

June 17, 2016

Craig Mills, Esquire
Buchanan Ingersoll & Rooney, PC
50 South 16th Street, Suite 3200
Philadelphia, PA 19102
VIA E-MAIL:

RE: Acquisition of a Restaurant License by a Club

Dear Mr. Mills:

ISSUE: This is in response to your e-mail of June 9, 2016, and subsequent phone call to this office. You represent The Union League, which already holds a club liquor license and is now in the position to acquire a restaurant liquor (R) license. While you had originally inquired whether an R license can be converted to a catering club license, you are instead inquiring whether an R license can limit its sales to members.

Board records indicate that The Union League of Philadelphia is the holder of Catering Club License No. CC-45 (LID 2826).

OPINION: Section 491(6) of the Liquor Code prohibits an R license holder from selling alcohol in any location that is not available to the public. 47 P.S. § 4-491(6). However, our Commonwealth Court has held that this section is not violated if the license holder charges a fee for admission to the premises. In re: Elan of Philadelphia Ltd., 439 A.2d 905 (Pa. Cmwlth. 1982).

Therefore, limiting access to the premises to club members is permissible so long as the club's admission policies do not run afoul of the Pennsylvania Human Relations Act. For a more definitive answer as to what is prohibited under the Pennsylvania Human Relations Act, you should contact the Pennsylvania Human Relations Commission at www.phrc.state.pa.us or at (717) 787-4410.

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. 16-228