

October 15, 1999 Telephone: 717-783-9454

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John D. Keegan

Esteemed Loyal Knight

B.P.O. Elks

Hazleton Lodge No. 200

635 E. Broad St.

Hazleton, PA 18201

RE: License No. CC-199, LID No. 2869

Dear Mr. Keegan:

ISSUE: This office is in receipt of your letter of September 21, 1999 in which you request an opinion concerning whether an elected officer of a nonprofit organization with a catering club license could continue in his capacity as an officer after receiving a D.U.I. conviction. You also inquire whether it is necessary to report this situation to the Board during the licensing period, since the conviction is not a felony, and since you usually only need to report a change in status at the time of renewal. You further inquire whether you would need a special exemption from the Board for this individual to continue in his capacity as an officer of the organization. Finally, you inquire whether it would matter in this instance if the disposition of the case was by accelerated rehabilitative disposition (A.R.D.), or conviction with probation but without A.R.D.

OPINION: Section 404 of the Liquor Code [47 P.S. Section 4-404] requires that the holder of a catering club liquor license, among other things, be an individual or entity of good repute. Section 404 of the Liquor Code also provides that the Board shall have discretion to refuse a license (including renewal therefor) to any person, corporation, partnership or association or any officer, director, or member thereof who shall have been convicted or found guilty of a felony within a period of five years immediately preceding the date of application for said license. Furthermore, 'known criminals' may not be employed by club licensees and they may not frequent club premises. [47 P.S. Section 4-493(14); 40 Pa. Code Section 5.21].

The conviction should be reported to the Board at the time it occurs. At that time, an investigation would be conducted by the Bureau of Licensing. The Bureau of Licensing will recommend whether the officer is permitted to continue in his capacity as an officer in the organization. If it is determined that the officer could no longer serve in that capacity for your club, the officer may be required to divest himself of any interest in the club. This is the case whether the disposition of the case is by A.R.D. or conviction with probation without A.R.D.

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: Pennsylvania State Police,
Bureau of Liquor Control Enforcement

LCB Advisory Opinion No. 99-338