

October 24, 2016

Rocky Citrino.
VIA E-MAIL

RE: Magisterial District Justice Inquiry

Dear Mr. Citrino:

ISSUE: This office is in receipt of your e-mail of October 3, 2016, wherein you inquire if a restaurant liquor license holder is “able to run for Municipal Court Judge in Montgomery County.” By “Municipal Court Judge” this office assumes you are referencing a Magisterial District Justice position. Additionally, it is noted that the Borough of Pottstown is located in Montgomery County.

Pennsylvania Liquor Control Board (“PLCB”) records indicate that Little Italy Ristorante, Inc., holds Restaurant Liquor License No. R-7520 (LID 72387) for use by it at premises located at 636 East High Street, Pottstown, Pennsylvania. Harry C. Citrino, III, is the President, PLCB-approved manager of the licensee.

OPINION: Section 401(a) of the Liquor Code, 47 P.S. § 4-401(a), governs the ability for liquor licensees to hold public office. Section 401(a) states, in relevant part:

No person who holds any public office that involves the duty to enforce any of the penal laws of the United States, this Commonwealth or of any political subdivision of this Commonwealth may have any interest in a hotel or restaurant liquor license. This prohibition applies to anyone with arrest authority, including, but not limited to, United States attorneys, State attorneys general, district attorneys, sheriffs and police officers. **This prohibition shall also apply to magisterial district judges**, judges or any other individuals who can impose a criminal sentence. This prohibition does not apply to members of the General Assembly, township supervisors, city councilpersons, mayors without arrest authority and any other public

official who does not have the ability to arrest or the ability to impose a criminal sentence. This section does not apply if the proposed premises are located outside the jurisdiction of the individual in question.

47 P.S. § 4-401(a)(emphasis added).

Consequently, assuming you are duly elected and hold the position of magisterial district judge, you will have arrest powers or the ability to impose a criminal sentence not only in your home district but in any other district in Montgomery County. As the Liquor Code prohibits a person “who holds” the office from having an interest in the relevant licenses, you would have to divest your interest in your liquor license before you officially hold the office of magisterial district judge. As a practical matter, it is likely that you will need to divest after you have the election results but before you are sworn into 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. 16-422