

May 15, 2015

Mr. Carl Helrich
Allegro Winery
3475 Sechrist Road
Brogue, PA 17309

E: Leasing Additional Location from Restaurant Licensee

Dear Mr. Helrich:

ISSUE: Your e-mail of April 23, 2015 states that Allegro Wine Company has applied for an additional Board-approved location in Wrightsville, Pennsylvania. The space will be leased from an entity called DJMM, LLC. One of the principals of this entity also is part of Burning Bridge Tavern, LLC, which holds a hotel¹ liquor license. You inquire whether this is permissible.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Allegro Wine Company, LLC, holds Limited Winery License No. LK-163 (LID 48979) for use by it at premises located at 3475 Sechrist Road, Brogue, Pennsylvania.

OPINION: Initially, because you indicate that you have applied for an additional Board-approved location, please be advised that it is the Bureau of Licensing, and not this office, that is responsible for investigating such applications and issuing approvals, if warranted. Notwithstanding the above, your proposed set-up appears problematic.

Sections 411 and 443 of the Liquor Code generally prohibit an entity from simultaneously holding an interest in both a retail license and a manufacturing license. [47 P.S. §§ 4-411; 4-443].

In particular, section 411(d) of the Liquor Code provides:

Excepting as herein provided, no hotel licensee, restaurant licensee or club licensee, and no officer, director, stockholder, agent or employe of any such licensee ***shall in any wise be interested, either directly or indirectly, in the ownership or leasehold of any property or the equipment of any property or any mortgage lien against the same, used by a manufacturer in manufacturing liquor or malt or brewed beverages***; nor shall any

¹ Your letter references Burning Bridge Tavern, LLC as holding a restaurant license. It actually holds Hotel Liquor License No. H-4122.

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hotel, restaurant or club licensee, or any officer, director, stockholder, agent or employe of any such licensee, either directly or indirectly, lend any moneys, credit, or give anything of value or the equivalent thereof, to any manufacturer for equipping, fitting out, or maintaining and conducting, either in whole or in part, an establishment used for the manufacture of liquor or malt or brewed beverages.

[47 P.S. § 4-411(d) (emphasis added)].

Thus, a retail licensee, such as a hotel licensee, cannot be a landlord to a manufacturing licensee, such as a limited winery. Consequently, you would not be able to locate an additional board approved location at any location owned by the holder of a hotel liquor license.

Nevertheless, Licensing has occasionally agreed to license an additional Board-approved location for a limited winery licensee, provided the licensee agrees not to manufacture any wine at that location. This agreement is in the form of a conditional licensing agreement. You may wish to contact Licensing regarding this potential option.

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. 15-210