



MEMORANDUM

TO: Bob Klein, Chair, and Members of the Alcoholic Beverage Control Board DATE: February 19, 2019

FROM: Erika McConnell, Director RE: 1566 Steve's Sports Bar and Grill

Requested Action: 4th Waiver Application

Statutory 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."

Staff Rec.: Deny the 4th waiver request

Background: On January 23, 2018, the board approved a third waiver for this license with the caveat that a fourth waiver will not be granted. The first, second, and third waivers were approved for 2015-2017, so the license has not been operated for four years.

The licensee does not qualify for a fourth waiver—the license has been in no premises status since 2015 so there is no premises to have been condemned or substantially destroyed. The regulation at 3 AAC 304.170(e) specifically indicates that a third or subsequent waiver that does not identify a licensed premises location will be denied, indicating that it is the board's general intent that a license

not be in a location for only two years. The board has the discretion to approve waivers despite this, and used that discretion to approve a third waiver for this license.

The board tabled this item at the December 2018 meeting, at the applicant's request.

In response to two points made by the applicant's counsel:

1. That the staff did not inform the licensee of the board's action on the third waiver application. Statute specifically states that the board may act upon an application without notice to the applicant/licensee, at AS 04.11.510(b), where it states, "The board may review an application for the issuance, renewal, transfer of location, or transfer to another person of a license without affording the applicant notice or hearing..." Given that there are so many other types of notice required, it can be assumed that the intent is that the applicant/licensee will pay attention to their application and the board's action upon it.

The only statutory or regulatory requirement for staff to notify an applicant/licensee of the board's action on an application is if the application is denied (AS 04.11.510(b)(1)). Staff attempts to notify many applicants of board action *as a courtesy*, but office workload determines whether or not notices are sent. Surely it is the applicant/licensee's responsibility to track the board's action on their request, either by paying attention to the board meeting, contacting the office after the meeting for information, or reviewing the meeting minutes once they are available.

The board has made no secret of its policy not to approve fourth waivers and has been consistent in applying this policy. There is no reason to deviate from that policy in this situation.

2. Attorney General's opinion regarding two licenses at one premises. An applicant must show that they have right or title to, or interest in, land and buildings at the location of the business to be licensed (3 AAC 304.105(b)(6)). The board has interpreted this as having sole possession of the premises.

The 1985 Attorney General's opinion concludes that the policy of forfeiting a license if another license is "obtained" for the same premises is "likely improper." However the AG only suggests that the board consider requiring a temporary surrender of one of the licenses—that solution is not mandated. In fact, AG opinions are only guidelines and are not binding upon the board. If the board allows an existing license at a premises to be temporarily surrendered while a different license is operated at the same premises, the board is essentially encouraging non-operation of the former license, which goes against the clear intent of statute—that licenses be operated for a minimum time each year (AS 04.11.330(a)(3)). While the board has created regulations to allow non-operation for a limited period of time through the waiver process, the need for a waiver is intended to be "through no fault of the licensee or because the premises are under construction." (3 AAC 304.170(b)) The idea that waivers should be needed for a license because the owner has voluntarily ceased operating in order for a different license to operate on the same premises, is not supported in the board's regulations or in the statutes.

Attachment: January 23, 2018, ABC Board minutes (excerpt)
Waiver application
Information from licensee/counsel

License: Beverage Dispensary

- 2. 4012 Restauranté Orso** **TAB 61**
737 W 5th Avenue; Anchorage
License: Beverage Dispensary – Duplicate

F. The North West Company (International), Inc.: 12/11/2017 – Unreported change of officers

- 1. 775 Nome Liquor Store** **TAB 62**
303 Front Street; Nome
License: Package Store
- 2. 1463 Alaska Commercial Company #175** **TAB 63**
#5 Airport Way; McGrath
License: Package Store
- 3. 3410 Alaska Commercial Company #235** **TAB 64**
106 Nicholoff Way; Cordova
License: Package Store
- 4. 3537 Alaska Commercial Company** **TAB 65**
908 Nome-Teller Highway; Nome
License: Package Store
- 5. 5418 AC Quickstop** **TAB 66**
131 Akakeek Street; Bethel
License: Package Store

G. Three Bears Alaska, Inc.: 12/21/2016 – Op. at unauthorized location; minimum op. requirement

- 1. 534 Three Bears** **TAB 67**
17119 W Parks Highway; Houston
License: Package Store
- 2. 1269 Bear’s Den Lounge** **TAB 68**
Mile 1312 Alaska Highway (Tok); Outside/Unorganized
License: Beverage Dispensary
- 3. 1270 Bear’s Den Liquor** **TAB 69**
Mile 1312 Alaska Highway (Tok); Outside/Unorganized
License: Package Store

● **WAIVERS OF MINIMUM OPERATING REQUIREMENTS**

A. Third Waiver Applications for Calendar Year 2017

- 1. 1566 Steve’s Sports Bar & Grill: SLF International, Inc.** **3:02pm** **TAB 70**
No Premises; Municipality of Anchorage
License: Beverage Dispensary

Ellen Ganley moves to approve the (third waiver) request with the caveat that a fourth waiver will not be granted.
Bobby Evans seconds the motion.
Motion carries unanimously.

- 2. 1992 Brown Jug:** Liquor Stores USA North, Inc. **3:03pm** **TAB 71**
No Premises; Municipality of Anchorage
License: Package Store

Ellen Ganley moves to approve (the third waiver) with the understanding that a fourth waiver will not be granted.
Tom Manning seconds the motion.
Motion carries unanimously.

- 3. 4230 Camel Rock Lounge:** Dimond Center Hotel, LLC **3:04pm** **TAB 72**
700 E Dimond Boulevard; Municipality of Anchorage
License: Beverage Dispensary – Tourism

Bob Klein asks if the licensee is aware that it needs to operate for at least eight hours.
Sarah Oates states that she met with the General Manager, and that the licensee has been reminded that although it is not required to be open for eight hours every day, it must operate for eight hours for at least thirty days each calendar year.

Ellen Ganley moves to approve (the third waiver) with the understanding that there will not be a fourth waiver.
Bobby Evans seconds the motion.
Motion carries, 4-1 (Bob Klein votes No).

- 4. 4547 No DBA:** North Star Dining, LLC **3:07pm** **TAB 73**
No Premises; City of Fairbanks
License: Beverage Dispensary

Ellen Ganley moves to approve (the third waiver) with the understanding that a fourth will not be granted.
Bobby Evans seconds the motion.
Motion carries, 4-1 (Rex Leath votes No).

B. Requests to Waive Waiver Application & Late Fees

- 1. 5498 Girdwood Picnic Club:** Girdwood Picnic Club **3:10pm** **TAB 74**
194 Hightower Road (Girdwood); Municipality of Anchorage
License: Restaurant or Eating Place

Erika McConnell informs the Board that the licensee has applied for its first waiver (which the Board delegated to the director at its last meeting). She adds that the licensee was issued a temporary on December 13, 2016, which disabled the licensee from meeting the minimum operating requirement.

Rex Leath moves to waive the fees.



Alaska Alcoholic Beverage Control Board

Form AB-29: Waiver of Operation Application

What is this form?

This form is the means by which a licensee may request that the Alcoholic Beverage Control (ABC) Board waive the operating requirement of AS 04.11.330(a)(3) or (d). If a recreational site license has not been operated at least once in a calendar year, or if a license of any other type has not been operated for at least 240 hours in a calendar year, then a complete copy of this form and the corresponding fees must be submitted for that calendar year, per 3 AAC 304.170.

This application must be accompanied by a non-refundable waiver application fee of:

- for a 1st request, an amount equal to ½ the applicable biennial license fee; or
- for a 2nd or subsequent request, double the amount of the fee paid for the previous waiver application.

The ABC 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 calendar year. The ABC Board may impose conditions along with the approval of an application for waiver, and it may deny a third or subsequent application for waiver. If an application for waiver is denied, an application for license renewal for the succeeding license period will be denied by the Board. In addition to the waiver application fee, the applicant must pay a late fee of \$1,000 for an application that is received too late for Board consideration at its meeting before November 30 of the year for which the waiver is requested. Please check AMCO's website for meeting agenda deadlines.

Please note that a licensee must submit a separate completed copy of this form and pay a separate corresponding fee for each license and for each calendar year during which a license was not operated in compliance with AS 04.11.330.

Section 1 – Establishment Information

Enter information for the license that has not been operated for the time required under AS 04.11.330.

Licensee:	SLF International, Inc.	License Number:	1566		
License Type:	Beverage Dispensary				
DBA:	Steve's Sports Bar and Grill				
Premises Address:	No Premises				
City:	Anchorage	State:	Alaska	ZIP:	
Local Governing Body:	MOA				

Section 2 – Request Number and Calendar Year

1st Request 2nd Request 3rd Request Other _____ 4th

Request for Calendar Year _____ 2018 _____





Alcohol and Marijuana Control Office
 550 W 7th Avenue, Suite 1600
 Anchorage, AK 99501
alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
 Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Form AB-29: Waiver of Operation Application

Section 3 – Reason for Non-operation

Provide an explanation as to why the licensed premises were not operated:

SEE ATTACHED MEMO.

Section 4 – Certifications

The following must be completed for establishments located within the boundaries of a local governing body:

Read the line below, and then sign your initials in the box to the right of the statement:

Initials

I certify that I will provide a true copy of this application to the local governing body listed on Page 1 of this form prior to ABC Board consideration of this application.

As a liquor licensee, I declare under penalty of perjury that this form, including all attachments, is true, correct, and complete.

Signature of licensee

Steve Fibranz

Printed name of licensee

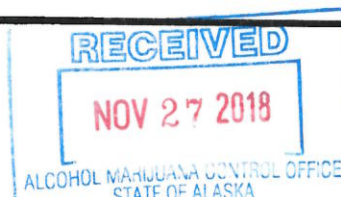
Notary Public in and for the State of Alaska.

