



MEMORANDUM

TO: Alcoholic Beverage Control Board

DATE: December 20, 2021

FROM: Kristina Serezhenkov, OLE

RE: #1034 The Aardvark

Statutory & Regulation Authority:

AS 04.11.480(a) 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. 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. The board shall consider a protest and testimony received at a hearing conducted under AS 04.11.510(b)(2) or (4) when it considers the application or continued operation, and the protest and the record of the hearing conducted under AS 04.11.510(b)(2) or (4) shall be kept as part of the board's permanent record of its review. If an application or continued operation is protested, the board shall deny the application or continued operation unless the board finds that the protest is arbitrary, capricious, and unreasonable.

AS 04.11.510(b)(1): "if an application is denied, the notice of denial shall be furnished the applicant immediately in writing stating the reason for the denial in clear and concise language; the notice of denial must inform the applicant that the applicant is entitled to an informal conference with either the director or the board, and that, if not satisfied by the informal conference, the applicant is then entitled to a formal hearing conducted by the office of administrative hearings (AS 44.64.010); if the applicant requests a formal hearing, the office of administrative hearings shall adhere to AS 44.62.330 — 44.62.630 (Administrative Procedure Act); all interested persons may be heard at the hearing and unless waived by the applicant and the board, the formal hearing shall be held in the area for which the application is requested"

3 AAC 304.145(h) "The board may uphold a protest of an application or continued operation with a single abeyance period not to exceed 180 days if the local governing body indicates that the protest is subject to rescission and that it will be withdrawn if the applicant meets conditions set by the local governing body. If the local governing body notifies the board within the period of the abeyance that the protest has been removed, the application or continued operation is approved when all other applicable requirements have been met. If the local governing body has not notified the board within the period of the abeyance that it has removed the protest, the application or continued operation is denied. The period of abeyance may not be extended or renewed."

Background: This transfer of location application was deemed complete on 10/25/2021 and scheduled for consideration at the 1/18/2022 ABC Board meeting. On 12/16/2021, the Matanuska-Susitna Borough protested the transfer application due to nonpayment of the referral review fee (\$100.00) and the need for a Conditional Use Permit

Staff Recommendation: Consider the Matanuska-Susitna Borough protest and determine if the protest is arbitrary, capricious and unreasonable. If the protest is deemed not to be arbitrary, capricious and unreasonable then deny the application with a 180-day abeyance.

Attachment:

Matanuska-Susitna Borough Protest

AB-00

AB-02



MATANUSKA-SUSITNA BOROUGH

Planning and Land Use Department

Development Services Division

350 E. Dahlia Avenue, Palmer, AK 99645

Phone (907) 861-7822

E-mail: permitcenter@matsugov.us

December 15, 2021

Alcohol & Marijuana Control Office
550 W. 7th Avenue, Suite 1600
Anchorage, AK 99501

SUBJECT: The Aardvark
15328 W. Big Lake Road
License #1034
Transfer – Beverage Dispensary

A review of the files relating to the subject business and license application, as they relate to Matanuska-Susitna Borough Code, has been completed. Based on that review, the Matanuska-Susitna Borough hereby takes the following action:

WAIVE THE RIGHT TO PROTEST

PROTEST the issuance of the license for the following reason(s):

Delinquent Real Property Taxes owed:

Other debts owed: \$100.00 Review Fee

The required Conditional Use Permit has not been issued:

There is a violation of the Conditional Use Permit:

There is a resident objection to the facility on file:

Other:

Upon curing all of the above referenced deficiencies the Matanuska-Susitna Borough will rescind any protest. It is the applicant's responsibility to notify the Development Services Division that any debts or taxes owed have been paid in full.

The applicant(s) has been sent a copy of this letter by certified mail or via email, only if a protest has been issued. Should you have any questions, please feel free to contact my office.

Sincerely,

Peggy Horton

Peggy Horton,
Planner II
Development Services Division
Matanuska-Susitna Borough
907-861-7862

AMCO Received 12/16/2021

PERSONS TO BE HEARD

Date Received: _____
Meeting Date Approved: _____
Clerk Approval: _____

PRINTED NAME OF SPEAKER: _____

MEETING DATE REQUESTED: _____ DAY PHONE NO.: _____

ORGANIZATION REPRESENTED: _____ FAX: _____

MAILING ADDRESS: _____

Your address and telephone number are requested so that we are able to contact you when the request is approved or in the event that a cancellation or postponement of the meeting should occur.

