



## MEMORANDUM

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

DATE: April 3, 2018

FROM: Erika McConnell, Director

RE: 2533 Viking Restaurant &  
Lounge

**Requested Action:** City and Borough of Juneau protests continued operation

**Statutory Authority:** AS 04.11.480(a): "... The local governing body may protest the continued operation of a license during the second year of the biennial license period by sending the board and the licensee a protest and the reasons for the protest by January 31 of the second year of the license... If an application or continued operation is protested, the board shall deny the application or continued operation unless the board finds that the protest is arbitrary, capricious, and unreasonable."

**Staff Rec.:** Uphold the protest with a 30-day abeyance

**Background:** The City and Borough of Juneau submitted a timely protest of this beverage dispensary license for the following reasons:

- Lack of filing monthly sales tax returns for July-November of 2017
- Unremitted sales taxes
- Unremitted liquor taxes and associated late filing fees
- Late payment penalty and interest
- Unpaid utility bills for two months.

The City and Borough of Juneau provided the licensee with an opportunity to be heard before the city assembly in accordance with 3 AAC 304.145(d), which states, "A local governing body that protests an application shall allow the applicant a reasonable opportunity to defend the application before a meeting of the local governing body."

Attachment: Protest from City and Borough of Juneau



**OFFICE OF THE MUNICIPAL CLERK**  
**Ph: (907)586-5278 Fax: (907)586-4552**  
**e-mail: [City.Clerk@juneau.org](mailto:City.Clerk@juneau.org)**  
**155 S. Seward Street, Juneau, AK 99801**

January 10, 2018

*Sent via e-mail*

Sarah Daulton Oates, Records & Licensing Supervisor  
State of AK Alcohol & Marijuana Control Office  
The Atwood Building  
550 West 7<sup>th</sup> Ave., Suite 1600  
Anchorage, AK 99501

Re: CBJ Assembly January 10, 2018 Action on Liquor Licenses

Dear Sarah:

The Assembly, at its meeting on Monday, January 8, 2018, the City and Borough of Juneau Assembly took up the following liquor license actions:

### **LIQUOR LICENSE RENEWAL**

The Assembly adopted a motion to waive its right to protest the renewal of liquor license #4842.

**Liquor License #4842 – Beverage Dispensary License 2018/2019 Renewal  
Up the Creek d/b/a Twisted Fish**

Location: 550 S. Franklin Street, Juneau, AK 99801

### **LIQUOR LICENSE PROTEST**

In accordance with AS 04.11.480, the CBJ Assembly adopted a motion to protest the continued operation of liquor license #2533 as noted below and in the attached certified letter of December 29, 2017 sent to the licensee:

**Liquor License #2533 – Beverage Dispensary License**

**Jack D. and Arlene D. Tripp d/b/a Viking Restaurant and Lounge**

Location: 216 Front Street, Juneau, AK 99801

Reasons for protest:

- Lack of filing monthly sales tax returns for July – November 2017, plus unremitted sales taxes, liquor taxes and associated late filing fees, late payment penalty and interest; and
- Unpaid utility bills for two months still outstanding.

CBJ Code 20.25.025 provides the licensee with an opportunity for an informal hearing before the Assembly and that opportunity was afforded at the January 8, 2018 Assembly Human Resources Committee meeting at 6p.m. and at the regular Assembly meeting that same night at 7p.m. There was no one present on behalf of the licensee at either of those meetings.

Thank you for the opportunity to comment. If you have any questions, please send an e-mail or call the Municipal Clerk's Office at 907-586-5278.

Sincerely,

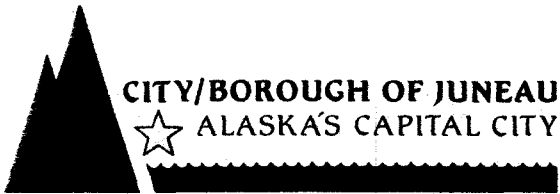
A handwritten signature in black ink that reads "Beth McEwen". The signature is written in a cursive, flowing style.

Beth McEwen, MMC  
Deputy Clerk

Enclosures:

Dec. 29, 2017 Letter to Jack & Arlene Tripp re: Protest

cc: Licensees via email



OFFICE OF THE MUNICIPAL CLERK  
Ph: (907)586-5278 Fax: (907)586-4552  
e-mail: [Beth.McEwen@juneau.org](mailto:Beth.McEwen@juneau.org)

December 29, 2017

*Via certified & regular mail*  
Jack D. and Arlene D. Tripp  
216 Front Street  
Juneau AK 99801

Re: Beverage Dispensary Liquor License Mid-Cycle Protest  
Jack D. and Arlene D. Tripp d/b/a Viking Restaurant & Lounge License #2533

Dear Mr. and Ms. Tripp,

At its meeting of March 6, 2017, the CBJ Assembly waived its right to protest the renewal of your above liquor license for the 2017/2018 biennial cycle. The City and Borough of Juneau is currently in the process of our annual review of liquor license businesses within the community for compliance with CBJ Code for the continued operations of all liquor licenses. Alaska Statute section 04.11.480 provides the following with respect to protesting the continued operation of a liquor license during the second year of the biennial license period (*emphasis added*):

Sec. 04.11.480. Protest.

