

February 23, 2016

Teresa Iovine
Molly Malloy's & Iovine Brothers Produce
Reading Terminal Market
VIA E-MAIL

RE: Off-premises Permit Selling Alcohol without Food

Dear Ms. Iovine:

ISSUE: This is in response to your e-mail of January 13, 2016, wherein you describe the Reading Terminal Market as a historic landmark, serving as a venue for private events after hours. There is an exclusive event coordinator that acts on behalf of the facility and of food merchants selected by clients. Molly Malloy's deals directly with clients, using an Off-Premises Catering Permit ("OPCP") when beverage services are provided outside its licensed space within the market.

To date, the sale and service of one food item has been a condition of providing beverage services, with the understanding that it is not necessary to provide all of the food for the event. It is also your understanding that, to comply with the Pennsylvania Liquor Control Board ("Board") regulations, the licensee must provide food in conjunction with its alcoholic beverage service. You inquire if it is possible for any licensee, acting within the parameters of a OPCP, to contract exclusively for service of alcoholic beverages, without the sale of food by it; food would be provided by a variety of other merchants in the market that are contracted directly with the exclusive event coordinator.

Records of the Board indicate that Iovine Brothers Bar & Grill, Inc. holds Restaurant Liquor License No. R-6336 (LID 64349) for use by it at Reading Terminal Market, 12th and Filbert Streets, Philadelphia, Pennsylvania.

OPINION: As you are aware, pursuant to section 406(f) of the Liquor Code, holders

of restaurant licenses and hotel licenses may apply for and obtain an OPCP, which allows the permittee to hold a “catered function” off its licensed premises and on otherwise unlicensed premises. Sales of alcohol at such catered functions are permitted and can be by the glass, open bottle or other container, for consumption on the catered premises. [47 P.S. § 4-406(f); see also § 4-442(f)]

A “catered function” is defined as “the furnishing of food prepared on the premises or brought onto the premises already prepared in conjunction with alcoholic beverages for the accommodation of a person or an identifiable group of people, not the general public, who made arrangements for the function at least thirty days in advance.” [47 P.S. §1-102].

Neither the Liquor Code nor the Board’s Regulations prohibit the host of a catered function from engaging multiple vendors to sell food or other items or services. However, the enactments creating the off-premises catering permit envisioned that one licensee vendor obtaining such a permit from the Board would be responsible for selling all alcohol at the catered function, and that the licensee’s alcohol service personnel would all be RAMP-certified.

Accordingly, a licensee, acting within the parameters of an OPCP, is able to contract exclusively for service of alcoholic beverages provided that food is available at the event.

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

Teresa Iovine
February 23, 2016
Page 3

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. 16-041