



## MEMORANDUM

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

DATE: November 13, 2017

FROM: Erika McConnell  
Director, ABC Board

RE: Lavelle's Bistro, #4170  
Request to Waive Waiver Fees

Café de Paris Catering Company is requesting that the board waive the waiver fees for its second waiver (for the 2017 licensing year), under 3 AAC 307.170(i), which states

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.

The licensee states that their architectural design and engineering took many months, the board denied their transfer, it was six months before the board reconsidered the transfer, and that current construction is moving slowly.

The license transfer from Café de Paris Catering Company, DBA Lavelle's Bistro, to Tapas, Inc., DBA Tapas, was approved with delegation in November of 2015. The delegation was awaiting the lift of a DEC objection due to not submitting an application for plan review, and a protest by the City of Fairbanks for lack of a certificate of occupancy. When there had been no progress on the delegated issues by December of 2016, the board denied the transfer.

Once the licensee finally submitted an application for plan review to DEC in May of 2017, showing progress on one of the delegated items, I brought the transfer back to the board for reconsideration at the licensee's request. The board reconsidered and again approved the transfer with delegation in July of 2017. The approval remains in delegation as the City of Fairbanks has not lifted its protest.

Alcoholic Beverage Control Board  
 550 West 7<sup>th</sup> Ave. Ste. 1600  
 Anchorage, Alaska 99501  
 (907) 269-0350  
 FAX (907) 334-2285

**Waiver of Operation  
 Application**

AS 04.11.330(a)(3)

Please call 907-378-1954  
 for CreditCard #

<b>License Information</b>		<b>Fees*</b>	
Liquor License Number: 4170		Waiver Fee	\$ 2500.00
License Type: Bev. Dispensary		Penalty (If applicable)	\$ 1,000.00
Local Governing Body: (City, Borough or Unorganized) City of Fairbanks		Total Submitted	\$ 2500.00
Name of Licensee: Tapas Inc		*The fee is non-refundable	
Doing Business As (Business Name) Tapas		Telephone Number: 907-456-1669	
Mailing Address: 575 1 <sup>st</sup> Ave Fbks Ak. 99701		Street Address or Location of Business 603 Lecky St. City: Fbks Ak 99701	

**Waiver Request Information**

This waiver application is the:  1<sup>st</sup> Request  2<sup>nd</sup> Request  3<sup>rd</sup> Request  Other \_\_\_\_\_

Waiver Request for Calendar Year: 2017

Is this license for sale?  
 Yes  No

**Explanation of the circumstances for non-operation of license. Include relevant information as to why the license was not operated, any future plans for operating the license and projected timelines. Attach additional sheets if necessary.**

see letter + copy of email to  
 Director McConnell

<b>Signature of Licensee(s)</b>	
Signature [Signature]	Signature [Signature]
Name (Please Print) Franklin Eagle	Name (Please Print) KATHLEEN LAVELLE
Date	Date

Waiver App 8/14/2015



Trans.#: 15511

•  
•  
•  
•  
•  
•  
•

575 First Avenue  
Fairbanks, Alaska 99701  
907-450-0555 reservations  
907-456-1669 Office, Catering  
907-450-0444 Fax  
www.lavellesbistro.com

*Lavelle's*  
Fairbanks, Alaska

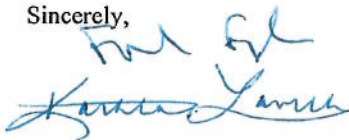
October 17, 2017

ABC Board

Dear ABC Board Members:

Timing is everything in this world and like Déjà vu I find myself in a similar situation as I did last year when I had to apply for a waiver of operation. Last year I needed to apply because it was impossible to complete an entire demolition/renovation in that calendar year. The architectural design and engineering alone took too many months and by the time we were ready to proceed with construction, the contractors were too busy completing their other projects to start any new ones. I had to apply for a waiver and I sent along with the application all the progress that we had made during the year. Unfortunately, although I was granted the waiver, at the suggestion of Director Franklin, the board denied the transfer of the license to the new premise virtually shutting down the project altogether. More than six months passed before the board was able to reconsider the transfer and in July they granted the transfer. Unfortunately I found myself in the same situation as the year before. Contractors were busy, the building department was backlogged with permit applications, and shipping timetables were sluggish. So contrary to all my hopes and expectations for this project I hereby am applying for a waiver of operations for 2017 and am also asking for a waiver of the fees under AAC 304-170 (c) 2 because of the extraordinary hardship of having more than half the year pass by without the confirmation of the license transfer. I am confident that I could have gotten the project completed but without the guarantee of the transfer I lost too much time and am just asking not to be penalized for circumstances beyond my control. Every day this store is closed is costing me dearly and so I'm incentivized to complete it and am not just delaying for delaying sake. I thank you for your consideration.

