

November 10, 1999

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Andee Cornelius  
Marriott – Harrisburg  
4650 Lindle Road  
Harrisburg, PA 17111

**RE: Monte Carlo Night**

Dear Ms. Cornelius:

ISSUE: This is in response to your correspondence dated October 1, 1999, and supplemental correspondence dated October 19, 1999, to this office in which you, a hotel licensee, request an opinion as to the legality of conducting a Monte Carlo event at the Harrisburg Marriott during a catered event sponsored by the Center for Independent Living, holder of a Local Option Small Games of Chance license. The proposed event will include two craps tables, six black jack/poker tables, two roulette tables with one wheel, one dice wheel, and one high/low table. Attendees would pay a cover charge (i.e., \$20.00) and receive 'play money' for use at the various tables. After the table activity ends, attendees may attend an auction where various donated prizes (non-alcoholic) may be bid upon using the 'play money.'

OPINION: Sections 5.30 and 5.32 of the Board's Regulations, [40 Pa. Code Sections 5.30 and 5.32], generally prohibit a third party from conducting an 'event, tournament or contest' on retail licensed premises. However, an exception exists for bona fide charitable organizations qualified, approved by and registered with the Department of State. Such charitable institutions are permitted to conduct tournaments and contests on retail licensed premises in accordance with the Solicitation For Charitable Purposes Act [10 P.S. Sections 162.1-162.24], and if applicable, the Local Option Small Games of Chance Act. [10 P.S. Sections 311-327].

Next, section 471 of the Liquor Code [47 P.S. Section 4-471], prohibits unlawful gambling on retail licensed premises. However, gambling activity conducted by a bona fide charitable institution, as discussed above, and permissible under a valid Local Option Small Games of Chance license is permitted on retail licensed premises. [40 Pa. Code Section 5.32(e)(4)(ii)]. To determine if the proposed activity constitutes gambling, you are advised to contact your local police department, the State Police, or your county district attorney's office. Additionally, it is unclear whether the Center for Independent Living is a bona fide charitable institution within the meaning of the solicitation for Charitable Purposes Act.

If the proposed activity is determined by one of the aforementioned entities to constitute gambling activity, then the gambling must be authorized under the Local Option Small Games of Chance license in order to constitute lawful gambling activity. While the Department of Revenue, Miscellaneous Tax Division (717-787-8275) is responsible for determining the gaming activity authorized by the Small Games of Chance license, it is this office's understanding that casino-type gambling is not authorized by the license. Therefore, if the proposed activity exceeds the authority of the Local Option Small Games of Chance license, then such activity would be unlawful gambling activity and would not be permissible.

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

c.c. Pennsylvania State Police  
Bureau of Liquor Control Enforcement

LCB Advisory Opinion No. 99-364