MEMORANDUM

DATE: March 1, 2013

TO: Assembly Human Resources Committee

FROM: Beth McEwen, Deputy Municipal Clerk

RE: Liquor License Protest Recommendation – Sprazzo, LLC

Before you is a liquor license renewal application for Restaurant/Eating Place License # 2641 Sprazzo, LLC d/b/a Sprazzo, location: 112 N. Franklin Street, Juneau, AK.

Staff from the Fire, Finance, Police, and Community Development (CDD) Departments have reviewed this license for code compliance and staff from the Fire and Finance Departments are recommending the Assembly protest the renewal based on the reasons stated below. Your packet contains a copy of the letter sent to Sprazzo, LLC owner Mr. Haydar Suyun informing him of the recommendations reasons for the protest and instructed him on the steps necessary to bring his business into compliance prior to the March 4, 2013 Assembly HRC and Assembly meetings as well as his rights to an informal hearing before the Assembly at those meetings should he request one.

FIRE DEPARTMENT

Fire Marshal Dan Jager in an email to me on January 28, 2013 stated the following:

“There is no record of receiving a current (within the last 12 months) report for the sprinkler system. I know that the hood system was installed and inspected last April, so that is still good. Since it was being used for the pizza oven only and no grease vapors present, we agreed to allow the inspection for that system to be annual unless operations changed, then it would go back to the six month inspection requirement. The sprinkler system was past due at the time of the inspection last April, and we do not have anything current in our files.”

In following up with Mr. Jager on February 28, he stated that he had received a call the previous week from Mr. Suyun who asked for clarification of the Fire Department’s requirement for the license renewal. Mr. Jager informed him that they need to have documentation of a sprinkler inspection being conducted within the past 12 months. Mr. Suyun informed Mr. Jager that he would need to get the building owner to schedule an inspection with a company and provide a report to the Fire Department as soon as possible. Mr. Jager informed me that as of February 28, they have not yet received a report or any other communications from Mr. Suyun or the building owner.
FINANCE DEPARTMENT
Sales Tax Compliance Accountant Clinton Singletary indicated in an email dated January 25, 2013 that Sprazzo, LLC had a balance due on its September 2012 sales tax return. This information was also conveyed to Mr. Suyun in the letter sent on February 11, 2013. In an update from Mr. Singletary on February 28, he stated that the balance due on the return for the period ending September 30, 2012 was $4,726.63 and as of March 1, 2013 the balance will have additional penalties and interest due for a new balance of $4951.60.
February 11, 2013

Via certified & regular mail
Haydar Suyun
Sprazzo, LLC d/b/a Sprazzo
523 Fourth Street
Juneau, AK 99801

Re: Restaurant Eating Place, Liquor License 2013-2014 Renewal

Dear Mr. Suyun,

The State of Alaska Alcohol Beverage Control staff has notified the City and Borough of Juneau of your liquor license renewal for 2013-2014 and submitted the renewal for comment before the local governing body.

As is our practice in these matters, the staff from the Fire, Finance, Police, and Community Development Departments reviewed your establishment to insure compliance with city code. The Finance Department has reported that there is still an outstanding balance owing on the September 2012 Sales Tax return. The Fire Department has also reported that they have not yet received the sprinkler system report that was past due at the time of the inspection in April 2012. In light of the above concerns, both the Finance and Fire Departments are recommending the Assembly protest the renewal of the liquor license until those issues are resolved. I would strongly recommend that you contact Fire Marshal Dan Jager at 586-0260 and the Sales Tax Office at 586-5265 to resolve these issues as soon as possible.

The Assembly Human Resources Committee (HRC) will address this license renewal at its meeting on Monday, March 4, 2013 at 6:00 p.m. in the Assembly Chambers. Immediately following the HRC meeting on March 4 is a regular Assembly meeting at 7:00 p.m. at which time the HRC will forward its recommendations to the Assembly for official action on your liquor license renewal. If the protest recommendation is forwarded to the Assembly, you will be eligible for an informal hearing before the Assembly in accordance with CBJ Code 20.25.025(c), (copy attached).