Sincerely,



Franklin Eagle  
Co-Owner Lavelle's Bistro/Café de Paris Catering

.....  
"You've waited one hundred years for food this good!"



Frank Eagle <frank@lavellesbistro.com>

Tapas

4 messages

Frank Eagle <frank@lavellesbistro.com>

Wed, Aug 30, 2017 at 1:06 PM

To: "McConnell, Erika B (CED)" <erika.mcconnell@alaska.gov>

Good Afternoon Erika. I'm just dropping you a note to update you on the progress at Tapas which has been absurdly slow. Trying to breath new life into the project that was delayed so long because of the issue with the transfer of the license has been difficult. The city building department only just issued the building permits on August 21st due to some bureaucratic misdirection and with the ordering of windows and doors being about five weeks out and the subcontractors busy finishing up their other summer projects, I don't see any way we will be open this year. My question to you is rather than open up in a minimalist fashion as described in AAC 304-170 (J), can I apply to the Board for a waiver of fees under 304-170 (i) because construction was delayed 7 months causing extraordinary hardship in meeting a November opening date deadline. I would like to avoid the charade of a minimum operating requirement because opening when everything is actually complete makes such a big difference in first impressions. This project is on life support now and I'm trying to reign in some costs because it is way over budget. I think the Board would agree that the necessity of a waiver was caused by circumstances beyond my control and it caused an extraordinary hardship in completing this project on time. Let me know what you think and what I would need to submit to the board for their review or if you have any other suggestions on how I can keep moving forward. Thanks Frank

Frank Eagle  
Owner  
Lavelle's Bistro  
575 1st Avenue  
Fairbanks, AK 99701  
Office: 907-456-1669

Frank Eagle <frank@lavellesbistro.com>

Mon, Sep 11, 2017 at 2:21 PM

To: "McConnell, Erika B (CED)" <erika.mcconnell@alaska.gov>

Hi Erika: shall I just submit my request for waiver of the waiver fee when I put in the waiver application?

Sent from my iPhone

> On Aug 30, 2017, at 1:06 PM, Frank Eagle <frank@lavellesbistro.com> wrote:

>  
> Good Afternoon Erika. I'm just dropping you a note to update you on the progress at Tapas which has been absurdly slow. Trying to breath new life into the project that was delayed so long because of the issue with the transfer of the license has been difficult. The city building department only just issued the building permits on August 21st due to some bureaucratic misdirection and with the ordering of windows and doors being about five weeks out and the subcontractors busy finishing up their other summer projects, I don't see any way we will be open this year. My question to you is rather than open up in a minimalist fashion as described in AAC 304-170 (J), can I apply to the Board for a waiver of fees under 304-170 (i) because construction was delayed 7 months causing extraordinary hardship in meeting a November opening date deadline. I would like to avoid the charade of a minimum operating requirement because opening when everything is actually complete makes such a big difference in first impressions. This project is on life support now and I'm trying to reign in some costs because it is way over budget. I think the Board would agree that the necessity of a waiver was caused by circumstances beyond my control and it caused an extraordinary hardship in completing this project on time. Let me know what you think and what I would need to submit to the board for their review or if you have any other suggestions on how I can keep moving forward. Thanks Frank

> --  
> Frank Eagle  
> Owner  
> Lavelle's Bistro  
> 575 1st Avenue  
> Fairbanks, AK 99701  
> Office: 907-456-1669

McConnell, Erika B (CED) <erika.mcconnell@alaska.gov>

Mon, Sep 11, 2017 at 2:31 PM