

December 31, 2018

Joe Henry  
**VIA E-MAIL**

**RE: Club Kitchen Tenant**

Dear Mr. Henry:

ISSUE: Your e-mail of November 23, 2018 states that a non-profit club proposes to rent out its kitchen. You inquire whether the kitchen tenant could then bring in a third party to use the kitchen for outside catering events. You further inquire whether the kitchen tenant may bring food trucks on to the premises on a regular basis.

Although you have not indicated the specific club in question, it is presumed for purposes of this response that the club holds a club liquor license or a catering club liquor license issued by the Pennsylvania Liquor Control Board (“PLCB”).

OPINION: Section 5.82 of the PLCB’s Regulations provides that if a club does not sell food, it may permit a food concession to be operated by a person who is not an officer or employee of the club. However, that concessionaire may not operate a separate business in addition to its food concession business. Accordingly, permitting the food concessionaire to lease the kitchen to a third party for outside catering events, as described in your inquiry, would not be permissible. A licensee may generally not allow a third party to operate a business on its licensed premises. 40 Pa. Code § 3.52. However, an exception exists for a food concessionaire. 40 Pa. Code § 5.82.

Nothing in the Liquor Code or the PLCB’s Regulations would prohibit, *per se*, food trucks on the premises. However, as indicated above, a concessionaire may not operate a separate business in addition to its food concession business. Your inquiry does not provide sufficient detail to adequately identify additional potential concerns with this proposal.

In addition, section 5.81 of the PLCB’s Regulations requires a club licensee to adhere to the provisions of its constitution and bylaws. 40 Pa. Code § 5.81.

Therefore, if the club's constitution and/or bylaws restrict any of the elements of your proposals, the club must adhere to such restrictions.

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

LCB Advisory Opinion No. 18-479