



MEMORANDUM

TO: Marijuana Control Board DATE: November 13, 2019

FROM: Erika McConnell, Director RE: Bristol Bay Bud Company #17452,
Standard Cultivation

This application for a standard marijuana cultivation facility, proposed to be located at 2439 S. Ridgecrest in the Matanuska-Susitna Borough, was submitted by Bristol Bay Bud Company, LLC, which is owned HRGS Enterprises, LLC. HRGS Enterprises, LLC is owned by Gorden Issacs, Heather Allen, Richard Allen, and Susan Issacs at 25% each.

This application came before the board on February 21, 2019, and the board voted to approve the license with delegation. In March of 2019 the Matanuska Susitna Borough submitted a timely protest due to the applicant's lack of a conditional use permit and MSB business license. On May 1, 2019, the board considered the protest, voted to rescind the approval with delegation, and denied the application with a 120 day abeyance.

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 the protest was not lifted and 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



Birch Horton Bittner & Cherot

a professional corporation

Jason Brandeis

Respond to Anchorage Office
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October 24, 2019

VIA ELECTRONIC DELIVERY

erika.mcconnell@alaska.gov

Erika McConnell
Director
Alcohol & Marijuana Control Office
State of Alaska

RE: Bristol Bay Bud Company, #17452
Our File No.: 507900.1

Dear Director McConnell:

This letter follows the informal conference held in your office on October 24, 2019 regarding denial of the License Application #17452 for a Standard Marijuana Cultivation Facility in the Matanuska-Susitna Borough.

This license application was initially approved with abeyance by the Marijuana Control Board in February 2019. In March 2019, the Borough filed notice of protest due to the applicant's lack of a conditional use permit (CUP) and Borough business license. Since the regulations changed around the time the initial approval with abeyance was issued, the Board took action consistent with the new regulations: in May 2019, the Board rescinded its previous approval, upheld the protest, and denied the license with a 120-day abeyance. The deadline for meeting the abeyance conditions (i.e., the Borough rescinding its protest) was September 4, 2019.

As explained during the informal conference, extenuating circumstances prevented the licensee from obtaining a CUP from the Borough during this time period. Specifically, two of the four members of HRGS LLC (the corporate entity which owns Bristol Bay Bud Company) experienced serious and life-threatening health emergencies during the past 9 months, and they are still recovering. These health emergencies prevented them from fully participating in the operations of the business, which directly affected progress towards obtaining the CUP. During this time, the other licensees faced significant emotional and financial stress while they tended to these health matters and attempted to move forward with opening their Retail Marijuana Store (#16915) in Dillingham. This likely also contributed to their confusion over the distinction between approval with delegation and denial with abeyance, and not realizing their corresponding responsibilities to notify the Board of their operational setbacks and request additional time sooner.

At this time the applicant has satisfied one of the conditions (obtaining a Borough business license) and is on track to satisfy the other in the near future. But due to the circumstances described above, the September deadline could not be met and additional time is needed. The

applicant therefore requests that the Board rescind the denial and approve the license application with delegation, pending the Borough withdrawing its protest.

We believe this approach is reasonable in light of the fact that the Borough protest is not based on an objection to the existence of the facility itself, but rather on the applicant's inability to thus far meet achievable, objective, procedural requirements. The applicant has otherwise demonstrated strict compliance with marijuana industry regulations, as demonstrated by the good standing of the licensed retail facility in Dillingham, and requests the Board's consideration of the extenuating circumstances surrounding this application.

Thank you for your time and consideration.

Sincerely,

BIRCH HORTON BITTNER & CHEROT



Jason Brandeis

JMB:sm