Sincerely,

Beth McEwen
Deputy Clerk

Enclosures
cc: Assembly Human Resources Committee Members
Kim Kiefer, City Manager
Bob Bartholomew, Finance Director
Joan Roomsburg, Sales Tax Administrator
Dan Jager, Fire Marshal
Haydar Suyun
Sprazzo, LLC d/b/a Sprazzo
523 Fourth Street
Juneau, AK 99801
Alaska Statutes 04.11.480

Sec. 04.11.480. Protest.

(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.

(b) If the permanent residents residing outside of but within two miles of an incorporated city or an established village wish to protest the issuance, renewal, or transfer of a license within the city or village, they shall file with the board a petition meeting the requirements of AS 04.11.510 (b)(3) requesting a public hearing within 30 days of the posting of notice required under AS 04.11.310 or by December 31 of the year application is made for renewal of a license. The board shall consider testimony received at a hearing conducted under AS 04.11.510 (b)(3) when it considers the application, and the record of a hearing conducted under AS 04.11.510 (b)(3) shall be retained as part of the board’s permanent record of its review of the application.

(c) A local governing body may recommend that a license be issued, renewed, relocated, or transferred with conditions. The board shall consider recommended conditions 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 recommended conditions 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 the local governing body recommends conditions, the board shall impose the recommended conditions unless the board finds that the recommended conditions are arbitrary, capricious, or unreasonable. If a condition recommended by a local governing body is imposed on a licensee, the local governing body shall assume responsibility for monitoring compliance with the condition, except as otherwise provided by the board.

(d) In addition to the right to protest under (a) of this section, a local governing body may notify the board that the local governing body has determined that a licensee has violated a provision of this title or a condition imposed on the licensee by the board. Unless the board finds that the local governing body’s determination is arbitrary, capricious, or unreasonable, the board shall prepare the determination as an accusation against the licensee under AS 44.62.360 and conduct proceedings to resolve the matter as described under AS 04.11.510 (c).

CBJ Code 20.25.025

20.25.025 Assembly review of license issuance, renewal, transfer, relocation, or continued operation.

(a) The assembly may protest the issuance, renewal, transfer, relocation, or continued operation of an alcoholic beverage license as provided in state law. The protest shall cite any of the following criteria which the assembly determines to be pertinent:

1. The character and public interests of the surrounding neighborhood;

2. Actual and potential law enforcement problems, including the proximity of the premises to law enforcement stations and patrols;
(3) The concentration of other licenses of the same and other types in the area;

(4) Whether the surrounding area experiences an unacceptable rate of alcohol abuse or of crime or accidents in which the abuse of alcohol is involved;

(5) The adequacy of parking facilities;

(6) The safety of ingress to and egress from the premises;

(7) Compliance with state and local fire, health and safety codes;

(8) The degree of control the licensee has or proposes to have over the conduct of the licensed business;

(9) The history of convictions of the applicants and affiliates of the applicants for:

   (A) Any felony involving moral turpitude;

   (B) Any violation of AS title 04; and

   (C) Any violation of the alcoholic beverage control laws of another state as a licensee of that state;

(10) Whether the applicant or the applicant’s affiliates are untrustworthy, unfit to conduct a licensed business or constitute a potential source of harm to the public;

(11) Any other factor the assembly determines is generally relevant or is relevant to a particular application.

(b) The assembly may protest the issuance, transfer, renewal, relocation, or continued operation of a license as provided in state law if it determines any of the following conditions exist:

(1) The business operated under the license is, on the date the assembly considers the license, delinquent in the payment of any sales tax or penalty or interest on sales tax arising out of the operation of the licensed premises;

(2) There are delinquent property taxes or local improvement district assessments or penalty or interest thereon arising out of real or personal property owned in whole or in part by any person named in the application as an applicant or on the permit which is to be continued where such property is used, or is to be used, in whole or in part in the business conducted or to be conducted under the license;

(3) There is a delinquent charge or assessment owing the City and Borough by the licensee for a municipal service provided for the benefit of the business conducted under the license or for a service or an activity provided or conducted by the municipality at the request of or arising out of an activity of the business conducted under the license;

(4) If the license requested is for a beverage dispensary and is requested under AS 04.11.400(Δ)(1), unless the tourist facility will contain 30 or more rooms;

(5) If the application is for the issuance or relocation of a license and, after the issuance or relocation, there would be:

   (A) More than one restaurant or eating place license for each 1,500 population, or fraction thereof, residing within the City and Borough; or
(B) More than one license of each other type for each 3,000 population or fraction thereof residing within the City and Borough.

