

February 22, 2016

Teresa Anderson
Hot Spot Hotel & Lounge
294 N. Grant Ave.
Kittanning, Pa 16201
VIA EMAIL

RE: Hotel Bedroom Requirement

Dear Ms. Anderson:

ISSUE: This office is in receipt of your email of January 26, 2016, wherein you advise you had an “inspection” on November 12, 2015, regarding the number of bedrooms your establishment is required to provide for transient guest. You state that the “inspector” advised you have twenty-eight rooms. You disagree and believe you have twenty-two rooms. You further advise that when you purchased the establishment you were told you only needed three rooms for transient guests. You inquire how many bedrooms are required and what number of bedrooms does the Pennsylvania Liquor Control Board (“PLCB”) have for your establishment.

PLCB records indicate that Teresa Anderson is the holder of Hotel Liquor License No. H-1685 (LID 59629) for use by her at premises located at 294-98 North Grant Avenue, Kittanning, Pennsylvania.

OPINION:

As you may be aware, Section 102 of the Liquor Code defines a “hotel” as follows:

‘HOTEL’ shall mean any reputable place operated by responsible persons of good reputation where the public may, for a consideration, obtain sleeping accommodations and meals and which, in a city, has at least ten, and in any other place at least six, permanent bedrooms for the use of guests, a public dining room or rooms operated by the same management accommodating at least thirty persons

at one time, and a kitchen, apart from the public dining room or rooms, in which food is regularly prepared for the public.

47 P.S. § 1-102.

Section 461 of the Liquor Code also establishes the current minimum requirements for a premises to obtain a hotel liquor license. 47 P.S. § 4-461. The general definition at section 461(c) of a “hotel” is now as follows:

c. The word ‘HOTEL’ as used in this section shall mean any reputable place operated by a responsible person of good reputation where the public may, for a consideration, obtain sleeping accommodations, and which shall have the following number of bedrooms and requirements in each case--at least one-half of the required number of bedrooms shall be regularly available to transient guests seven days weekly, except in resort areas; at least one-third of such bedrooms shall be equipped with hot and cold water, a lavatory, commode, bathtub or shower and a clothes closet; and an additional one-third of the total of such required rooms shall be equipped with lavatory and commode:

* * *

(4) In municipalities having a population of twenty-five thousand and more but less than one hundred thousand inhabitants, at least forty permanent bedrooms for the use of guests.

47 P.S. § 4-461(c)(4).

However, in 2006, this section of the Liquor Code was amended to provide that hotel liquor licensees that hold “grandfathered status” under subsection 461(c)(8) no longer need to maintain the number of bedrooms required by section 461(c). “Grandfathered” hotel licenses are those hotel licensees that were originally issued or applied for prior to September 1949. Note that this particular section does not exempt grandfathered hotel liquor licensees from the number of bedrooms required by section 102 of the Liquor Code.

Also in 2006, subsection 461(c)(9) was added to the Liquor Code. 47 P.S. § 4-461(c)(9). This subsection provides that hotel liquor licensees that hold grandfathered status under subsection 461(c)(8) no longer need to maintain *any* bedrooms for public accommodation – not even those required by section 102 of the Liquor Code – if they filed, by April 23, 2007, an application with the PLCB to be exempted from this requirement and the application is approved by the PLCB. In the case in question, PLCB records do not indicate that you applied for a room exemption prior to April 23, 2007. Thus, this exemption would not apply to you.

However, PLCB records do indicate that the hotel license in question was issued prior to September 1949. Consequently, the room requirement for your establishment is governed by Pamphlet Law 806. See 47 P.S. § 744-1001. Based upon a consultation with the PLCB's Bureau of Licensing, you are required to maintain six bedrooms of which one half must be available for transient guests. During the last transfer of your license, it was revealed that the premises had twenty-two bedrooms available for transient guests.

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

Sincerely,

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. 16-034