

## **Maher, David**

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**From:** Kim Courtney <kim@kimcourtneylaw.com>  
**Sent:** Thursday, March 12, 2015 11:24 AM  
**To:** City Council  
**Cc:** Xavier Dietrich  
**Subject:** Urgent Order Request for Today's 2pm Submission Deadline  
**Attachments:** CLCABCCKapsalis Emails re 2 Licenses.pdf; General Laws CHAPTER 138, Section 64.pdf

Dear City Council Members,

I would like to inform you about a situation taking place in the Cambridge License Commission, and request that the Council take action at the next meeting, Monday March 16, 2015, to ask for a legal opinion from the City Solicitor on the matter, and to have the License Commission hold off on taking further action. I appreciate the fact that there is a 2pm deadline today for submission of orders, and appreciate your prompt attention to this matter.

Both the License Commission and the ABCC have acknowledged that a liquor license holder in Cambridge, Steven Kapsalis, holds both a restaurant and package store license, in violation of the law. (See attached letters dated February 13, 2015 from the License Commission to the ABCC, and February 20, 2015 from the ABCC to the License Commission.)

The law allows only the ABCC to take action in this case, and requires the ABCC to revoke one of the licenses. My understanding is that the City has no jurisdiction to take action according to Section 64 of Chapter 138 of the General Laws. (See attached law.)

On February 13, 2015, Ms. Lint, Executive Director of the License Commission, sent Mr. Kapsalis a letter giving him the option of selling or otherwise transferring one of his licenses by next Friday, March 20, 2015. (See attached letter dated February 13, 2015 from License Commission to Steven Kapsalis.)

Not only is this not in compliance with the law, but if Mr. Kapsalis were allowed to proceed with such a transfer, it would likely result in a complicated legal matter for the City.

Time is of the essence, because the License Commission has given Mr. Kapsalis until only the end of next week to effectuate a transfer of one of his licenses. I would like to request that the Council ask the City Solicitor to clarify the City's obligations in regards to Mr. Kapsalis' situation, and to ask the License Commission not to take action at this time while this question is resolved.

Thank you for your time,

Kim Courtney

Andrea S. Jackson  
Chairperson

Chief Gerald R. Reardon  
Fire Department  
Commission Member

Commissioner Robert C. Haas  
Police Department  
Commission Member

Elizabeth Y. Lint  
Executive Director

## CAMBRIDGE LICENSE COMMISSION

831 Massachusetts Avenue, First Floor, Cambridge, Massachusetts 02139



City of Cambridge

February 13, 2015

Steven Kapsalis  
The Cellar  
991 Massachusetts Avenue  
Cambridge, MA 02139

RE: License Ownership

Dear Mr. Kapsalis:

A review of our files has revealed that you are currently the owner of a Massachusetts General Laws chapter 138 Section 12 Pouring License which was approved by the Cambridge License Commission on September 7, 1984 and by the ABCC on October 16, 1984, as well as a Massachusetts General Laws chapter 138 Section 15 Off Premise License which was approved by the Cambridge License Commission on March 29, 2005 and by the ABCC on April 4, 2005.

Ownership of the two above licenses is a violation of Massachusetts General Laws chapter 138 Section 17 which states that one person, firm or corporation cannot hold more than one license in the same city or town under this chapter.

Please take immediate steps to transfer ownership of one of the licenses and provide written proof to the Cambridge License Commission before March 20, 2015. Failure to do so will result in a hearing to revoke one of the licenses.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elizabeth Y. Lint".

Elizabeth Y. Lint  
Executive Director

Telephone (617) 349-6140

Facsimile (617) 349-6148

TTY/TTD (617) 349-6112

[www.cambridgema.gov/license](http://www.cambridgema.gov/license)

Andrea S. Jackson  
Chairperson

Chief Gerald R. Reardon  
Fire Department  
Commission Member

Commissioner Robert C. Haas  
Police Department  
Commission Member

Elizabeth Y. Lint  
Executive Director

## CAMBRIDGE LICENSE COMMISSION

831 Massachusetts Avenue, First Floor, Cambridge, Massachusetts 02139



City of Cambridge

February 13, 2015

Ralph Sacramone  
Executive Director  
ABCC  
239 Causeway Street  
Boston, MA 02114

RE: KAPSCO, Inc. d/b/a Cellar Wine & Spirits  
JCSK, Inc. d/b/a The Cellar

Dear Mr. Sacramone;

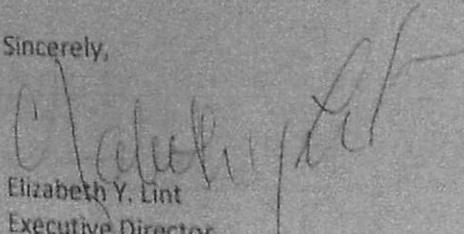
It has been brought to our attention that the above two licenses, while owned by different corporations, are owned by the same person. Steven Kapsalis is the 100% stockholder of both corporations. I understand that this is a violation of MGL ch. 138 sec. 17.

