and/or bylaws. Failure to adhere to the constitution and/or bylaws may result in the issuance of a citation by the Pennsylvania State Police, Bureau of Liquor Control Enforcement, the entity that enforces the Liquor Code.

Although your question specifically inquires about BYOB, rather than the service of alcohol pursuant to your catering club liquor license, please be advised that it would be possible to apply for an extension of premises to cover the boat house. Section 7.21(b)(2) of the Board’s Regulations permits a licensee to extend its license to immediate, abutting, adjacent, and contiguous vacant land. [40 Pa. Code § 7.21(b)(2)]. Such an extension can be requested on a temporary or permanent basis. Once the extension is approved, the area becomes subject to all

restrictions in the Liquor Code and the Board's Regulations. Please note that it is the Board's Bureau of Licensing ("Licensing") initially, and the three (3)-member Board ultimately, that decides whether a particular extension request is in compliance with the Liquor Code and the Board's Regulations, and whether or not to grant the extension.

An extension application is available on the Board's website at www.lcb.state.pa.us. Click on "Licensees," then "Applications and Forms," then "Application Packet for Extension of Retail License to Cover Additional Premises."

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

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