My commission expires: 5-13-2019

Subscribed and sworn to before me this 26 day of November, 2018.

Office Use Only

Waiver Application Fee:	<u>10,000-</u>	Late Fee:	<u>—</u>	Transaction #:	<u>979495</u>
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Documentation submitted by
Legal Counsel for February ABC
Board Meeting

MEMO TO ALCOHOL BEVERAGE CONTROL BOARD

TO: ABC Board
FROM: Ernouf and Coffey, PC
Attorneys for Steve Fibranz, d/b/a Steve's Sport's Bar
RE: 4th Waiver Request
DATE: 1-30-2019

The purpose of this memo is to submit additional information to the Board relative to the Licensee's request for a 4th waiver of the operating requirements.

The following documents are attached:

- Exhibit 1: Notice to Licensee of Board's January 2018 decision re: third waiver application and statement re: 4th waiver
 - Staff communications with the Licensee concerning 4th waiver in September November 2018
- Exhibit 2: Copy of Regulation 3 AAC 304.170
 - Board Discretion and Waivers of the operating requirements
- Exhibit 3. Updated list of attempted locations
 - Licensee's efforts to find a new location for the operation of this license
- Exhibit 4. Lease with Option
 - Woodshed
 - Replaces previously filed Letter of Intent
- Exhibit 5. Copies of Anchorage Municipal Code
 - Conditional Use and
 - Special Land Use Permits for retail Alcohol sales
- Exhibit 6. Attorney General's Opinion (1986)
 - Two licenses at one location
- Exhibit 7. Previously materials filed with the Board at the December 2018 Board Meeting
 - Includes Addendum to Memo to Board filed by counsel 12-12-18 re: notice concerning prior waivers.
 - Related to 4th waiver application.

This Memo will address each of the foregoing topics in order.

Lack of Notice re: Board's January 2018 grant of 3rd Waiver

Attached are two (2) documents related to the Licensee's receipt of notice of the Board's statement made in January 2018 that it would not grant a 4th waiver of the operating requirements.

The first staff statement is found in the Addendum to a Memo to the Board filed on November 28, 2018. In that Addendum, there is a copy of an e mail sent to the Law Firm from Mikal Milton. This e mail clearly states that the Licensee did not receive "a third waiver approval notice" [nor the related "no 4th waiver notice"] until "9/27/18".

The second document is an e mail from Carrie Craig dated November 13, 2018 prepared in response to the pending 4th Waiver Application. According to this e mail, when the Board granted a third waiver in January 2018 the Board, as is it practice, stated that "The ABC Board will deny this request [4th waiver request] as stated at the January 23, 2018 board meeting when they approved the third waiver."

Together, these two (2) e mails clearly establish that the Licensee was not informed of the statement of the Board regarding any 4th waiver request. This Board statement came was brought to the Licensee's attention in September 2018 during the Licensee's meeting with staff on a transfer of location of this License to a premises where the Licensee intended to operate in 2018.

As this Memo will establish, this failure to give the customary notice concerning fourth waivers was the first of several mistakes that occurred in regard to this matter. The result of this and the other mistakes detailed in this memo, resulted in the Licensee not being able to operate in 2018. That fact, in turn, led directly to the pending request for a 4th waiver which the Board had already stated in January, 2018 would not be granted.

Denial of Due Process

Due process is a concept that is based on notice that some action will be taken under the authority of law or regulation and that also provides an opportunity for the person who will be effected to be heard by a court or a board such as the ABC Board. That is why the ABC Board customarily makes the statement when it grants a 3rd waiver, that a fourth waiver will not be granted. The Board made that statement in January, 2018.

However, the Board's staff did not provide that notice to the Licensee until the near the end of September, 2018 when staff orally informed the Licensee of the Board's statement regarding a 4th waiver. By that time, even though the Licensee believed (erroneously) that he had secured a location, it was too late in the year to secure the Municipality of Anchorage's grant of the required land use permit and to transfer the license to that of location. The

Municipalities process takes anywhere from 3 to 4 months to complete so there was no way in which the Licensee could obtain an approval and then operate for 240 hours in 2018.

3 AAC 304.170: Waiver of annual operating requirement and minimum operating requirements.

Steve Fibranz is asking the Board to use its discretion to grant a fourth waiver of the operating requirements for the reasons set forth above and in the remaining paragraphs in this Memorandum.

The language in 3 AAC 304.170 that is most relevant to this requested waiver is the phrase: "*The Board will, in its discretion*". This phrase is used five (5) times in this regulation and is applied both to denials and approvals of licenses that fail to meet the operating requirements.

See subsection (e) where the phrase is repeated three (3) times and subsections (f) and (i) where the phrase is repeated once in each subsection.

If the Board finds that the Licensee made diligent and good faith efforts to find a new location and was unsuccessful despite his diligent efforts, the Board has the absolute right to use its discretion and grant the requested 4th waiver.

Updated list of locations & the Licensee's efforts to secure a location

Attached to this Memo is an updated presentation of all of the many locations at which the Licensee attempted to relocate his license. As the Board can see from this list, there are over Twenty-Five (25) different locations which the Licensee attempted to secure so as to operate the license in 2018.

The Licensee's diligent and on going efforts to find a new location demonstrate that the Licensee did all that he could do to secure a new location. His failure to secure a new location was a result of circumstances beyond his control. In that regard, those circumstances are much like the circumstance set out in 3 AAC 304.170 (e) that states that a waiver will not be approved

"..... unless the licensee clearly shows that the licensed premises were not operated because the premises were condemned or substantially destroyed by any cause."

This regulatory provision does not only establish a basis upon which a waiver could be granted, but it can also be interpreted as an example of a circumstance which would allow the Board to apply its discretion and approve a waiver. The use of the phrase "...by any cause" coupled with the phrase "in the Board's discretion" allows the Board to apply the principal established in this phase to similar situations where

circumstances have prevented the operation of the license. In short, the Board can use this provision as a generic statement of when, in its discretion, the Board can grant an operating waiver.

As was the case in this situation, despite a diligent effort on the part of the Licensee, no premises could be found where the license could be relocated. None of the twenty-five (25) locations which the Licensee sought out were available to him. Is that not the same circumstance as a premises that was "substantially destroyed"?

The Board clearly has the authority to interpret its own regulations. Not every single circumstance that is set out in any regulation should be construed to be limited to that exact set of circumstances. Instead, the Board can, in its discretion, determine that the wording of any regulation can be applied to circumstances which are not identical to the regulatory language but are such that application of the regulatory provision is appropriate to the circumstances.

The regulatory language should not be construed to limit the Board's discretion in addressing a proposed waiver application to the express regulatory language. Rather the language should be viewed as an example of a circumstance that warrants the approval of a waiver because of circumstances beyond the control of the Licensee.

There is no doubt that this Licensee made a goodfaith and diligent effort to secure a location. In fact, by September 2018 he thought he had acquired such a location at the restaurant owned by Chong Sanders on Spenard Road. What he did not know was that in the 20 years since he first acquired his license, the regulatory provisions of the Anchorage Municipal Code and the practices and procedures were substantially different that what existed in 1998 when the Licensee first secured a location for his license.

The Licensee's mistake was to assume that the rules, regulations, processes and procedures of the local government were unchanged in the 18 years since he first became a licensee and obtain the requisite land use permit.

Anchorage Municipal Code provisions for Conditional Uses and Special Land Use Permits for retail Alcohol sales

The Municipal requirements which existed with regard to a transfer of the location of the License to Chong Sanders' restaurant were very different from what was required in 1998. The practices and procedures of the Municipality of Anchorage over the years with regard to land use permits applicable to liquor licensed businesses was vastly different. The Licensee mistakenly believed that the practices and procedures applicable to his original location application in 1998 were the same as they were in 2018.

The Licensee mistakenly believed that he would be able to transfer the License to Chong Sanders location within a 30 days of applying just as he had done in 1998. Unfortunately for him, in the time since his initial approval of his prior location many years ago, the Municipality changed its code provisions and its processes and procedures when it adopted a new land use code in 2014.

After securing this location and applying to transfer to Chong Sanders location, the Licensee spoke with the the Municipal Planning Department. At that time, he learned of the Special Land Use permit requirements and the time line for securing such a permit. He learned that time line is currently in the range of 3-4 months which made it impossible for him to secure this location and to operate the minimum number of hours required by the Board's regulation before 2018 year's end.

The Licensee acknowledges that his ignorance of the law and the processes and procedures of the Municipality is no excuse for non-performance of the Board's regulations. However, after operating for 17 years at one location, he made certain assumptions which, in hindsight, he should not have made.

His assumptions about the process and procedure were simply wrong. Another mistake by the Licensee.

Lease with Woodshed

At the Board's December 2018 meeting the Licensee submitted Letter of Intent between the Licensee and the Woodshed which owns a Beverage Dispensary License that is in foreclosure based on the default by the prior occupant. The Woodshed is an existing licensed location which has an approved land use permit from the Municipality for the sale of alcohol beverages.

The Licensee has now secured an Option to Lease from the Woodshed. A copy of of that Option to Lease is attached to this Memo. This Option to Lease complies with the requirements of subsection (e) of 3 AAC 304 170 (e) which requires an application to "... identify a licensed premises location..."

This Option to Lease continues the earlier Letter of Intent for the Woodshed location through the Board's February meeting and, provides that if the Board approves the 4th waiver application, the Option provides for a transfer of location of the License to the Woodshed which will have to be approved by the Board and by the Municipality of Anchorage. Once these two approvals are granted, the operation of the license will begin on the first day of the first full month after these approvals are granted.

Having finally found a location which has the appropriate land use permit from the Municipality, if the Board exercises its discretion and grants the requested 4th waiver, approval of a transfer of location to this premises is all that stands between the Licensee and operating in 2019 and beyond.

Note that the existing Woodshed license will not be operated on the same premises. The Licensee will complete the re-transfer of that license and follow the requirements set forth in the following Attorney General's opinion.

