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**By E-mail**

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112 Water Street, Suite 201  
Boston, MA 02109

Re: **Nashoba Valley Spirits, Ltd. v. Alcoholic Beverages Control Commission,**  
Suffolk Superior Court, Docket No. 1684CV0153

Dear Mr. Connell:

We are writing to update you on our position in the above case, which concerns a dispute that arose when your client, Nashoba Valley Spirits, Ltd., received an email in March 2016 from the general counsel to the Alcoholic Beverages Control Commission (ABCC) stating that Nashoba would not be eligible to receive the necessary licenses in 2017 to continue its current operations. In particular, the question was whether Nashoba can continue to sell its products by the bottle or glass for consumption at a restaurant located on the winery premises. Since receiving the case, the Office of the Attorney General has independently reviewed the applicable sections of our liquor control laws and concluded that there is a firm legal basis by which the ABCC could issue (or approve) the necessary licenses in 2017 to allow for Nashoba's continued operations. We would like to resolve the case promptly to accomplish that result.

While the Massachusetts General Laws generally maintain a "three-tier system" of producers, wholesalers, and retailers, to control the sale of alcoholic beverages in Massachusetts, the Legislature has made adjustments to "encourage the development of domestic vineyards" and "domestic farms." *See* Mass. Gen. Laws c. 138, §§ 19B, 19C, and 19E.

Various provisions in Chapter 138 authorize entities, like Nashoba, that hold a farmer-series license to serve alcoholic beverages on the premises that are made from the farm's products. In particular, a "winegrower," defined as "any person licensed to operate a farmer's winery," may "sell wine . . . at retail by the glass or bottle to be consumed on the premises . . . pursuant to [a license issued under] section twelve of this chapter." G.L. c. 138, § 19B(g)(5). Under Section 12, a local authority may issue such a license without regard to the usual limitations in Section 17, which normally cap the number of pouring licenses for each town.

Other provisions in Chapter 138 permit those licensed as farmer-brewers or farmer-distillers to pour and serve malt beverages or distilled spirits that they have made. Under G.L. c. 138, § 19C(i), a "farmer-brewer may be licensed by the local licensing authorities to sell malt beverages for consumption on the brewery premises in accordance with this section and such

regulations as the commission may prescribe.” The license may also be issued outside of the usual limit on pouring licenses in each town, the only condition being that “such licensees may sell for on-premises consumption malt beverages produced by the brewery or produced for the brewery and sold under the brewery brand name.” G.L. c. 138, § 19C(n). Nearly identical provisions in Section 19E authorize a licensed farmer-distillery to obtain a license from local authorities to sell its distilled products for consumption on its premises, notwithstanding the usual limits on Section 12 pouring licenses. G.L. c. 138, § 19E(j) and (o).

The flexibility in these provisions, and their departure from the three-tier system, all reflect the essential purposes of the farmer-series licenses: to encourage domestic production of products used to make wine, beer and distilled products. See G.L. c. 138, § 19B(a) (farmer-winery licenses issued “[f]or the purpose of encouraging the development of domestic vineyards); § 19C(a) (farmer-brewery licenses issued “[f]or the purpose of encouraging the development of domestic farms”); § 19E(a) (farmer-distillery licenses issued “[f]or the purpose of encouraging the development of domestic farms).

We do not believe that the ABCC’s practice, until this year, of approving a pouring license for Nashoba violated the “cross-ownership” provisions applicable to farmer-series licenses. In context, these provisions must be read to apply to different circumstances, such as where an applicant for a farmer-series license is already independently operating, at a different location, a restaurant with a pouring license under Section 12 or a package liquor store with a retail license under Section 15.

In sum, we believe there is a basis to resolve this case by recognizing that the ABCC has the authority, under current law, to issue or approve the licenses that would allow Nashoba to continue uninterrupted operations in 2017. We are available to meet at your first opportunity in an effort to accomplish that result.

Sincerely,



Maryanne Reynolds  
Assistant Attorney General