



VIEW FROM THE BAR

by Marc Reisman, Esq.

Conditional licensing agreements for liquor licensees

If you currently own a Pennsylvania liquor license, you already know that there are numerous restrictions on your right to serve, sell, and store alcoholic beverages. These restrictions are scattered across a number of places, including the Liquor Code, the PLCB's Regulations, and Board Advisory Opinions and Advisory Notices. This is an excellent reason for forming a good working relationship with experienced liquor counsel – but that's not what this column is about.

Several years ago, the Legislature added a provision to the Liquor Code that allows the Board to "enter into additional restrictions" with a licensee. In this way, a licensee can actually impose restrictions on itself that are not required by any of the sources mentioned above, or anywhere else. These agreements with the Board are known as Conditional Licensing Agreements. Why would a liquor licensee (or an applicant for a license) even consider such a thing?

Entering into such an agreement with the Board most often occurs in one of two situations: when an applicant for a liquor license is wrestling with protests that have been filed against its license application which could potentially result in the Board's disapproving the application or at least cause a considerable delay of the approval, or when a licensee is subject to an objection by the Board to a renewal of its license because of alleged problems arising out of the operation of the licensed business.

As for an applicant, perhaps the neighbors have protested the application because they fear problems will arise if the applicant stays open until the legally permissible hour of 2 a.m.; the applicant could agree to be bound to closing at an earlier time. Perhaps the neighbors feel that sales of 6-packs would have a negative effect on the neighborhood; the applicant could agree not to sell 6-packs or to limit the hours when they are sold.

As for a licensee who's already in business, perhaps there have been violent incidents in or around the premises - the licensee could agree to install exterior surveillance cameras and to hire a security guard for its busy nights. Perhaps the premises has had problems involving service of alcoholic beverages to minors - the licensee could agree to utilize an i.d. scanning device.

Note that any agreement with the Board is binding not only upon the current licensee, but also on subsequent holders of the liquor license, unless the Board agrees to lift the restrictions. Failure to abide by the restrictions constitutes a basis for either a citation from the State Police or a non-renewal of the liquor license by the Board, or both.

A Conditional Licensing Agreement can impose additional burdens on a licensee, but it can also be viewed as a tool to help to obtain a license or to hold onto one. Call me if you'd like to discuss this issue as it relates to your particular business.

(This column is brought to you as a public service by Marc Reisman, a partner in the law firm of Gelman & Reisman. If you have an issue you would like to see addressed, or if you would like a reprint of a previous column, write to him at 429 4th Avenue, Suite 1701, Pittsburgh, PA 15219, or call 1-800-883-1LAW. This column is intended for informational purposes only - consult Mr. Reisman for legal advice specific to your situation.) © 2009 Marc Reisman



Photo by Dave Aschkenas

Matt Moyer
Executive Chef
Great Dane Pub
Madison, WI

Michial Neal
Chef
Lynchburg College
Dining Services
Lynchburg, VA

Scotta Magnelli
Owner
Pronto!
Lewisburg, PA

Rocco Paradiso
Division Chef/Chicago
US Foodservice
Bensenville, IL

Justin Munger
Lincoln, NE
Kari Mitchell - President

Northbrook, IL
Richard Zettergren - Mgr, FNS
Danbury Hospital
Danbury, CT

Emma Lewis
General Manager
Staceys at Waterford
Dublin, CA

Sally Thoun
Owner
Cleo & Patra Canine Cuisine
Tehachapi, CA

get on the list...