

June 7, 2016

Gilbert N. Lawrence
VIA E-MAIL

RE: Alcohol Service by Other Groups on Licensed Premises

Dear Mr. Lawrence:

ISSUE: Your e-mail of May 2, 2016 states that one of your sub-groups has requested the use of your grounds for a fundraising project in the form of a public fair. One of the booth renters in question is a local winery that wants to give or sell samples of their products to promote their sales. In addition, a home brew company wants to have a home brew tasting contest as a means of attracting customers for its sales. You inquire whether allowing either of these activities will put your license in jeopardy.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that West End Home Association holds Catering Club Liquor License No. CC-5733 (LID 4071) for use by it at premises located at P.O. Box 303, Gilbert, Pennsylvania.

OPINION: A license or permit is required to sell alcoholic beverages in Pennsylvania.

A catering club licensee may sell alcohol to groups of non-members at catered events held on the licensed premises. 47 P.S. § 4-401(b). Catered events are those involving the furnishing of liquor or malt or brewed beverages, or both, to be served with food prepared on the premises, or brought onto the premises already prepared, for the accommodation of groups of non-members who are using the facilities at the club by prior arrangement made at least twenty-four hours in advance of the time of the function and which are paid for by the non-members. 40 Pa. Code § 5.83. A licensee may not self-sponsor a catered event. The catered event must be conducted by a third party, although the third party can be a member of the club.

During a catered event, non-members may purchase alcoholic beverages and consume them anywhere on the licensed premises. However, after the catered event

has ended, non-members are no longer permitted to purchase alcoholic beverages, although members may purchase alcoholic drinks for non-members. Records must be kept showing the date and time catering arrangements were made, the name of the person or the organization making the arrangements, and the approximate number of persons to be accommodated. 40 Pa. Code § 5.83(b).

In addition, a participating local winery could provide samples to attendees for no charge, but would need its own, separate authority if it wishes to sell its wines. Limited winery licensees may obtain a special permit to participate in alcoholic cider, wine and food expositions off the licensed premises. Samples at such expositions may be sold or offered free of charge. 47 P.S. § 5-505.2(a)(4).

“Alcoholic cider, wine and food expositions” are defined as affairs held indoors or outdoors with the intent of promoting Pennsylvania products by educating those in attendance of the availability, nature and quality of Pennsylvania-produced alcoholic ciders and wines in conjunction with suitable food displays, demonstrations and sales. They may also include activities other than alcoholic cider, wine and food displays, including arts and crafts, musical activities, cultural exhibits, agricultural exhibits and farmers markets.

It is not clear what is indicated by your reference to a “home brew company” that wants to have a home brew tasting contest as a means of attracting customers for their sales. Section 492(1) of the Liquor Code permits a person to produce up to two hundred gallons per calendar year of malt or brewed beverages without a license, as long as such beverages are not produced for sale. Even though the beverages cannot be sold or offered for sale, they can be used at organized affairs, exhibitions, competitions, contests, tastings, or judging’s. 47 P.S. § 4-492(1). Such malt or brewed beverages must be brewed in the Commonwealth of Pennsylvania.

Licensees are strictly liable for service to minors and visibly intoxicated persons on their licensed premises, 47 P.S. § 4-493(1), and, depending on the factual circumstances, may be liable for other misconduct occurring on or off the premises, even when outside entities are involved. Accordingly, your license may be put in jeopardy if the home brew company and/or local winery operates in an unlawful manner.

Club licensees, including catering club licensees, must adhere to their constitution and bylaws. 40 Pa. Code § 5.81.

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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,



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. 16-209