SUBJECT: _____

PLEASE DESCRIBE THE ACTION THAT YOU ARE REQUESTING: _____

MSB 2.12.081

- (A) A person wishing to speak before the assembly under the agenda item "persons to be heard" shall file an appearance request with the clerk specifying the topic on which the person intends to speak.
- (B) If the appearance request has administrative channels of resolution, the clerk shall forward the request to the administration for research. The person wishing to address the assembly should exercise due diligence to resolve this matter with the borough administration.
- (C) If there are no administrative channels through which the applicant can pursue the item of concern, the clerk shall place the appearance request on the agenda for assembly consideration.
- (D) In any event, an appearance request shall be placed before the assembly on the next regular meeting agenda.
- (E) Appearance requests shall be heard by the assembly when placed on the agenda.
- (F) The clerk shall not accept appearance requests involving:
 - (1) items that have other clearly defined channels of resolution, such as board of adjustment or assembly appeal matters, personnel grievances, discrimination complaints, board and commission appeals, or similar matters;
 - (2) items that are being scheduled for a public hearing on an upcoming meeting agenda;
 - (3) subjects currently under labor negotiations;
 - (4) items upon which litigation involving the applicant or the applicant's representative is currently pending;
 - (5) items in which will be before the assembly in the future and the person will have the opportunity to testify; or
 - (6) the requestor has appeared before the assembly under persons to be heard previously and wishes to speak to the same topic.
- (G) In lieu of appearance requests, the assembly shall accept brief written communications on any subject. These shall be reproduced and distributed to the assembly by the clerk when they are received.
- (H) Persons who do not wish to speak before the assembly under persons to be heard and who do not wish to submit written communications may be heard under "audience participation," which is scheduled for each regular meeting.

NOTE TO SPEAKER:

- If you have prepared a statement or other documents, please provide at least twenty-five (25) copies to the Borough Clerk's Office by noon on the day of the meeting for distribution.
- Please go to the front of the room when your name is called, clearly state your name, and speak into the microphone to ensure an accurate record of your testimony. Your time limit under "Persons to be Heard" is three (3) minutes.

OFFICIAL USE:
Assembly Action/Comments: _____

From: [AMCO Local Government Only \(CED sponsored\)](#)
To: [Alcohol Licensing, CED ABC \(CED sponsored\)](#)
Subject: FW: The Aardvark License #1034 MSB Protest
Date: Thursday, December 16, 2021 9:15:16 AM
Attachments: [Persons to be heard form.pdf](#)
[MSB Protest.pdf](#)

Protest for Kris

Carrie Craig

Records and Licensing Supervisor
Alcohol and Marijuana Control Office
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
907-269-0350

From: Peggy Horton [mailto:Peggy.Horton@matsugov.us]
Sent: Wednesday, December 15, 2021 9:38 AM
To: AMCO Local Government Only (CED sponsored) <amco.localgovernmentonly@alaska.gov>;
aardvarkcatering@hotmail.com
Subject: The Aardvark License #1034 MSB Protest

CAUTION: This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon,

Our office must protest your license (#1034) due to the nonpayment of the referral review fee (\$100.00) and the need for a Conditional Use Permit for the Beverage Dispensary transfer of location.

This email is to inform you that you have the option to defend your application before a meeting of the Borough Assembly, as per 3 AAC 304.145(d).

If you would like to appear in front of the Assembly, you may do so by filling out the attached form and submitting it to me at least 11 days prior to the meeting you wish to speak at.

Regards,
Peggy Horton
Matanuska-Susitna Borough
Development Services Division
Planner II
907-861-7862

AMCO Received 12/16/2021



Alcohol and Marijuana Control Office
 550 W 7th Avenue, Suite 1600
 Anchorage, AK 99501
alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
 Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

What is this form?

This transfer license application form is required for all individuals or entities seeking to apply for the transfer of ownership and/or location of an existing liquor license. Applicants should review **Title 04** of **Alaska Statutes** and **Chapter 304** of the **Alaska Administrative Code**. All fields of this form must be completed, per AS 04.11.260, AS 04.11.280, AS 04.11.290, and 3 AAC 304.105.

This form must be completed and submitted to AMCO's main office, along with all other required forms and documents, before any license application will be considered complete.

Section 1 – Transferor Information

Enter information for the **current** licensee and licensed establishment.