Attorney General's Opinion re: Multiple licenses at one location

There is currently a beverage dispensary license approved for the Woodshed location. This license is in foreclosure by the owners of the Woodshed property based on the default of the prior Licensee. The owners of the Woodshed and this license do not intend to operate their license during the pendency of the Option to Lease which they and the Licensee have agreed to.

Attached to this memo is a copy of an Attorney General's opinion from 1986 dealing with the question of two licenses on one premises. While some of the facts in that matter differ from those in the present matter, the solution required by the Attorney General's opinion in that matter should be applied in this matter. As stated in the Attorney General's opinion the existing license for that location was not to be forfeited, but rather be surrendered to the Board so that only one license would be approved for the location. The parties to the current matter have agreed to abide by this opinion.

If the Board uses its discretion and grants the 4th waiver, Steve Fibrantz's license will be relocated to the Woodshed. The Woodshed license, which has not yet been re-transferred to the prior selling licensee, will be delivered to the Board as required by the Opinion, with its validity being preserved so that it can be sold or otherwise utilized in the future (subject to the same operational/waiver requirements imposed on all licenses.

Previously Filed Materials

The Licensee timely filed the following materials with its initial waiver request in December 2018. Copies of that filing are attached to this 2nd Memorandum as a convenience for the Board.

Exhibit 7: Previously filed materials

- 7 a. Memo to the Board dated 11-27-18
 - Information supporting Licensee's request for a 4th waiver.
- 7 b. Addendum to Memo to the Board dated 11-28-18
 - This Memo set out the staff statement that the comments of the Board at its January meeting regarding a 4th waiver were not communicated to the Licensee until Sept. 2018.
- 7 c. Woodshed Letter of Intent dated 11-28-18
 - This Letter of Intent has been replaced by an Option to Lease that becomes effective upon the Board's approval of the 4th Waiver.
- 7 d. Lease Agreement with Chong Sanders dated Sept. 11, 2018.

Value of a Beverage Dispensary License in Anchorage, Alaska

In the exercise of the Board's discretion and in light of the Due Process requirements of law, the Board should take into consideration that the current value of a beverage dispensary license in Anchorage is in the range of \$225,000.00 to \$250,000.00. Denying a 4th waiver will result in the loss of this valuable asset.

This Licensee is asking the Board to allow him one final opportunity to preserve this License. Conditions for the Board's approval were set out in the December 2018 Memo filed by counsel. Those conditions and any others that the Board deems appropriate will apply once the 4th waiver is granted.

Conclusion

The question the Board must ask and answer is whether or not to use its discretion to grant the requested waiver for a Licensee who operated for 17 years without incident, but who failed to understand both the laws, the regulations and the circumstances as they existed in 2017 and 2018 which led to his failure to secure a location in which he could operate the license.

The Board should consider both the staff's' mistake with regard to giving notice to the Licensee of the Board's statement in January 2018 relative to not granting a 4th waiver along with the Licensee's own mistakes, both are relevant to the Board's decision which the Licensee clearly understands is discretionary with the Board.

For all the reasons set forth in this Memo, the Board should exercise its discretion and grant this requested 4th waiver imposing such conditions as it deems appropriate to allow the Licensee to preserve this license.

DATED at Anchorage, Alaska this 29th day of January, 2019.

Law Offices of Ernouf & Coffey, PC

By: 

Dan K. Coffey-Alaska Bar # 75-05011

From: [Alcohol Licensing, CED ABC \(CED sponsored\)](#)
To: [Steve Fibranz](#)
Cc: [Alcohol Licensing, CED ABC \(CED sponsored\)](#)
Subject: RE: #1566 dba Steve's Sports Bar Transfer
Date: Tuesday, November 13, 2018 10:37:07 AM

Good morning,

License #1566 dba Steve's Sports Bar will not expire until the end of 2019. Moving forward, I cannot offer any advice legally other than the following:

- A completed Form AB-29: Waiver Application for license #1566 for the calendar year 2018 - with the understanding that the ABC Board will deny this request as stated at the January 23, 2018 board meeting when they approved the third waiver. This was also discussed in person on September 27, 2018 with you, Mikal Milton and myself.
- Payment of \$10,000.00 - with the understanding that these fees are non-refundable 3 AAC 304.170(c) as discussed in person on September 27, 2018.
- Please keep in mind there will be a \$1000.00 late fee assessed if the form is turned in after close of business on November 30, 2018.
- 3 AAC 304.170(g) states "If an application for waiver is denied, an application for license renewal for the succeeding license period (2019) will be denied by the board under AS 04.11.330(a)(3)".

Respectfully,

Carrie Craig

Occupational Licensing Examiner
State of Alaska DCCED
Alcohol & Marijuana Control Office
550 W 7th Ave, Ste. 1600
Anchorage, AK 99501

From: Steve Fibranz <stevefibranz@gci.net>
Sent: Thursday, November 08, 2018 6:53 PM
To: Alcohol Licensing, CED ABC (CED sponsored) <alcohol.licensing@alaska.gov>
Subject: Re: #1566 dba Steve's Sports Bar Transfer

what are my options for my liq. lic. ? Chong was trying to sell me the place and lack of expediency in the process has caused the whole situation to circle back to start. thank you Steve Fibranz

----- Original Message -----

From:

"Alcohol Licensing CED ABC (CED sponsored)" <alcohol.licensing@alaska.gov>

To:

"stevefibranz@gci.net" <stevefibranz@gci.net>

Cc:

"Alcohol Licensing CED ABC (CED sponsored)" <alcohol.licensing@alaska.gov>

Sent:

Thu, 8 Nov 2018 18:29:22 +0000

Subject:

#1566 dba Steve's Sports Bar Transfer

Good morning,

On November 7, 2018 AMCO received the attached legal notification from Ms. Sanders. At this time due to no proof of right, title or interest for the location of 3826 Spenard Road in Anchorage, the transfer application for license #1566 dba Steve's Sports Bar cannot be deemed complete and will not be considered by the ABC Board at the December 18th meeting.

Respectfully,

Carrie Craig

Occupational Licensing Examiner
State of Alaska DCCED
Alcohol & Marijuana Control Office
550 W 7th Ave, Ste. 1600
Anchorage, AK 99501

3 AAC 304.170. Waiver of annual operating requirement and minimum operating requirements

(a) Except as provided in this section, the board will deny an application for renewal of a license if the licensed premises were not operated for the time required by AS 04.11.330(a)(3) or (d).

(b) A licensee may apply to the board, requesting that the board waive the operating requirement of AS 04.11.330 (a)(3) or (d). 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.

(c) An application for waiver for a calendar year must be made in writing to the board and must be accompanied by a non-refundable application fee of:

(1) an amount equal to one half the applicable biennial license fee if a waiver application was not made for the previous year; or

(2) double the amount of the fee paid for the previous year's waiver application;

(d) In an application for waiver, the licensee must explain why the licensed premises were not operated. Additionally, the licensee must provide a copy of the application to the local governing body, if any, having jurisdiction over the license and licensed premises.

(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.

(f) The board will, in its discretion, impose conditions along with the approval of an application for waiver.

(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).

(h) In addition to the application fee under(c) of this section, the applicant shall pay \$1,000 for an application that is received too late for board consideration at its meeting before November 30 of the year for which waiver is requested.

(i) 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.

LICENSEE'S EFFORTS TO RELOCATE HIS LICENSE

2017

March - Peppercinis [University Center Mall], talked with owner Jason Kimball, have known him since 1989. Contacted him about placing my liquor license in his restaurant. He agreed at first but paperwork to transfer and his looking for a new building led him to become exasperated and pull out of deal.

April - 201 East Northern Lights, closed, trying to sell building.

April - 903 West Northern Lights, old Chef's Inn and Billiards Hall, Chef's Inn no longer in use. Pool Hall had liquor licence, not interested in getting involved.

May - Rug Doctor building, Fireweed Lane, next to my old building, not enough parking and not readily available to be turned into bar/restaurant.

June - Carousel Lounge, Spenard Road, had talks with new owner in June. In July we came to a tentative agreement. He was remodeling and was to be open by October. Decided to buy a liquor license. He was not ready in 2017, opened in June 2018. Had to apply for waiver since deal fell through in November 2017.

2018

March - Beluga Billiards, 3841 Dimond. Building not in use, called 3 times, explained my liquor license usage. Never heard back.

March - Kobuk, 504 West Fourth Avenue. Restaurant for sale. Not interested in time and paperwork for liquor license. Transfer, possible buyer.

April - 2210 East Northern Lights, already leased out, no hope for my liquor license because school is too close [Wendler].

April - 302 G Street. Restaurant for sale [\$189,000.00]. Did preliminary check. It was valued at \$106,000.00 for fixtures maximum price, closer to \$92,000.00 value. Owners won't budge on price.

April - 400 Sitka for sale. Fixtures and business \$80,000.00, no building. Have \$38,000.00 in fixtures. No negotiating. Owners operating, not interested in my liquor Licence proposition.

May - Yak and Yeti, Spenard Road. In use, for sale [\$485,000.00], only 10 parking spaces total. Building is very old and not able to accommodate business with liquor. Owners still running it, taken off the market.

May - Alaska Alchemist, 4th and A Street. Called and texted 3 times, no return call nor text. Tried to have a realtor find owners, no luck.

May - 2607 Fairbanks Street, empty building, vacant.

May - Crazy Hook Pub, 601 West 36th Avenue. Called and texted rental manager three times with my liquor license proposal. Did not hear back. Contacted realtor buddy. Late June he told me someone is going to lease it. Crazy Hook Pub is all set up, fixtures, taps, coolers, turn key to go. Still vacant as of December 2018.

June - Office Lounge, Northern Lights. Spoke with Kurt Mararsh, owner. Old bar is gutted. He says a national chain is coming in.

June - 4216 Spenard Road. Vacant building, lots of work to get it ready for liquor license and only 12 parking spots total, 4 for square footage. I was looking to rent.