The application for JCSK, Inc. d/b/a Ashoka, section 12 license at 991 Massachusetts Avenue, was approved by the Cambridge License Commission and the ABCC on August 14, 1984. In 1990 the d/b/a was changed to the Cellar at Tandoor House. In 1994 the d/b/a was changed to The Cellar. All of these changes were acknowledged by the ABCC.

The application for KAPSCO, Inc. d/b/a University Wine Cellar, section 15 license at 991 Massachusetts Avenue, was approved by the Cambridge License Commission on March 29, 2005. It was subsequently approved by the ABCC. In May 2005 there was a d/b/a change to University Wine Shop at Harvard Square. On September 13, 2005 the d/b/a/ was changed to Cellar Wine & Spirits. All of these changes were acknowledged by the ABCC. In the original application Mr. Kapsalis did disclose that he had ownership in an All Alcoholic Beverages License.

We have notified Mr. Kapsalis that he is in violation of MGL ch. 138 sec. 17 and that he must relinquish ownership of one of the licenses. I am writing to you to ask what you feel is the most appropriate way for the License Commission to proceed.

Sincerely,

  
Elizabeth Y. Lint  
Executive Director

Telephone (617) 349-6140

Facsimile (617) 349-6148

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[www.cambridgema.gov/license](http://www.cambridgema.gov/license)



*The Commonwealth of Massachusetts*  
*Department of the State Treasurer*  
*Alcoholic Beverages Control Commission*  
*Boston, Massachusetts 02114*

*Deborah B. Goldberg*  
*Treasurer and Receiver General*

*Kim J. Gainsboro, Esq.*  
*Chairman*

February 20, 2015

Elizabeth Lint, Esq.  
Executive Director  
Cambridge License Commission  
831 Massachusetts Avenue, 1<sup>st</sup> Floor  
Cambridge, Massachusetts 02139

2015 FEB 25 A-11:50  
LICENSE COMMISSION  
CAMBRIDGE, MASS

RE: KAPSO, Inc. d/b/a Cellar Wine & Spirits  
JCSK, Inc. d/b/a The Cellar

Dear Ms. Lint:

Thank you for your February 13, 2015, letter regarding KAPSCO, Inc., d/b/a Cellar Wine & Spirits, and JCSK, Inc., d/b/a/ The Cellar, both corporations being owned by Steven Kapsalis. In your letter, you explained that it has been brought to your attention that Mr. Kapsalis owns both a § 12 and § 15 all-alcohol license, in violation of M.G.L. c. 138, § 17. You are now seeking advice as to the best course of action to take to remedy this violation.

Because Mr. Kapsalis cannot own more than one of these licenses in Cambridge, he will have to dispense with either his § 12 or § 15 license, whether through sale or transfer of the license or stock.

Should you have any further questions, please do not hesitate to contact me.

Sincerely,

Kris C. Foster  
General Counsel



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**PART I** ADMINISTRATION OF THE GOVERNMENT**TITLE XX** PUBLIC SAFETY AND GOOD ORDER**CHAPTER 138** ALCOHOLIC LIQUORS**Section 64** Suspension or revocation of license; hearing; notice; disqualification; surrender of license; refunds

Section 64. The licensing authorities after notice to the licensee and reasonable opportunity for him to be heard by them, may modify, suspend, revoke or cancel his license upon satisfactory proof that he has violated or permitted a violation of any condition thereof, or any law of the commonwealth. If at any hearing a licensee is charged with serving or selling alcohol or alcoholic beverages to a person under twenty-one years of age, written notice of said allegations shall be sent by the licensing authorities to the parent or guardian of such person. If the license is revoked, the licensee shall be disqualified to receive a license for one year after the expiration of the term of the license so revoked, and if he is the owner of the premises described in such revoked license, no license shall be issued to be exercised on said premises for the residue of the term thereof.

If it appears to the commission that a license has been issued under this chapter by the local licensing authorities in excess of the quota prescribed by section seventeen or in violation of section sixteen A or any other provision of this chapter, the commission shall, after notice to said authorities and to the holder of such license and after reasonable opportunity for them to be heard by it, revoke such license, whereupon such license shall be surrendered to said authorities, and the decision of the commission shall be final and conclusive. The holder of a license so revoked shall not be subject to prosecution for any sales theretofore made by him under such license on the ground that such license was illegally issued. The city or town whose licensing authorities issued any license so revoked shall forthwith refund to the holder thereof the entire fee paid therefor and authority is hereby granted to such city or town to pay the same out of any funds available.