



## MEMORANDUM

TO: Marijuana Control Board                      DATE: March 24, 2021

FROM: Jane P. Sawyer, Regulations Specialist      RE: Reconsideration of transfer  
application and consequently  
2020-2021 renewal application  
due to taxes owed by Herbal  
Instincts license 10156

Timeless Adventures, LLC doing business as Herbal Instincts, is a standard marijuana cultivation facility in Fairbanks.

**Issues:** at the January 2021 meeting, the board approved with delegation the license transfer application to remove non-resident licensee Jessica Huff. Staff is unable to finalize and effectuate the license transfer due to past-due taxes owed to Department of Revenue. Additionally, the 2020-2021 license renewal is dependent upon the effectuation of the license transfer.

**Context to the issues:** 3 AAC 306.080(c)(2) states that “the board will deny an application for transfer of license if the board finds that the transferor has not paid all debts or taxes arising from the operation of the business licensed under this chapter unless the transferor gives security for the payment of the debts or taxes satisfactory to the creditor or taxing authority”.

Herbal Instincts owes past-due taxes, and, according to the licensee (see email attached), they are on a payment plan with DOR. However, a payment plan is not satisfactory to DOR for DOR to state that Herbal Instincts is “compliant” on their taxes (even when they are on a payment plan) so AMCO cannot finalize and effectuate the transfer. Further, and if I understand correctly, DOR’s statutes do not address security instruments acceptable for past-due taxes on marijuana, such as a bond, etc. Consequently, we/AMCO are in limbo as to how to move forward.

For the record, DOR is not holding up the transfer; they are not saying do not transfer the license. Their position is that they cannot say that this licensee is “compliant” because they are not: they are on a payment plan, but they still owe past-due taxes.

**What is staff is asking:** staff is asking the board to determine how to move forward.

- If the board determines that the transfer of license is denied because of past-due taxes owed and the payment plan is not satisfactory to DOR, then, the board needs to go back to reconsider the renewal of the license which was previously approved with delegation pending a successful transfer of license which removes a non-resident licensee.  
The board, then, would need to reconsider the renewal application with the issues of having a non-resident licensee, and the past-due taxes owed (3 AAC 306.080(b)). The board has allowed a licensee on a payment plan to be renewed.
- If the board determines that the payment plan this licensee is under with DOR is sufficient to direct staff to finalize and effectuate the transfer, then, staff suggests this be an action specific to this matter. In this particular case, the responsibility of the past-due taxes owed stay with the same people (except, possibly, the one leaving – I'm not sure how DOR tries to collect from non-licensees or if they do). However, the past-due taxes owed issue has the potential to affect all license transfers, and every scenario is different.

Attachments: Cristopher Konopka's email; DOR's non-compliant memo