

June 11, 2015

Richard G. Cunningham  
VIII Hotel II P Loan Portfolio-Yorktowne LLC and  
Hersha Hospitality Management LP  
**VIA E-MAIL:** [krzymnd01@gmail.com](mailto:krzymnd01@gmail.com)

**RE: Donated Alcohol for Non-Profit Event**

Dear Mr. Cunningham:

ISSUE: This is in response to your e-mail inquiry of May 11, 2015, in which you state that the Yorktowne Hotel is holding an anniversary dinner event for the Rotary Club. The Rotary Club will be selling tickets to attend the event, which includes dinner and a hard apple cider drink. A portion of the ticket price will be given to the Yorktowne Hotel for the meal. The hard apple cider is being donated to the Rotary Club from a local winery. You ask whether it is permissible for the Yorktowne Hotel to serve the hard apple cider at the event.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that VIII Hotel II P Loan Portfolio-Yorktowne LLC and Hersha Hospitality Management LP hold Hotel Liquor License No. H-6396 (LID 69080) for use by it at premises located at 48 East Market Street, York, Pennsylvania.

OPINION: The Board’s Regulations define “catered events” as those involving the furnishing of liquor or malt or brewed beverages, or both, to be served with food prepared on the premises, or brought onto the premises already prepared, for the accommodation of groups of non-members who are using the facilities by prior arrangement made at least twenty-four (24) hours in advance of the time of the event and which are paid for by the third party. [40 Pa. Code § 5.83(a)]. Please be advised that a licensee may not self-sponsor a catered event. A catered event must be conducted for a third party. Because the fundraising event is presumably part of a catered event at your licensed premises, tickets to the event may be sold.

Richard Cunningham

June 11, 2015

Page 2

There is nothing in the Liquor Code or the Board's Regulations that prohibits a licensed winery from donating wine to non-licensed individuals or organizations. Manufacturers, such as breweries or wineries, or importing distributors or distributors may donate alcohol to an unlicensed charitable entity for its use at an event, assuming that the alcohol has been properly procured in the Commonwealth. However, the donated alcohol cannot be sold by the Rotary Club. [47 P.S. § 4-491(1)]. "Sale" is defined as any transfer for a consideration [47 P.S. § 1-102] and would include the offering of the hard apple cider to persons purchasing tickets as you described in your e-mail. Because the price of a ticket to the event includes a payment in order to obtain alcohol, this would constitute the sale of alcohol by the Rotary Club, which is unlawful. [47 P.S. § 4-491(1)]. If the ticket price only covers the food, and any person can obtain the hard apple cider with or without the purchase of a ticket or a donation, then the giving of free alcohol would be permissible.

Although a retail licensee, such as a hotel liquor licensee, may give away one (1) standard-sized alcoholic beverage, please be advised that Board's Regulations prohibit a licensee of one class, such as a manufacturer, from providing anything of value to a licensee of another class, such as a restaurant liquor licensee. Specifically, subsection 13.51(a) provides:

Except as provided herein and in § 13.52 (relating to advertising novelties), no in-State or out-of-State manufacturer, licensee or group of licensees, their servants, agents or employees, may directly or indirectly, in person, individually or through a trade organization, contribute to or accept from another licensee or group of licensees of a different class, their servants, agents or employees or a trade organization of licensees of a different class, anything of value by means of advertisements, contributions, purchase, sale of tickets, donations or by any device, for any purpose.

[40 Pa. Code § 13.51(a)]. Therefore, it would not be permissible for the local winery to donate the hard apple cider for the Yorktowne Hotel to give away at the event.

Should you have any further questions or concerns regarding this matter, please do not hesitate to contact this office.

Richard Cunningham  
June 11, 2015  
Page 3

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. 15-253