



MEMORANDUM

TO: Alcoholic Beverage Control Board

DATE: September 16, 2021

FROM: Kristina Serezhenkov, OLE

RE: #5954 El Pastor LLC

**Requested
Action:**

Rescind the previous approval with delegation, hold an informal hearing and deny the renewal application with 180-day abeyance period.

**Statutory &
Regulation
Authority:**

AS 04.11.510(b)(1): "if an application is denied, the notice of denial shall be furnished the applicant immediately in writing stating the reason for the denial in clear and concise language; the notice of denial must inform the applicant that the applicant is entitled to an informal conference with either the director or the board, and that, if not satisfied by the informal conference, the applicant is then entitled to a formal hearing conducted by the office of administrative hearings (AS 44.64.010); if the applicant requests a formal hearing, the office of administrative hearings shall adhere to AS 44.62.330 — 44.62.630 (Administrative Procedure Act); all interested persons may be heard at the hearing and unless waived by the applicant and the board, the formal hearing shall be held in the area for which the application is requested"

3 AAC 304.145(h) "The board may uphold a protest of an application or continued operation with a single abeyance period not to exceed 180 days if the local governing body indicates that the protest is subject to rescission and that it will be withdrawn if the applicant meets conditions set by the local governing body. If the local governing body notifies the board within the period of the abeyance that the protest has been removed, the application or continued operation is approved when all other applicable requirements have been met. If the local governing body has not notified the board within the period of the abeyance that it has removed the protest, the application or continued operation is denied. The period of abeyance may not be extended or renewed."

Background: At the August 17, 2021 ABC Board meeting, the Board approved the new license application with delegation. On September 16, 2021, the Municipality of Anchorage protested the application pending certification from the Fire Marshal.

Staff Recommendation: Rescind previous approval and deny the application with 180-day abeyance.

Attachment:

Municipality of Anchorage Protest
AB-00
AB-02
AB-03