

July 7, 2015

Jeff Virojanapa  
White Orchids Thai Cuisine Restaurant  
VIA E-MAIL: [whiteorchids\\_thaicuisine@yahoo.com](mailto:whiteorchids_thaicuisine@yahoo.com)

**RE: Extension of Restaurant License**

Dear Mr. Virojanapa:

ISSUE: This office is in receipt of your e-mail dated June 4, 2015, in which you state that you own White Orchids Thai Cuisine at the Promenade Shops at Saucon Valley. You are considering opening a second restaurant concept in a smaller venue two (2) doors down in the same mall. You ask whether an extension of your existing license may be granted for this second location.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that White Orchids Thai Cuisine LLC holds Restaurant Liquor License No. R-11829 (LID 61823) for use at the premises located at 2985 Center Valley Parkway, Suite 200, Center Valley, Pennsylvania.

OPINION: You do not provide sufficient information to permit a specific response. For example, it is unknown whether the same legal entity would own and operate both locations, and it is unknown whether the “second restaurant concept” would be a separate business from the existing licensed restaurant. Generally, however, in order to allow sales and/or service of alcoholic beverages beyond an existing licensed premise, a licensee must apply for an extension of its licensed premises to cover any additional area. Section 7.21(b)(2) of the Board’s Regulations permits a licensee to extend its license to **immediate, abutting, adjacent, and contiguous vacant land**. [40 Pa. Code § 7.21(b)(2) (emphasis added)].

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, 146 Pa. Cmwlth. 64, 604 A.2d 1152 (1992).

See also, Gramland Properties, Inc. v. Pennsylvania Liquor Control Board, 807 A.2d 339 (Pa. Cmwlth. 2002).

In addition, section 406.1 of the Liquor Code allows the Board to approve the extension of a restaurant liquor license to include a secondary service area with dimensions of at least one hundred seventy-five (175) square feet, enclosed on three (3) sides and with adequate seating. [47 P.S. § 4-406.1]. However, the secondary service area must be located on property having a minimum area of one (1) acre and it must be on land which is immediate, abutting, adjacent or contiguous to the licensed premises with no intervening public thoroughfare. [Id.].

Additionally, the original licensed premises and the secondary service area must be located on the same tract of land. The Liquor Code defines “tract” as “a contiguous expanse of land under the control of one person.” [47 P.S. § 1-102]. The determination as to whether a particular area constitutes a public thoroughfare is made by the Board, following an investigation by the Bureau of Licensing, upon receipt of an application for extension of premises.

If you choose to proceed with an extension of premises application or a secondary service application, you may wish to submit the application to the Bureau of Licensing (“Licensing”) on a prior approval basis. Submitting an application on a prior approval basis allows the applicant to receive consideration of its application based on plans rather than the actual construction at the proposed premises.

The application forms are available on the Board’s website at [www.lcb.state.pa.us](http://www.lcb.state.pa.us), then select “Licensees,” then “Applications and Forms,” then “Application Packets,” and then “Application Packet for Extension of Retail License to Cover Additional Premises.”

Finally, please be advised that it is the decision of Licensing, and ultimately the three (3)-member Board, whether to grant a particular request for an extension of premises. Please do not hesitate to contact this office should you have 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**

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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, Office of Regulatory Affairs  
Tisha Albert, Director, Bureau of Licensing  
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 15-279