



MEMORANDUM

TO: Alcoholic Beverage Control Board DATE: November 12, 2019
FROM: Erika McConnell, Director RE: 301 Lancaster's

Requested Action: 4th Waiver Application; transfer of ownership and DBA change

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

3 AAC 304.170(b): "A licensee may apply to the board, requesting that the board waive the operating requirement of AS 04.11.330(a)(3)... Under AS 04.11.330(a)(3), the board will determine whether, through no fault of the licensee or because the premises are under construction, the licensed premises could not be operated for the required time during the preceding calendar year."

3 AAC 304.170(e): "The board will, in its discretion, deny a third or subsequent consecutive application for waiver unless the licensee clearly shows that the licensed premises were not operated because the premises were condemned or substantially destroyed by any cause. If the premises identified on an applicant's license are not leased or owned by the licensee, the third or subsequent application will, in the board's discretion, be denied. Additionally, a third or subsequent consecutive application for waiver that does not identify a licensed premises location will, in the board's discretion, be denied."

AS 04.11.040(a): "A license issued under this title may not be transferred to another person except with the written consent of the board."

Staff Rec.: Deny the 4th waiver request; hold a public hearing on the objection; approve the transfer with delegation

Background: On February 19, 2019, the board approved a third waiver for 2018 for this license with the caveat that a fourth waiver will not be granted. Notice of the board's action, including the caveat, was mailed and emailed to the licensee on February 25, 2019.

First and second waivers for Foxglove, LLC were approved for 2016-2017. Prior to the transfer of this license to Foxglove in 2016, license #301 was held by Del Rois Package Store Inc. which was granted waivers for 2014 and 2015. The license has not been operated for six years (2014-2019).

The licensee does not qualify for a fourth waiver—the license has been in “no premises” status since 2016 so there is no premises to have been condemned or substantially destroyed. The regulation at 3 AAC 304.170(e) specifically states 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.

Although the licensee has found a buyer for the license, the proposed new owner, Lancaster’s, LLC, does not have a location for the license and proposes to keep it at “no premises.”

Although the fourth waiver should be denied, because the license is not up for renewal until the end of 2020, the license would not expire if the board approves the fourth waiver. Instead, 3 AAC 304.170(g) would apply, which says, “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).” Thus there is no reason not to approve the transfer with delegation (note objection from the Department of Labor – Employment Security). If the license owner applies for renewal at the end of 2020, then the board would deny the renewal at that time.

Attachment: February 19, 2019, ABC Board minutes (excerpt)
February 25, 2019, letter to licensee
Waiver application
DOL objection
Transfer application



**Alcoholic Beverage Control Board
Meeting Minutes
February 19-20, 2019
First Judicial District
Alaska State Library
395 Whittier Street
Juneau, Alaska**

● **ADMINISTRATION**

9:00 am

A. Call to Order

9:01 am

B. Roll Call

Board Members Present

Bob Klein, Chair, Industry Member

Rex Leath, Vice Chair, Public Safety Member

Glenn Brady, Industry Member

Robert (Bobby) Evans, Rural Member

Sara Erickson, Public Member

Staff Present

Erika McConnell, Director

Mikal Milton, Records and Licensing Supervisor

Legal Counsel Present

Harriet Milks, Assistant Attorney General

C. Approval of Agenda

9:04 am

Erika McConnell states that Tab 15, the appeal of denial of catering permits for license 4763 DBA Bobby's Downtown has been withdrawn. She states that items T, U, and Y under the Delegated Consent Agenda are Public Convenience licenses that are currently scheduled for consideration with the Delegated Consent Agenda. She requests that the applications for licenses 5737 DBA Mexi Co, 5738 DBA The Smokehouse, and 5746 DBA Allen Marine Tours be considered separately from the remainder of the Delegated Consent agenda. Tabs for each item are provided to the board on their laptops.

Department of Labor Employment Security non-compliant.

Bob Klein summarizes the information in Tab 25.

Glenn Brady moves to approve license 4274 with delegation (including resolution of the DOL objection).

Rex Leath seconds the motion.

None opposed, motion carries

C. 5299 Royal Princess: Princess Cruise Lines, Ltd.

TAB 26

Alaskan Waters

License: Common Carrier – Seasonal

From: Emerald Princess

Transfer of location and DBA change.

Approved: Department of Revenue

Pending: Department of Labor

Background investigations: complete

Department of Labor Employment Security non-compliant.

Bob Klein summarizes the information for Tab 26.

Mikal Milton clarifies that staff made a clerical error in sending notification to the Department of Labor, but that applicants are still required to conform to all applicable laws; the DOL objection was lifted between the completion deadline and ABC meeting.

