

March 29, 2016

Aaron Grant
St. Martins Clubhouse Manager
Philadelphia Cricket Club
415 West Willow Grove Avenue
Philadelphia, PA 19118-4125
VIA E-MAIL

RE: Procuring Wine and Spirits for a Licensed Catering Club

Dear Mr. Grant:

ISSUE: This correspondence is in response to your e-mail sent February 24, 2016, wherein you indicate that you are new to Pennsylvania, and you are interested in learning more about the laws governing the procurement of wine and spirits for use at your licensed catering club. Specifically, you ask if it is permissible to procure wine and spirits directly from manufacturers located outside of Pennsylvania.

If it is permissible to procure wine and spirits directly from manufacturers located outside of Pennsylvania, you further inquire as to whether you must provide notice of such procurements to the Pennsylvania Liquor Control Board (“PLCB”) or anyone else. You also ask if all wine and spirits purchases must go through the local PLCB Fine Wine & Good Spirits store.

The PLCB’s records reflect that Philadelphia Cricket Club holds Catering Club Liquor License No. CC-230 (LID 2881) for use at the premises located at 415 West Willow Grove Avenue, Philadelphia, PA.

OPINION: As an initial matter, please be advised that it is generally unlawful for anyone, other than the PLCB or the holder of a sacramental wine license, an importer’s license, or a direct wine shipper’s license, to import any liquor into Pennsylvania. 47 P.S. § 491(8), (11). It is also generally unlawful for anyone, other than a manufacturer, the PLCB, the holder of a sacramental wine license, or the holder of an importer’s license, to possess or transport any liquor or alcohol within the Commonwealth that was not lawfully acquired from the PLCB, a licensed limited winery, a sacramental wine licensee, a licensed direct wine shipper, a licensed distillery, a licensed limited

distillery, or a licensed distillery of historical significance. 47 P.S. §§ 4-491(2), 5-505.2, 5-505.4.

Moreover, in Pennsylvania, generally only the PLCB is permitted to sell wine and distilled spirits to retail licensees, such as catering club licensees. 47 P.S. §§ 2-207, 3-305. However, holders of Pennsylvania limited winery licenses are permitted to sell alcoholic ciders, wines, and wine coolers that they produce directly to retail licensees. 47 P.S. § 5-505.2. Similarly, holders of Pennsylvania distillery licenses, limited distillery licenses, or distillery of historical significance licenses are permitted to sell distilled spirits that they produce directly to retail licensees. 47 P.S. § 5-505.4.

Therefore, to answer your first question, your licensed catering club is permitted to procure wine from either the PLCB or an entity holding a Pennsylvania limited winery license, and is permitted to procure distilled spirits from either the PLCB or an entity holding a Pennsylvania distillery license, limited distillery license, or distillery of historical significance license.

While there are currently no entities located outside of Pennsylvania that hold either a Pennsylvania distillery license, limited distillery license, or distillery of historical significance license, there are numerous entities located outside of Pennsylvania that hold Pennsylvania limited winery licenses. Accordingly, it is permissible for your licensed catering club to procure wine directly from these out-of-state manufacturers.

You may view a list of all entities that hold Pennsylvania limited winery licenses using the “PLCB License Search System,” which is available on the PLCB’s website at www.lcb.state.pa.us. To access the search system from the main page, place your cursor over the link for “Licensees,” and then select “Licensing Search.” After you reach the search screen, select “Active Licenses” from the “License Status” drop-down menu, then select “Limited Winery (LK)” from the “Select a License Type” drop-down menu, and then select the “Search” button.

As to your second question, if your licensed catering club chooses to lawfully procure wine or spirits directly from a source other than the PLCB, there is nothing in the Liquor Code or the PLCB’s Regulations that would require notice of such procurement to be given to the PLCB or anyone else. However, please keep in mind that section 493(12) of the Liquor Code requires retail licensees to maintain “complete and truthful records covering the operation of [the] licensed business, particularly showing the date of all purchases of liquor and malt or brewed beverages, the actual price paid therefor, and the name of the vendor” for a period of at least two years and to make those records

available to the PLCB or the Pennsylvania State Police, Bureau of Liquor Control Enforcement upon request. 47 P.S. § 4-493(12).

With regard to your last question, the PLCB's Fine Wine & Good Spirits stores do not become involved with purchases made directly from an entity holding a Pennsylvania limited winery license, distillery license, limited distillery license, or distillery of historical significance license.

Finally, please be advised that if your licensed catering club is interested in procuring wine or distilled spirits products that are not regularly listed for sale by the PLCB, and which may not otherwise be available from a properly-licensed manufacturer as discussed above, such products may be purchased through the PLCB on a special liquor order ("SLO") basis. SLOs may be placed at any of the PLCB's Fine Wine & Good Spirits stores or through the Bureau of Product Selection at 1-800-332-7522. SLOs must be shipped to a Fine Wine & Good Spirits Store operated by the PLCB for pick up. Products purchased through SLOs are subject to the PLCB's mark-up, the 18% liquor tax, the 6% state sales tax, and any applicable local sales tax.

Should you have any additional questions regarding this matter, the Liquor Code, or the PLCB's Regulations, please do not hesitate to 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 PLCB.

Sincerely,



RODRIGO J. DIAZ
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement

LCB Advisory Opinion No. 16-094