



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of Commerce, Community,
and Economic Development**

ALCOHOL AND MARIJUANA CONTROL OFFICE

550 West 7th Ave, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

MEMORANDUM

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

DATE: July 11, 2017

FROM: Erika McConnell
Director, ABC Board

RE: Cyrano's Crepes & Books
#2724 Restaurant or Eating
Place

At the April 6, 2017, meeting, the Board determined that this licensee had not met minimum operating requirements for 2015 and 2016, and approved the license renewal on the condition that the licensee apply for waivers of minimum operations for those years. The licensee submitted waiver applications and fees, but has requested a refund of the fees.

Recommendation:

Deny the refund request as 3 AAC 304.170(c) states that the waiver application fee is non-refundable.

Attachment:

Applicant's request for refund

From: Lynn Murphy
To: [McConnell, Erika B \(CED\)](#); [Alcohol Licensing, CED ABC \(CED sponsored\)](#)
Cc: [Sandy Harper](#)
Subject: Petition to Board, Cyrano's Crepes & Books, License #2724
Date: Friday, May 26, 2017 7:55:22 AM

Dear Madam/Sirs:

My name is Sandy Harper and I am the Owner/Operator of Cyrano's Crepes and Books, license #2724. We have held this license for many years, originally when we were a bookstore and then later as Cyrano's Theatre came into being in 1987. It has always been the goal of our Beer/Wine License to supplement our income and provide a service to our patrons while they enjoy live theatre.

Since this time, Cyrano's has been compliant with all rules and regulations and has prided itself on providing a superior product to Anchorage theatre-goers. We renewed our license in 2014 when my son-in-law was doing our bookkeeping and certainly he provided you with all the necessary documentation to remain in compliance.

Late in 2015 he left my employment and moved to Washington and since then Lynn Murphy and I have been trying to pick up the pieces, including management of the beer and wine license. Since neither of us were familiar with the rules and regulations, we should have absolutely read up on them for our renewal, but I was extremely busy during that time getting the new Artistic Director for Cyrano's up and running.

We found ourselves scrambling to provide information to the two investigative officers that came out and paid us a visit earlier this year, but once we were made aware of the discrepancies they found, they were corrected immediately. I now understand that the burden of proof showing 30 calendar days of operation for 8 hours per day falls on the licensee and while some information was provided to the Board during their investigation, it was not sufficient. At this time, we have completely revamped the way our information is recorded so that going forward we will be able to provide you with all the documentation required for the number of 8 hour days Cyrano's Crepes and Books is open.

On May 5, we received a letter from you stating that the ABC Board would renew our license if we filed for a waiver for both 2015 and 2016 which certainly was great news to us.

We filled out both waivers for 2015 and 2016 and took them into the office, only to be told that we had to pay to have the waivers submitted. Needless to say, my assistant Lynn was completely taken aback; it was explained that the waiver fee for 2016 was 1/2 the cost of the license or \$300 and the waiver fee for 2015 was 100% of the license at \$600. It was then further explained that each year bore a penalty of \$1,000, bringing the total to the \$2,900. It was never stated in the letter that there would be fines and penalties due in submitting the waivers and we both understood it to be just a paperwork formality.

Again I wish to point out that Cyrano's Crepes and Books maintains our beer and wine license mostly for the pleasure of our patrons of Cyrano's Theatre, which is a non-profit entity. In the instances we are able to be open to the public, it is usually always to support the Arts community in Anchorage by hosting readings, independent musicians and various other performing artists. I have since retired from my beloved Cyrano's Theatre and the Cafe is a way for me to help maintain my work within the Arts community.

In light of this, I respectfully petition to the Board to see fit to waive both the waiver fees and penalty fees, under 3 AAC 304.170 (i) and it would put an undue financial hardship on Cyrano's Crepes and Books to pay all of these fees and would be happy to provide you with a Profit/Loss statement showing that this would in fact deplete our bank account.

I can be reached via email or by phone at 907-278-5932 or please contact Lynn Murphy at Lynn.murphy@live.com or 907-240-6938.

Thank you,

Sandy Harper
Manager
Cyrano's Crepes and Books

3 AAC 304.170. Waiver of annual operating requirement and minimum operating requirements

- (a) Except as provided in this section, the board will deny an application for renewal of a license if the licensed premises were not operated for the time required by AS 04.11.330(a)(3) or (d).
- (b) A licensee may apply to the board, requesting that the board waive the operating requirement of AS 04.11.330 (a)(3) or (d). Under AS 04.11.330(a)(3), the board will determine whether, through no fault of the licensee or because the premises are under construction, the licensed premises could not be operated for the required time during the preceding calendar year.
- (c) An application for waiver for a calendar year must be made in writing to the board and must be accompanied by a non-refundable application fee of:
 - (1) an amount equal to one-half the applicable biennial license fee if a waiver application was not made for the previous year; or
 - (2) double the amount of the fee paid for the previous year's waiver application;
- (d) In an application for waiver, the licensee must explain why the licensed premises were not operated. Additionally, the licensee must provide a copy of the application to the local governing body, if any, having jurisdiction over the license and licensed premises.
- (e) The board will, in its discretion, deny a third or subsequent consecutive application for waiver unless the licensee clearly shows that the licensed premises were not operated because the premises were condemned or substantially destroyed by any cause. If the premises identified on an applicant's license are not leased or owned by the licensee, the third or subsequent application will, in the board's discretion, be denied. Additionally, a third or subsequent consecutive application for waiver that does not identify a licensed premises location will, in the board's discretion, be denied.
- (f) The board will, in its discretion, impose conditions along with the approval of an application for waiver.
- (g) If an application for waiver is denied, an application for license renewal for the succeeding license period will be denied by the board under AS 04.11.330(a)(3).
- (h) In addition to the application fee under (c) of this section, the applicant shall pay \$1,000 for an application that is received too late for board consideration at its meeting before November 30 of the year for which waiver is requested.
- (i) In circumstances of death of a licensee, destruction of the premises, or comparable circumstances showing extraordinary hardship, the board will, in its discretion, waive the fees under (c) and (h) of this section.