June - 710 West Northern Lights, old Quiznos. Leased out to pull tabs. Was being leased on month to month for political parties.

June - Rolf's Sports Bar, 3515 Mountain View Drive. Closed for all summer.

June - Fireweed and Spenard Road, old Black Angus restaurant. Went by, peeking in windows, owner happened to be there. Bar was gutted and was just a storage place for signs [political] and other valuables.

July - 550 West 64th, empty warehouse. Called and texted six times, no response. Still empty as of November 2018.

July - 64th and Arctic [Nielsen Way], empty warehouse. Called and texted 3 times, went by 3 times, no one there. Still vacant as of November 2018.

August - Chilkoot Charlies, Spenard Road. Agreement with Jason Baer, owner, to use one of their bars. Doran, owner, shoots down idea, says ABC Board won't allow it.

August - Out of Box, 3807 Spenard Road. Was a sandwich place but all equipment is gone and place is used for storage.

August - Center Bowl, Spenard and Minnesota. They have a liquor license in their bar, the Spare Room. Talked with Chris Clapper, owner, [I have known Chris since 1972] to temporarily place my liquor license in an operating bar. He declines, stating paperwork and other time consuming problems of placing and replacing liquor license, including new inspections and possible code upgrades.

August - TK Korean, Spenard Road. Restaurant is open, has bar. Owner Chong Sanders is OK with my plan to place liquor license and use for 30 day minimum. Later plan to purchase from Chong Sanders is agreed upon placement of liquor license. Figuring 3 weeks posting and October 2018 ABC meeting or first week of November at latest. By late October it became apparent that liquor license cannot be placed in timely manner before the end of 2018. Agreement is terminated.

Option to Lease of the Woodshed

This Option to Lease is entered into this 29th day of January, 2019 by and between the Cordova Development Company, Inc. Landlord and Steve Fibranz, d/b/a Steve's Sports Bar, Tenant.

WHEREAS, the parties have discussed modifying and expanding the initial Letter of Intent dated November 28, 2018 to insure that when the ABC Board grants the Tenant a 4th waiver, that the Tenant will have a location from which to operate; and.

WHEREAS, in the Initial Letter of Intent, due to the short time frame involved, the details of the transaction had not been concluded; and

WHEREAS, the parties have now met and reached agreement on the details of a Lease which include the amount of rent to be paid, the required insurance, payment of utility charges, hours of operation, repairs and maintenance of the licensed premises, and all other issues associated with a liquor licensed premises in the State of Alaska and the Municipality of Anchorage.

NOW THEREFORE, it is hereby agreed as follows:

1) In order to secure the property through the date of the ABC Board's next meeting in February, 2019, the Tenant shall pay to the Landlord the sum of \$2,000.00, the receipt of which is hereby acknowledged by the Landlord.

2) Once the ABC Board approves the 4th waiver, Tenant shall immediately begin the process of transferring the location of the license to the Cordova Development Company, Inc. premises. During the pendency of the transfer process, the Tenant shall pay monthly rent of \$1,000.00 to the Landlord.

3) Once the transfer of location is approved by both the ABC Board and the Municipality of Anchorage so that the Tenant can operate his license, on the first full day of the first month after the foregoing approvals have been secured, the Lessee shall continue to occupy the premises on a month to month basis for a term sufficient in 2019 to accomplish the minimum hourly requirements set forth in the regulations of the ABC Board. The rent during the months that the Lessee occupies the licensed premises the monthly rent shall be Six Thousand Four Hundred Dollars (\$6,400.00) per month.

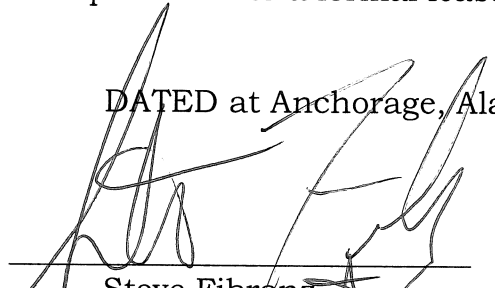
4) The Landlord shall pay for utilities, taxes and insurance for the building.

5) The hours of operation of the licensed business shall not commence until 10:00 a.m. and shall cease no later 10:00 p.m. so as to avoid the issues that previously plagued the prior licensee.

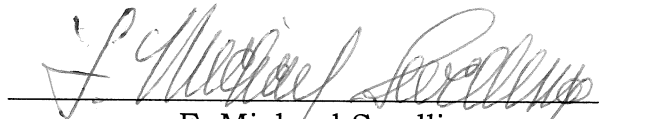
6) All repairs and maintenance other than those caused or occasioned by the Tenant, shall be the responsibility of the Landlord. Health and Safety items required by the Municipality of Anchorage will be the responsibility of the landlord. Other improvements and personal property desired by the tenant will be provided by the tenant.

7) Having reached agreement on the material terms and provisions of a Lease which shall be prepared once the transfer of location of the liquor license has been approved by the ABC Board and the Municipality of Anchorage, the parties agree, in good faith, to work together to complete this transaction for their mutual benefit recognizing that additional terms and provisions will be incorporated into a formal lease.

DATED at Anchorage, Alaska this 29th day of January 2019.



Steve Fibranz
On behalf of Steve's Sports Bar



F. Michael Swalling
On behalf of the
Cordova Development Company, Inc.

21.50.160 - Conditional use standards—Uses involving sale of alcoholic beverages.

[SHARE LINK TO SECTION](#) [PRINT SECTION](#) [DOWNLOAD \(DOCX\) OF SECTION](#) [EMAIL SECTION](#) [COMPARE VERSIONS](#)

A.

Unless exempt under subsection G, H or I of this section, any use that includes the retail sale or dispensing of alcoholic beverages is permitted only by conditional use. The conditional use requirement applies only to the retail sale or dispensing of alcoholic beverages and not to related principal or accessory uses.

B.

Notwithstanding any other provision of this title to the contrary, a conditional use for uses involving the retail sale of alcoholic beverages shall only require the approval of the assembly. The provisions of [section 21.15.005](#) which pertain to the notice and public hearing shall apply. Applications for a conditional use permit shall be submitted to the department of community planning and development within seven days after application is made to the State Alcoholic Beverage Control Board for issue or transfer of location of a liquor license. Applications shall contain a zoning map showing the proposed location. The assembly may promulgate regulations concerning the mandatory information to be submitted with the application for conditional use. The department of community planning and development shall prepare and submit an analysis and a list of all licenses located within a minimum of 1,000 feet of the proposed conditional use to the assembly on applications made for a conditional use permit addressing the conformity of the proposed application with this title and [chapter 10.50](#). The department shall also submit a proposed resolution for assembly consideration in connection with liquor license applications. In determining whether to grant, deny or impose conditions on a conditional use permit for the sale or service of alcoholic beverages under this section, the assembly shall not take into consideration the sum paid by any person to acquire the license for which a conditional use permit is requested. The assembly shall only approve the conditional use if the assembly finds the standards of [section 21.50.020](#) have been met.

C.

An application for a conditional use under this section that has been denied by the municipal assembly shall not be accepted for rehearing for a period of one year following such denial if the municipal clerk finds the proposed conditional use application is substantially the same as that denied by the assembly and if no substantially new evidence or change in circumstances has occurred. This subsection shall not apply to conditional use applications on file as of May 31, 1983. This subsection shall not apply to an application filed under assembly direction at a hearing at which a like application was considered. This subsection does not apply if the alcoholic beverage control board remands a case which was previously denied by the assembly.

D.

The assembly may, in connection with approval of a conditional use permit under this section, impose such special terms and conditions or modify existing conditions governing operation of that license as are in the public interest, and are consistent with the purposes of this title.

1.

Mandatory identification check as described in [10.50.035](#) shall be deemed in immediate effect as a condition of use for all package liquor store conditional use approvals in current use as of July 1,

2011, and shall be a mandatory condition for any package liquor store conditional use coming before the Assembly for approval thereafter.

E. Conditions of conditional use permits issued under this section are enforceable under the provisions of this title. The assembly may revoke a conditional use permit for failure to comply with conditions of the permit, provided a public hearing with notice to the owner affected is first held.

F. A copy of the conditions imposed by the assembly in connection with approval of a permit under this section shall be maintained on the premises involved at a location visible to the public.

G. Catering and special events permits, issued by the state alcoholic beverages control board, are exempt from the conditional use requirements, but shall meet title 10 requirements if held:

1. No more than 12 times in a calendar year at the same physical location; or

2. No more than 16 times a calendar year at the same physical location of a public cultural venue such as a zoo, museum, cultural center, and art house or gallery.

H. No modification of an existing conditional use for the retail sale or dispensing of alcoholic beverages shall be required for the first duplicate liquor license provided:

1. There is no increase in the square footage of the premise licensed for the retail sale or dispensing of alcoholic beverage; or,

2. If there is an increase in the square footage of the licensed premise, such increase is:

a. 500 square feet or less; or

b. Consists of a deck or other similar seasonal outdoor improvement of less than 500 square feet used less than five months in any calendar year.

3. If the size of the licensed premise is increased by 500 square feet or less, or is a temporary outdoor improvement, the licensed business shall file an administrative review application with the planning department, including a complete site plan. The administrative review standards include on-site parking requirements, and off site impacts, such as lighting, noise and traffic.

l.

A restaurant or eating place licensed by the State Alcoholic Beverages Control Board to sell beer and wine for consumption only on the licensed premises is subject to the administrative site plan review standards in [section 21.50.500](#), and exempt from the conditional use requirements of [21.50.160](#), provided the principal and accessory uses are permitted non-residential uses. Restaurant or eating place alcoholic beverage license use is not exempt from the standards in [21.50.020](#). Requirements imposed by the assembly when acting on the beer and wine license shall apply.

