

Opinion No. 15-1629

August 30, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Mr. Matt. Jugo. 232 S. 1st St., Raton, N. M.

Consent of lot owners in cities necessary for issuance of a wholesale or retail liquor license.

OPINION

{*202} I have today received your letter of even date herewith, in which you ask whether under the Law of 1897 as amended by Section 1 of Chapter 59 of the Laws of 1905-1907, passed March 3, 1907, a person must make application to the city council by petition with lot owners as signers same as for a saloon license, on a new location, such application being for a wholesale liquor license.

The last statute on this subject you will find in Chapter 28 of the Laws of 1915, but so far as your question is concerned, this later statute I think makes no difference. The statute gives cities and towns the right to license, regulate or prohibit the selling or giving away of any intoxicating liquor within the limits of the city or town with a proviso that no city or town shall grant any license for the sale of liquors on any lot where there is not a saloon in operation at the time of application for such license, except upon petition and written consent of the owners of more than one-half of the lots of the half block in which such lot is situated, and that no license shall be granted for sale of liquors within one block or square of any church, public library or public school, nor in any purely residence district.

The legislation is not limited to retail liquor licenses but applies to both wholesale and retail licenses. Therefore, I am of opinion that for either a wholesale or retail city liquor license, the consent of the lot owners in the half block in which the license is to be exercised must be had in writing, to the granting of the application.