

March 18, 2016

Jeremy Boltz  
Irv's Pub Inc.  
**VIA E-MAIL**

**RE: Off Premises Catering Permit**

Dear Mr. Boltz:

ISSUE: This is in response to your February 26, 2016 e-mail to this office in which you express your intention to timely file an application for an off-premises catering permit ("OPCP"). You ask for a legal opinion of the propriety of a proposed event at the Hershey Museum (the "event sponsor"). Specifically, you ask whether it is permissible for you to provide only alcohol service at a catered event, with the food being supplied by another entity.

Next, the event sponsor would like to sell event tickets that cover entrance to various activities at the museum premises. Food would be available for purchase by patrons from an existing café at the museum premises. The event sponsor would like to separately sell drink tickets to patrons, to be redeemed at a bar that your company would set up, staff and supply. Finally, you ask which party is responsible for checking identification of patrons.

Records of the Pennsylvania Liquor Control Board ("PLCB") indicate that Irv's Pub Inc. is the holder of Restaurant Liquor License No. R-8201 (LID 71023) for use at the premises located at 814 East Chocolate Avenue, Hershey, Pennsylvania. You are the PLCB-approved manager.

OPINION: As you may be 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 PLCB’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 OPCP 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, in response to your first question, a licensee, acting within the parameters of an OPCP, is able to contract exclusively for service of alcoholic beverages provided that food is otherwise available at the event.

With regard to the sale of tickets to the proposed event, your company and/or the Hershey Museum may sell tickets, including drink tickets, if (a) you are granted an OPCP and (b) the Hershey Museum is an “eligible entity” (as defined in section 102 of the Liquor Code) and is raising funds for itself, or is a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)), for an event which has the sole purpose of raising funds for that nonprofit organization, or is an organization that holds tax exempt status under section 527 of the Internal Revenue Code of 1986. 47 P.S. § 4-406(f)(14).

This office does not determine the eligibility or the tax status of entities; rather, the PLCB’s Bureau of Licensing will make investigation upon application and the Pennsylvania State Police, Bureau of Liquor Control Enforcement (“BLCE”) may undertake inquiry.

Finally, in response to your third question, please keep in mind that, regardless of the location of the delivery of alcohol, section 493(1) of the Liquor Code makes it unlawful to sell, furnish, or give any alcoholic beverages to any person who is visibly intoxicated or a minor. 47 P.S. § 4-493(1). Furthermore, an OPCP holder must ensure that all servers at the off-premises catered function shall be in compliance with the responsible alcohol management provisions under section 471.1 of the Liquor Code as it relates to alcohol service personnel training. 47 P.S. § 471.1.

**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,

A handwritten signature in cursive script, appearing to read "Rodrigo J. Diaz".

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

PLCB Advisory Opinion No. 16- 076