



## MEMORANDUM

TO: Bob Klein, Chair, and Members of the  
Alcoholic Beverage Control Board

DATE: April 3, 2018

FROM: Erika McConnell, Director

RE: 4733 No DBA

**Requested Action:** Approval of third waiver of operation application (for 2016); approval of fourth waiver of operation application (2017); approval of license renewal application

**Statutory and Regulatory Authority:** AS 04.06.090(b): "The board shall review all applications for licenses made under this title and may order the director to issue, renew, revoke, transfer, or suspend licenses and permits authorized under this title."

3 AAC 304.170(b): "A licensee may apply to the board, requesting that the board waive the operating requirement of AS 04.11.330(a)(3)... 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."

3 AAC 304.170(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."

3 AAC 304.170(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)."

**Staff Rec.:** Deny the third waiver (3 AAC 304.170(e)); Deny the fourth waiver (3 AAC 304.170(e)); Deny the renewal (3 AAC 304.170(g))

**Background:** This beverage dispensary license in Wasilla was purchased by the current licensee in 2014 and appears not to have been operated at least since the purchase. First and second waivers

were approved for 2014 and 2015. The licensee states on the waiver applications that “At this time we have no set plans for it and their [sic] is a possibility we may sell it.”

Regulations at 3 AAC 304.170 indicate that waivers of operations are intended for situations such as construction, condemnation or destruction of the premises, or other situations that may be out of the licensee’s control. There is no information provided that this licensee is experiencing any of those circumstances.

Attachment: Third waiver application  
Fourth waiver application  
Renewal application