1985 WL 70223 (Alaska A.G.)

Office of the Attorney General

State of Alaska
File No. 166-666-85
September 27, 1985

License upgrades

*1 Patrick L. Sharrock
Executive Director
Alcoholic Beverage Control Board

You have asked whether the board may require a restaurant licensee to forfeit his restaurant license upon obtaining a beverage dispensary license for the same premises. For the reasons detailed below, we think the answer is no. However, we believe the board may properly demand that the restaurant license be surrendered to the board temporarily, pending its transfer to another purchaser or location.

For purposes of this memorandum, we will employ the term "upgrade" to refer to the acquisition by a current restaurant licensee of a beverage dispensary license for the same premises to which the restaurant license applies. We understand that the board has adopted a policy of requiring an upgrading licensee to forfeit his restaurant license if he acquired the restaurant license "free" from the state. If the upgrading licensee bought the restaurant license from another, however, forfeiture has not been required, and the upgrading licensee has been allowed to relocate or sell the restaurant license.

We note first that this policy—which has a serious impact on certain licensees—cannot properly be imposed until it is promulgated as a regulation of the board. *Kenai Peninsula Fisherman's Cooperative Association, Inc. v. State*, 628 P.2d 897 (Alaska 1981); *State v. Weidner*, 684 P.2d 103, 109 (Alaska 1984).¹ Not only is this procedure mandated by the Administrative Procedure Act, it also affords an opportunity for formal Department of Law analysis of the legality of the policy prior to its adoption and implementation, and may thus prevent any inadvertently illegal actions by the board. Because the policy should be implemented, if at all, only by regulation, we turn to the laws regarding the validity of regulations to determine whether the board may adopt this policy.

The board has been vested with broad authority to adopt regulations. AS 04.06.090(a); AS 04.06.100. Even so, "no regulation is valid or effective unless consistent with the statute and reasonable necessary to carry out the purpose of the statute." *Kelly v. Zamarello*, 486 P.2d 906, 911 (Alaska 1971). If a regulation passes this test, the next question (as for any law, whether legislative or administrative) is whether the regulation is "reasonable and not arbitrary." *Kelly* at 911.

We believe a strong argument can be made that the forfeiture policy is not consistent with Title 04. By requiring forfeiture, the board is making one class of restaurant licenses nontransferable. But the legislature has expressly made licenses transferable, subject only to certain limitations enumerated in AS 04.11.340 and AS 04.11.360. While we do not mean to suggest that the board lacks authority to limit transferability in some respects, a policy that entirely prohibits the transfer of a certain group of licenses may well be deemed by a reviewing court to be inconsistent with the statutes permitting license transfer.²

*2 A brief consideration of the goals of the policy underscores that it is likely inconsistent with the statute or, at least, not "reasonably necessary to carry out" the statute's purposes. While you have not expressly advised us of the policy's purposes, your correspondence with us suggests two related goals. The first is to prevent those who have acquired an

essentially "free" asset from the state from profiting from its sale. The second is the related goal that persons not be permitted to engage in the "brokering" of license acquired primarily for resale, and not primarily for use by a bona fide business licensee.

We believe the first goal of preventing profitable sales of licenses acquired "free" from the state is clearly contrary to Title 04 which, as we noted above, expressly permits the transfer of licenses and, by virtue of the quota system, has made them valuable commodities.

The second goal of discouraging brokering may be consistent with Title 04. We note especially AS 04.11.330 which authorizes the revocation of a license which has not actually operated for 30 days.³ However, we doubt that forfeiture is "reasonably necessary" to achieve this goal. Brokering may be far more readily discouraged by the more direct measure of disallowing the transfer of a license operated for less than a certain period of time, or by other more direct means.

This leads us to consider whether the policy would survive scrutiny under the "reasonable and not arbitrary" test of *Kelly v. Zamarello*. We think you will agree that, upon close analysis, it becomes evident the board's policy is poorly tailored to fit the board's goals, and will therefore be subject to attack under the "reasonable and not arbitrary" test.

We doubt that the board's forfeiture policy is discouraging brokering. Indeed, it appears to us that the affected licensees are especially unlikely to be brokers. A person who is upgrading has presumably operated a restaurant at the licensed premises for some period of time. Rather than a broker, such a person is likely to be simply a bona fide businessman seeking to increase the range of accommodations he can provide to his customers. While some upgrading licensees may be engaging in brokering, the forfeiture policy almost certainly affects primarily bona fide restaurateurs. Moreover, as noted above, brokering can be more directly prevented by more narrowly-drawn rules as, for example, a rule requiring that a license be held and operated for a certain minimum period prior to being transferred to a new owner.

We think it is also worth noting that an upgrading licensee will not be required to forfeit his license if he has transferred the restaurant license before obtaining his beverage dispensary license. Requiring forfeiture may thus disadvantage only those upgrading licensees who lack the sophistication—or the legal advice—necessary to avoid forfeiture by cleverly orchestrating their license transactions. Again, we suggest these less sophisticated licensees are relatively unlikely to be brokering their licenses. This buttresses our view that the board's policy is not justified by any public interest in discouraging brokering.

*3 Our assumption that the board seeks to prevent the making of profits on the sale of some licenses is based upon the fact that the board has been drawing a distinction between people who have acquired their license "free" from the state and those who purchased their restaurant license from another. This strongly suggests that the board is offended by the fact that licensees can achieve a tremendous financial gain from the sale of a restaurant license and becomes more offended as the profit becomes greater. You have not described how a licensee's ability to make a profit by transferring his license is contrary to the public's interests. However, assuming that it is, we again believe there is no justification for singling out upgrading licensees. The ability of licensees to profit by the sale of a license is part and parcel of the legislature's decision to make licenses transferable. Any licensee who sells his license after having acquired it directly from the state, given the current market situation, will recognize this kind of gain, regardless of whether he is simultaneously acquiring another alcoholic beverage license. Indeed, it seems that an upgrading licensee who is not simply selling one license but is also spending a great deal of money to buy another license is actually realizing a lesser overall gain than a person who simply sells his business outright. Again, it seems the board's policy affects those licensees who are actually least likely to engage in the conduct—profiting from the sale of a license—that the board wishes to discourage.

In distinguishing between licenses purchased from others and those issued directly by the state, the board has evidently assumed that a licensee who acquired his restaurant license "free" from the state will make a much larger profit on its sale than one who had to buy his restaurant license. Again, we believe this assumption is imperfect, at best. The price paid for

a restaurant license depends a great deal upon when it was acquired. If the license was acquired at a time when restaurant licenses were not expected to be permanently in short supply, the license may have been purchased for as little as, for example, \$1,500. We doubt that the board really wishes to distinguish between one who acquired a license for \$1,500 and one who acquired it for the license fee of \$300, when each could sell the license for approximately \$50,000 today.

We thus believe that a reviewing court would have ample grounds to determine that the board's policy, even if adopted as a regulation, is either not reasonable or not consistent with Title 04. We therefore urge you to abandon the policy and to refrain from attempting to adopt it as a regulation. Because the policy has not been adopted as a regulation, it is not currently enforceable, in any event, and we advise you to stop applying it immediately. Licensees who were subjected to forfeiture must either have their restaurant licenses returned, or be treated like any other unsuccessful transfer applicant. In the latter case, this means they must be given a Statement of Issues setting forth the reasons for the transfer denial, and must be given an opportunity for a formal administrative hearing on that decision. Based on the preceding analysis, we strongly recommend that you simply return the licenses. A formal hearing will not cure the board's likely lack of authority to require forfeiture, and the hearing will thus likely result in a decision to return the licenses.⁴

*4 While we have thus concluded that forfeiture is likely improper, we nonetheless believe the board may require the temporary surrender of an upgraded restaurant license pending its transfer or relocation. We imagine that the board may be requiring forfeiture in part because it believes that a licensed premise should have only one license issued to it. We agree that it would be contrary to the general scheme of Title 04 to permit a licensee to actually operate under the authority of two separate licenses at a single licensed premises, and thus to prevent those licenses from becoming available to other premises. We thus believe the board is authorized to require the temporary surrender—as opposed to the permanent forfeiture—of a restaurant license upon the licensee's receipt of a beverage dispensary license. The 30-day operation requirement of AS 04.11.330 will ensure that no license will remain dormant for an excessive period of time, and will provide a deadline by which the upgrading license must transfer or relocate the restaurant license.

As always, please advise us if we can be of any further assistance in this matter.

Harold M. Brown
Attorney General
Kay E. Maassen Gouwens
Assistant Attorney General
Commercial Section-Anchorage

Footnotes

- 1 The fact that the policy affects the licensees is important. Policies that relate strictly to internal management of the agency may be adopted without the formalities of the Administrative Procedures Act. Policies affecting the public (including licensees), however, may generally be implemented only by regulation. AS 44.62.640(a)(3).
- 2 Arguably, the board's authority to deny transfer where it "would not be in the best interests of the public" may save the policy from being deemed inconsistent with the statutes that generally permit transfer, if forfeiture promotes the public's best interests. AS 04.11.320(a)(1); AS 04.11.340(1); AS 04.11.360(1); AS 04.11.370(2). However, notice and opportunity for a hearing on the transfer denial would still seem to be mandated by AS 04.11.510(b). We address whether forfeiture may be said to promote the public interest below, where we discuss whether the regulation is "reasonably necessary to carry out the purposes of the statutory provisions" and "reasonable and not arbitrary."
- 3 Of course, the actual purpose of the 30-day operation requirement may be simply to ensure that the quota of licenses is not artificially low due to the nonoperation of any licensed businesses.
- 4 You have suggested that forfeiture may be permissible because a license is a "privilege," according to AS 04.11.660. However, we believe that the term "privilege," as we have discussed before, is nothing more than a way of stating that a licensee's interest in a license is not absolute—that it is restricted in one or more respects. Calling something a "privilege" does not mean that the holder of the privilege has no interest in the privilege that warrants protection, nor does it state anything about

the transferability of the license. Numerous provisions of Title 04 make it clear that the holder of a license in fact has a protectable, albeit limited, property-type interest in the license. If this were not so, a licensee would not be entitled to a hearing before a suspension or revocation of a license, and the burden of proof would not be on the staff to demonstrate that an offense warranting revocation or suspension has occurred. AS 04.11.510. Particularly relevant to this matter is the fact that the Alaska statutes expressly provide that an alcoholic beverage license may be transferred, although the transfer of a license may be denied for various reasons stated in the statute. AS 04.11.290. The general and ill-defined statement that a license is a "privilege" does not negate the statute's specific provisions permitting a licensee to transfer his license.

