

October 29, 2015

Joan Lutzow
Winnie's Le Bus Manayunk
4266 Main Street
Philadelphia, PA 19127
VIA E-MAIL

Re: New Year's Eve Party

Dear Ms. Lutzow:

ISSUE: This is in response to your e-mail dated October 22, 2015, wherein you advise that you have the opportunity to cater a New Year's Eve Party on December 31, 2015. You ask if it would be correct to file for an off-premises catering permit ("OPCP") from 8:01 p.m. to 11:59 p.m. on December 31, 2015, and a second permit for 12:00 a.m. to 3:00 a.m. on January 1, 2016.

Records of the Pennsylvania Liquor Control Board ("Board") indicate that Winn-Hers, Inc. ("Licensee"), holds Restaurant License No. R-438 (LID 51338) for the premises at 4266-70 Main Street, Philadelphia, Pennsylvania. Furthermore, Board records indicate that Licensee has obtained an Off Premises Catering Permit for 2015 and has used the permit for thirty (30) catered functions.

OPINION: Section 406(f)(13) of the Liquor Code provides that "no catered function may be held for more than five hours per day and must end by midnight." [47 P.S. § 4-406(f)(13)]. This is two (2) hours earlier than the normal closing time for retail licensees, which is 2:00 a.m.

Please note that section 493(33) provides that OPCPs are valid for a calendar year. [47 P.S. § 4-493(33)]. Therefore, in order for you to obtain a permit for January 1, 2016, you must file an application for an OCP for 2016. The Bureau of Licensing began accepting such applications at the beginning of October. The Board must receive written notice of the catered function at least thirty (30) days before the event. [47 P.S. § 4-406(f)(10)].

Assuming that you obtain a 2016 OPCP and file a timely request to use the permit on January 1st, please note that the Liquor Code provides that “alcohol may be provided only during the days and hours that the license holder may otherwise sell alcohol.” [47 P.S. § 4-406(f)(1)]. A licensee’s operating day does not begin until 7:00 a.m. Therefore, you would not be able to obtain a permit to serve alcohol from midnight until 3:00 a.m.

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,

**RODRIGO J. DIAZ
EXECUTIVE DEPUTY 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. 15-456