

March 18, 2016

Scott Choura
Lake Arthur Country Club
VIA E-MAIL

RE: Interlocking Business Interests Prohibited

Dear Mr. Choura:

ISSUE: This is in response to your February 23, 2016 e-mail to this office in which you state that your company, Lake Arthur Country Club (“LACC”), is considering renting a small portion of its facility to a nano/micro-brewery. You note that the brewery will be a corporate entity separate from LACC. LACC would like to purchase the products of this nano/micro-brewery, provided it is properly licensed and meet all codes and regulations. Given this potential scenario, you ask if there are any additional licensing issues that you need to address regarding your current liquor license.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Lake Arthur Country Club, Inc. is the holder of Restaurant Liquor License No. R-20507 (LID 21004) for use at the premises located at 255 Isle Road, Butler, Pennsylvania. Mary Bartony is the PLCB-approved manager.

OPINION: A retail licensee, such as a restaurant licensee, cannot be a landlord to a manufacturing licensee, such as a brewery. Specifically, sections 411 and 443 of the Liquor Code generally prohibit an entity from simultaneously holding an interest in both a retail license and a manufacturing license. 47 P.S. §§ 4-411; 4-443.

In particular, section 411(d) of the Liquor Code provides:

Excepting as herein provided, no hotel licensee, restaurant licensee or club licensee, and no officer, director, stockholder, agent or employe of any such licensee ***shall in any wise be interested, either directly or indirectly, in the ownership or leasehold of any property*** or the equipment of any property or any mortgage lien against the same, ***used by a manufacturer in manufacturing liquor or malt or brewed beverages***; nor shall any hotel, restaurant or club licensee, or any officer, director, stockholder, agent or employe of any such licensee, either directly or indirectly, lend any moneys,

credit, or give anything of value or the equivalent thereof, to any manufacturer for equipping, fitting out, or maintaining and conducting, either in whole or in part, an establishment used for the manufacture of liquor or malt or brewed beverages.

47 P.S. § 4-411(d) (emphasis added).

If the brewery in question becomes licensed on some other property in which there are no conflicts as noted above, then your restaurant may lawfully purchase beer from that brewery.

Please note that, besides providing general guidance on matters relating to the Liquor Code or PLCB Regulations, this office does not approve or reject business models. You are encouraged to seek private counsel experienced in Pennsylvania liquor law to assist you with your commercial undertakings.

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

PLCB Advisory Opinion No. 16- 080