Licensee:	Claude Sherman Weinberger-Caruthers/Eugena Marie Weinberger-Caruthers		License #:	1039-1034	
License Type:	Beverage Dispensary		Statutory Reference:	AS 04.11.090	
Doing Business As:	The Aardvark				
Premises Address:	5120 S. Big Lake Rd. Suite A & B				
City:	Big Lake	State:	Alaska	ZIP:	99652
Local Governing Body:	Matanuska-Susitna borough				

Transfer Type:

- Regular transfer
- Transfer with security interest
- Involuntary retransfer

OFFICE USE ONLY

Complete Date:	10/25/2021	Transaction #:	100279635
Board Meeting Date:	1-18-2022	License Years:	21-22
Issue Date:		BRE:	KRS



Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Section 2 – Transferee Information

Enter information for the *new* applicant and/or location seeking to be licensed.

Licensee:	Claude Sherman and Eugena Marie Weinberger-Caruthers				
Doing Business As:	The Aardvark				
Premises Address:	15328 W. Big Lake Lodge Rd.				
City:	Big Lake	State:	AK	ZIP:	99652
Community Council:	Big Lake				

Mailing Address:	P. O. Box 520015				
City:	Big Lake	State:	AK	ZIP:	99652

Designated Licensee:	Claude Sherman Weinberger-Caruthers				
Contact Phone:	(907) 315-4953	Business Phone:	(907) 892-3633		
Contact Email:	aardvarkcatering@hotmail.com				

Seasonal License? Yes No If "Yes", write your six-month operating period: _____

Section 3 – Premises Information

Premises to be licensed is:

an existing facility a new building a proposed building

The next two questions must be completed by beverage dispensary (including tourism) and package store applicants only:

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the outer boundaries of the nearest school grounds? Include the unit of measurement in your answer.

.9 miles

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the public entrance of the nearest church building? Include the unit of measurement in your answer.

1 mile



Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Section 4 – Sole Proprietor Ownership Information

This section must be completed by any sole proprietor who is applying for a license. Entities should skip to Section 5.
 If more space is needed, please attach a separate sheet with the required information.
 The following information must be completed for each licensee and each affiliate (spouse).

This individual is an: applicant affiliate

Name:	Eugena Marie Weinberger-Caruthers				
Address:	P. O. Box 520015				
City:	Big Lake	State:	AK	ZIP:	99652

This individual is an: applicant affiliate

Name:	Claude Sherman Weinberger-Caruthers				
Address:	P. O. Box 520015				
City:	Big Lake	State:	AK	ZIP:	99652

Section 5 – Entity Ownership Information

This section must be completed by any entity, including a corporation, limited liability company (LLC), partnership, or limited partnership, that is applying for a license. Sole proprietors should skip to Section 6.
 If more space is needed, please attach a separate sheet with the required information.

- If the applicant is a corporation, the following information must be completed for each *stockholder who owns 10% or more* of the stock in the corporation, and for each *president, vice-president, secretary, and managing officer*.
- If the applicant is a limited liability organization, the following information must be completed for each *member with an ownership interest of 10% or more*, and for each *manager*.
- If the applicant is a partnership, including a limited partnership, the following information must be completed for each *partner with an interest of 10% or more*, and for each *general partner*.

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	



Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

This subsection must be completed by any applicant that is a corporation or LLC. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations (DOC) and have a registered agent who is an individual resident of the state of Alaska.

DOC Entity #:		AK Formed Date:		Home State:	
Registered Agent:			Agent's Phone:		
Agent's Mailing Address:					
City:		State:		ZIP:	

Residency of Agent: Yes No

Is your corporation or LLC's registered agent an individual resident of the state of Alaska?



Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Section 6 – Other Licenses

Ownership and financial interest in other alcoholic beverage businesses:

Yes No

Does any representative or owner named as a transferee in this application have any direct or indirect financial interest in any other alcoholic beverage business that does business in or is licensed in Alaska?

If "Yes", disclose which individual(s) has the financial interest, what the type of business is, and if licensed in Alaska, which license number(s) and license type(s):

[Empty text box for disclosure]

Section 7 – Authorization

Communication with AMCO staff:

Yes No

Does any person other than a licensee named in this application have authority to discuss this license with AMCO staff?

If "Yes", disclose the name of the individual and the reason for this authorization:

[Empty text box for disclosure]



Alcohol and Marijuana Control Office
 550 W 7th Avenue, Suite 1600
 Anchorage, AK 99501
alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
 Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Section 8 – Transferor Certifications

Additional copies of this page may be attached, as needed, for the controlling interest of the current licensee to be represented.

I declare under penalty of perjury that the undersigned represents a **controlling interest** of the current licensee. I additionally certify that I, as the current licensee (either the sole proprietor or the controlling interest of the currently licensed entity) have examined this application, approve of the transfer of this license, and find the information on this application to be true, correct, and complete.

