

July 21, 1999

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Malkames Law Offices
509 Linden Street
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RE: Lehigh Saegerbund, Inc. LID No. 805

Dear Mr. Malkames:

ISSUE: This office is in receipt of your correspondence dated July 6, 1999 in which you seek an opinion regarding whether or not your client, Lehigh Saegerbund, Inc., a catering club licensee, would be permitted to install within an existing stairwell an electrical dumbwaiter for use in transporting food, dishware and kitchen utensils between the club premises located on the lower level of a bi-level building, and a catering company which leases the upper level. Prior inspection by a Board investigator required that the common stairwell between the two levels be sealed so that there was no interior access between the first and second floors. It is anticipated that the size of the dumbwaiter would be approximately 24 x 30 x 30, we assume, inches, and would not be designed for the transportation of people. The club wishes to have the catering business provide catered meals to the club for club activities and other catered functions.

OPINION: Section 3.52(b) of the Board's regulations provides that 'licensed premises may not have an inside passage or communication to or with any business conducted by the licensee or other persons except as approved by the Board.' [40 Pa. Code Section 3.52(b)]. The intent of prohibiting interior access between licensed and unlicensed businesses without Board approval concerns the ability of patrons of licensed establishments to travel to the other connected businesses. Since the dumbwaiter would not be designed for the transportation of people, it is the opinion of this office and the Bureau of Licensing that it would not constitute interior access between a licensed business and an unlicensed business. Therefore, the installation of the dumbwaiter would not require Board approval; nor would it violate section 3.52 of the Board's regulations.

Please do not hesitate to contact this office if you have any further question.

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.

Very truly yours,

FAITH S. DIEHL
CHIEF COUNSEL

cc: Bureau of Liquor Control Enforcement,
Pennsylvania State Police

LCB Advisory Opinion No. 99-265