

December 24, 2018

Sam Schubert
Restaurant Manager
Maggio's Famous Pizzas
VIA E-MAIL

Re: Unlicensed Catering Facility

Dear Mr. Schubert:

ISSUE: This is in response to your e-mail dated November 16, 2018, which was forwarded to this office on November 19, 2018. You note that Maggio's Famous Pizzas, which holds a restaurant liquor license and an off-premises catering permit ("OPCP"), is interested in buying a banquet facility. The banquet facility would be unlicensed and "would not be owned by the same person that owns [Maggio's Famous Pizzas] now." Rather, the banquet facility would be owned and operated by an individual who is unaffiliated with "the company." Specifically, you ask whether the owner of the banquet facility may "contract out" any alcohol needed for an event at the banquet facility, such as weddings. Under this arrangement, the banquet facility would keep the food profits and the individual or entity providing the alcohol would keep the alcohol profits.

Records of the Pennsylvania Liquor Control Board ("PLCB") indicate that Maggio's Famous Pizzas, Inc. d/b/a Maggio's Famous Pizzas, holds Restaurant Liquor License No. R-19924 (LID 20636) for the premises located at 400 B 2nd Street Pike, Southampton, Pennsylvania. The PLCB's records further indicate that Maggio's Famous Pizzas, Inc. d/b/a Maggio's Famous Pizzas, holds Transporter for Hire Class B License No. IB-39419 (LID 94725) for the above-mentioned premises. You are the PLCB-approved manager.

OPINION: As you seem to be aware, pursuant to section 406(f) of the Liquor Code, holders of restaurant liquor licenses may apply for and obtain an OPCP, which allows the permittee to hold a "catered function" off its licensed premises and on an otherwise unlicensed premises. Sales of alcohol at such catered functions are permitted and can be by the glass, open bottle or other container, for consumption on the catered premises. 47 P.S. § 4-406(f).

A "catered function" is defined as "the furnishing of food prepared on the premises or brought onto the premises already prepared in conjunction with alcoholic beverages for the accommodation of a person or an identifiable group of people, not the general public, who made arrangements for the function at least thirty days in advance." 47 P.S. §1-102. Neither the Liquor Code nor the PLCB's Regulations prohibit the host of a catered function from engaging multiple vendors to sell food or other items or services. However, the enactments creating the OPCP envisioned that one licensee vendor obtaining such a permit from the PLCB would be responsible

for selling all alcohol at the catered function, and that the licensee's alcohol service personnel would all be RAMP-trained.

In response to your inquiry, a licensee, acting within the parameters of an OPCP, is able to contract with an unlicensed banquet facility exclusively for service of alcoholic beverages provided that the food is otherwise available at the event. In other words, this means that the proposed banquet facility may prepare the food for an event and your company, as the holder of an OPCP, may be contracted to provide the alcohol for the event, so long as the profits from the food and the alcohol are paid to the respective individuals. Please be advised that each catered function cannot last more than one day and no more than fifty-two catered functions may be held each year at the banquet facility. 47 P.S. § 4-406(f)(3).

Furthermore, it is unclear what you mean by the banquet facility "would not be owned by the same person that owns [Maggio's Famous Pizzas]." Please be advised that licensees are generally required to devote full time and attention to a licensed business. 40 Pa. Code § 5.22(a). Additionally, the operation of a licensed business requires that a manager devote full time and attention to the licensed business. 40 Pa. Code § 5.23(a). Therefore, if a licensee or a licensee's Board-approved managers plan to be involved with the operation of the banquet facility, they must receive prior written approval from the Board.

Should you have any other questions and/or issues related to the Liquor Code or the PLCB's Regulations, please feel free to once again 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
Tisha Albert, Director of Office of Regulatory Affairs
B.L. Peifer, Director, Bureau of Licensing