Kodiak Island Borough
Office of the Borough Mayor
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January 17, 2025

Alcoholic Beverage Control Board
C/O Alcohol and Marijuana Control Office
550 West 7th Avenue, Suite 1600
Anchorage, Alaska 99501

Re: Protest of Renewal of Restaurant Eating Place License #3293

Dear Members of the Alcoholic Beverage Control Board,

The Kodiak Island Borough (KIB) has received notice of the application for the renewal of Restaurant Eating Place License (REPL) #3293, held by Second Floor Restaurant. The KIB Assembly, pursuant to **AS 04.11.480** and **3 AAC 305.085(a)**, formally protests the renewal of REPL #3293. The basis for this protest was communicated to the licensee by letter dated **January 6, 2025**, and an opportunity for an informal hearing on the protest was held on **January 16, 2025**.

AS 04.11.480 and **3 AAC 305.085** permit local governments to protest the renewal of an existing liquor license based on facts that make the application objectionable to the local governing body or based on general public policy (3 AAC 305.085(e)).

The KIB Assembly objects to the renewal of License #3293 on the grounds outlined below, which both address specific facts that make the application objectionable and reflect general public policy considerations:

1. **Misrepresentation of Location**: The application misrepresents the location of the licensed premises. There is no restaurant operating at 116 W. Rezanof Dr., Kodiak, Alaska, nor has a restaurant operated at that address for several years.
2. **Non-Operation for Five Years**: The business has not operated at the identified location for at least five years.
3. **Lack of a Valid Business Address**: The licensee no longer has a valid physical business address, further complicating the renewal of the license.
4. **Waiver of Operation for 2022 and 2023**: The request for a waiver of operation for 2022 and 2023 should be denied under **AS 04.11.330(a)(3)**. The applicant has not operated the business for at least 240 hours, and the facts do not support the claim that non-operation was temporary due to premises under construction. In fact, the licensed premises cannot be operated because the licensee does not have a lease for the location, and the premises have been irrevocably converted to another use.

5. **Failure to File or Pay Business Personal Property Taxes**: The licensee has not filed or paid business personal property taxes since 2017, when the KIB Assessing Department was notified of the business closure.
6. **Lack of Building Permit Approval**: The premises formerly used for this business have not received building permit approval for their current configuration, which raises concerns about compliance with local building codes.
7. **Failure to Pass Fire Safety Inspection**: The premises have not passed the required fire safety inspection, which is necessary for the continued operation of the business.
8. **Public Policy Concerns**: The continuation of this license without operation reduces available opportunities for other businesses to operate with an REPL in Kodiak. The general public policy of the KIB encourages the operation of licensed businesses and opposes allowing licensees to hold and not operate licenses, especially where there is no reasonable prospect of reopening the business at the licensed location.
9. **Limited Availability of REPL Licenses**: Kodiak currently has only four available REPL licenses, two of which are held by the current licensee. Allowing extended continuation of inactive licenses, creates challenges for economic development in the community.
10. **Demand for REPL Licenses**: Other businesses in Kodiak are eager to obtain REPL licenses to support their operations. However, License #3293, one of the two held by the current licensee, remains unused. The KIB is committed to fostering economic growth and strongly advocates for the revocation of this license to allow other businesses the opportunity to utilize an active REPL license.

Given the points outlined above, the KIB Assembly respectfully requests that the ABC Board deny the renewal of **Restaurant Eating Place License #3293** held by Second Floor Restaurant.

Thank you for your consideration of this matter. This letter serves as a formal record of our intent to protest the renewal.

Sincerely,

Scott Arndt

Scott Arndt, Mayor