1985 WL 70223 (Alaska A.G.)

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MEMO TO ABC BOARD

TO: Alcohol Beverage Control Board
CC: Erika McConnell, Executive Director
RE: SLF International, Inc., Steve Fbranz
FROM: Dan Coffey, Attorney for Applicant
DATE: 11/27/2018

REQUEST: 4TH WAIVER OF THE OPERATING REQUIREMENTS

The Licensee is requesting a 4th waiver of the operating requirements set out in the statutes and regulations of the Board subject to conditions imposed by the Board.

BACKGROUND

The Licensee was granted three (3) previous waivers of the operating requirements. At its January 2018 Board meeting ABC Board granted a third waiver. In March, 2018, the Licensee began an extensive effort to find a new location for his license.

This effort is reported on the attached document prepared by the client. As you can see, after learning of the Board's comment about no further waivers at its January meeting, the Licensee doubled his efforts to find a new location.

After several unsuccessful efforts to find a new location, the Licensee executed a "Rental Agreement" with Chong Sanders on September 11, 2018 (copy attached). Unfortunately, the Licensee did not know that the Special Land Use Permit, issued by the Municipality of Anchorage, provided for that sale of beer and wine only. In order to transfer his beverage dispensary license to this location and operate the license for the required 240 hours, a new Special Land Use permit allowing for the operation of this type of license would be required. The Licensee was advised by the Municipality that he could not expect that permit to be issued until January, 2019. For that reason, the rental agreement with Chong Sanders was termination.

ISSUE BEFORE THE BOARD

The issue for the Board to consider is whether or not it should exercise its broad discretion to approve a conditional 4th waiver.

FACTS WHICH SUPPORT THIS REQUEST

There are several facts and circumstances which support this extraordinary request.

First and foremost is the Licensee's ignorance as to the lengthy time necessary to accomplish a relocation of a Beverage Dispensary Liquor license, in particular, the Municipality's requirement of a Special Land Use Permit for any proposed location. Having not been actively operating for the previous three (3) years and before that hiatus, having been at a single location on Fireweed Land for several years, the Licensee was unfamiliar with the fact that it takes months and months to secure all of the necessary permits.

The Licensee is well aware that his ignorance on the regulatory process is not an excuse, but that ignorance and the difficulty in even finding a location, are factors for this Board to consider in regards to this 4th waiver request.

After several fruitless not trying to find location the Licensee believed that he had secured a location for his license in early September when he reached an agreement with Chong Sanders. Copy attached.

Unbeknownst to the Licensee, this rental agreement was with a premise that had an existing land use permit for sale of beer and wine only. The Licensee was not aware that he would have to secure a Special Land Use permit a beverage dispensary licensed operation from the Municipality.

After signing the one page rental agreement, in September the Licensee, without assistance from staff or legal counsel, prepared an application for a transfer of location of his beverage dispensary license. Advertising for the new location began September 5th.

The Licensee filed the transfer of location application on September 24th. The staff promptly reviewed that application on September 25th. When the application for transfer of location was reviewed by staff numerous errors were found. As a result, the staff required the Licensee to re-advertise the transfer application which was completed October 14th and the affidavit publication was refiled October 16th.

The Board should be aware that, starting at the end of September, the Board's staff worked diligently with the Licensee in his efforts to relocate so the license could be operated this year. Had the Licensee gone to the staff in September, prior to completing and posting the initial relocation application with its numerous mistakes, it might have been possible to operate this license in 2018. Of course, that assumes that the Municipality could have approved the change in the Special Land Use permit to allow the relocation and operation of a beverage dispensary license at a premise licensed as a restaurant with a restaurant/eating place license Special Land Use permit.

In mid-October, the Licensee was advised by Municipal staff that the Municipality would not be able to review and approve a new Special Land Use permit for as Beverage Dispensary license at the proposed location until January, 2019. That information was a stake in the heart for the Licensee. He then informed the Chong Sanders that he could not proceed further with their agreement.

TIME LINES

The Board's transfer process is a minimum of 2 to 3 months assuming no mistakes are made and the timing of staff, Board and Municipal review is not extended. The Municipal's permitting process to obtain a new Special Land Use permit and to secure a non-protest of the relocation of the license is 3 to 4 months. Even if both applications are made and processed concurrently, transferring the location of a Beverage Dispensary Liquor license takes between 4 to 6 months if the process involves both the Board and the Municipality.

The Licensee was completely unaware of these time lines. He was also not aware that the Special Land Use permit at his chosen location did not permit the use of a Beverage Dispensary License. Had he understood these circumstances and assuming he could have found a location earlier, he would have started this process much, much earlier and would have undoubtedly found a location with a Beverage Dispensary License land use permit.

Unfortunately for the Licensee, he did not seek staff's assistance when he first started the relocation process in early September. This failure on the Licensee's part to properly complete the initial application correctly, being required to re-advertise the location transfer application and not knowing of the Municipalities requirement for a Special Land Use permit, made it impossible to secure the Board's approval of the relocation at its October Board meeting.

We cannot resist adding that had the Licensee, at the beginning of this process, sought advice from experienced attorneys, he would have begun the process shortly after the January 2018 Board meeting. Our Law Firm is fully aware of these lengthy time lines and the opportunities for delays that occur all too frequently.

As a result of these factors, the Licensee now finds himself where he is forced to plead for a conditional 4th waiver resulting mainly from his lack of understanding of the regulatory circumstances that exist in Anchorage, Alaska in 2018.

In the absence of this Board's grant of a conditional 4th waiver, the Licensee will lose an asset worth at least \$225,000.00.

PROPOSAL FOR THE BOARD'S CONSIDERATION

In order to ensure that any 4th waiver that the Board might grant can be revoked by the Board if the Licensee fails to meet the following requirements, the Licensee proposes that the Board impose the following conditions:

1) Require that a premises lease or purchase agreement for the relocation of the liquor license be filed with the Board on or before January 31, 2019.

-We are currently negotiating with three (3) premises all of which hold a Special Land Use permit for sales by Beverage Dispensary Licensee.

-If we are successful in reaching an agreement, we intend to submit a Letter of Intent well in advance of the Board's December meeting.

2) The Licensee will not sign a Rental Agreement/Lease with any location unless there is a valid existing Special Land Use permit in place.

-Note that the Law Firm has advised the Licensee that he must secure a premise that has a valid Special Land Use permit from the Municipality for the sale of alcohol with a beverage dispensary license.

-This will shorten the time frame for approval of the relocation and the commencement of operations.

3) Require that a location transfer application be advertised and subsequently filed with the Board by February 1, 2019.

4) Require that the Licensee begin operations no later than July 1, 2019.

-Allow one thirty (30) day extension of this deadline if all permits and applications that are required have been timely filed with the Municipality, but the Municipality has not yet addressed these applications (i.e. Non-protest letter not provided to the Board).

5) In the event the Licensee fails to comply with these conditions or any other requirements that the Board may impose as a condition of the grant of a 4th waiver, the license **shall be forfeit.**

CONCLUSION

The situation in which the Licensee finds himself is, in part, one of his own making based on a lack of understanding of the time it currently takes to secure a location and to transfer the location of a license. Having operated for several years at one location and subsequently having three annual operation waivers, created a circumstance where the Licensee's knowledge of the regulatory hurdles was virtually non-existent.

Couple that with the difficulties in finding a location and with mistakes in the initial transfer application process and a lack of understanding of the processes of the Municipality, resulted in the Licensee being unable to operate in 2018.

The question for the Board is a simple one. Should the Board use its discretion to grant a 4th waiver based on the facts of this matter as set out above. Given those facts, the Board could conclude that, while the Licensee made mistakes, his 3-year absence from the business, his lengthy operation at one location and his lack of knowledge as to the Municipality's requirements, is understandable and arguably excusable by the Board.

The ultimate question for the Board is this. Is forfeiture an appropriate sanction for the Licensee not starting soon enough and for his ignorance of the ordinances of the Municipality? Loss of this License is a very severe penalty for a combination of ignorance and mistakes not misconduct and not malfeasance.

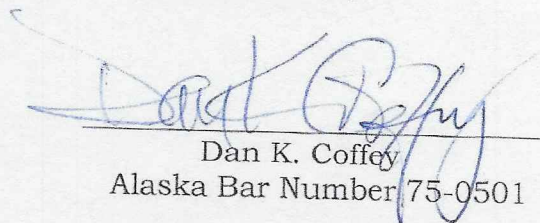
The Licensee is asking the Board to grant him one last opportunity to save his license. If the Board does grant the Licensee this last chance opportunity, our Law Firm will insure that the conditions set out herein and any others that the Board might require, will be promptly and properly met.

If the Board is not willing to exercise its discretion to allow a 4th wavier, the Licensee will lose a license with a minimum value of \$225,000.00.

Thank you for your consideration of this unusual request. On behalf of our client we hope you will find your way to grant the requested conditional 4th waiver.

DATED at Anchorage, Alaska this 27rd day of November, 2018.

Ernouf & Coffey, PC



Dan K. Coffey
Alaska Bar Number 75-0501

ADDENDUM TO MEMO TO BOARD

To: Erika McConnell
From: Dan Coffey
Cc: Amanda Shawcross
Re: Steve Fibranz
Date: 11-28-18

This Addendum is intended to supplement our Memorandum filed on 11-27-18

I learned today, that on 11-26-18 Mikal Milton sent an e mail to Amanda Shawcross in our office. A copy that e mail is attached.

