

18TH DISTRICT  
**LISA M. BOSCOLA**

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**Senate of Pennsylvania**

November 29, 2010

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City of Bethlehem  
City Council  
10 E. Church St.  
Bethlehem, PA 18018

Dear Council Members:

My office has been notified by Stefan Lombardo of the Lombardo & Sons Limited Partnership with regard to request a public hearing for the creation of an Economic Development Restaurant Liquor License under provisions of Act 141 of 2000 and Act 10 of 2002 for the following establishment: 1223 W Broad St, Bethlehem, PA Lehigh County.

Enclosed you will find the formal letter of request from Mr. Lombardo along with a check for \$100. It is my understanding that City Council must hear any request made for the creation of an economic development liquor license. I would ask for your help to guide Mr. Lombardo through this process.

In closing, allow me to thank you for your consideration of the matter at hand.

Sincerely,

A handwritten signature in cursive script that reads "Lisa M. Boscola".

**Lisa M. Boscola**  
State Senator-18<sup>th</sup> District

CC: Solicitor's office, City of Bethlehem  
Tony Hanna, Director of Community & Economic Development

November 23, 2010

City of Bethlehem  
City Council  
10 E. Church St.  
Bethlehem, PA 18018

Re: Lombardo & Sons Limited Partnership, 1223 W Broad St, Bethlehem, PA Lehigh County

Request for Public Hearing for the creation of an Economic Development Liquor License under provisions of Act 141 of 2000 and Act 10 of 2002

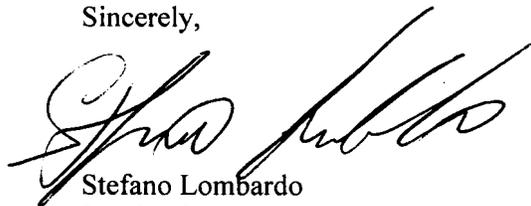
Dear Sirs:

Please consider this correspondence as a request for public hearing for the creation of an Economic Development Liquor License under provisions of Act 141 of 2000 and Act 10 of 2002 at the above location as required by the Pennsylvania Liquor Code. As you are aware, the Liquor Code requires that a public hearing be advertised and held for the purposes of City Council's consideration of a resolution to approve this request. It is my understanding that a \$100 filing fee is required to cover the costs associated with the application and the advertising notice required for the public meeting. I have enclosed a check for this amount. Since this step is required before an application can be filed with the Liquor Control Board, a completed application packet is not available at this time.

I will be more than happy to make myself available for the hearing and to answer any questions that might arise. I am asking that this request be placed on the agenda of the City Council at their next scheduled meeting and that the public hearing be held at the earliest possible date.

Please feel free to contact me at (484) 358-3342 if any questions arise. In closing, allow me to thank you for your consideration of the matter at hand.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stefano Lombardo', written in a cursive style.

Stefano Lombardo  
Lombardo & Sons Limited Partnership

**About the PLCB**

[Pennsylvania Liquor Control Board](#) > [For Licensees](#) > [Legal Issues](#)

**Alcohol Education**

**Advisory Notice Number 20**

**For Consumers**

June 5, 2002

**For Licensees**

**Applications and Forms**

SUBJECT: Economic Development Licenses

**Nuisance Bar Program**

TO: All Retail Licensees and Municipalities

**Direct Shipping**

Act 141 of 2000 and Act 10 of 2002 amended the Liquor Code to allow the Board to issue a restaurant or eating-place retail dispenser license for the purpose of economic development, even if the existing number of restaurant and eating-place retail dispenser licenses in a county exceeds one (1) license per three thousand (3,000) inhabitants. The purpose of this Advisory Notice is to answer questions frequently asked regarding economic development licenses. A copy of the relevant provisions of the Liquor Code is enclosed.

**Limited Wineries**

**Registered Brands**

**1. What is an economic development license?**

**Office of Administrative Law Judge**

An economic development license is a restaurant or eating place retail dispenser license which may be issued, even if the number of existing restaurant and eating place retail dispenser licenses in that county exceeds the ratio of one (1) license per three thousand (3,000) inhabitants. The purpose of the economic development license is to promote economic development.

