

June 15, 2016

Jonathan Jasen Schardt
1009 State Street LLC
VIA E-MAIL

Re: Seasonal Venue for Restaurant License

Dear Mr. Schardt:

ISSUE: This is in response to your e-mail of May 31, 2016, in which you note that the approved premises for your liquor license consists of an empty lot. You inquire whether you may put decking over the empty lot, install a repurposed shipping container that would house the bar area including beer coolers, sinks, ice wells, soda system and bar space, and then commission a food cart and “port a potties.” You would intend to utilize such a space only on a seasonal basis, having seen such arrangements in Colorado.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that you are an officer in 1009 State Street LLC, holder of Restaurant Liquor License No. R-13425 (LID 69320) for use by it at the premises located at 1009 State Street, Erie, Pennsylvania. The license was granted on a prior approval basis on June 30, 2014 and has been in safekeeping pending construction since July 3, 2014.

OPINION: “Restaurant” is defined in the Liquor Code as follows:

a reputable place operated by responsible persons of good reputation and habitually and principally used for the purpose of providing food for the public, the place to have an area within a building of not less than four hundred square feet, equipped with tables and chairs accommodating at least thirty persons at one time.

47 P.S. § 1-102 (emphasis added). As described, your venue would not meet the minimum requirement of being “within a building,” and, as such, could not be approved.

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Please note that it is not the proposed seasonal use of the premises that is problematic, since there is no specific requirement that a restaurant liquor licensee remain open all year long. However, as you know, a licensee whose licensed establishment is not in operation for fifteen consecutive days must return the license and Wholesale Purchase Permit Cards to the Board to be held in safekeeping. 40 Pa. Code § 7.31(a).

The license may be reactivated from safekeeping upon application and payment of a fee of up to \$150.00. 40 Pa. Code § 7.31.

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. 16-216