

Advisory Opinion Request Form
November 2019



ALCOHOLIC BEVERAGE CONTROL
COMMONWEALTH OF KENTUCKY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
500 Mero Street 2NE33
Frankfort, KY 40601
502-564-4850 phone
502-564-1442 fax
<http://abc.ky.gov>

Date received

AOR NO.: _____
FOR ABC USE ONLY

ADVISORY OPINION REQUEST FORM

Attach additional pages as necessary and any documentation, research, or other evidence that you request the Department to consider.

Name of Requestor (individual or business entity): Yard Bar, LLC, a Kentucky limited liability company

Address: 401 Greenup Street

City: Covington State: Kentucky County: Kenton

Zip Code: 41001 Phone Number: (513) 200-9462

Email: josh@covcor.com

The above individual or business entity requests an: Advisory opinion Reconsideration request

If this is a reconsideration request or comment, the application Advisory opinion number: _____

Question or issue to be addressed: Does the Yard Bar, LLC constitute an "entertainment facility" exempted under K.R.S. Section 244.085(5)(a) from the general prohibition of K.R.S. Section 244.085(5) preventing persons under the age of 21 from visiting and remaining upon a premises licensed to sell alcoholic beverages?

Applicable statutes, regulations, ordinances, or other authority: K.R.S. Section 244.085(5)

Proposed response, comment, or basis for reconsideration request: Yes, the Yard Bar, LLC constitutes an entertainment facility exempted under K.R.S. Section 244.085(5)(a) from the general prohibition of K.R.S. Section 244.085(5) preventing persons under the age of 21 from visiting and remaining upon a premises licensed to sell alcoholic beverages. Due to the exemption as an "entertainment facility," persons under age 21 may visit and patronize the Yard Bar, LLC's business.

To your knowledge, is the question for which you request an advisory opinion or reconsideration pending before, under investigation by, or recently decided by a court or government entity? Yes No

If yes, please identify the court or government agency, any case or proceeding number, and filing dates of the proceeding or investigation _____

Signature of Requestor or Requestor's Agent

Date

8/11/2020

Signer's Name and title if requestor is a business entity

Robert C. Hassman, Jr., Attorney at Law

Date

8/11/2020



Robert C. Hassman Jr.
rhassman@doylehassmanlaw.com

August 11, 2020

VIA ELECTRONIC MAIL:

Commonwealth of Kentucky
Department of Alcoholic Beverage Control
500 Mero Street 2NE33
Frankfort, KY 40601
abc.advisory@ky.gov

RE: REQUEST FOR ADVISORY OPINION

To Whom It May Concern:

Our office represents Yard Bar LLC, a Kentucky limited liability company (the "Requestor"), which owns and operates a bar and entertainment facility located at 401 Greenup Street, Covington, Kentucky 41011 (the "Premises"). The Requestor has applied for and obtained the following Alcoholic Beverage Permits (the "Permits") from the Commonwealth of Kentucky, Department of Alcoholic Beverage Control (the "Department"):

Quota Retail Drink – 059-LD-165368
Quota Retail Package – 059-LP-165369
NQ-4 Retail Malt Beverage Drink – 059-NQ4-165370
NQ Retail Malt Beverage Package – 059-NQ-165371
Special Sunday Retail Drink – 059-RS-165372

A copy of the Permits, as issued by the Department, are attached to this correspondence for your convenience. The Requestor has also obtained the same permit classes from the City of Covington (the "City"), and the City licenses are also attached.

The Requestor's business concept is designed to provide the feel of a backyard for urban patrons, with a full bar and culinary offerings from five different local food vendors who will lease space at the Premises. Pursuant to this Request, our office respectfully requests that the Department issue an Advisory Opinion ruling that the Yard Bar, LLC constitutes an "entertainment facility" exempted under K.R.S. Section 244.085(5)(a) from the general the restrictions of K.R.S. 244.085(5) prohibiting businesses licensed to sell alcoholic beverages from permitting persons under twenty-one years of age to remaining on a licensed location. Once said ruling is issued, persons under the age of twenty-one will be able to visit and patronize the Yard Bar, LLC's business.

