

December 31, 1999

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Gerard J. Pisarcik
LAWS, STARUCH & PISARCİK
20 Erford Road
Suite 305
Lemoyne, PA 17043-1163

Dear Mr. Pisarcik:

ISSUE: This office is in receipt of your fax dated December 23, 1999 in which you inquire whether the filing of an application for correction to license, or an application for change of officers is necessary under the following circumstances. The subject liquor license is held by two corporations who are joint venture partners in a hotel/restaurant business. One of the partners will be replaced by a new partner, while the other partner will remain the same.

OPINION: Section 3.13(b) of the Board's Regulations requires a licensee to post notice of change of stockholders when such change constitutes a change in majority ownership of controlling interest. [40 Pa. Code Section 3.13(b)]. Section 5.91 of the Regulations requires that the Board be notified when a change of stockholders results in a change of controlling interest. [40 Pa. Code Section 5.91].

In your case, it is unclear whether the license is held by a partnership or a joint venture. If the license is held by a partnership whose name and general make-up will not change with the replacement of the partner, then a change-of-officers form is necessary. Also the partnership agreement must permit the replacement of the partner. Otherwise, a transfer is required. If, however, the license is held by the corporations as a joint venture, then replacement of one of the corporations requires a transfer of the subject license. A correction to license would not be applicable to the instant circumstance unless you were seeking to notify the Board of an address change, or some other minor housekeeping matter.

Be advised that both the change-of-officers and transfer require an application and fee. The primary difference between the two procedures is that a change-of-officers may take place before the Board approves it (although it is subject to Board approval), while a transfer may not occur until it is pre-approved by the Board. In either event, you may obtain the necessary application by calling the Licensing Information Center at (717) 783-8250.

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

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. 99-413