



## MEMORANDUM

TO: Marijuana Control Board                      DATE: November 13, 2019

FROM: Erika McConnell, Director              RE: 4<sup>th</sup> Ave Cannabis Company #16965,  
Retail Store

This application for a retail store, proposed to be located at 1036 E. 4<sup>th</sup> Avenue in Anchorage, was submitted by Barely Legal, Inc, which is owned by Donald Brooks 25%, Lucas Cooper 25%, and Rodney Hill 50%.

This application came before the board on May 2, 2019, and the board voted to deny the application with a 120 day abeyance due to a protest from the Municipality of Anchorage for lack of a municipal marijuana license and special land use permit.

The protest was not lifted and I did not receive a request for extension of the abeyance period by the abeyance deadline; therefore the license was denied.

The applicants submitted a request for an informal conference with me. At the informal conference they provided an explanation regarding why no abeyance extension request was submitted. Please find the explanation attached.

I recommend that the board reconsider the denial and approve the license application with delegation.

Attachments: Request for reconsideration of denial



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October 22, 2019

Honorable Marijuana Control Board  
Erika McConnell, Director  
*Via email*

Re: Abeyance Expiration for 4<sup>th</sup> Ave Cannabis Company License number 16965

Dear Director McConnell and Honorable Marijuana Control Board Members:

I am writing on behalf of 4<sup>th</sup> Ave Cannabis Company License Number 16965 regarding the expiration of abeyance period. This license was considered by the Board on or about May 2<sup>nd</sup>, 2019. The board granted 4<sup>th</sup> Ave Cannabis a 120-day abeyance period to satisfy the Special Land Use Permit requirements of the Municipality of Anchorage. On May 15<sup>th</sup>, the new regulation came into effect that changed the regulation to allow for “conditional protests” for local governments, which now allows the MCB to approve a license over the conditional protest by a local government. However, this license was considered 13-days prior to the effective date of said regulation (codified at 3AAC 306.060). The abeyance period for this license expired on Sept. 4, 2019. Around the middle to end of August, my office sent out several abeyance requests for licenses that were also approved in the May 2019 meeting and had expired abeyance period dates of Sept. 4, 2019. 4<sup>th</sup> Ave Cannabis Company abeyance extension request should have been transmitted to AMCO during that same time frame, but it was not, due to fault by my office. The Director and I met for an informal conference on this issue October 4<sup>th</sup> and the Director provided recommendation to draft this letter to the Marijuana Control Board.

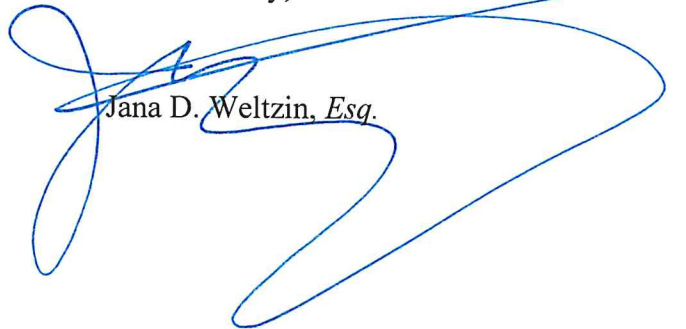
In mid-August, our office underwent a change in email and server platforms – shortly after the change we experienced several communication email failures, messages being trapped in outbox, and other disruptive impacts. Upon receiving the letter from Director McConnell alerting my client that his abeyance period expired, my staff combed thru their sent messages and could not find a sent message transporting the abeyance extension request to AMCO – I then went and searched all the outbox folders and found that in fact the message was in one of my staff’s outboxes and never left the office and was never transmitted to AMCO. This is entirely my fault, not the applicant.

Accordingly, due to the intent of the board to approve the license pending protest lift from the municipality of anchorage, we respectfully request this Board approve the license with delegation under the regulations codified at 3 AAC 306.060. The community council for the area where this license sits just recently agreed to enter into a Neighborhood Responsibility Plan with the Licensee, which allows the licensee to start the special land use permit Anchorage process. Accordingly, we have no indication or reason to believe this license won't be approved by the Anchorage Assembly.

My office has never missed an abeyance period deadline before for its clients until the change over of email and server platforms (this licensee and one other licensee around this exact time frame addressed in separate correspondence missed the abeyance deadlines). The IT issue that resulted from the switch of platforms was short-term and I believe we have now flushed out all the problems and the new platform should be working smoothly, but in all honesty, technology has never been one of my strong points and I apologize for the time this issue has taken up for the staff, the Director, this Board, and most importantly, my client. Please approve this license with delegation per 3 AAC 306.060.

Thank you for your consideration.

Sincerely,



Jana D. Weltzin, *Esq.*