

July 7, 2015

William J. Shehwen, III, Esquire
The Apple House – 123 East Gay Street
West Chester, PA 19380
VIA E-MAIL: bill@barristerbill.com

Re: Admitting New Club Members

Dear Mr. Shehwen:

ISSUE: This is in response to your e-mail of May 12, 2015, wherein you advise that you represent the Italian Social Club, which currently holds a catering club license. Your client has several questions relating to the admission of new members to its club:

1. Is there a limit on how many guests a member may bring to the club? Can the club charge guests for admission?
2. Can the “written application” requirement be digital or does it have to be on paper?
3. How in depth does the “investigation” requirement have to be?
4. Can the board of the club elect one member to be the Director of Membership with the power to admit members unilaterally?
5. Is there anything in the Liquor Code or the Board’s Regulations that would prevent the ISC from admitting members upon their submission and review of their application?

Your client would like the investigation to consist of an interview with the Director of Membership. If the Director of Membership can approve members without requiring any other director’s votes, then this interview and the Director of Membership’s approval would constitute the investigation and ballot process. As a result, if the Director of Membership is at the club when the new member applies, approval of the new member could be accomplished almost instantaneously. You ask if such a method would be acceptable.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that the Italian Social Club holds Catering Club Liquor License No. CC-749 (LID 3020) for the premises at 130 East Prescott Alley, West Chester, Pennsylvania.

OPINION: The Board’s Regulations require that the operations of a licensed club must conform to the club’s constitution and bylaws at all times. [40 Pa. Code § 5.81]. With regard to your specific questions, as long as the club adheres to its constitution and bylaws, then the club is in compliance with this provision of the Board’s Regulations.

As to the membership in general, a club is defined in the Liquor Code as:

‘Club’ shall mean any reputable group of individuals associated together not for profit for legitimate purposes of mutual benefit, entertainment, fellowship or lawful convenience, having some primary interest and activity to which the sale of liquor or malt and brewed beverages shall be only secondary, which, if incorporated, has been in continuous existence and operation for at least one year, and if first licensed after June sixteenth, one thousand nine hundred thirty-seven, shall have been incorporated in this Commonwealth, and, if unincorporated, for at least ten years, immediately preceding the date of its application for a license under this act, and which regularly occupies, as owner or lessee, a clubhouse or quarters for the use of its members. Continuous existence must be proven by satisfactory evidence. The board shall refuse to issue a license if it appears that the charter is not in possession of the original incorporators or their direct or legitimate successors. The club shall hold regular meetings, conduct its business through officers regularly elected, admit members by written application, investigation and ballot, and charge and collect dues from elected members, and maintain such records as the board shall from time to time prescribe, but any such club may waive or reduce in amount, or pay from its club funds, the dues of any person who was a member at the time he was inducted into the military service of the United States or was enrolled in the armed forces of the United States pursuant to any selective service act during the time of the member's actual service or enrollment. The term includes a privately-owned private golf course.

[47 P. S. § 1-102 (emphasis added)]. This office cannot provide you with specific guidelines as to how “in depth” an investigation must be. However, because the Liquor Code uses the word “ballot” as part of the process for voting in new members,

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authorizing one (1) person to unilaterally decide who may become a member would violate this requirement of the Liquor Code. This office, therefore, does not condone the use of an individual, such as the Director of Membership described above, who may unilaterally decide which applicants may be admitted as members of the club.

Moreover, this office has previously opined that the admissions process contemplated by the Liquor Code precludes someone from being admitted to the club the same day that he or she applies to the club. See Advisory Opinion 2012-134; 2010-81; 2008-247.

Should you have any other questions and/or issues related to the Liquor Code or the Board's Regulations, please feel free to once again contact this office.

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. 15-280