Hello,

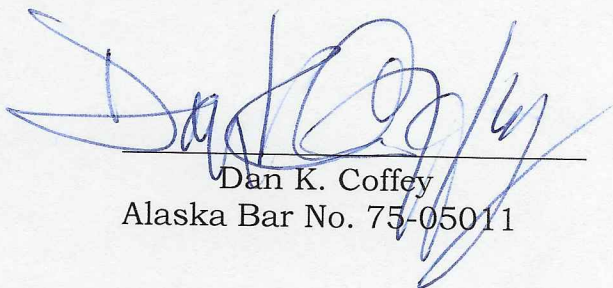
Please find the requested sound bite attached. Mr Fibranz did not receive a third waiver approval notice due to the communication recorded in the license file between he and our staff that indicated he was informed about the board action regarding his third waiver on 9/27/2018. If you would like to review the file, please make a records request as usual.

Thank You,

Mikal Milton
Records and Licensing Supervisor
Alcohol and Marijuana Control Office

Please make sure this Addendum is submitted to the Board along with our initial filing yesterday.

Thank you.



Dan K. Coffey
Alaska Bar No. 75-05011

From: [Alcohol Licensing, CED ABC \(CED sponsored\)](#)
To: [Steve Fibranz](#)
Cc: [Alcohol Licensing, CED ABC \(CED sponsored\)](#)
Subject: RE: #1566 dba Steve's Sports Bar Transfer
Date: Tuesday, November 13, 2018 10:37:07 AM

Good morning,

License #1566 dba Steve's Sports Bar will not expire until the end of 2019. Moving forward, I cannot offer any advice legally other than the following:

- A completed Form AB-29: Waiver Application for license #1566 for the calendar year 2018 - with the understanding that the ABC Board will deny this request as stated at the January 23, 2018 board meeting when they approved the third waiver. This was also discussed in person on September 27, 2018 with you, Mikal Milton and myself.
- Payment of \$10,000.00 - with the understanding that these fees are non-refundable 3 AAC 304.170(c) as discussed in person on September 27, 2018.
- Please keep in mind there will be a \$1000.00 late fee assessed if the form is turned in after close of business on November 30, 2018.
- 3 AAC 304.170(g) states "If an application for waiver is denied, an application for license renewal for the succeeding license period (2019) will be denied by the board under AS 04.11.330(a)(3)".

Respectfully,

Carrie Craig

Occupational Licensing Examiner
State of Alaska DCCED
Alcohol & Marijuana Control Office
550 W 7th Ave, Ste. 1600
Anchorage, AK 99501

From: Steve Fibranz <stevefibranz@gci.net>
Sent: Thursday, November 08, 2018 6:53 PM
To: Alcohol Licensing, CED ABC (CED sponsored) <alcohol.licensing@alaska.gov>
Subject: Re: #1566 dba Steve's Sports Bar Transfer

what are my options for my liq. lic. ? Chong was trying to sell me the place and lack of expediency in the process has caused the whole situation to circle back to start. thank you Steve Fibranz

----- Original Message -----

From:

"Alcohol Licensing CED ABC (CED sponsored)" <alcohol.licensing@alaska.gov>

To:

"stevefibranz@gci.net" <stevefibranz@gci.net>

Cc:

"Alcohol Licensing CED ABC (CED sponsored)" <alcohol.licensing@alaska.gov>

Sent:

Thu, 8 Nov 2018 18:29:22 +0000

Subject:

#1566 dba Steve's Sports Bar Transfer

Good morning,

On November 7, 2018 AMCO received the attached legal notification from Ms. Sanders. At this time due to no proof of right, title or interest for the location of 3826 Spenard Road in Anchorage, the transfer application for license #1566 dba Steve's Sports Bar cannot be deemed complete and will not be considered by the ABC Board at the December 18th meeting.

Respectfully,

Carrie Craig

Occupational Licensing Examiner
State of Alaska DCCED
Alcohol & Marijuana Control Office
550 W 7th Ave, Ste. 1600
Anchorage, AK 99501

LETTER OF INTENT
Lease of the Woodshed

This Letter of Intent is entered into this 28th day of November, 2018 by and between the Woodshed, Inc., Landlord and Steve Fibranz, d/b/a Steve's Sports Bar, Tenant.

The parties are discussing a Lease of the Landlord's existing licensed premises and are currently working on the details of that Lease.

Those details include the amount of rent, the required insurance, payment of utility charges, hours of operation, repairs and maintenance of the licensed premises, and all other issues associated with a liquor licensed premises in the State of Alaska and the Municipality of Anchorage.


The parties agree to negotiate, in good faith, the terms and provisions of a Lease that addresses the items set forth above and such other items as may be required for a commercially reasonable Lease related to the on premises consumption of alcoholic beverages.

The negotiation of that Lease shall be successfully concluded prior to the ABC Board's December meeting and presented to the Board as proof of the Tenant's "right, title and interest" in the licensed premises. If the parties are unable to reach an agreement on the final terms and conditions of a Lease prior to the ABC Board's December meeting, this Letter of Intent shall be null and void and both parties shall be relieved of any and all obligations set forth in this Letter of Intent.

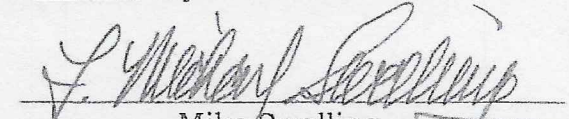
The intent of the parties is to have a completed, but unsigned and non-binding Lease ready for presentation to the ABC Board at its December, 2018 meeting. If the Tenant's 4th waiver application is approved, the parties shall execute the negotiated Lease which shall be binding of the parties.

In the interim between this Letter of Intent and the ABC Board meeting in December, this Letter of Intent may be submitted to the ABC Board by the Tenant to demonstrate that the Tenant is in the process of securing a premise wherein he can operate his license. Further, if the parties reach an agreement on the Lease before the December Board meeting, an unexecuted copy may be presented to the Board by the Tenant.

DATED at Anchorage, Alaska this 28th day of November 2018.



Steve Fibranz
On behalf of Steve's Sports Bar



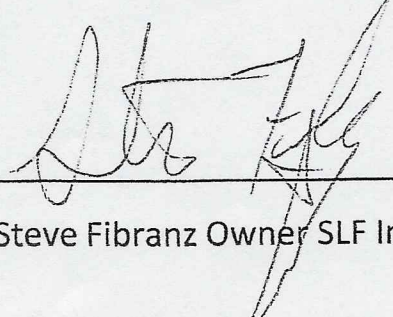
Mike Swalling
On behalf of the Woodshed, Incorporated

Agreement between Chong Sanders, TK Korean at 3826 Spenard Road, will lease restaurant to Steve Fibranz, dba Steve's Sports Bar. Liquor license SLF International, Inc. on premise, TK Korean off premise.

Rent payable \$4,000.00 for 30 days following transfer of liquor license, SFL International Inc. SFL International and Steve Fibranz will pay utilities that include the following Elec., Gas, water.

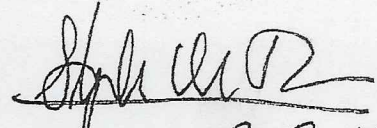
, and have liquor license insurance that names SLF International Inc. and TK Korean and Chong Sanders.

This agreement will start when liquor license transfers in September/October of 2018. After 30 days either party can terminate agreement.

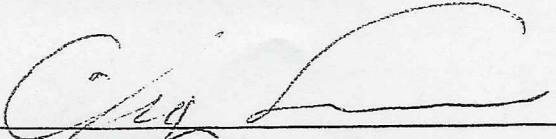



Steve Fibranz Owner SLF International Inc. Chong Sanders Owner TK Korean

The above-signed parties appeared before me
September 11, 2018

Notary: 
Commission expires 3-17-19
State of Alaska

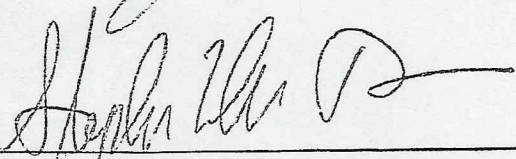
This is Notice to Expire the restaurant eating place license #5680, of Chong Sanders dba TK Korean at 3826 Spenard Road, upon the effectuation of the transfer of License #1566.



Chong Sanders

9 / 25 / 18

Date



Notary Public, State of Alaska
My Commission Expires: 3-17-19

Documentation submitted by
Legal Counsel for December
ABC Board Meeting

LAW OFFICES OF ERNOUF & COFFEY

**A PROFESSIONAL CORPORATION
PO Box 212314
Anchorage, AK 99521**

Office Phone: (907) 274-3385

Coffey Cell Phone: (907) 306-6001

Coffey E mail: dancoffey@gci.net

MEMO TO ABC BOARD

TO: Alcohol Beverage Control Board
CC: Erika McConnell, Executive Director
RE: SLF International, Inc., Steve Fbranz
FROM: Dan Coffey, Attorney for Applicant
DATE: 11/27/2018

REQUEST: 4TH WAIVER OF THE OPERATING REQUIREMENTS

The Licensee is requesting a 4th waiver of the operating requirements set out in the statutes and regulations of the Board subject to conditions imposed by the Board.

BACKGROUND

The Licensee was granted three (3) previous waivers of the operating requirements. At its January 2018 Board meeting ABC Board granted a third waiver. In March, 2018, the Licensee began an extensive effort to find a new location for his license.

This effort is reported on the attached document prepared by the client. As you can see, after learning of the Board's comment about no further waivers at its January meeting, the Licensee doubled his efforts to find a new location.

After several unsuccessful efforts to find a new location, the Licensee executed a "Rental Agreement" with Chong Sanders on September 11, 2018 (copy attached). Unfortunately, the Licensee did not know that the Special Land Use Permit, issued by the Municipality of Anchorage, provided for that sale of beer and wine only. In order to transfer his beverage dispensary license to this location and operate the license for the required 240 hours, a new Special Land Use permit allowing for the operation of this type of license would be required. The Licensee was advised by the Municipality that he could not expect that permit to be issued until January, 2019. For that reason, the rental agreement with Chong Sanders was termination.



