

April 13, 2015

Stephen M Macelhaney

RE: Barred Patrons

Dear Mr. Macelhaney:

ISSUE: This office is in receipt of your email of April 1, 2015, wherein you advise that you are Pennsylvania Liquor Control Board (“Board”) hotel licensee. You indicate that your establishment was robbed approximately one year ago. You wish to bar the robbers from your establishment, so that you can have the individuals arrested should they return to your premises. You state that individuals at your county courthouse advised you that you needed, “go thru the PLCB.”

Board records indicate that Stephen M. Macelhaney holds Hotel Liquor License No. H-2743 (LID 65216) for use by him at premises located at 2148 Route 87, Hillsgrove, Pennsylvania.

OPINION: To ensure a successful operating history, the Board has consistently urged retail licensees to bar patrons who cause problems or who are involved in illegal activity on the licensed premises. Please be advised that as long as it is not done in an illegally discriminatory manner, a licensee may refuse to serve whomever it chooses. Further, a licensee may bar any patron at any time, for any reason, or for any duration, so long as the licensee does not unlawfully discriminate in violation of the Pennsylvania Human Relations Act. [See 43 P.S. § 955].

Please be advised that should you bar a patron and subsequently have to prove that the patron was legally barred (e.g., that the person trespassed), there may be additional steps, like sending a certified letter, that need to be taken under the criminal laws of Pennsylvania. Contrary to the assertion by county officials in your letter, this office cannot issue legal opinions about criminal matters like defiant trespass. [47 P.S. § 2-211.1]. Thus, you may wish to contact a private attorney, your local police, or your county’s District Attorney’s Office about any

additional steps that may need to be taken to prove that a person is unlawfully trespassing on your 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

LCB Advisory Opinion No. 15-157