(a) A local governing body may protest the issuance, renewal, relocation, or transfer to another person of a license by sending the board and the applicant a protest and the reasons for the protest within 60 days of receipt from the board of notice of filing of the application. A protest received after the 60-day period may not be accepted by the board, and in no event may a protest cause the board to reconsider an approved renewal, relocation, or transfer. ***The local governing body may protest the continued operation of a license during the second year of the biennial license period by sending the board and the licensee a protest and the reasons for the protest by January 31 of the second year of the license. The procedures for action on a protest of continued operation of a license are the same as the procedures for action on a protest of a renewal application.*** The board shall consider a protest and testimony received at a hearing conducted under AS 04.11.510(b)(2) or (4) when it considers the application or continued operation, and the protest and the record of the hearing conducted under AS 04.11.510(b)(2) or (4) shall be kept as part of the board's permanent record of its review. If an application or continued operation is protested, the board shall deny the application or continued operation unless the board finds that the protest is arbitrary, capricious, and unreasonable.

As is our practice in these matters, the staff from the Fire, Finance, Police, Public Works, and Community Development Departments review each establishment to ensure compliance with city code. Both the Finance/Sales Tax Office and Public Works Utility Billing offices are recommending protest of the continued operation of this license due to unfiled sales tax returns for the periods July – November 2017 and the associated sales tax, penalties and interest owing.

Letter to Jack & Arlene Tripp d/b/a Viking Restaurant & Lounge re: Mid-Cycle Liquor License Protest

as well as the amounts due associated with the utility accounts which are currently two months in arrears.

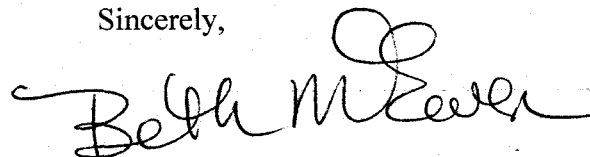
Please note that while payment plans are available and encouraged if you are unable to pay the full amounts due, entering into a payment plan, ie: Confession of Judgment and Stipulation, will not put the business in good standing with the CBJ for purposes of liquor license protest. Only when the all returns are filed and full payment of the outstanding balance, interest, and penalties are received, will the staff withdraw its recommendation to protest the license.

CBJ Code 20.25.025 provides you with the right to an informal hearing before the Assembly to address this issue. This matter will initially be considered at the Monday, January 8, 2018 Assembly Human Resources Committee (HRC) meeting at 6:00 p.m. in the Assembly Chambers and the HRC will then forward a recommendation to the Assembly for action at its regular meeting that same evening at 7:00 p.m. in the Assembly Chambers. At that meeting will be your opportunity to participate in an informal hearing before the Assembly if you wish to do so.

Copies of the CBJ Code and Alaska Statutes pertaining to the protest process are enclosed for your reference.

**In the meantime, I would urge you to work with CBJ Sales Tax and Utility Billing staff to try to resolve the outstanding balances owing on your account. Sales Tax Administrator Clinton Singletary can be reached at 586-5265 and Utility Accounting Technician Suzanne Crabtree can be reached at 586-0898.**

Sincerely,



Enclosures  
cc via email:  
Assembly Human Resources Committee & Assembly  
Liquor License Staff Reviewers

7015 1520 0001 8088 5487

<b>U.S. Postal Service™</b>	
<b>CERTIFIED MAIL® RECEIPT</b>	
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For delivery information, visit our website at <a href="http://www.usps.com">www.usps.com</a> ®	
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Extra Services & Fees (check box, add fee as appropriate)	
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Sent To	<b>Jack D. and Arlene D. Tripp</b>
Street and	<b>216 Front Street</b>
City, State	<b>Juneau AK 99801</b>
	Postmark Here

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

**ALASKA STATUTES AND CBJ CODE SECTIONS**  
**RE: ASSEMBLY LIQUOR LICENSE REVIEW AND PROTEST PROCESS**

**City and Borough of Juneau (CBJ) Code**

**20.25.025 - Assembly review of license issuance, renewal, transfer, or continued operation. modified**

(a) The assembly may protest the issuance, renewal, transfer, or continued operation of an alcoholic beverage license as provided in state law. The protest shall cite any of the following criteria which the assembly determines to be pertinent:

(1) Failure of the applicant to secure a local permit, or if the applicant is in violation of any applicable local permit;

(2) That the applicant has violated a provision of AS 04 or regulations adopted by the state, or a condition imposed by the alcohol control board on the licensee, or if issuance of the license would violate a provision of state law or regulations;

(3) The business operated under the license is, on the date the assembly considers the license, delinquent in the payment of any sales tax or penalty or interest on sales tax arising out of the operation of the licensed premises;

