

September 22, 2016

Randy Yeager  
Bob's Beverage Inc.  
**VIA E-MAIL**

**RE: Board Discretion to Refuse Transfer**

Dear Mr. Yeager:

ISSUE: Your e-mail of September 1, 2016 notes that, in the response of this office to your previous inquiry, it is stated that the Pennsylvania Liquor Control Board ("PLCB") can refuse to transfer a license to a new location if the proposed location is within two hundred feet of any other premises licensed by the PLCB. You then note that a site directly across the street from your establishment, well within two hundred feet, is a potential location for an application for transfer of a license. You believe that approval of such a transfer would be detrimental to your business. You inquire whether this would be something that the PLCB would consider in reviewing any such application.

Records maintained by the PLCB indicate that Bob's Beverage, Inc. holds Distributor License No. D-3894 (LID 36770) for use by it at premises located at 131-139 North Broad Street, Ridgway, Pennsylvania. You are listed as the president, director, stockholder, and Board-approved manager.

OPINION: As previously indicated, it is the PLCB's Bureau of Licensing ("Licensing") initially, and the three-member Board ultimately, that decides whether or not to approve an application for transfer of a license.

The PLCB **may** refuse to transfer a license to a new location if, *inter alia*, the proposed location is within two hundred feet of any other premises which is licensed by the board. 47 P.S. § 4-404. As is evident from the use of the term "may," the decision to approve or deny an application for transfer on the basis that another licensee is located within two hundred feet is entirely within the discretion of the PLCB.

In addition, the PLCB **must** deny an application for transfer of a license to a new location if the PLCB determines that it would be detrimental to the welfare, health, peace and morals of the inhabitants of the neighborhood within a radius of five hundred feet of the proposed location. Id.

Finally, certain individuals and/or entities may file protests and/or petitions to intervene in order to raise objections to the issuance or transfer of a liquor license. Id., 40 Pa. Code § 17.11. In such cases, the PLCB has discretion to approve or deny the application for transfer based upon the issues raised by the protest(s) and/or petition(s).

In sum, in response to your specific question, evidence that approval of an application for transfer would be detrimental to another business is a factor for the PLCB to consider when determining whether the application shall be approved, in accordance with the above.

Should you have any additional questions, do not hesitate to contact this office.

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. 16-385