(6) The business operated or to be operated under the license is violating or would violate the zoning code of the City and Borough; or

(7) The business operated under the license is, on the date the assembly considers the application, in violation of state or local fire, health, or safety codes. A criminal conviction of this violation is not a prerequisite for a protest under this section.

(c) If the assembly or committee or a subcommittee thereof recommends protest of the issuance, renewal, transfer, relocation, or continued operation of a license it shall state the basis of the protest and the applicant shall be afforded notice and an opportunity to be heard at an abbreviated informal hearing before the assembly to defend the application. For the purposes of this subsection, notice shall be sufficient if sent at least ten days prior to the hearing by certified first class mail to the address last provided by the applicant to the municipal sales tax examiner. At the conclusion of the hearing, the assembly decision to protest the application shall stand unless the majority of the assembly votes to withdraw the protest.


State Law References: Assembly protest, AS 04.11.480.
January 22, 2013

Renewal Application Notice

City of Juneau
Attn: City Clerk & Beth McEwen
VIA EMAIL: city_clerk@ci.juneau.ak.us; beth_mcewen@ci.juneau.ak.us

<table>
<thead>
<tr>
<th>DBA</th>
<th>Lic Type</th>
<th>Lic #</th>
<th>Owner</th>
<th>Service Location</th>
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<tr>
<td>Breeze-In Liquor</td>
<td>Package Store</td>
<td>176</td>
<td>Allan Ahlgren &amp; Michael Corcoran</td>
<td>8 Mile Old Glacier Hwy</td>
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<td>Bullwinkle's Pizza</td>
<td>Restaurant/Eating Place</td>
<td>188</td>
<td>Bullwinkle's Inc</td>
<td>318 Willoughby Ave</td>
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<td>Prospector Hotel/TK Maguires</td>
<td>Beverage Dispensary-Tourism AS 04.11.400(d)</td>
<td>313</td>
<td>Juneau Hospitality LLC</td>
<td>375 Whittier Street</td>
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<td>Zen</td>
<td>Beverage Dispensary-Tourism AS 04.11.400(d)</td>
<td>586</td>
<td>Yang Sing, LLC</td>
<td>51 W Egan Drive</td>
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<td>Breeze In Corporation</td>
<td>3370 Douglas Hwy</td>
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<td>Beverage Dispensary</td>
<td>674</td>
<td>Lucky Lady Inc</td>
<td>192 S Franklin St</td>
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<tr>
<td>Tripp's Viking Liquor</td>
<td>Package Store</td>
<td>828</td>
<td>Jack D. Tripp</td>
<td>151 S Franklin Street</td>
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<tr>
<td>Bullwinkle's Pizza</td>
<td>Restaurant/Eating Place</td>
<td>1690</td>
<td>Bullwinkle's Inc</td>
<td>2687 Mendenhall Loop Mall Road</td>
</tr>
<tr>
<td>Marlintini's Lounge</td>
<td>Beverage Dispensary</td>
<td>644</td>
<td>BCM Inc</td>
<td>9121 Glacier Hwy 2nd Floor</td>
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<tr>
<td>Viking Restaurant &amp; Lounge</td>
<td>Beverage Dispensary</td>
<td>2533</td>
<td>Jack D and Arlene D Tripp</td>
<td>216 Front Street</td>
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<tr>
<td>Sprazzo</td>
<td>Restaurant/Eating Place</td>
<td>2641</td>
<td>Sprazzo, LLC</td>
<td>112 N Franklin Street</td>
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<tr>
<td>G. W. Teal</td>
<td>Beverage Dispensary</td>
<td>2728</td>
<td>Los Arcos Inc</td>
<td>9105 Mendenhall Mall Rd</td>
</tr>
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* To be considered at the 3/4/2013 Assembly Meeting.
We have received a renewal application for the above listed licenses within your jurisdiction. This is the notice as required under 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.

A local governing body as defined under AS 04.21.080(11) may protest the approval of an application(s) 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 44.62.330-4.62-630. **IF THE APPLICANT REQUESTS A HEARING, THE LOCAL GOVERNING BODY MUST ASSIST IN OR UNDERTAKE THE DEFENSE OF ITS PROTEST.**

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 of the regulation or ordinance if you have not previously done so.

