

February 6, 2016

Department of Commerce, Community,
and Economic Development
ALCOHOLIC BEVERAGE CONTROL BOARD
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501

Dear Board Members,

After reviewing the Alcoholic Beverage Control Board Meeting Agenda today, I have a questions regarding TAB 27 #5430 McGivney's Bar & Grill Mac Ventures, LLC NEW APPLICATION for Beverage Dispensary License – Tourism.

Title 4 AS 04.11.400(d) states the board may approve issuance of this type of license to a "hotel, motel or similar business relating to the tourist trade." Mac Ventures, LLC does not own the hotel property located at 51 Egan Dr. Juneau, Alaska. Does Mac Ventures, LLC qualify for this type of license?

Would the Board respectfully address if the spirit and interpretation of Title 4 04.11.400(d) allows Management Agreements that are considered upside down leases? Is this an unintended loophole in the statute? There have been precedent setting rulings that the "manager or operator" had to be an employee of the property owner and/or entity gifted the privilege to dispense alcohol by the State of Alaska to encourage development & construction of hotels, motels and resorts.

Also and as equally important TAB 13 #586 Coho's Bar and Grill LLC Beverage Dispensary License – Tourism currently lives at the same location of 51 Egan Dr. Juneau, Alaska. It is under protest by the City & Borough of Juneau for past due sales tax. If this NEW APPLICATION is approved how will the City & Borough of Juneau be able to collect on the debt if the Board issues a NEW LICENSE at the same location. In addition, is this not "stacking" on premise licenses?

Thank you in advance for a point of clarification on the above inquiries.

Sincerely,



Reecia R. Wilson
President

Tailwind, Inc. BDL #3755, #4788, #4797
Up the Creek, Inc. BDL #4842
Catapult, Inc. REPL #3733

Calder, John P (CED)

From: Eric Forst <eric@reddogsaloon.com>
Sent: Monday, February 08, 2016 5:46 PM
To: Calder, John P (CED)
Subject: Protest of BDL #5430 & 586

Importance: High

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As a BDL license holder *(#2766), I am concerned that you are potentially issuing a NEW license to a property that already has a license and by doing so you are devaluing existing licenses such as mine that I had to pay market value for in order to operate. If you issue this NEW license, you are allowing an operator who does not qualify for this type of license (they do not own any part of the hotel) to obtain a NEW license for simply the annual renewal fee. The reason the licenses have value is the limitation on how many there are. There are already more in Juneau than are allowed for the population. Those of us who have purchased our licenses at market value have done so with the understanding that they are limited and regulated equally.

I would like the Board to address if the spirit and interpretation of Title 4 04.11.400(d) allows Management Agreements that are considered upside down leases? Is this an unintended loophole in the statute? There have been precedent setting rulings that the “manager or operator” had to be an employee of the property owner and/or entity gifted the privilege to dispense alcohol by the State of Alaska to encourage development & construction of hotels, motels and resorts.

Also and as equally important TAB 13 #586 Coho's Bar and Grill LLC Beverage Dispensary License – Tourism currently lives at the same location of 51 Egan Dr. Juneau, Alaska. It is under protest by the City & Borough of Juneau for past due sales tax. If this NEW APPLICATION is approved how will the City & Borough of Juneau be able to collect on the debt if the Board issues a NEW LICENSE at the same location. In addition, is this not “stacking” on premise licenses? How does the CBJ have any leverage to collect back taxes if an owner of the hotel does not have ownership of the business? If one operator fails to pay taxes and goes out of business the hotel owner can just re-lease the space to another operator who can request a NEW license on the same property. I believe this is why the language regarding ownership of tourism license holders was included, to ensure a mechanism for compliance with state and local regulations and to prevent the very situation you are facing in TAB 27.

I respectfully request clarification and reconsideration of this application given the clear impact your decision will have on existing and future license holders.

Thank you.

Eric Forst

General Manager/Partner

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Calder, John P (CED)

From: Mitch Falk <bullwinkles1@gci.net>
Sent: Tuesday, February 09, 2016 2:41 PM
To: Calder, John P (CED)
Subject: New License Comments

Importance: High

Dear Board Members,

It has come to my attention the agenda for the upcoming board meeting regarding TAB 27 #5430 McGivney's Bar & Grill Mac Ventures, LLC NEW APPLICATION. If I understand this correctly the applicant is trying to get a new tourism license in an establishment that already has a license albeit one that is under protest for unpaid taxes. It also appears the applicant is using a tactic referred to as an "upside down lease" as a means of getting around the requirements of a tourism license. It would seem to me that both of these actions could set an unhealthy precedent with regards to municipalities ability to collect taxes due if all one has to do is apply and receive a new license and if this allows a business to receive a license with minimal cost, it devalues those licenses already in existence. As far as the leasing issue, this seems like a very basic smoke and mirrors tactic and I am very surprised that this could even come close to being allowed. I believe that there are a couple of licensing options for the applicant that would not hinder in any manner their ability to conduct business but would also follow the guidelines set up by the ABC Board and followed by those owners that have followed the rules up to this point.

Sincerely,

Mitch Falk
President
Bullwinkles Inc
907-463-5252

Calder, John P (CED)

From: Rob Daniels <rdaniels99@yahoo.com>
Sent: Tuesday, February 09, 2016 6:01 AM
To: Calder, John P (CED)
Subject: Re: tourism liquor liscense application for MAC Ventures

Mr. Calder, it's come to my attention yesterday that mcgivneys resturaunt is applying for a BDL by way of a tourism heading. I'm not sure I understand how they would qualify for a tourism BDL . Are they the new owners of the goldbelt hotel ? We spent a lot of money and had to wait several years before we could buy an existing liscense. It was my understanding that there would be no more new liscenses issued... Only transferred, with the exception being new hotels. I understand why and how that would benefit the community. But can a new resturaunt simply leasing space from a hotel, qualify for a liscense under this particular heading? I would like to speak with you to get clarity on this specific issue if possible. Sincerely, Robert Daniels/owner of imperial bar Sent from my iPhone