



## MEMORANDUM

TO: Robert Klein, Chair, and  
Members of the ABC Board

DATE: July 11, 2017

FROM: Erika McConnell  
Director, ABC Board

RE: Tapas #4170

The licensee submitted a transfer application in September of 2015 to transfer ownership and location, and change the DBA, from Café de Paris Catering Company DBA Lavelle's Bistro at 575 1<sup>st</sup> Avenue in Fairbanks, to Tapas, Inc. DBA Tapas at 603 Lacey Street in Fairbanks. The City of Fairbanks protested pending issuance of a certificate of occupancy and a requirement that food be served at the location, and the Department of Environmental Conservation (DEC) objected pending submittal of an application for plan review. At the November 19, 2015, board meeting, the board approved the transfer with delegation. The minutes of that meeting state that during the discussion of that license transfer, the board also discussed bringing back applications that have been in delegation for too long.

Possibly due to that conversation, Director Franklin brought this delegated transfer application (along with four other applications in delegated status) back before the board at the February 10, 2016, meeting. At that meeting (according to staff), the board asked the licensee how much time he needed to resolve the issues related to the protest and the objection, and Mr. Eagle requested approximately a year. The board voted to table the item to the December 2016 meeting.

At the December 5, 2016, meeting, the board denied the application based on DEC's objection, which had not been lifted. The agenda indicates that the City of Fairbanks no longer protested, but a closer look at the correspondence indicates that the protest is still active. The City of Fairbanks did lift the condition that food be served at the location, but continues to protest pending a certificate of occupancy.

Mr. Eagle contacted the office in early January to request an informal conference, but due to the transition from Director Franklin to Interim Director Chambers to myself, along with Mr. Eagle's travel schedule, an informal conference was not held until March 29, 2017.

At the informal conference, Mr. Eagle requested that the denial of his transfer request be brought back before the board for reconsideration at the April meeting, but as the status of his delegation had not changed (both protest and objection remained in place), I did not grant his request. I encouraged

him to submit a new transfer application if he felt he could now address the issues raised by DEC and the City of Fairbanks.

After repeated contact from Mr. Eagle and given the fact that the board, to my knowledge, has not set a limit on when a decision may be brought back for reconsideration, I agreed to bring the denial of the transfer back to the board at this meeting if the DEC objection was lifted by June 23 (agenda cut-off date). We received notice of non-objection from DEC on May 24, 2017.

I request that the board reconsider its decision to deny this transfer of ownership and location, and DBA change.

Recommendation:

Reconsider the denial of the license transfer.

Approve the license transfer with delegation, to be brought back to the board in September 2017 if the delegation is still pending.