

September 24, 2015

Mike Maloney

VIA E-MAIL: mimaloney@yahoo.com

RE: Food Provided by Restaurant Next Door

Dear Mr. Maloney:

ISSUE: This is in response to your e-mail dated August 26, 2015, wherein you advise that you were told, by an unidentified source, that your licensed restaurant establishment could use a nearby pizza restaurant as your means of food. You use their menus and your customers order through you and pay through you. You ask if this information is correct.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that Maloney Brothers’ Pub LLC holds Restaurant Liquor License No. R-11913 (LID 50143) for the premises located at 1009 Lancaster Avenue, Bryn Mawr, Pennsylvania.

OPINION: Section 102 of the Liquor Code, in pertinent part, defines a restaurant as follows:

a reputable place operated by responsible persons of good reputation and **habitually and principally used for the purpose of providing food** for the public, the place to have an area within a building of not less than four hundred square feet, equipped with tables and chairs, including bar seats, **accommodating at least thirty persons** at one time.

[47 P.S. § 1-102 (emphasis added)]. The statute does not provide that a certain type of food or a certain number of courses must be provided.

This office has interpreted the above-referenced definition as requiring food to be offered and sold at the licensed premises. However, there is no requirement that such food be made or prepared at the licensed premises.

Mike Maloney
September 24, 2015
Page 2

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. 15-380