Glenn Brady moves to approve the transfer with delegation.

Rex Leath seconds the motion.

None opposed, motion carries.

● **WAIVERS OF MINIMUM OPERATING REQUIREMENTS**

A. Third Waiver Applications

Bob Klein states a conflict must be declared and recuses Glenn Brady for financial interest in license 3487 at Tab 29.

Bob Klein summarizes Tabs 27-29.

Sara Erickson and Bob Klein discuss the length of time that a licensee can be allowed to not have a premises.

Sara Erickson moves to grant third waivers for licenses 301 No DBA, 635 DBA La Mex, and 3487 DBA Salchaket Roadhouse, with the provision that a 4th waiver will not be granted.

Rex Leath seconds the motion.

Glenn Brady, as applicant who has submitted application for 3487 to purchase, states that he intends to operate license 3487 in 2019.

None opposed, motion carries 4-0.

Glenn Brady rejoins the meeting.

1. **301 No DBA: Foxglove LLC** **TAB 27**
No Premises, Matanuska-Susitna Borough
Waiver for 2018.
2. **635 La Mex: La Mexicana, Inc.** **TAB 28**
No Premises, Municipality of Anchorage
Waiver for 2018.
3. **3487 Salchaket Roadhouse: Thompson Ventures, LLC** **TAB 29**
No Premises, Fairbanks North Star Borough
Waiver for 2018.

B. Fourth Waiver Applications

1. **1566 Steve's Sports Bar and Grill: SLF International, Inc.** **TAB 30**
No Premises, Municipality of Anchorage
Waiver for 2018.

Dan Coffey, counsel, and Steve Fibranz, licensee, are present in person to discuss the application. Steve Fibranz summarizes that he has been attempting to find a premises for his license.

Dan Coffey states that he has never seen a fourth waiver being approved, and then he discusses the reasons he finds to approve the 4th waiver. He references 'mistakes' that have been made. He states that Fibranz didn't realize that a 4th waiver would not be granted until September of 2018, and that he feels that due process was not observed. He says that the SLUP Process is overly complicated within the Municipality. He states that the board is allowed to have substantial discretion. He discusses the agreement in place with license 1244 DBA The Woodshed.

Glenn Brady clarifies that there is currently a lease agreement with The Woodshed.

Bob Klein states that Fibranz did not attend the meeting that was held January 23rd last year where his 3rd waiver was approved.

**Glenn Brady moves to grant the 4th waiver with the recommendation presented in page 15 of 52 regarding the fees and other conditions on the waiver.
No second.**

Bob Klein states that a corresponding motion would be to deny the application.

**Bobby Evans moves to deny the 4th waiver.
Sara Erickson seconds the motion.**

*Bobby Evans states that he does not find there to be extenuating circumstances.
Rex Leath states that in the tab it says that the customary notice was why the licensee was unable to operate and he feels that notice not being given is not a reason to not operate. Page 4- 25 indicate that location seems to be a problem with the owner and not destruction of premises. Page 7 discusses the value of the license, and Rex*



THE STATE
of ALASKA
GOVERNOR MICHAEL J. DUNLEAVY

Department of Commerce, Community,
and Economic Development

ALCOHOL & MARIJUANA CONTROL OFFICE
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

February 25, 2019

Foxglove LLC
No DBA
3201 Tamarak Avenue
Wasilla, AK 99654

Re: No DBA, License #301

Dear Foxglove LLC:

At the February 19, 2019, meeting of the Alcoholic Beverage Control Board in Juneau, Alaska, the board voted to approve your 3rd waiver of operations for the 2018 calendar year. As part of their motion, the board indicated that **they will not approve a fourth waiver of operations.**

Please contact alcohol.licensing@alaska.gov with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Erika McConnell".

Erika McConnell
Director

cc: License File
Matanuska-Susitna Borough



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

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:	Foxglove, LLC	License Number:	301		
License Type:	Beverage Dispensary - Seasonal				
DBA:	No D.B.A.				
Premises Address:	No Premises				
City:	No City	State:	Alaska	ZIP:	NA
Local Governing Body:	Matanuska-Susitna Borough				

Section 2 – Request Number and Calendar Year

1st Request
 2nd Request
 3rd Request
 Other 4th (with transfer to new owner)

Request for Calendar Year 2019





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:

The licenses was listed with Mat-Su Realty & Appraisal Keller Williams Alaska Group for sale in 2018. On June 5, 2019 we came under contract with Lance Hall, for the purchase of the license. Since that time, we have been informed that the buyer has been working diligently on the license transfer process. We have since been informed that the transfer is scheduled for consideration at the November 2019 ABC Board Meeting. Buyer has requested that Foxglove complete this form as a requirement of the transfer.