CYNDE S. LO COULTERS
 Signature of transferor

CYNDE S. LO COULTERS
 Printed name of transferor

Subscribed and sworn to before me this 5th day of October, 2021.

[Signature]
 Signature of Notary Public



Notary Public in and for the State of Alaska

My commission expires: 07-22-2025

Eugene L. Lindberg
 Signature of transferor

EUGENE L. LINDBERG
 Printed name of transferor

Subscribed and sworn to before me this 5th day of October, 2021.

[Signature]
 Signature of Notary Public



Notary Public in and for the State of Alaska

My commission expires: 07-22-2025

AMCO Received 10/5/21



Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Section 9 - Transferee Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that all proposed licensees (as defined in AS 04.11.260) and affiliates have been listed on this application.

[Handwritten initials]

I certify that all proposed licensees have been listed with the Division of Corporations.

[Handwritten initials]

I certify that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.

[Handwritten initials]

I certify that all licensees, agents, and employees who sell or serve alcoholic beverages or check the identification of a patron will complete an approved alcohol server education course, if required by AS 04.21.025, and, while selling or serving alcoholic beverages, will carry or have available to show a current course card or a photocopy of the card certifying completion of approved alcohol server education course, if required by 3 AAC 304.465.

[Handwritten initials]

I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.

[Handwritten initials]

As an applicant for a liquor license, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete.

[Handwritten signature]

Signature of transferee

[Handwritten name]

Printed name

Subscribed and sworn to before me this 5th day of October, 2021.

[Handwritten signature]

Signature of Notary Public



Notary Public in and for the State of Alaska

My commission expires: 07-22-2025



Alaska Alcoholic Beverage Control Board Form AB-02: Premises Diagram

What is this form?

A detailed diagram of the proposed licensed premises is required for all liquor license applications, per AS 04.11.260 and 3 AAC 304.185. Your diagram must include dimensions and must show all entrances and boundaries of the premises, walls, bars, fixtures, and areas of storage, service, consumption, and manufacturing. If your proposed premises is located within a building or building complex that contains multiple businesses and/or tenants, please provide an additional page that clearly shows the location of your proposed premises within the building or building complex, along with the addresses and/or suite numbers of the other businesses and/or tenants within the building or building complex.

The second page of this form is not required. Blueprints, CAD drawings, or other clearly drawn and marked diagrams may be submitted in lieu of the second page of this form. The first page must still be completed, attached to, and submitted with any supplemental diagrams. An AMCO employee may require you to complete the second page of this form if additional documentation for your premises diagram is needed.

This form must be completed and submitted to AMCO's main office before any license application will be considered complete.

Yes No

I have attached blueprints, CAD drawings, or other supporting documents in addition to, or in lieu of, the second page of this form.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

Licensee:	Claude Sherman and Eugena Marie Weinberger-Caruthers	License Number:	4039-1034		
License Type:	Beverage Dispensary				
Doing Business As:	The Aardvark				
Premises Address:	1528 W. Big Lake Lodge Rd. 15328 W. Big Lake Lodge Rd.				
City:	Big Lake	State:	AK	ZIP:	99652

The Aardvark

Outdoor/Indoor Serving Security Plan

1. All minors must be accompanied by an adult (age over 21) while in the restricted area when any alcohol is being served/sold/consumed.
2. All new patrons are carded upon ordering alcohol.
3. All staff is trained in the identification of fake IDs.
4. Wood rail fence is around the outdoor servicing area (deck) that is elevated 10 feet from the ground. No outdoor access to the deck, only from inside the bar.
5. Underaged persons will be monitored closely by our professionally trained alcohol servers.
6. Proper egress from the outdoor service area will always remain unobstructed.
7. ABC mandated posters as required by law are posted inside (BUSINESS) and at the entrances of the outdoor seating area.
8. All entrances and exits will provide clear notice that NO ALCOHOL IS ALLOWED BEYOND THE OUTDOOR SEATING AREA.
9. Keeping outdoor seating area viable without any increased risk to minors exposed to alcohol WILL continue to be a part of our training for our staff.
10. All safety related operations for our current liquor service will additionally be enforced in the new service area.
11. Proper signage at points of entry indicating no minors without a parent or legal guardian will be posted.
12. All servers will closely monitor that only the guests that have been carded will have alcoholic beverages.
13. Our top priority continues in providing safety for all guests regarding the service of alcoholic beverages.
14. Servers will be present in the outdoor area to monitor consumption.