



**FROM THE DESK OF  
James "Woody" Hogan, Department Adjutant**

Greetings from your Department Headquarters Staff. We have just returned from our April Department Executive Meeting hosted by 11th District in Scranton. A testimonial dinner was held on Saturday night honoring our Department Commander Steve Lavelle. I would like to personally thank the members of the 11th District for supporting this event. It was the best attended testimonial dinner I have witnessed in decades.

I am devoting the rest of my space in this newsletter to explain to all Post leadership why the Department Constitution was changed in 2005 to prohibit Home Associations from owning any real estate or assets of the Post. There still are Posts in this Department that don't understand why this happened almost 20 years ago, nor do they comply with our Department Constitution and mandated Post Bylaws today.

## Constitution and Bylaws

In 1998, a decision was handed down by the Pennsylvania Supreme Court in the case of Pennsylvania Liquor Control Board v. Richard E Craft American Legion Home Corporation. The Court held that the Home Association of that particular Post was a subordinate unit of the Post, thus permitting Home Associations to apply for a liquor license as an incorporated unit of a national veterans' organization.

Consequently, it was recommended to all American Legion, Department of Pennsylvania Post Commanders, based on the decision in the Craft case and the current statute (47 Purdon's Statute §4-461.1 (a)), that Home Associations who do not have a liquor license but wish to obtain one should continue to apply as an incorporated unit of a national veterans' organization.

However, it was also advised that a Home Association who currently has a liquor license transfer all other realty and assets in the Association to the Post to further insulate the Post and its assets from liability while still affording them the opportunity to have social members who can contribute to the Post's financial success.

As a result of the above mentioned case, the Department of Pennsylvania, through painstaking effort, was able to eventually obtain passage of the Realty Transfer Tax exemption into Act 43 of 2017, the Tax Code Bill. The

law exempts veterans' organizations from the Realty Transfer Tax during such necessary transactions.

This is important because now there is no realty transfer tax when real property vested in the name of a Home Association is transferred to the Post. Hence, Post(s) with real estate in the name of a Home Association/Home Corporation can now transfer the real estate into the name of the Post(s), with no tax consequences if the Post has maintained their 501c19 non-profit status by filing IRS Form 990 yearly.

Moreover, state case law states that when we have Post and Home Associations structured as laid out in the Craft case, among other things, our Post(s) and Home Association(s) are able to take advantage of favorable small games of chance laws in Pennsylvania.

Specifically, if a Post owns the real estate and the Home Association has the liquor license and the Home Association leases the property from the Post, the Home Association is able to donate to the Post as a charitable entity up to 60% of its earnings. Of course, many of our posts donate to other causes as well, but it is a way to financially help the post, if and when needed.



I hope this explanation helps with your discussions in your Post about finally complying with our Constitution and Bylaws. We do not want to lose any more Posts in our Department, but the liability created by not following the Constitution has become too burdensome financially, and it cannot be ignored.

Now, back to the good work of our American Legion. Please get your reservations for both the Department Convention held at the Harrisburg Hilton on July 18th to the 21st, 2024, and our 105th National Convention held in New Orleans on August 25th to the 29th, 2024. As I have said before, this organization needs help from the Post members in making decisions that affect us all. If you don't show up, your voice is never heard. Please come see the big picture of how our American legion operates.

Until next time... Have successful elections at Post level in June and elect good leadership to represent your Post and I hope to see some new faces in July.

I remain...Devoted to mutual helpfulness,  
James "Woody" Hogan  
Department of Pennsylvania Adjutant

