

May 20, 2015

Denise Pierson  
Office Administrator  
KCS Turf Management, Inc.

**RE: Clarification Questions Concerning Hotel License**

Dear Ms. Pierson:

ISSUE: This office is in receipt of your e-mail dated April 30, 2015, wherein you ask for clarification regarding the operation of your licensed premises. Your questions will be addressed in the order presented.

At the outset it should be noted that you indicate in your e-mail that the premises holds a public golf course license with a hotel attached. However, records maintained by the Pennsylvania Liquor Control Board (“Board”) indicate that TKCS Turf Management, Inc., t/a Jackson Valley Golf Club holds Hotel Liquor License No. H-4457 (LID 58012) for premises located at 6927 Jackson Run Road, Warren, Pennsylvania.

OPINION: You have presented two (2) questions about the operation of your licensed establishment as follows:

- (1) Can you sell alcohol anywhere on the golf course?

No, not under your current license. Unlike the holder of restaurant liquor license or a club license, your hotel license does not enable you to serve alcohol on the golf course situated on your property. However, it may be possible to extend the licensed area to cover the golf course. Section 7.21(b)(2) of the Board’s Regulations permits a licensee to extend its license to the 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.

Additionally, please note that the Board has discretion to approve an application for extension to an area that is not immediate, abutting, adjacent or contiguous; however, typically such an area must be on the same premises or location as the licensed premises. [Roberts v. Pennsylvania Liquor Control Board, 604 A.2d 1152 (Pa. Cmwlth. 1992)]. Finally, please note that it is the Board's Bureau of Licensing ("Licensing"), initially, and the three (3)-member Board, ultimately, that decides whether to approve a particular extension application. [See Id.].

Once again, considering the above, it is possible for a hotel licensee to extend its premises to include a golf course, provided that the hotel licensee obtains approval to operate another business on the licensed premises. However, approval of such an extension ultimately rests with the Board.

The forms necessary to apply for extension of licensed premises may be acquired from Licensing at (717) 783-8250, or via the Board's website, at [www.lcb.state.pa.us](http://www.lcb.state.pa.us), by selecting "Licensees," then "Applications/Forms," then "Application Packets," and then "Application Packet for Extension of Retail License to Cover Additional Premises."

- (2) You note that Thomas M. Moyer is listed as the manager on the liquor license. You note that he is the owner and president of KCS Turf Management Inc., but that he does not draw a salary from the company. Instead, Mr. Moyer does draw a salary from another company that he owns and only works ten (10) hours or less per week at that job. You ask if there is a problem with Mr. Moyer being listed as manager of the licensed premises.

The answer to your present inquiry is fact specific and would be dependent upon the circumstances involving the particular individual. Generally, section 5.23(a) of the Board's Regulations [40 Pa. Code § 5.23(a)] provides that a licensee shall appoint an individual as manager for each licensed establishment and the manager shall devote full time and attention to the licensed business. [Id.]. This individual must be approved by the Board.

The requirement that a manager devote full time and attention to the licensed business does not necessarily require forty (40) hours per week, and may require less than or more than forty (40) hours per week. Further, a designated manager may not be employed or engaged in another business unless he or she applies for prior written approval from the Board. [40 Pa. Code § 5.23(d)]. It should be noted

that while Licensing evaluates the specifics of each application on a case-by-case basis, Licensing typically approves those applications in which a manager is scheduled to work at the licensed premises at least thirty-five (35) hours per week.

Please be advised that records maintained by the Licensing indicate that Thomas M. Moyer submitted an affidavit dated March 12, 2007, in which he swore and averred that he is available “on a full time basis to act as manager of KCS Turf Management, Inc.” If circumstances have changed since 2007 that would affect Mr. Moyer’s ability to act as the full time manager of the licensed premises, Licensing should be notified.

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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