

September 21, 2016

Betsy Johnson
VIA E-MAIL

RE: Connection with Another Business

Dear Ms. Johnson:

ISSUE: Your e-mail of August 22, 2016 provides additional information regarding your previous inquiry of June 16, 2016. In the inquiry, you stated that you represent an unspecified catering club licensee. The licensee has a sizable property that includes outdoor service and seating areas. You have been approached by a third party looking to use the outdoor portions of the property, including the outdoor service and seating areas as well as the parking lot, to hold a haunted attraction where paying customers of the third party will walk around a path and be scared by actors. The attraction includes loud music and sounds, lighting, and some fire effects. You inquired whether the club's license covers the entire property and whether the rule prohibiting other persons from conducting another business on the licensed area applies.

Your August 22, 2016 e-mail indicates that your license does extend to the areas that will be used by the third party. The third party is operating the attraction as a business, charging members of the public to enter the event. The third party does not serve alcohol. You inquire, "Would they be able to operate like this if it were done as a catered event?"

OPINION: As indicated in the response of this office to your previous inquiry, a licensee may not permit other persons to operate another business on the licensed premises. 40 Pa. Code § 3.52(a).

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. "Groups of non-members who are using the

facilities at the club by prior arrangement” may include members of the public purchasing tickets for an event.

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

Note that licensees are strictly liable for permitting minors to frequent their licensed premises. 47 P.S. § 4-493(14).

That being said, having an arrangement under which the same entity uses part of your location for an extended period of time to conduct its business is improper, even as a series of catered events, since it would run afoul of section 3.52(a) as stated earlier.

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