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

Ashlee Stetson

Printed name of licensee



Notary Public in and for the State of Alaska.

My commission expires: 05/05/22

Subscribed and sworn to before me this 8th day of October, 2019.

Office Use Only			
Waiver Application Fee:	<u>5000 -</u>	Late Fee:	
		Transaction #:	<u>1158766 & 1158769</u>



THE STATE of ALASKA

GOVERNOR MICHAEL J. DUNLEAVY

Department of Commerce, Community, and Economic Development

ALCOHOL & MARIJUANA CONTROL OFFICE

550 West Seventh Avenue, Suite 1600 Anchorage, AK 99501 Main: 907.269.0350

September 3, 2019

Department of Revenue
Department of Labor, Employment Security
Department of Labor, Workers' Compensation
Via email: theresa.mitchell@alaska.gov
elizabeth.glooschenko@alaska.gov
rizalina.olde@alaska.gov
velma.thomas@alaska.gov
erwin.fariolan@alaska.gov
dor.tax.collections@alaska.gov

SEP 03 2019
AFTO

Table with 2 columns: Field Name, Value. License Number: 301, License Type: Beverage Dispensary, Applicant: Lancaster's LLC, Doing Business As: Lancaster's, Transferee EIN: 84-2014956, Transferor EIN: 74-3030951

[X] Transfer of Ownership Application [] Transfer of Controlling Interest

AS 04.11.330(b) and AS 04.11.370(a)(6) require that an applicant for a liquor license operate in compliance with each applicable public health, fire, safety, and tax code and ordinance of the state and the local governing body in which the applicant's proposed licensed premises are located.

This letter serves to provide written notice and request for compliance status from the above referenced entities regarding the above application (see attached application documents for more information). Please complete and return this form to the AMCO office at alcohol.licensing@alaska.gov.

REVIEWER: [Signature] Liz Glooschenko

DATE: 9/12/19 PHONE: (907) 269-4836

[] DOR
[X] Employment Security
[] Workers' Compensation

[] Compliant [X] Non-compliant

COMMENTS: _____

If you have any questions, please send them to alcohol.licensing@alaska.gov.

Sincerely,

[Signature] Erika McConnell

Erika McConnell
Director, ABC Board



Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

What is this form?

This transfer license application form is required for all individuals or entities seeking to apply for the transfer of ownership and/or location of an existing liquor license. Applicants should review **Title 04 of Alaska Statutes** and **Chapter 304 of the Alaska Administrative Code**. All fields of this form must be completed, per AS 04.11.260, AS 04.11.280, AS 04.11.290, and 3 AAC 304.105.

This form must be completed and submitted to AMCO's main office, along with all other required forms and documents, before any license application will be considered complete.

Section 1 – Transferor Information

Enter information for the **current** licensee and licensed establishment.

Licensee:	Foxglove LLC	License #:	301
License Type:	Beverage Dispensary	Statutory Reference:	04.11.090
Doing Business As:	No D.B.A		
Premises Address:	No Premises		
City:		State:	
		ZIP:	
Local Governing Body:	Matanuska-Susitna Borough		

Transfer Type:

- Regular transfer
- Transfer with security interest
- Involuntary retransfer

OFFICE USE ONLY			
Complete Date:		Transaction #:	
Board Meeting Date:		License Years:	
Issue Date:		BRE:	



Alaska Alcoholic Beverage Control Board Form AB-01: Transfer License Application

Section 2 – Transferee Information

Enter information for the **new** applicant and/or location seeking to be licensed.

Licensee:	Lancaster's LLC				
Doing Business As:	Lancaster's				
Premises Address:	No Premises (Transfer License only)				
City:		State:		ZIP:	
Community Council:	N/A				

Mailing Address:	1871 North Driftwood Circle				
City:	Palmer	State:	AK	ZIP:	99645

Designated Licensee:	Lance T. Hall				
Contact Phone:	907-715-4638	Business Phone:	907-715-4638		
Contact Email:	aklancasters@gmail.com				

Seasonal License? Yes No If "Yes", write your six-month operating period: _____

Section 3 – Premises Information

Premises to be licensed is:

- an existing facility a new building a proposed building

The next two questions must be completed by beverage dispensary (including tourism) and package store applicants only:

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the outer boundaries of the nearest school grounds? Include the unit of measurement in your answer.

No Premises (Transfer License only)

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the public entrance of the nearest church building? Include the unit of measurement in your answer.

