



MEMORANDUM

TO: Mark Springer, Chair, and
Members of the Board

DATE: December 20, 2018

FROM: Erika McConnell, Director
Marijuana Control Board

RE: Regulations Project – Protest by Local
Government

The board requested draft language for this project at the June 2018 meeting.

This change would require local governments to indicate whether or not their protest was a conditional protest. A conditional protest would be defined as a protest based on the applicant not having some local government approval that they are expected to acquire within a reasonable period of time. Examples include conditional use permits, special land use permits, and local marijuana licenses. For applications with conditional protests, the board would be able to approve with delegation rather than denying with an abeyance period. Non-conditional protests would be for all other issues, and the existing language that states that the board must deny an application with a (non-conditional) protest unless the board finds the protest arbitrary, capricious, and unreasonable, would remain.

This distinction will allow applications with conditional protests to move more easily through the system, and when a conditional protest is received after a delegated approval by the board, the application would not need to come back before the board.

Options for the board:

- Open a regulations project and put draft out for public comment as written
- Open a regulations project, amend draft, and put out for public comment
- Send back to staff for revisions
- Close the project without action

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

3 AAC 306.060(a) is amended to read:

(a) Not later than 60 days after the director sends notice of an application for a new marijuana establishment license, renewal of a marijuana establishment license, license conversion, or transfer of a marijuana establishment license to another person, a local government may protest the application by sending the director and the applicant a written protest and the reasons for the protest. The director may not accept a protest received after the 60-day period. **If the protest is a conditional protest, the board will require the applicant to show to the board's satisfaction that the requirements of the local government have been met before the director may issue the license. If the protest is not a conditional protest,** [IF A LOCAL GOVERNMENT PROTESTS AN APPLICATION FOR A NEW OR RENEWAL LICENSE, FOR A LICENSE CONVERSION, OR FOR A TRANSFER OF A LICENSE TO ANOTHER PERSON,] the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable.

3 AAC 306.060(d) is amended to read:

(d) In this section,

(1) "local government" means each local government with jurisdiction over the licensed premises;

(2) "conditional protest" means a protest by a local government based on requirements of the local government which the applicant must meet before licensure, and that the applicant has not yet met but that the local government expects the applicant will

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be able to meet within a reasonable period of time. (Eff. 2/21/2016, Register 217; am
12/28/2017, Register 224; am ___/___/_____, Register _____; am ___/___/_____, Register
_____)

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200
 AS 17.38.070 AS 17.38.190 AS 17.38.900
 AS 17.38.121