**Legal Issues**

Advisory Notice No. 1 - Point of Sale Incentive Programs

**2. What are the criteria for applying for an economic development license?**

Advisory Notice No. 2 - Malt/Brewed Beverage Distributors - Record Keeping

First and foremost, a license will only be issued when an applicant has demonstrated that it has exhausted reasonable means of acquiring a license in the county.

Advisory Notice No. 3 - Breweries Record Keeping

Second, economic development licenses may only be issued to premises that are located in an Enterprise Zone as designated by the Department of Community and Economic Development, a Keystone Opportunity Zone as established under the authority of the Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act, or in a municipality where the municipality has voted to grant the issuance of such a license for the purpose of economic development. There is a surcharge of fifty thousand dollars (\$50,000) for an economic development license if the proposed premises is located in a county of the first through fourth class. There is a surcharge of twenty-five thousand dollars (\$25,000) for an economic development license if the proposed premises is located in a county of the fifth through eighth class.

Advisory Notice No. 4 - Warehouse Operators Reporting Requirements

**3. Are there any additional restrictions imposed on economic development licenses?**

Yes. The Board is limited to issuing no more than two (2) economic development licenses in each county of the first through fourth class each calendar year. The Board is limited to issuing no more than one (1) economic development license in each county of the fifth through eighth class each calendar year. In addition, economic development licenses are not transferable. Further, economic development licensees may only be renewed or validated if the applicant can show that its sales of food and non-alcoholic beverages are equal to seventy percent (70%) or more of its sales of food and alcoholic beverages, during the preceding year.

Advisory Notice No. 5 - Sacramental Wine Dealers - Reporting Requirements

**4. Since an applicant has not sold any alcohol when it initially applies for an economic development license, how does it establish the necessary ratio for acquiring an economic development license?**

Advisory Notice No. 6 - Alcohol Permittees - Reporting Requirements

When an application is approved, the applicant will receive a provisional license good for one hundred twenty (120) days. Prior to the expiration of the one hundred (120) days, the applicant must submit another application to the Board indicating that for a period of ninety (90) consecutive days since the granting of the provisional license, its sales of food and non-alcoholic beverages were equal to seventy percent (70%) or more of its sales of food and alcoholic beverages. At that point, the Board will issue a permanent license good for the remainder of the licensing term.

Advisory Notice No. 7 - Licensed Importers - Reporting Requirements

**5. How are applications for economic development licenses processed, i.e., what if multiple applications are filed within the same county?**

The Bureau of Licensing will accept applications for economic development licenses on a quarterly basis. For example, applications filed from January 1 to March 31 will be considered together and if there are insufficient licenses for all of the qualified applications, the Board will decide from among the qualified applicants who will be given the license. If any licenses remain after the applications received in the first quarter have been processed, then the Board will consider applications received during the second quarter, i.e., April 1 to June 30, and so on. Upon the end of the calendar year, the cycle begins again.

Advisory Notice No. 8 - Transporters-for-Hire - Reporting Requirements

**6. What happens to the application surcharge of \$25,000 or \$50,000 if the application is refused?**

If an application for an economic development license is refused prior to the Board's issuance of a provisional one hundred twenty (120) day license, then the application surcharge, minus a seven hundred dollar (\$700) processing fee, is refunded to the applicant. An example of why an applicant would not get a provisional license could be that

Advisory Notice No. 9 - Sale or Rental of Items other than Malt or Brewed Beverages

more applicants applied for a license than there were licenses to be given. If the application is refused after the issuance of the provisional license, then no portion of the application surcharge is refunded. An example of this would be if the applicant failed to establish that for a period of ninety (90) consecutive days, its sales of food and nonalcoholic beverages are equal to seventy percent (70%) or more of its sales of food and alcoholic beverages. Please note that the manner in which the application surcharge is handled is set forth by the legislature through statute.

