



MEMORANDUM

TO: Peter Mlynarik, Chair, and
Members of the Board

DATE: July 12, 2017

FROM: Erika McConnell, Director
Marijuana Control Board

RE: Regulations Project – Timing of Public
Objections

Summary: The application procedure and the public participation regulations are in conflict and staff recommends the Marijuana Control Board clarify regulation intent regarding public objections to marijuana license applications.

Under the current regulations and license application process, a licensee is required to post notice as soon as the marijuana license application is initiated. That notice gives the public 30 days to object to the license. However, completed applications are not easily available to the public for review until much closer to a Marijuana Control Board meeting. In an analysis of 118 applications, the average time between when the notice was posted and when the application was completed was 115 days, and the longest was 333 days. If a member of the public wishes to object to a license application, that objection must come in during the very early stages of initiation of an application, before the license application is complete or a detailed operations plan has been formalized, or perhaps even conceptualized by the applicant. This creates an objection that the board will almost certainly view as arbitrary, capricious, and unreasonable, as it can contain no specifics or details of the proposed facility. The Board is then forced into the position of rarely or never responding to public objections, and the public is not given a meaningful opportunity to comment.

Staff is providing two options to the Board for your consideration.

Option 1 would move the objection period to be 30 days after an application is deemed complete and submitted to the local government. This would mean that the Board would not be able to consider applications for 30 days after being deemed complete, as the Board will need to review the public objection. Resolution of objections are not something that can be resolved by the director through delegation.

Option 2 changes the regulations to mirror the alcohol licensing regulations, which allow the public to submit an objection without a deadline. The Board would have the discretion to hold a public hearing if the Board felt one was warranted due to the objection(s).

Recommendation: Choose a version and put out for public comment.

MCB Draft Regulation: **Public Objection Process Version 1**

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

3 AAC 306.065 is amended to read:

A person may object to an application for a new license, renewal of a license, or transfer of a license to another person by submitting a written statement of reasons for the objection to the board and the applicant **not later than 30 days after the director has determined the application is complete and has given written notice to the local government according to 3 AAC 306.025.** [NOT LATER THAN 30 DAYS AFTER NOTICE OF THE APPLICATION, BUT NOT LATER THAN THE DEADLINE FOR OBJECTIONS STATED IN A POSTED OR PUBLISHED NOTICE OF THE APPLICATION]. The objection must be sent to the applicant at the mailing address or electronic mail address provided in the notice of application **and also to the Alcohol and Marijuana Control Office.** If the board determines to conduct a public hearing under this section, an interested person may give oral testimony at the public hearing.

MCB Draft Regulation: **Public Objection Process Version 2**

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

3 AAC 306.065 is amended to read:

A person may object to an application for a new license, renewal of a license, or transfer of a license to another person by submitting a written statement of reasons for the objection to the board and the applicant [NOT LATER THAN 30 DAYS AFTER NOTICE OF THE APPLICATION, BUT NOT LATER THAN THE DEADLINE FOR OBJECTIONS STATED IN A POSTED OR PUBLISHED NOTICE OF THE APPLICATION]. The objection must be sent to the applicant at the mailing address or electronic mail address provided in the notice of application **and also to the Alcohol and Marijuana Control Office**. If the board determines to conduct a public hearing under this section, an interested person may give oral testimony at the public hearing.

3 AAC 306.075 (a) (2) is repealed:

(2) Repealed __/__/____.