Office of the City Clerk
710 Mill Bay Road, Room 110, Kodiak, Alaska 99615

February 25, 2025

Lizzie Kubitz, Acting Director
Alcohol and Marijuana Control Office
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
amco.localgovernmentonly@alaska.gov

Via Electronic Transmission and US Mail

Re: REPL License No. 3293 Transfer of Ownership/Location Application

Dear Ms. Kubitz,

A public hearing was held and the City Council reviewed the transfer of ownership/location application submitted by Nuniaq Cafe & Deli for Restaurant or Eating Place License No. 3293 during their regular meeting on Thursday, February 13, 2025.

The application was sent to the City of Kodiak on January 8, 2025. State regulations outlined in AS 04.11.480 require that an application for license transfer must be sent to a governing body having jurisdiction over the area in which the licensed premises exists; therefore, AMCO forwarded the application to the City for Council review.

On February 13, 2025, during the regular meeting Council protested transfer of REPL No. 3293 from Second Floor Restaurant to Nuniaq LLC based on the expired status of REPL No. 3293 and that the license should not be renewed for the reasons set forth in the City's protest of the pending application to renew REPL No. 3293 and further protested transfer of REPL No. 3293 based on the transferee's sales tax delinquency, *provided* that this basis for protest shall be withdrawn if, as of May 1, 2025, Nuniaq LLC has complied with all requirements of its sales tax repayment agreement and has filed a complete 2025 Quarter 1 sales tax return and they directed the City Clerk to notify AMCO.

Please accept this letter as notification. Thank you.

Sincerely,

Michelle Shuravloff-Nelson, MMC
City Clerk

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clerk@city.kodiak.ak.us

Office of the Mayor and City Council
710 Mill Bay Road, Room 110, Kodiak, Alaska 99615

March 5, 2025

Hon. Dana Walukiewicz
Alcoholic Beverage Control Board
550 West 7th Avenue, Suite 1600
Anchorage, Alaska 99501

Re: Protest of REPL # 3293 Transfer

Dear Board Chair Walukiewicz:

The City Council of the City of Kodiak protests the application to transfer REPL # 3293 from Sook C. Yun to Nuniaq, LLC. This protest is submitted pursuant to 3 AAC 305.085 and KCC 5.12.030. On January 29, 2025, both the transferor and the transferee were given notice that the council would hear the matter of this protest at its February 13, 2025, meeting and that the applicant would be heard as to the matter.

The City protests transfer on two independent grounds, the latter of which is subject to rescission by the City as explained below.

1. REPL # 3293 is expired and therefore cannot be transferred.

REPL # 3293 expired on February 28, 2024, because a complete renewal application was submitted to AMCO no earlier than December 29, 2024, ten months past the deadline.[1] Because REPL # 3293 expired, there is no license to transfer.

The City of Kodiak has protested the untimely renewal of REPL # 3293 by letter dated January 30, 2025, a copy of which is attached hereto. For the reasons set forth in this earlier protest letter, which are incorporated herein by reference, the board should not re-issue REPL # 3293 and therefore it should deny the transfer application because there is no license to transfer.

2. The transferee is delinquent in the payment of City sales tax.

[1] *See* AS 04.11.540 ("If a complete application for renewal has not been filed by February 28 or the required fees and the penalty fees have not been paid by that date, the license, endorsement, or conditional contractor's permit expires at 12:00 midnight February 28.").

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Kodiak City Code 5.12.030(d)(2) provides that the City may protest an application if a "business owned in whole or in part by any person named in the application as an applicant or on the license is, on the date the council considers the matter, delinquent in the payment of any sale tax or penalty or interest[.]" Similarly, 3 AAC 305.085(g)(1) states that a local government body may protest the "renewal or transfer of a license based on nonpayment of delinquent taxes or fees, whether single or in combination, of at least $1,000 arising in whole or in part from the conduct of the licensed business[.]"

Nuniaq's delinquencies arising out of operation of Nuniaq Café & Deli exceed $1,000. However, Nuniaq has been actively working with the city administration to resolve the sales tax delinquencies. Nuniaq recently entered into an agreement with the City by which Nuniaq has agreed to make periodic payments to cure the delinquency. Nuniaq is also required to stay current on its sales tax reporting and remittances moving forward.

Should Nuniaq adhere to the payment schedule, its tax delinquencies will *not* be fully cured before the summer of 2025. Given Nuniaq's efforts to resolve the delinquency, the city council has nevertheless determined that this second basis for protest will be rescinded if Nuniaq is in compliance with the payment agreement as of May 1, 2025 and timely files a complete 2025 Quarter 1 sales tax return with remittance of the taxes due for that quarter.

If the above conditions are satisfied, the city clerk will notify AMCO in early May that this basis of the City's protest of the transfer has been removed.[2]

Conclusion

The council believes that Nuniaq, when its tax issues are cured, would be a responsible licensee and a much-needed addition to the hospitality options in the City of Kodiak. The City would be pleased to receive notice from AMCO that Nuniaq has completed an application for a new restaurant and eating place license. That, not through transfer of a long dormant and expired license, is how Nuniaq should become a licensee. While Nuniaq would ultimately be a welcomed licensee, the same is true of other restaurants in the City of Kodiak. Because REPL # 3293 has been expired for a year, one of the four restaurant and eating place licenses authorized for Kodiak is presently available. AMCO should accept applications for issuance of a new license and if multiple applications are received, select among the competing applications in accordance with 3 AAC 305.105, as due process requires.

Sincerely,

Mayor Pat Branson
City of Kodiak

[2] *See* 3 AAC 305.085(h).

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