Advisory Notice No. 10 (6th Revision) - Trade Practices

**7. Does a municipality have any standing to challenge the issuance of an economic development license?**

Yes, section 404 of the Liquor Code was amended so that a municipality may protest the issuance of any economic development license regardless of the number of licenses already located in the municipality. The Board has been authorized to refuse an economic development license application if the receiving municipality files a protest to that application. In addition, section 464 of the Liquor Code grants a municipality standing to take an appeal of any decision involving an economic development license application.

Advisory Notice No. 11 - Malt or Brewed Beverage Price Changes

Advisory Notice No. 12 - Multiple Year License Periods

Further, if the number of existing retail licenses in the municipality exceeds one (1) license per three thousand (3,000) inhabitants, then the applicant must receive municipal approval prior to submitting its application with the Board. For additional information on the procedure for acquiring municipal approval, please see Advisory Notice No. 19.

Advisory Notice No. 13 - Multiple Year License Periods

Please govern your operations accordingly.

Advisory Notice No. 14 - Events, Tournaments or Contests

**BY ORDER OF:  
PENNSYLVANIA LIQUOR CONTROL BOARD**

Advisory Notice No. 15 - Advertising of Alcoholic Beverages in Pennsylvania

JOHN D. W. REILEY  
Secretary to the Board

Advisory Notice No. 16 - Discount Pricing Practices

**TITLE 47 PURDON'S STATUTE  
PENNSYLVANIA LIQUOR CODE**

Advisory Notice No. 17 - Contract Brewing Requirements

\* \* \*

**§4-404. Issuance of hotel, restaurant and club liquor licenses.**

Advisory Notice Number 19 - Intermunicipal Transfer of Retail Licenses

The board may, in its discretion, refuse an application for an economic development license under section 461 (b.1) or an application for an intermunicipal transfer of a license if the board receives a protest from the governing body of the receiving municipality. The receiving municipality of an intermunicipal transfer or an economic development license under section 461 (b.1) may file a protest against the transfer of a license into its municipality, and the receiving municipality shall have standing in a hearing to present testimony in support of or against the issuance or transfer of a license.

Advisory Notice Number 20 - Economic Development Licenses

**§4-432. Malt and brew beverages retail licenses.**

Advisory Notice No. 21

(d) ... The board may, in its discretion, refuse an application for an economic development license under section 461 (b.1) or an application for an intermunicipal transfer of a license if the board receives a protest from the governing body of the receiving municipality. The receiving municipality of an intermunicipal transfer or an economic development license under section 461 (b.1) may file a protest against the approval for issuance of a license for economic development or an intermunicipal transfer of a license into its municipality, and such municipality shall have standing in a hearing to present testimony in support of or against the issuance or transfer of a license.

Notice to Transporters-for-Hire - Monthly Reports

**§4-461 Limiting number of retail licenses to be issued in each county.**

Guidance for Sheriff's Sale of a Liquor License

(b.1) The board may issue restaurant and eating place retail dispenser licenses and renew licenses issued under this subsection without regard to the quota restrictions set forth in subsection (a) for the purpose of economic development in a municipality under the following conditions:

Guidelines for Converting Outstanding Suspensions to Fines in License Transfer Cases

(1) A license may only be issued under this subsection if the applicant has exhausted reasonable means for obtaining a suitable license within the county.

(2) The proposed licensed premises must be located within either of the following:

(i) A keystone opportunity zone established under the authority of the act of October 6, 1998 (P.L. 705, No. 92), known as the "Keystone Opportunity Zone and Keystone Opportunity Expansion Zone Act," or an area designated as an enterprise zone by the Department of Community and Economic Development.

(ii) A municipality in which the issuance of a restaurant or eating place retail dispenser license has been approved by the governing body of the municipality for the purpose of local economic development. Upon request for approval of an economic development license by an applicant, at least one public hearing shall be held by the municipal governing body for the purpose of receiving comments and recommendations of interested individuals residing within the municipality concerning the applicant's intent to acquire an economic development license from the Pennsylvania Liquor Control Board. The governing body shall, within forty-five days of a request for approval, render a decision by ordinance or resolution to approve or disapprove the applicant's request for an economic development license. If the

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municipality finds that the issuance of the license would promote economic development, it may approve the request; however, it must refuse the request if it finds that approval of the request would adversely affect the welfare, health, peace and morals of the municipality or its residents. A decision by the governing body of the municipality to deny the request may be appealed to the court of common pleas in the county in which the municipality is located. A copy of the approval must be submitted with the license application.

