

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

*Steven Grossman*  
*Treasurer and Receiver General*

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

**DECISION**

**TUYEN LAM DBA KEIKO BAR & LOUNGE**  
**751 MAIN STREET**  
**WORCESTER, MA 01608**  
**LICENSE#: 150800508**  
**HEARD: 10/29/2014**

This is an appeal of the action of the City of Worcester Licensing Board (the "Local Board") for revoking the M.G.L. c. 138, §12 all alcoholic beverages license of Tuyen Lam dba Keiko Bar & Lounge (the "Licensee" or "Keiko") located at 751 Main Street, Worcester, MA. The licensee timely appealed the Local Board's decision to the Alcoholic Beverages Control Commission (the "Commission") and a hearing was held on Wednesday, October 29, 2014.

The following documents are in evidence as exhibits:

1. Licensee's letter requesting an Appeal Hearing;
2. Hearing Notice of Appeal dated: 4/11/14;
3. Hearing Notice of Appeal dated: 8/8/14;
4. Email to Tuyen Lam dated: 10/22/14.

There is one (1) audio recording of this hearing and one (1) witness testified.

The Commission took Administrative Notice of the Licensee's file and all of its contents.

**FACTS**

1. Tuyen Lam dba Keiko Bar & Lounge holds an all alcoholic beverages license under M.G.L. c. 138, §12 (the "Licensee" or "Keiko") located at 751 Main Street, Worcester, MA. (Commission Records)
2. The Local Board held a hearing on March 20, 2014, regarding alleged violations of the Worcester License Commission, 204 CMR 2.05 (2) and M.G.L. c. 138, §65, by the Licensee. (Exhibit 1)
3. On March 25, 2014, the Local Board issued a decision revoking the Licensee's all alcoholic beverages liquor license. (Exhibit 1)
4. On or about March 27, 2014, Tuyen Lam, the owner of the license, called the Commission and spoke with its Administrative Assistant Anna Webster. Ms. Lam identified herself, as the licensee and requested to appeal the decision of the Local Board revoking her license located at 751 Main Street, Worcester, MA. (Testimony)
5. Ms. Webster wrote down all the information and informed Ms. Lam that someone would get back to her regarding the proper procedure to request an appeal hearing. (Commission Records)
6. Ms. Lam provided Ms. Webster with all of her contact information, including her cell phone number. All of the information was added to the Licensee's file. (Testimony, Commission Records)
7. The same day using the information that Ms. Lam provided, Patricia Hathaway, another Commission Administrative Assistant, contacted Ms. Lam and advised her that all appeals must be submitted to the

Commission in writing. During the course of the conversation, Ms. Lam provided Ms. Hathaway with her home address and her personal email address. (Testimony, Commission Records)

8. On March 31, 2014, the Licensee timely appealed the decision of the Local Board. (Exhibit 1)
9. Subsequently, the Commission issued a Notice of Appeal Hearing dated April 11, 2014, for a hearing to be held on Wednesday, June 11, 2014. The hearing notices were sent to the licensed premises and to Ms. Lam's home address. (Testimony, Exhibit 2)
10. On May 9, 2014, the Local Board filed a Motion to Continue the hearing due to the unavailability of the police to testify. (Testimony, Commission Records)
11. The Commission allowed the motion and scheduled a new hearing date for October 29, 2014. Hearing notices were sent to all parties including the licensed premises and Ms. Lam's personal address. (Testimony, Exhibit 3)
12. None of the hearing notices have ever been returned. (Testimony)
13. On October 21, 2014 the Local Board filed a Motion to Continue due to the unavailability of the police to testify. The Local Board had attempted to contact the Licensee to get its assent, through phone calls, emails, and direct contact by police officers. When the police officers went to the licensed premises it was not lighted, and they did not observe any individuals present inside the premises. (Commission Records)
14. When the Commission received the continuance request, Ms. Webster also attempted to contact the Licensee using the phone numbers and email addresses Ms. Lam had previously provided. Both of her phone numbers were disconnected and there was no email reply. (Testimony, Exhibit 4)
15. On October 24, 2014, the Commission received a written withdrawal of the Local Board's Motion to Continue. (Commission Records)
16. On Wednesday, October 29, 2014, an appeal hearing was held as scheduled. (Commission Records)
17. The Commission waited until 11:00 a.m. prior to commencing the hearing. (Commission Records)
18. The Licensee did not contact the Commission, and failed to appear at the hearing. (Commission Records)

#### CONCLUSION

The Commission sent the hearing notices to the Licensee's premises, as well as to an additional address provided by Ms. Lam. The Licensee, or an authorized representative, failed to appear and pursue this appeal. Therefore, this matter is **DISMISSED WITHOUT PREJUDICE FOR LACK OF PROSECUTION**.

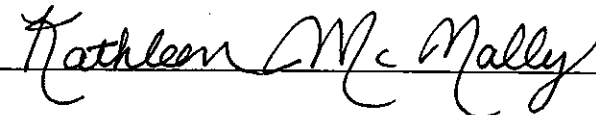
#### **ALCOHOLIC BEVERAGES CONTROL COMMISSION**

Kim S. Gainsboro, Chairman

A handwritten signature in black ink, appearing to read 'K. Gainsboro', followed by a circled monogram 'AW'.

I, the undersigned, hereby certify that I have reviewed the hearing record and concur with the above decision.

Kathleen McNally, Commissioner

A handwritten signature in black ink, appearing to read 'Kathleen McNally'.

Dated: November 7, 2014

You have the right to appeal this decision to the Superior Courts under the provisions of Chapter 30A of the Massachusetts General Laws within thirty (30) days of receipt of this decision.

cc: Local Licensing Board  
Alexandra Haralambous, Asst. City Solicitor  
Frederick G. Mahony, Chief Investigator  
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