THE STATE of ALASKA
GOVERNOR BILL WALKER

Department of Commerce, Community, and Economic Development

ALCOHOL & MARIJUANA CONTROL OFFICE
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MEMORANDUM

TO:	Chair Mlynarik and Members of the Board	DATE:	May 15, 2017
FROM:	Erika McConnell, Director	RE:	True Dank, LLC #11053 Retail Marijuana Store

At the April 4-5, 2017, board meeting, the board tabled this application due to questions about whether or not a daycare facility, which is approximately 150 feet from this proposed facility, is a "recreation or youth center" as defined in 3 AAC 306.990(b)(35). The owners of True Dank are also the owners of the standard marijuana cultivation facility, Northlink. Both facilities are intended for the same address, in two different suites.

Assistant Attorney General Milks provided the following:

> It is commonly understood that at a minimum, a daycare is a facility that is
> - operated by a public or private organization
> - licensed to provide shelter, training, or guidance for persons under 21 years of age.
>
> These same characteristics define "recreation or youth center" in the regulation. Typically, a daycare is housed in a building or structure, and the training and guidance is geared to the needs of very young children, and may include fundamental lessons in dressing, feeding, conflict resolution, and personal hygiene as well as elementary education. Other kinds of facilities cater to older children and teens; these may include athletic playing fields or playgrounds run by local governments. These, too, are within the definition at 3 AAC 306.990(b)(35).
>
> To be sure, the definition captures a wide range of facilities, but they all are places where persons under the age of 21 congregate and may spend significant amounts of time. The board determined that siting a marijuana establishment in close proximity to such a place would run the risk of exposing underage persons to marijuana – something our statute and the federal guidance are committed to preventing.

Ms. Milks further noted that it might be instructive to review HSS-related statute and regulation, although they are not controlling for the board:

> AS 47.25.095(3)
> "day care" means the care, supervision, and guidance of a child or children unaccompanied by a parent or legal guardian on a regular basis for periods of less than 24 hours a day.

> 7 AAC 57.990(4)
> (4) "child care" or "care" means the supervision and provision of developmental opportunities, with or without compensation, to a child who does not have a parent present; "child care" or "care" includes services in or away from the child care facility.

We received an objection to this application on March 17, 2017, which is included in your packet, although it does not meet the 30 day deadline given in 3 AAC 306.065, which was March 5, 2017 (date of corrected newspaper ad—February 3—plus 30 days).

The City of Fairbanks sent a protest of this application on April 4, 2017, pending a Certificate of Occupancy issued by the City Building Department and the Fairbanks Police Department's public safety concerns with the parking lot are addressed. On May 1, 2017, we received notice that the city lifted their protest.

The City of Fairbanks has informed the staff that they have assumed that any completed application they receive has been verified by AMCO staff to have met all state regulatory requirements, and the City has not been verifying compliance with 3 AAC 306.010(a). Our Fairbanks enforcement team found the measurement between the proposed location and the daycare at 1554 Stacia Street to be 324 feet, and between the proposed location and the church at 1465 Lacey Street to be 614 feet (521 feet if you cut through a parking lot).

Documentation provided by the applicant at the last meeting shows that AMCO guidance on this issue has been inconsistent.

Recommendation: Deny the license application due to not meeting the separation from a recreation and youth center as required by 3 AAC 306.010(a).