(3) The board may issue no more than two licenses total in each county of the first through fourth class and no more than one license total in each county of the fifth through eighth class per calendar year.

(4) An applicant under this subsection shall be required to sell food and nonalcoholic beverages equal to seventy per centum (70%) or more of its combined gross sales of food and alcoholic beverages.

(5) In addition to renewal and license fees provided under existing law for the type of license issued, an applicant shall be required to pay an initial application surcharge as follows:

(i) Fifty thousand dollars (\$50,000) if the licensed premises is located in a county of the first through fourth class.

(ii) Twenty-five thousand dollars (\$25,000) if the licensed premises is located in a county of the fifth through eighth class.

(iii) The initial application surcharge minus a seven hundred dollar (\$700) processing fee shall be refunded to the applicant if the board refuses to issue a provisional license under subsection (b.2). Otherwise, the initial application surcharge minus a seven hundred dollar (\$700) processing fee shall be credited to The State Stores Fund. The processing fee shall be treated as an application filing fee as prescribed in section 614-A(1)(i) of the act of April 9, 1929 (P.L. 177, No. 175), known as "The Administrative Code of 1929."

(6) A license issued under this subsection and a provisional license issued under subsection (b.2) shall be nontransferable with regard to ownership or location.

(7) An appeal of the board's decision refusing to grant or renew a license under this subsection shall not act as a supersedeas of the decision of the board if the decision is based, in whole or in part, on the licensee's failure to demonstrate that its food and nonalcoholic beverages were at least seventy per centum (70%) of its combined gross sales of food and alcoholic beverages

(8) A license issued under this subsection may not be validated or renewed unless the licensee can establish that its sale of food and nonalcoholic beverages during the license year immediately preceding application for validation or renewal is equal to seventy per centum (70%) or more of its food and alcoholic beverage sales.

(b.2) Qualified applicants under subsection (b.1) shall receive a provisional license for one hundred twenty days, exclusive of periods of safekeeping. After ninety days from the date of issuance, the licensee may file an application for a permanent license. A license shall be issued if the licensee establishes that for ninety consecutive days from the date of initial issue its sales of food and nonalcoholic beverages is equal to at least seventy per centum (70%) of its combined gross sales of food and alcoholic beverages. Licensees shall not be subject to citation by the Enforcement Bureau for a violation of the requirement that food and nonalcoholic beverages equal at least seventy per centum (70%) of the combined gross sales of food and alcoholic beverages during the provisional licensing period.

(b.3) An intermunicipal transfer of a license or issuance of a license for economic development under subsection (b.1) (2) (i) must first be approved by the governing body of the receiving municipality when the total number of existing restaurant liquor licenses and eating place retail dispenser licenses in the receiving municipality exceed one license per three thousand inhabitants. Upon request for approval for an intermunicipal transfer of a license or issuance of an economic development license by an applicant, at least one public hearing shall be held by the municipal governing body for the purpose of receiving comments and recommendations of interested individuals residing within the municipality concerning the applicant's intent to transfer a license into the municipality or acquire an economic development license from the Pennsylvania Liquor Control Board. The governing body shall, within forty-five days of a request for approval, render a decision by ordinance or resolution to approve or disapprove the applicant's request for an intermunicipal transfer of a license or issuance of an economic development license. The municipality must approve the request unless it finds that doing so would adversely affect the welfare, health, peace and morals of the municipality or its residents. A decision by the governing body of the municipality to deny the request may be appealed to the court of common pleas in the county in which the municipality is located. A copy of the approval must be submitted with the license application.

#### **54-464 Hearings upon the refusal of licenses, renewals or transfers; appeals.**

If the application is for an economic development license under section 461 (b.1) or the intermunicipal transfer of a license, the governing body of the municipality receiving the new license or the transferred license may file an appeal of the board decision granting the license, within twenty days of the date of the board's decision, to the court of common pleas of the county in which the proposed premises is located.