The Requestor is seeking this Advisory Opinion and exemption so that families with children under the age of twenty-one will not be excluded from enjoying the fun and food offerings which the



Requestor will provide to the community. The City is excited about this business concept and is in support of the Requestor's business concept. The City's Local Department Administrator, Michael Bartlett, can be reached at 859-292-2315, and Mr. Bartlett will confirm the City's support if contacted. The City also specifically supports the allowance of persons under the age of twenty-one to visit the Requestor's business in the future.

I. DESCRIPTION OF BUSINESS.

The Requestor's business is located at 401 Greenup Street, in the Historic Licking Riverside District of Covington, Kentucky, an urban area conveniently located within walking distance of no less than (10) different regional/national tourist venues. The Premises is certainly an entertainment facility which will serve as a place where these residents can come and go to congregate for cookouts, graduation parties, birthday parties, and to otherwise visit with friends and neighbors. In essence, the Premises will serve as the neighborhood's communal backyard for entertainment purposes.

The concept for the Premises was developed in response to demand for additional food options, park space, and community gathering space in the Covington, Kentucky area, as well as in response to a growing trend toward congregating in settings that blend the indoors and outdoors with various activities. The Premises looks very much like a back yard or park setting, which includes shipping containers transformed into kitchens from which location culinary artisans will provide delicious food options. The five kitchen shipping containers will be leased to third parties who will provide the dining options. In order for the Requestor to attract quality food vendors and sign leases with the same, and in order for the business to be successful, it is of the utmost importance that persons under the age of 21 not be excluded.

The Premises also includes a full bar, shuffleboard courts, cornhole boards, and areas for other games and outdoor activities. Finally, the Premises includes a good deal of picnic-style gathering space. It is the perfect entertainment facility for patrons to gather to enjoy time with friends, family, and neighbors. I have submitted renderings of the Premises with this letter to give the readers a general sense of the concept.

The Requestor's business will be managed by Paragon Restaurant Management – Jim Combs, which manages multiple successful on-going operations. Jim was President of Bistro Group which oversaw the operations of one of the largest owner/operators of TGIF franchise in the country. After forming Paragon Management in 2005 with a partner, the Paragon team took over operations for the Newport Hausbrauhaus and opened two more locations for its investment group.

II. APPLICABLE STATUTES AND REGULATIONS.

In general, K.R.S. 244.085(5) prohibits businesses licensed to sell alcoholic beverages from permitting persons under twenty-one years of age from remaining on a premises where alcoholic beverages are sold by the drink or consumed. However, K.R.S. 244.085(5)(a) exempts certain types of businesses from this prohibition, including "entertainment facilities." The Yard Bar, LLC submits



that the Premises constitutes an “entertainment facility” and should therefore be exempt from the general prohibition.

The renderings of the Premises submitted herewith clearly show that the Requestor’s Premises has many entertainment offerings, including family-oriented gathering areas, outdoor games and gaming areas, picnic tables and dining options. A review of the renderings will show that the concept is more akin to a park or recreational venue than a traditional bar or restaurant, and thus the business should be labeled an entertainment facility and should be exempt.

II. CONCLUSION AND REQUEST FOR ADVISORY OPINION.

The Requestor’s business is a place where families, many of whom live in an urban area and do not have yards, will be able to gather and enjoy themselves. It is important that minors and children be permitted upon the Premises in order to provide such a place within the City of Covington. It is also important that minors and children be permitted so that the food vendors, which are a large part of the Requestor’s business plan, will be able to lease space and generate enough revenue to sustain operations.

