

March 24, 2015

Joe Oberneder

RE: Questions about Mission Statement of Club Charter

Dear Mr. Oberneder:

ISSUE: This is in response to your e-mail of February 12, 2015, wherein you ask several questions concerning the mission statement of your private club. You ask whether various activities and events and the frequency with which they are held conform to the mission statement of your club's charter.

Records of the Pennsylvania Liquor Control Board ("Board") indicate that Unter Uns Society holds Catering Club Liquor License No. CC-675 (LID 671) for the premises located at 1401-21 Van Buren Avenue, Altoona, Pennsylvania.

OPINION: As you seem to be aware, Section 102 of the Liquor Code defines a club as follows:

'Club' shall mean any 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. Continuous existence must be proven by satisfactory evidence. The board shall refuse to issue a license if it appears that the charter is not in possession of the original incorporators or their direct or legitimate successors. The club shall hold regular meetings, conduct its business through officers regularly elected, admit members by written application, investigation and

ballot, and charge and collect dues from elected members, and maintain such records as the board shall from time to time prescribe, but any such club may waive or reduce in amount, or pay from its club funds, the dues of any person who was a member at the time he was inducted into the military service of the United States or was enrolled in the armed forces of the United States pursuant to any selective service act during the time of the member's actual service or enrollment. The term includes a privately-owned private golf course.

[47 P. S. § 1-102 (emphasis added)]. If a club does not meet the statutory requirements, it would no longer be permitted to sell alcohol.

Additionally, please be advised that section 5.81 of the Board's Regulations requires a club licensee to adhere to the provisions of **its** constitution and/or bylaws. [40 Pa. Code § 5.81 (emphasis added)]. Therefore, any events and the frequency with which they are held must comply with Unter Uns Society's constitution and/or bylaws. Failure of a club to adhere to its constitution and/or bylaws may result in the issuance of a citation by the Pennsylvania State Police, Bureau of Liquor Control Enforcement ("Bureau"), which is the entity that is tasked with enforcing the Liquor Code.

This office is not authorized to interpret specific provisions of your club's constitution, bylaws, or charters. As long as your club meets the described requirements and otherwise complies with the Liquor Code and Board Regulations, it would be able to maintain its catering club liquor license. Otherwise, you may wish to bring this matter to the Bureau's attention. They can be reached at (717)-540-7410.

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.

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Very truly yours,

FAITH S. DIEHL
CHIEF COUNSEL

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LCB Advisory Opinion No. 15-106