No Premises (Transfer License only)

AMCC
JUL 1 2 2019



Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Section 4 – Sole Proprietor Ownership Information

This section must be completed by any sole proprietor who is applying for a license. Entities should skip to Section 5. If more space is needed, please attach a separate sheet with the required information. The following information must be completed for each licensee and each affiliate (spouse).

This individual is an: applicant affiliate

Name:					
Address:					
City:		State:		ZIP:	

This individual is an: applicant affiliate

Name:					
Address:					
City:		State:		ZIP:	

Section 5 – Entity Ownership Information

This section must be completed by any entity, including a corporation, limited liability company (LLC), partnership, or limited partnership, that is applying for a license. Sole proprietors should skip to Section 6. If more space is needed, please attach a separate sheet with the required information.

- If the applicant is a corporation, the following information must be completed for each *stockholder who owns 10% or more* of the stock in the corporation, and for each *president, vice-president, secretary, and managing officer*.
- If the applicant is a limited liability organization, the following information must be completed for each *member with an ownership interest of 10% or more*, and for each *manager*.
- If the applicant is a partnership, including a limited partnership, the following information must be completed for each *partner with an interest of 10% or more*, and for each *general partner*.

Entity Official:	Lance T. Hall				
Title(s):	Member	Phone:	907-715-4638	% Owned:	100
Address:	1871 North Driftwood Circle				
City:	Palmer	State:	Ak	ZIP:	99645





Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

This subsection must be completed by any applicant that is a corporation or LLC. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations (DOC) and have a registered agent who is an individual resident of the state of Alaska.

DOC Entity #:	10107457	AK Formed Date:	6/6/2019	Home State:	Alaska
Registered Agent:	Lance T. Hall	Agent's Phone:	907-715-4638		
Agent's Mailing Address:	1871 North Driftwood Circle				
City:	Palmer	State:	AK	ZIP:	99645

Residency of Agent: Yes No

Is your corporation or LLC's registered agent an individual resident of the state of Alaska?

AMCO
 JUL 12 2019



Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Section 6 – Other Licenses

Ownership and financial interest in other alcoholic beverage businesses:

Yes No

Does any representative or owner named as a transferee in this application have any direct or indirect financial interest in any other alcoholic beverage business that does business in or is licensed in Alaska?

If "Yes", disclose which individual(s) has the financial interest, what the type of business is, and if licensed in Alaska, which license number(s) and license type(s):

Section 7 – Authorization

Communication with AMCO staff:

Yes No

Does any person other than a licensee named in this application have authority to discuss this license with AMCO staff?

If "Yes", disclose the name of the individual and the reason for this authorization:



Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Section 8 - Transferor Certifications

Additional copies of this page may be attached, as needed, for the controlling interest of the current licensee to be represented.

I declare under penalty of perjury that the undersigned represents a **controlling interest** of the current licensee. I additionally certify that I, as the current licensee (either the sole proprietor or the controlling interest of the currently licensed entity) have examined this application, approve of the transfer of this license, and find the information on this application to be true, correct, and complete.

[Signature]
Signature of transferor

Angela Steffen
Printed name of transferor

Subscribed and sworn to before me this 28 day of July, 2019.



[Signature]
Signature of Notary Public

Notary Public in and for the State of Alaska

My commission expires: 7/21/2020

[Signature] JH
Signature of transferor

Jane T. Hall
Printed name of transferor

Subscribed and sworn to before me this 2nd day of July, 2019.



[Signature]
Signature of Notary Public

Notary Public in and for the State of AK

My commission expires: 11-01-2020



11-19-2019



Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Section 9 – Transferee Certifications

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

Initials

I certify that all proposed licensees (as defined in AS 04.11.260) and affiliates have been listed on this application.

SH

I certify that all proposed licensees have been listed with the Division of Corporations.

SH

I certify that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.

SH

I certify that all licensees, agents, and employees who sell or serve alcoholic beverages or check the identification of a patron will complete an approved alcohol server education course, if required by AS 04.21.025, and, while selling or serving alcoholic beverages, will carry or have available to show a current course card or a photocopy of the card certifying completion of approved alcohol server education course, if required by 3 AAC 304.465.

SH

I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.

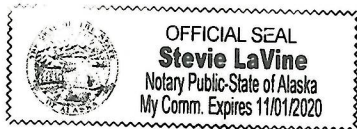
SH

As an applicant for a liquor license, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete.

Lance T. Hall
Signature of transferee

Lance T. Hall
Printed name

Subscribed and sworn to before me this *2nd* day of *July*, 20 *19*.



Stevie LaVine
Signature of Notary Public

Notary Public in and for the State of *AK*.

My commission expires: *11-01-2020*