

Submitted by: Assembly Chair Dunbar,
Assembly Vice-Chair Weddleton and
Public Safety Committee Co-Chairs
Dyson and Petersen
Prepared by: Municipal Clerk's Office
For reading: February 25, 2020

**ANCHORAGE, ALASKA
AR No. 2020-XXX**

**A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY REGARDING THE
STATE OF ALASKA APPLICATION FOR THE RENEWAL OF PACKAGE STORE
LIQUOR LICENSE #3219, FOR LEEFAMILY CORPORATION, DBA MOM & POP'S
GROCERY & LIQUOR LOCATED AT 601 W 36TH AVE., STE. 3-4, ANCHORAGE, AK
99503 AND AUTHORIZING THE MUNICIPAL CLERK TO TAKE CERTAIN ACTION.**

(Midtown Community Council)

WHEREAS, LeeFamily Corporation has made an application with the Alaska Alcohol and Marijuana Control Office (AMCO), for consideration by the Alcoholic Beverage Control (ABC) Board, and has paid the required fee for the renewal of package store liquor license, #3219, doing business as Mom & Pop's Grocery & Liquor, located at 601 W 36th Ave., Ste. 3-4, Anchorage, Alaska, 99503; and

WHEREAS, on October 15, 2019, the Clerk's Office received from the Midtown Community Council, a request in a timely manner for a legislative public hearing before the Assembly regarding the renewal of liquor license #3219 for Mom & Pop's as authorized by AMC 2.30.120C.; and

WHEREAS, 10 day notice of the public hearing has been given to the applicant and the Midtown Community Council as required by AMC 2.30.120. and AS 04.21.010(d); and

WHEREAS, the Assembly must enter any protest to AMCO within 60 days following receipt of the application; and

WHEREAS, Anchorage Municipal Code (AMC) 2.30.120 and 3 AAC 304.145(d) require the Assembly to hold a public hearing to provide the applicant an opportunity to defend their application prior to exercising or waiving the right to protest; and

WHEREAS, the Anchorage Municipal Clerk received a copy of this application on January 15, 2020 and has determined that the last day for the Assembly to file a protest is March 15, 2020; and

WHEREAS, the Assembly Meeting on March 10, 2020 is the last scheduled regular meeting of the Anchorage Assembly prior to the expiration of the protest period; and

WHEREAS, the Municipal Clerk reports the following status concerning this location:

- 1 1. Any ABC Board violations and/or incidents on file that would lead to an ABC
2 Board violation are attached; and
- 3
- 4 2. There are no taxes owing to the Municipality of Anchorage; and
- 5
- 6 3. Special Land Use Permit, required by AMC 21.03.040C4.a., **has been**
7 **approved**; and
- 8
- 9 4. Certifications from the Anchorage Health Department, the Building Safety
10 Official and the Anchorage Fire Department **have been received**; and
- 11

12 **WHEREAS**, in 2017, the Midtown Community Council submitted a timely request for a
13 public hearing on the renewal of Mom & Pop's liquor license regarding concerns about
14 public safety and operations; and

15
16 **WHEREAS**, the Assembly passed AR 2018-134, As Amended which requested
17 conditions to be placed on the license and the Alcoholic Beverage Control Board upheld
18 the Assembly's request and placed 7 conditions listed under Section 1. of AR 2018-134,
19 As Amended on the license; and

20
21 **WHEREAS**, on August 20, 2019, a representative of the Midtown Community Council
22 made an appearance at the Regular Assembly Meeting to report on Mom & Pop's non-
23 compliance with the conditions placed on the license; and

24
25 **WHEREAS**, on September 4, 2019, the Assembly Public Safety Committee invited the
26 Midtown Community Council and the owners of Mom & Pop's to attend and discuss issues
27 brought up at the August 20, 2019 Regular Assembly Meeting; and

28
29 **WHEREAS**, on January 10, 2020 and January 31, 2020, the Assembly held worksessions
30 and invited the Midtown Community Council and the owners of Mom & Pop's to discuss
31 the Mom & Pop's liquor license renewal process; and

32
33 **WHEREAS**, this resolution sets the public hearing on the protest of the renewal of liquor
34 license #3219 for February 25, 2020; and

35
36 **WHEREAS**, the Assembly has provided the liquor licensee the opportunity to defend the
37 renewal application, has considered the testimony and evidence relevant to this liquor
38 license, and has considered the options of either protesting or waiving protest and
39 requesting the ABC Board impose conditions;

40
41 **NOW, THEREFORE**, the Anchorage Assembly resolves:

42
43 **Section 1.** The Anchorage Assembly finds the applicant and the Midtown Community
44 Council were given notice and a hearing was properly held February 25, 2020 for
45 purposes stated herein with relevant evidence presented as indicated in the public
46 records maintained by the Municipal Clerk.

