

February 12, 2016

Elizabeth Konopka
VIA E-MAIL

RE: Donated Beer at Charity Event

Dear Ms. Konopka:

ISSUE: This is in response to your e-mail dated January 2, 2016, wherein you advise that a third party non-profit organization wishes to hold a charity event at your facility, The Highlands at Wyomissing (“The Highlands”), a retirement community. The third party non-profit wishes to provide beer that it has received as a donation from an individual, and your employees will be serving the donated beer. You ask if this is permissible.

During a follow-up telephone call on January 13, 2016, Jen Lawrence indicated that The Highlands will not be selling any alcohol at the charity event. Ms. Lawrence further indicated that there will be no charge or donation required of the guests to obtain the beer, and there will be no ticket or admission fee required to attend the charity event. Ms. Lawrence also stated that the charity event will be held in a banquet hall at The Highlands and that some of the guests of the charity event may be residents of The Highlands.

Records of the Pennsylvania Liquor Control Board (“Board”) indicate that The Highlands at Wyomissing, Inc. holds Continuing Care Retirement Community Liquor License No. CRR-40 (LID 68866) for the premises located at 2000 Cambridge Avenue, Wyomissing, Pennsylvania.

OPINION: It would be permissible for The Highlands to serve donated beer at this charity event. Under section 414(a) of the Liquor Code, the Board is authorized to issue a restaurant liquor license to a continuing care retirement community. [47 P.S. § 4-414(a)]. Thus, for purposes of the Liquor Code, a licensed continuing care retirement community is considered a restaurant licensee. Therefore, as long as there is no sale of the donated beer and no cost to the guests of the charity event to obtain the beer, there is nothing in the Liquor Code or Board’s Regulations that would prohibit the donation of alcohol by an individual to an unlicensed entity such as the third party non-profit organization, for subsequent service by your employees at this charity event on the licensed premises.

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However, because The Highlands is licensed by the Board, it is suggested that when a third party entity wants to provide the alcohol for its event, whether donated or purchased, you should require them to provide proof that the wine, spirits, or beer was lawfully acquired in Pennsylvania. Licensees are strictly liable for violations of the Liquor Code and its attendant laws and regulations that occur on the licensed premises. [Pennsylvania Liquor Control Board v. TLK, Inc., 544 A.2d 931 (Pa. 1988)]. Failure to require such proof may place you at risk of citation, which may result in a suspension of the license, or a revocation of the license, and/or a fine of up to one thousand dollars (\$1,000.00). [47 P.S. § 4-471(b)].

Please be also advised that all retail licensees are accountable if alcoholic beverages are furnished to visibly intoxicated persons or minors on its licensed premises. [47 P.S. § 4-493(1)]. A licensee is also accountable for instances of disturbances that may occur on or about the licensed premises.

Please do not hesitate to contact this office if you have any 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 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
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. 16-018