

**Liquor License, in Towns or Villages. Towns or Villages,  
Number Liquor License in. County Commissioners, Prohibi-  
tion on.**

When two licenses have been issued in a town or village under the provisions of Sec. 1, Chap. 35, Laws of 1913, and same are still in force, the county commissioners are prohibited from issuing any other licenses.

October 3rd, 1913.

Hon. Charles J. Marshall,  
County Attorney,  
Lewistown, Montana.

Dear Sir:

Replying to your letter of the 20th ult., wherein you inquire whether or not the county commissioners may grant more than two liquor licenses in a town or village in your county under the following statement of facts. You state that the Milwaukee Townsite Company has platted a number of different townsites, and in selling the lots

have, by their deeds, prohibited the sale of intoxicating liquors upon all of the lots excepting two, and as to these lots liquor may be sold thereon; that the county commissioners of your county have issued retail liquor dealers licenses to two parties other than the parties who purchased these lots, and that they are unable to use the licenses within the town or village for the reason that they do not own and cannot acquire any property upon which liquor may be sold, and that the parties who purchased the lots upon which liquor may be sold are now applying to the board of county commissioners for licenses for themselves.

Query: Can licenses be issued to the latter parties?

Sec. 1 of Chap. 35, Session Laws of the Thirteenth Legislative Assembly, is an express limitation upon the number of liquor licenses that may be issued in any town or city. I assume, of course, from your statement that the village in question is not so large as to justify the issuance of more than two liquor licenses under this statute, on the basis of one to every five hundred inhabitants, and, therefore, must come under the provision which provides that two licenses may be issued in every town or village. It is my opinion that the limitation applies to the number of licenses issued, and that it is not pertinent for the commissioners, or anyone else, to inquire what may be done with the licenses. In other words, the fact that the parties to whom the licenses have been issued may not, in fact, be engaged in the sale of liquors in this village under the licenses is immaterial, and that while two licenses have been issued for this village or town and have not expired, being still in force and effect, the commissioners are prohibited from issuing any other licenses.

Yours very truly,

D. M. KELLY,  
Attorney General.