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.

AS 04.21.010(d), if applicable, requires the municipality to provide written notice to the appropriate community council(s).

If you wish to protest the application referenced above, please do so in the prescribed manner and within the prescribed time. Please show proof of service upon the applicant. For additional information please refer to 13 AAC 104.145, Local Governing Body Protest.
Note: Applications applied for under AS 04.11.400(g), 13 AAC 104.335(a)(3), AS 04.11.090(e), and 13 AAC 104.660(e) must be approved by the governing body.

Sincerely,

SHIRLEY A. COTÉ
Director

/s/Christine C. Lambert
Christine C. Lambert
Licensing & Records Supervisor
Christine.lambert@alaska.gov
# 2013/2014 Liquor License Renewal – Restaurant Eating Place

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<th>License Number</th>
<th>License Type</th>
<th>Establishment Name</th>
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<tr>
<td>2641</td>
<td>Restaurant/Eating Place</td>
<td>Sprazzo</td>
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<th>Seasonal Date From:</th>
<th>Seasonal Date To:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Mailing Address</th>
<th>Premises Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sprazzo, LLC</td>
<td>112 N Franklin Street</td>
</tr>
<tr>
<td>523 Fourth Street</td>
<td>Juneau, City &amp; Borough</td>
</tr>
<tr>
<td>Juneau, AK 99801</td>
<td></td>
</tr>
</tbody>
</table>

Community Council (Anchorage & Mat-Su only)

Phone:  
Fax:  
Email:  
Employer Identification # (EIN)

Please mark the correct box to answer:

- Was your business open at least 30 days for 8 hours each day in 2011?  
  - Yes  
  - No  
  - N/A

- Was your business open at least 30 days for 8 hours each day in 2012?  
  - Yes  
  - No

- Has the licensed premise changed from the last diagram submitted?  
  - Yes  
  - No

- Has any person named in this application been convicted of a felony or Title 4 violation?  
  - Yes  
  - No

- Gross receipts from sale of food were at least 50% of total gross receipts for 2011 and 2012?  
  - Yes  
  - No

List all corporation members, managers and shareholders below:

<table>
<thead>
<tr>
<th>Name &amp; Mailing Address</th>
<th>Title</th>
<th>Share %</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Haider Sunyun</td>
<td>Owner</td>
<td>100%</td>
<td>907-789-9100</td>
</tr>
<tr>
<td>523 4th Street, Juneau, AK 99801</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If not a corporation - List all individuals, spouses, or partners that own business below:

<table>
<thead>
<tr>
<th>Name &amp; Mailing Address</th>
<th>Title</th>
<th>Phone</th>
</tr>
</thead>
</table>

ABC Board - 5848 E. Tudor Rd - Anchorage, AK 99507  
Phone: 907-269-0350  
Fax: 907-272-9412
License Fee $ 600.00
Filing Fee $ 200.00
TOTAL $ 800.00
Late Fee – If Received or Postmarked after 12/31/12 $ 
Fingerprint Fee – $51.50 per person (only for new owners/members) $ 
GRAND TOTAL $ 800.

By affixing my signature below:

I declare under penalty of perjury that I have examined this application and to the best of my knowledge and belief state it is true, correct and complete.

I certify that I have read and am familiar with Title 4 of the Alaska statutes and its regulations.

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

As a licensee (a sole proprietor or partner), I certify that I have received alcohol server training and my certification is currently valid.

As a Corporate/LLC licensee, I certify that all agents and employees, who serve, sell or are otherwise responsible for the service/sale/storage of alcoholic beverages have received alcohol server training and their certification is currently valid. I further certify that certain shareholders/officers/directors/members of the entity that are not directly or indirectly responsible for the service/sale/storage of alcoholic beverages are not alcohol server training certified, and will not be required to be certified.

As a licensee, I certify that all my agents and employees tasked with patron identification verification have received alcohol server training and their certification is currently valid.

Printed Name & Title

Subscribed and sworn to before me this 

My commission expires:

ABC Board - 5848 E. Tudor Rd - Anchorage, AK 99507
Phone: 907-269-0350     Fax: 907-272-9412