

May 25, 2016

Aaron Zeamer, Esquire  
**VIA E-MAIL**

**RE: Continuing Care Community Questions**

Dear Mr. Zeamer:

ISSUE: This office is in receipt of your e-mail dated April 4, 2016, wherein you advise that you represent Willow Valley Communities (“Willow Valley”), which holds a Continuing Care Retirement Community Restaurant (“CRR”) Liquor License. You indicate that you are aware of the provisions of the Liquor Code that govern CRR licenses, which are restaurant liquor licenses subject to the additional restrictions and privileges set forth in section 414(b) of the Liquor Code. 47 P.S. § 4-414(b). Specifically, you understand that one such restriction limits the sale of alcoholic beverages by a CRR licensee to residents of the retirement community and their guests.

You advise that Willow Valley’s property includes a cultural center that is used for various events for residents of Willow Valley and, occasionally, for non-residents, with the prior approval of Willow Valley. You note that the cultural center, although part of the retirement community, is not part of the licensed portion of the premises.

You ask if Willow Valley could obtain an off-premises catering permit (“OPCP”) for its use at the cultural center. If so, you ask if the OPCP would allow Willow Valley to cater and serve alcohol to outside and unaffiliated organizations that use the cultural center for events. For purposes of your inquiry, it is to be assumed that the attendees of the events at the cultural center are not residents of Willow Valley or their guests.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Willow Valley Communities holds Continuing Care Retirement Community Restaurant Liquor License No. CRR-41 (LID 69373) for the premises located at 10 Providence Park Drive, Lancaster, Pennsylvania.

OPINION: As a preliminary matter, a license or permit is required to sell alcohol in Pennsylvania. “Sale” or “sell” is defined broadly and includes any transfer for a consideration. 47 P.S. § 1-102. For purposes of this response, it is assumed that the service of alcohol in your inquiry would constitute a sale, in that the outside unaffiliated groups would be providing some consideration for such service, whether directly or indirectly.

As you seem to be aware, pursuant to section 406(f) of the Liquor Code, a holder of a restaurant liquor license or a hotel liquor license 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).

As you indicated, although CRR licenses are considered restaurant liquor licenses, they are subject to additional restrictions and privileges, as set forth in section 414(b) of the Liquor Code. 47 P.S. § 4-414(b). Liquor and malt beverages may be sold by a CRR licensee in unlicensed rooms on its property that are lived in or used by its residents; however, under section 414(b)(4), CRR licensees may only sell alcohol to residents of the continuing care retirement community and the guests of residents, “in conjunction with the normal, regularly scheduled dining, entertainment or social activities of the continuing care retirement community.” 47 P.S. § 4-414(b)(4) (emphasis added).

Therefore, because section 414(b)(4) expressly limits CRR licensees to selling alcoholic beverages only to residents and guests of residents, Willow Valley would not be eligible for an OPCP to sell alcohol to outside and unaffiliated groups, as it is not permitted to sell alcohol to anyone who is not a resident or guest of a resident, under any circumstance. Please note that as a CRR licensee, Willow Valley can, however, sell alcohol in its unlicensed cultural center to its residents and their guests as part of a regularly scheduled dining, entertainment, or social activity of the retirement community, and would not require an OPCP to do so. Willow Valley is eligible for an OPCP for other events held off of the licensed premises, provided that the event’s attendees are limited to residents and their guests and all other provisions of section 406(f) are followed.

Please do not hesitate to contact this office should you have additional questions.

Aaron Zeamer, Esquire

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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 that reads "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

LCB Advisory Opinion No. 16-193