ISSUE BEFORE THE BOARD

The issue for the Board to consider is whether or not it should exercise its broad discretion to approve a conditional 4th waiver.

FACTS WHICH SUPPORT THIS REQUEST

There are several facts and circumstances which support this extraordinary request.

First and foremost is the Licensee's ignorance as to the lengthy time necessary to accomplish a relocation of a Beverage Dispensary Liquor license, in particular, the Municipality's requirement of a Special Land Use Permit for any proposed location. Having not been actively operating for the previous three (3) years and before that hiatus, having been at a single location on Fireweed Land for several years, the Licensee was unfamiliar with the fact that it takes months and months to secure all of the necessary permits.

The Licensee is well aware that his ignorance on the regulatory process is not an excuse, but that ignorance and the difficulty in even finding a location, are factors for this Board to consider in regards to this 4th waiver request.

After several fruitless not trying to find location the Licensee believed that he had secured a location for his license in early September when he reached an agreement with Chong Sanders. Copy attached.

Unbeknownst to the Licensee, this rental agreement was with a premise that had an existing land use permit for sale of beer and wine only. The Licensee was not aware that he would have to secure a Special Land Use permit a beverage dispensary licensed operation from the Municipality.

After signing the one page rental agreement, in September the Licensee, without assistance from staff or legal counsel, prepared an application for a transfer of location of his beverage dispensary license. Advertising for the new location began September 5th.

The Licensee filed the transfer of location application on September 24th. The staff promptly reviewed that application on September 25th. When the application for transfer of location was reviewed by staff numerous errors were found. As a result, the staff required the Licensee to re-advertise the transfer application which was completed October 14th and the affidavit publication was refiled October 16th.



The Board should be aware that, starting at the end of September, the Board's staff worked diligently with the Licensee in his efforts to relocate so the license could be operated this year. Had the Licensee gone to the staff in September, prior to completing and posting the initial relocation application with its numerous mistakes, it might have been possible to operate this license in 2018. Of course, that assumes that the Municipality could have approved the change in the Special Land Use permit to allow the relocation and operation of a beverage dispensary license at a premise licensed as a restaurant with a restaurant/eating place license Special Land Use permit.

In mid-October, the Licensee was advised by Municipal staff that the Municipality would not be able to review and approve a new Special Land Use permit for as Beverage Dispensary license at the proposed location until January, 2019. That information was a stake in the heart for the Licensee. He then informed the Chong Sanders that he could not proceed further with their agreement.

TIME LINES

The Board's transfer process is a minimum of 2 to 3 months assuming no mistakes are made and the timing of staff, Board and Municipal review is not extended. The Municipal's permitting process to obtain a new Special Land Use permit and to secure a non-protest of the relocation of the license is 3 to 4 months. Even if both applications are made and processed concurrently, transferring the location of a Beverage Dispensary Liquor license takes between 4 to 6 months if the process involves both the Board and the Municipality.

The Licensee was completely unaware of these time lines. He was also not aware that the Special Land Use permit at his chosen location did not permit the use of a Beverage Dispensary License. Had he understood these circumstances and assuming he could have found a location earlier, he would have started this process much, much earlier and would have undoubtedly found a location with a Beverage Dispensary License land use permit.

Unfortunately for the Licensee, he did not seek staff's assistance when he first started the relocation process in early September. This failure on the Licensee's part to properly complete the initial application correctly, being required to re-advertise the location transfer application and not knowing of the Municipalities requirement for a Special Land Use permit, made it impossible to secure the Board's approval of the relocation at its October Board meeting.



We cannot resist adding that had the Licensee, at the beginning of this process, sought advice from experienced attorneys, he would have begun the process shortly after the January 2018 Board meeting. Our Law Firm is fully aware of these lengthy time lines and the opportunities for delays that occur all too frequently.

As a result of these factors, the Licensee now finds himself where he is forced to plead for a conditional 4th waiver resulting mainly from his lack of understanding of the regulatory circumstances that exist in Anchorage, Alaska in 2018.

In the absence of this Board's grant of a conditional 4th waiver, the Licensee will lose an asset worth at least \$225,000.00.

PROPOSAL FOR THE BOARD'S CONSIDERATION

In order to ensure that any 4th waiver that the Board might grant can be revoked by the Board if the Licensee fails to meet the following requirements, the Licensee proposes that the Board impose the following conditions:

1) Require that a premises lease or purchase agreement for the relocation of the liquor license be filed with the Board on or before January 31, 2019.

-We are currently negotiating with three (3) premises all of which hold a Special Land Use permit for sales by Beverage Dispensary Licensee.

-If we are successful in reaching an agreement, we intend to submit a Letter of Intent well in advance of the Board's December meeting.

2) The Licensee will not sign a Rental Agreement/Lease with any location unless there is a valid existing Special Land Use permit in place.

-Note that the Law Firm has advised the Licensee that he must secure a premise that has a valid Special Land Use permit from the Municipality for the sale of alcohol with a beverage dispensary license.

-This will shorten the time frame for approval of the relocation and the commencement of operations.



3) Require that a location transfer application be advertised and subsequently filed with the Board by February 1, 2019.

4) Require that the Licensee begin operations no later than July 1, 2019.

-Allow one thirty (30) day extension of this deadline if all permits and applications that are required have been timely filed with the Municipality, but the Municipality has not yet addressed these applications (i.e. Non-protest letter not provided to the Board).

5) In the event the Licensee fails to comply with these conditions or any other requirements that the Board may impose as a condition of the grant of a 4th waiver, the license **shall be forfeit**.

CONCLUSION

The situation in which the Licensee finds himself is, in part, one of his own making based on a lack of understanding of the time it currently takes to secure a location and to transfer the location of a license. Having operated for several years at one location and subsequently having three annual operation waivers, created a circumstance where the Licensee's knowledge of the regulatory hurdles was virtually non-existent.

Couple that with the difficulties in finding a location and with mistakes in the initial transfer application process and a lack of understanding of the processes of the Municipality, resulted in the Licensee being unable to operate in 2018.

The question for the Board is a simple one. Should the Board use its discretion to grant a 4th waiver based on the facts of this matter as set out above. Given those facts, the Board could conclude that, while the Licensee made mistakes, his 3-year absence from the business, his lengthy operation at one location and his lack of knowledge as to the Municipality's requirements, is understandable and arguably excusable by the Board.

The ultimate question for the Board is this. Is forfeiture an appropriate sanction for the Licensee not starting soon enough and for his ignorance of the ordinances of the Municipality? Loss of this License is a very severe penalty for a combination of ignorance and mistakes not misconduct and not malfeasance.

The Licensee is asking the Board to grant him one last opportunity to save his license. If the Board does grant the Licensee this last chance opportunity, our Law Firm will insure that the conditions set out herein and any others that the Board might require, will be promptly and properly met.



If the Board is not willing to exercise its discretion to allow a 4th waiver, the Licensee will lose a license with a minimum value of \$225,000.00.

Thank you for your consideration of this unusual request. On behalf of our client we hope you will find your way to grant the requested conditional 4th waiver.

DATED at Anchorage, Alaska this 27rd day of November, 2018.

Ernouf & Coffey, PC



Dan K. Coffey
Alaska Bar Number 75-0501



2018

- o March learned online of third waiver
- o March Beluga Billiards, 3841 Dimond, building not in use
- o March Kobuk, 504 West Fourth, for sale
- o April 2210 East Northern Lights, leased out
- o April 302 G Street, for sale [\$189,000.00]
- o April 400 Sitka, for sale [80,000.00]
- o May Yak and Yeti, Spenard Road, for sale, in use
- o May Alaska Alchemist, Fourth and A, no call return
- o May Fairbanks Street, empty building
- o May Crazy Hook Pub, 601 West 36th
- o June Office Lounge, Northern Lights
- o June 4216 Spenard [Arkansas Drive], empty building
- o June Old Quiznos, 710 Northern Lights, leased out to

pulltabs

- o June Rolf's Sports Bar, 3515 Mountain View, closed for

summer

- o July 550 West 64th, empty warehouse
- o July Nielsen Way, 64th and Arctic, empty warehouse
- o August Chilkoot Charlies, Spenard Road
- o August Out of Box, 3807 Spenard Road, not in use
- o August Center Bowl, Spenard and Minnesota
- o August TK Korean, restaurant open, August 10



ADDENDUM TO MEMO TO BOARD

To: Erika McConnell
From: Dan Coffey
Cc: Amanda Shawcross
Re: Steve Fibranz
Date: 11-28-18

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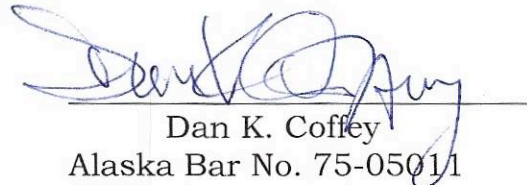
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Thank You,

Mikal Milton
Records and Licensing Supervisor
Alcohol and Marijuana Control Office

In addition, attached to you find a Letter of Intent to lease an existing licensed premises. I will provide details to you about this Letter of intent when we meet. Please make sure this Addendum is submitted to the Board along with our initial filing yesterday.

Thank you.


Dan K. Coffey
Alaska Bar No. 75-05011

LETTER OF INTENT
Lease of the Woodshed

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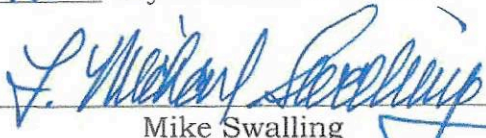
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DATED at Anchorage, Alaska this 28th day of November 2018.

Steve Fibranz
On behalf of Steve's Sports Bar



Mike Swalling
On behalf of the Woodshed, Incorporated