(4) There are delinquent property taxes or local improvement district assessments or penalty or interest thereon arising out of real or personal property owned in whole or in part by any person named in the application as an applicant or on the permit which is to be continued where such property is used, or is to be used, in whole or in part in the business conducted or to be conducted under the license;

(5) There is a delinquent charge or assessment owing the City and Borough by the licensee for a municipal service provided for the benefit of the business conducted under the license or for a service or an activity provided or conducted by the municipality at the request of or arising out of an activity of the business conducted under the license;

(6) The business operated or to be operated under the license is violating or would violate the zoning code of the City and Borough;

(7) The business operated under the license is, on the date the assembly considers the application, in violation of state or local fire, health, or safety codes. A criminal conviction of this violation is not a prerequisite for a protest under this section;

(8) The concentration of other marijuana establishment or alcohol licenses in the area;

(9) Any factor identified by state statute or regulation as appropriate grounds for a protest;

(10) Any other factor the assembly determines is generally relevant or is relevant to a particular application.

**ALASKA STATUTES AND CBJ CODE SECTIONS**  
**RE: ASSEMBLY LIQUOR LICENSE REVIEW AND PROTEST PROCESS**

(b) If the assembly or committee or a subcommittee thereof recommends protest of the issuance, renewal, transfer, or continued operation of a license it shall state the basis of the protest and the applicant shall be afforded notice and an opportunity to be heard at an abbreviated informal hearing before the assembly to defend the application. For the purposes of this subsection, notice shall be sufficient if sent at least ten days prior to the hearing by certified first class mail to the applicant's address identified on the state license application. At the conclusion of the hearing, the assembly decision to protest the application shall stand unless the majority of the assembly votes to withdraw the protest.

(Serial No. 84-50, § 4, 1984; Serial No. 86-35, §§ 2, 3, 1986; Serial No. 93-25, § 2, 1993; Serial No. 2002-06, § 2, 2-25-2002; Serial No. 2002-44, § 2, 12-2-2002; [Serial No. 2016-22\(am\), § 3, 8-22-2016](#) )

**State Law reference**— Assembly protest, AS 04.11.480.

**Alaska Statutes**

**Sec. 04.11.480. Protest.**

(a) A local governing body may protest the issuance, renewal, relocation, or transfer to another person of a license by sending the board and the applicant a protest and the reasons for the protest within 60 days of receipt from the board of notice of filing of the application. A protest received after the 60-day period may not be accepted by the board, and in no event may a protest cause the board to reconsider an approved renewal, relocation, or transfer. The local governing body may protest the continued operation of a license during the second year of the biennial license period by sending the board and the licensee a protest and the reasons for the protest by January 31 of the second year of the license. The procedures for action on a protest of continued operation of a license are the same as the procedures for action on a protest of a renewal application. The board shall consider a protest and testimony received at a hearing conducted under AS 04.11.510(b)(2) or (4) when it considers the application or continued operation, and the protest and the record of the hearing conducted under AS 04.11.510 (b)(2) or (4) shall be kept as part of the board's permanent record of its review. If an application or continued operation is protested, the board shall deny the application or continued operation unless the board finds that the protest is arbitrary, capricious, and unreasonable.

(b) If the permanent residents residing outside of but within two miles of an incorporated city or an established village wish to protest the issuance, renewal, or transfer of a license within the city or village, they shall file with the board a petition meeting the requirements of AS 04.11.510 (b)(3) requesting a public hearing within 30 days of the posting of notice required under AS 04.11.310 , or by December 31 of the year application is made for renewal of a license. The board shall consider testimony received at a hearing conducted under AS 04.11.510 (b)(3) when it considers the application, and the record of a hearing conducted under AS 04.11.510 (b)(3) shall be retained as part of the board's permanent record of its review of the application.

**ALASKA STATUTES AND CBJ CODE SECTIONS**  
**RE: ASSEMBLY LIQUOR LICENSE REVIEW AND PROTEST PROCESS**

(c) A local governing body may recommend that a license be issued, renewed, relocated, or transferred with conditions. The board shall consider recommended conditions and testimony received at a hearing conducted under AS 04.11.510 (b)(2) or (4) when it considers the application or continued operation, and the recommended conditions and the record of the hearing conducted under AS 04.11.510 (b)(2) or (4) shall be kept as part of the board's permanent record of its review. If the local governing body recommends conditions, the board shall impose the recommended conditions unless the board finds that the recommended conditions are arbitrary, capricious, or unreasonable. If a condition recommended by a local governing body is imposed on a licensee, the local governing body shall assume responsibility for monitoring compliance with the condition, except as otherwise provided by the board.

(d) In addition to the right to protest under (a) of this section, a local governing body may notify the board that the local governing body has determined that a licensee has violated a provision of this title or a condition imposed on the licensee by the board. Unless the board finds that the local governing body's determination is arbitrary, capricious, or unreasonable, the board shall prepare the determination as an accusation against the licensee under AS 44.62.360 and conduct proceedings to resolve the matter as described under AS 04.11.510(c).