1
2 **Section 2.** Per Anchorage Municipal Code section 2.30.125, in the exercise of its
3 powers and under AS 04.11.480 and 3 AAC 304.145 to protest issue, renewal and
4 transfer of alcoholic beverage licenses within the Municipality, the Assembly shall
5 consider whether the proposed license meets the factors and standards set forth in that
6 section, and those potentially relevant, pending the public hearing, to the renewal
7 application for license #3219 are listed below.
8

9 A. After review of the application and all relevant information, the Assembly finds that
10 **(only check items that apply):**
11

- 12 Concentration and land use. The transfer of location or issuance of the requested
13 license will negatively impact the community through an increase in the
14 concentration of uses involving the sale or service of alcoholic beverages within
15 the area affected and will conform to the separate standards of section
16 21.03.080D.
- 17 Training. The applicant cannot demonstrate prospective or continued compliance
18 with a liquor server awareness training program approved by the state alcoholic
19 beverage control board, such as or similar to the program for techniques in alcohol
20 management (T.A.M.). Until such plan is approved, training by a licensee's
21 employees in the T.A.M. shall constitute compliance with this section. (This
22 subsection is effective December 1, 1985.)
- 23 Operations procedures. The applicant cannot demonstrate prospective or
24 continued compliance with operations procedures for licensed premises set forth
25 in section 10.50.035.
- 26 Public safety. The operator cannot demonstrate the ability to maintain order and
27 prevent unlawful conduct in licensed premises. In determining the operator's
28 demonstrated ability to maintain order and prevent unlawful conduct, the assembly
29 has considered police reports, testimony presented before the assembly, written
30 comments submitted prior to or during the public hearing, and other evidence
31 deemed to be reliable and relevant to the purpose of this subsection and in the
32 record for AR 2018-134, As Amended, and this resolution. For purposes of this
33 section and section 10.50.035 the term "licensed premises" shall include any
34 adjacent area under the control or management of the licensee.
- 35 Payment of taxes and debts. Pursuant to AS 04.11.330, the applicant is delinquent
36 in payment of taxes owed to the municipality for the payment of any debts or taxes,
37 including any estimated taxes for the current year arising from the conduct of the
38 licensed business.
- 39 Public health. The operator has engaged in a pattern of practices injurious to public
40 health or safety, such as providing alcohol to minors or intoxicated persons,
41 committing serious violations of state law relevant to public health or safety, or
42 other actions within the knowledge and control of the operator which place the
43 public health or safety at risk. The assembly has considered criminal convictions,
44 credible proof of illegal activity even if not prosecuted, police reports, testimony
45 presented before the assembly, written comments submitted prior to or during the

public hearing, and other evidence deemed to be reliable and relevant to the purpose of this subsection and this resolution.

B. The Midtown Community Council has requested a hearing and provided a resolution, which is attached, recommending non-renewal of package store license #3219 and to revoke the conditional use permit for alcohol for 601 W 36th Ave., Ste 3 & 4, due to significant non-compliance with restrictions as agreed to in the signed Memorandum of Understanding, which is included in AR 2018-134, As Amended, as well as non-compliance with conditions placed on the license by the State of Alaska.

C. The Anchorage Assembly, based on the evidence and information provided and its findings as stated in this resolution, hereby **protests** the renewal of liquor license #3219.

Section 3. The Municipal Clerk shall provide a copy of this Assembly Resolution to AMCO as proof that the Anchorage Assembly, as the local governing body, has stated its **protest** of the renewal of package store liquor license, #3219.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2020.

Chair

ATTEST:

Municipal Clerk