The Department has the authority, under the statutes cited herein, to rule that the Yard Bar, LLC’s Premises constitutes an “entertainment facility” subject to an exemption which would permit minors and children to patronize the Requestor’s business. Therefore, I again respectfully request that the Department issue an Advisory Opinion ruling that the Yard Bar, LLC constitutes an “entertainment facility” exempted under K.R.S. Section 244.085(5)(a).

Please contact me with any questions or comments. I appreciate your consideration of this request.

Sincerely,

Robert C. Hassman Jr., Esq.

Attachments

cc: Joshua Newton (by email only)
General Counsel
Kentucky Department of Alcoholic Beverage Control
Mayo-Underwood Building
500 Metro Street, 2NE33
Frankfort, KY 40601

PERMITS



ALCOHOLIC BEVERAGE CONTROL

KNOW YE, THAT

PREMISES ADDRESS & SITE ID # 29072

Yard Bar LLC
DBA: Yard Bar
401 Greenup St
Covington, Kentucky, 41011

having complied with the necessary provisions of Kentucky law and having produced the satisfactory evidence to the Administrator(s) of the Department of Alcoholic Beverage Control, is hereby granted the following:

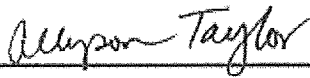
Quota Retail Drink,059-LD-165368, 1 , 07/30/2020 - 11/30/2020
Quota Retail Package,059-LP-165369, 1 , 07/30/2020 - 11/30/2020
NQ-4 Retail Malt Beverage Drink,059-NQ4-165370, 1 , 07/30/2020 - 11/30/2020
NQ Retail Malt Beverage Package,059-NQ-165371, 1 , 07/30/2020 - 11/30/2020
Special Sunday Retail Drink,059-RS-165372, 1 , 07/30/2020 - 11/30/2020

By law this license does not constitute a property or vested right. These licenses are subject to the obligations and limitations imposed thereon, by law, for a period beginning on the date of issue herein, and to continue in force as long as the licensee is entitled thereto, or until suspension, or revocation, by the Alcoholic Beverage Control Board.



ALCOHOLIC BEVERAGE CONTROL

PUBLIC PROTECTION CABINET
500 Mero Street 2NE33
Frankfort, KY 40601
502-564-4850 (O)
502-564-7479 (F)


DISTILLED SPIRITS ADMINISTRATOR


MALT BEVERAGE ADMINISTRATOR

CITY OF COVINGTON

ALCOHOLIC BEVERAGE CONTROL

2019-20

THIS LICENSE MUST BE POSTED IN A CONSPICUOUS PLACE ON THE LICENSED PREMISES. CITY OF COVINGTON ORDINANCE §111.025 (J)(I)

BUSINESS NAME	PREMISES ADDRESS
YARD BAR LLC	401 GREENUP ST.
DBA: Yard Bar	
100 RIVERSIDE PLACE, SUITE 201	
COVINGTON, KY 41011	

LICENSE NUMBER	ISSUE DATE
600020345	8/6/2020

EFFECTIVE DATE	EXPIRATION DATE
12/01/2019	11/30/2020

LICENSE TYPE	LICENSE FEE
QUOTA RETAIL PACKAGE	\$1000
QUOTA RETAIL DRINK	\$600
NQ RETAIL PACKAGE	\$200
NQ RETAIL DRINK	\$200
SPECIAL SUNDAY RETAIL DRINK	\$250
	<hr/>
	\$2250



Michael Bartlett

CITY OF COVINGTON
CLERK OF CITY
20 W. PIKE STREET
COVINGTON, KY 41011

THIS LICENSE DOES NOT CONSTITUTE A PROPERTY OR VESTED RIGHT AND MAY BE REVOKED ANY TIME PURSUANT TO LAW. THIS LICENSE SUPERSEDES ANY AND ALL OTHER LICENSES ISSUED PRIOR TO DECEMBER 1, 2019.

RENDERINGS OF THE PREMISES



4TH STREET



GREENUP STREET



