



## CITY OF WASILLA

290 E. HERNING AVE.

WASILLA, ALASKA 99654-7091

PHONE: (907) 373-9050

FAX: (907) 373-9085

### COUNCIL MEMORANDUM

NO. 96-51

FROM: Clerk's Office

DATE: May 9, 1996

SUBJECT: Liquor License Transfers

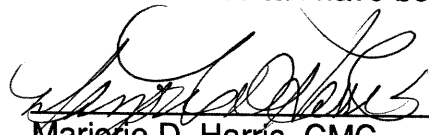
The City of Wasilla has received 2 applications for the transfer of liquor licenses, Kashim Inn and The Wine Seller.

Attached are the review sheets completed by each department affected by Council Policy 95-03. The Wine Seller has no existing violations. Kashim Inn is delinquent on water/sewer utilities, sales tax, real and personal property taxes and the hotel/motel bed tax.

#### Recommend:

1. The City of Wasilla file a letter of non-objection with the Alcohol Control Board to the transfer of the Wine Seller liquor license application.
2. The City of Wasilla file a letter of objection with the Alcohol Control Board to the transfer of the Kashim Inn until the sales tax, real and personal property taxes and the hotel/motel bed tax have been paid in full.

*water/sewer utilities*

  
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Marjorie D. Harris, CMC  
City Clerk

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

### ALCOHOLIC BEVERAGE CONTROL BOARD

TONY KNOWLES, GOVERNOR

550 W. 7TH AVENUE, STE. 350

Anchorage, Alaska 99501-6698

Phone: 907-277-8638

Fax: 907-272-9412

May 2 1996

Majorie D. Harris, Clerk  
City of Wasilla  
290 E. Herning  
Wasilla Ak 99687

RECEIVED

MAY 3 - 1996

CITY OF WASILLA, ALASKA

Dear Ms. Harris:

We are in receipt of the following application(s) for **transfer** of a liquor license(s) within the City of Wasilla. You are being notified as required by AS 04.11.520. Additional information concerning filing a "protest" by a local governing body under AS 04.11.480 is included in this letter.

#### BEVERAGE DISPENSARY/TOURISM

**Kashim Inn:** AK USA Federal Credit Union; William B Eckhardt/Pres.; Boyd S Bennett/Sec.-Treas.; Robert A Rylander/Exec. Vice Pres.; Douglas D Howlett/Sr. Vice Pres, Credit Admin.; 181 W Parks Hwy; Wasilla, 99687; Mail: P O Box 196613; Anchorage, 99519-6613. Transfer of ownership from: Kornegay Enterprises Inc **AS 04.11.360(4)(b)**; same location & dba.

A local governing body as defined under AS 04.21.080(11) may protest the approval of an application pursuant to AS 04.11.480 by furnishing the board and the applicant with a clear and concise written statement of reasons in support of a protest within 60 days of receipt of this notice. If a protest is filed, the board will not approve the application unless it finds that the protest is "arbitrary, capricious and unreasonable". Instead, in accordance with AS 04.11.510(b), the board will notify the applicant that the application is denied for reasons stated in the protest. The applicant is entitled to an informal conference with either the director or the board and, if not satisfied by the informal conference, is entitled to a formal hearing in accordance with AS 44.62.630. If the applicant requests a hearing, the municipality must come forward at the hearing with evidence and argument in support of your protest.

AS 04.11.480. Protest, subsection (a) states, in part, "A local governing body may protest the issuance, renewal, relocation, or transfer to another person of a license by sending the board and the applicant a protest and the reasons for the protest within 60 days of receipt from the board of notice of filing of the application. A protest received after the 60-day period may not be accepted by the board, and in no event may a protest cause the board to reconsider an approved renewal, relocation, or transfer. The local governing body may protest the continued operation of a license during the second year of the biennial license period by sending the board and the licensee a protest and the reasons for the protest by January 31 of the second year of the license period. The procedures for action on a protest of continued operation of a license are the same as the procedures for action on a protest of a renewal application."

Additionally, 15 AAC 104.145(b) through (g) reads as follows:

(b) No final action will be taken upon an application until at least 30 days after the receipt of notice by the local governing body unless it advises the director in writing that it is waiving its right to protest the application. No final action may be taken upon an application until at least 15 days after completion of public notice of the application.

(c) (To be repealed.)

(d) A local governing body protest will generally be considered not to be arbitrary, capricious, or unreasonable where

(1) the protest is made under an ordinance, resolution, or statement of policy adopted by the governing body before it considered the application, or the applicant otherwise had reasonable notice, before making application, of the factors to be considered and the standards applied by the local governing body;

(2) the applicant was provided a reasonable opportunity to defend the application before a meeting of the local governing body; and

(3) the protest has a reasonable basis in fact and is not contrary to law.

(e) A local governing body protest may be based upon facts that render the particular application objectionable to the local body, or may be based upon a general public policy. If based on a general public policy, the policy must have a reasonable basis in fact, may not be contrary to law, and may not be patently inapplicable to the particular application being protested. The board will not substitute its judgement for that of the local governing body on matters of public policy that have reasonable factual support.

(f) If the application is denied because of the protest and the applicant requests a hearing, the local governing body must, at the board's request, appear or otherwise meaningfully participate in the hearing and must assist in or undertake the defense of its protest.

(g) In addition to the other grounds for protest set out in this section, a local governing body may protest

(1) the renewal or transfer of a license based on nonpayment of delinquent taxes arising in whole or in part from the conduct of the licensed business; and

(2) the transfer of a license if

(A) the local governing body has adopted an ordinance under which it may estimate the amount of current taxes in the tax year of the proposed transfer and arising in whole or in part from the conduct of the licensed business; and require the licensee to pay the estimated amount; and

(B) the licensee fails to pay that amount or give security under AS 04.11.360.

**IF YOU WISH TO PROTEST THE APPLICATION(S) REFERENCED ABOVE, PLEASE DO SO IN THE PRESCRIBED MANNER AND WITHIN THE PRESCRIBED TIME. PLEASE SHOW PROOF OF SERVICE UPON THE APPLICANT.**

Under AS 04.11.420(a), the board may not issue a license or permit for premises in a municipality where a zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages, unless a variance of the regulation or ordinance has been approved. Under AS 04.11.420(b) municipalities must inform the board of zoning regulations or ordinances which prohibit the sale or consumption of alcoholic beverages.

If a municipal zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages at the proposed premises and no variance of the regulation or ordinance has been approved, please notify us and provide a certified copy.

**PROTEST UNDER AS 04.11.480 AND THE PROHIBITION OF SALE OR CONSUMPTION OF ALCOHOLIC BEVERAGES AS REQUIRED BY ZONING REGULATION OR ORDINANCE UNDER AS 04.11.420(a) ARE TWO SEPARATE AND DISTINCT SUBJECTS. Please bear that in mind in responding to this notice.**

Under AS 04.21.010(d), if applicable, you must provide notice to the appropriate community council within your municipality.

**NOTE: Applications applied for under AS 04.11.400(g), 15 AAC 104.335(a)(3), AS 04.11.909(e), AS 04.11.100(f) and 15 AAC 104.660(e) must be approved by the governing body.**

Sincerely,



Beth Nelson  
Records & Licensing Supervisor  
(907) 277-8638