

January 2, 2019

Rolin W. Sugg
VIA E-MAIL

RE: License Transfer Questions

Dear Mr. Sugg:

ISSUE: This office is in receipt of your e-mail of October 30, 2018, wherein you indicate that you are in the process of transferring your restaurant liquor license. You raise two questions which will be addressed below.

Pennsylvania Liquor Control Board (“PLCB”) records indicate that Cloud Nine Bistro and Grill, Inc. holds Restaurant Liquor License No. R-21169 (LID 47714) for use by it at premises located at 614-616 Penn Avenue, West Reading, Pennsylvania. PLCB records further reveal that you are the President of the corporation.

OPINION: Your questions are addressed as follows:

1) Does the “Consent Decree” pass along to the prospective new owner?

Yes. It is assumed by “Consent Decree” you are referring to the Conditional Licensing Agreement (“CLA”) entered into between you and the PLCB’s three-member Board. Pursuant to paragraph 9 of the CLA, “9. These terms will remain in effect both on the license and on the premises unless and until a subsequent agreement is reached with the Board rescinding these restrictions.” A copy of the CLA is attached for your convenience. Thus, a subsequent holder of Restaurant Liquor License R-21169 would “inherit” the license.

Should a prospective purchaser of the license wish to have the CLA terminated, it would need to send a request to the PLCB’s Office of Chief Counsel requesting a rescission of the CLA and the reasons thereto.

2) From the PLCB's perspective, is it easier to buy the Corporation or just buy the assets?

It is assumed for purpose of this response you are inquiring if the PLCB prefers the filing of a license transfer or the filing of a change in business structure. Please be advised that the PLCB cannot advise as to what would be "easier". To the contrary, this is a business decision that must be made by the parties. The PLCB cannot become involved. See Befwick of Philadelphia, Inc. v. Cobblestones, Inc., 353 A.2d 459 (Pa. 1976).

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

LCB Advisory Opinion No. 18-462