

January 17, 2019

Michael Lisovich
Wines of America
1137 Braddock Avenue
Braddock, PA 15104-1741
VIA E-MAIL

RE: Limited Winery Storage Options

Dear Mr. Lisovich:

ISSUE: This correspondence is in response to your e-mail of October 10, 2018, in which you inquire whether it is permissible to have a local cold storage business store some of the wines produced by your limited winery.

The Pennsylvania Liquor Control Board's ("PLCB") records indicate that Wines of America holds Limited Winery License No. LK-38648 (LID 92296) for use at the premises located at 1137 Braddock Avenue, Braddock, Pennsylvania.

OPINION: Section 505.2(a)(6.4) of the Liquor Code authorizes a limited winery to do the following:

Store alcoholic cider, mead, wine and wine coolers produced by the limited winery at no more than two (2) board-approved locations other than the licensed premises and those premises referenced in clause (3) pertaining to the five (5) board-approved locations for the sale of wine, with no bottling or production requirement at those additional locations and under such conditions and regulations as the board may enforce. If two (2) or more businesses will operate out of the same storage facility, the limited winery must designate specific and distinct areas for its storage. The limited winery's designated storage area must be secured and no one other than the licensee and his employees may be allowed access to the storage area. No board-approved manager will be necessary for the storage facility. The limited winery must fill out an application for such an additional board-approved storage location, and such location shall count as one of the two permitted for each limited winery. The limited winery is responsible for keeping only its own complete records. A limited winery may be cited for a violation of the recordkeeping requirements of sections 512 and 513 pertaining to its own records only.

47 P.S. § 505.2(a)(6.4). Based on this provision, your limited winery could lease space from the cold storage business and apply to have that space licensed as one of your limited winery's two PLCB-approved storage locations. In order for this to occur, the leased space would need to be clearly delineated, and your limited winery would be required to establish that it has the exclusive right to occupy that space. Id. Also, any interior connections between a licensed storage location and another business would be subject to review and approval by the PLCB's Board members. 40 Pa. Code § 3.52(b).

Alternatively, if the cold storage business were to obtain a bailee-for-hire license, then your limited winery's wine could be stored by the licensed bailee-for-hire at its facility without the need for approval of an additional storage location under your limited winery's license. 47 P.S. §§ 5-501, 5-505.

Applications for a PLCB-approved storage location or a bailee-for-hire license must be filed using the PLCB's online regulatory system, PLCB+, which is accessible through the PLCB's website, www.lcb.pa.gov, by placing your cursor over the menu tab for "Licensing," and then selecting "PLCB+." The decision as to whether to approve an application falls within the discretion of the PLCB's Bureau of Licensing ("Licensing") and/or the three-member Board. Any questions about the application process should be directed to Licensing at 717-783-8250 or ra-lblicensing@pa.gov.

Thank you for your inquiry. Should you have any additional questions regarding this matter, the Liquor Code, or the PLCB's Regulations, please do not hesitate to 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