

Introduced by: Mayor Middlebrook
Date: May 10, 2011
Action: Passed
Vote: 6-1

CITY OF BETHEL, ALASKA

Resolution # 11-13

A RESOLUTION BY THE CITY OF BETHEL PROTESTING THE ISSUANCE OF A STATE OF ALASKA ALCOHOLIC PACKAGE STORE LICENSE FOR BROWN JUG LIQUORS AS INDICATED IN THEIR PROPOSAL TO THE ALCOHOL BEVERAGE CONTROL BOARD

WHEREAS, the citizens of Bethel voted at the January 19, 2010 City of Bethel, Special Election the citizens of Bethel voted to oppose all types of alcohol licensing within the City of Bethel;

WHEREAS, Brown Jug Liquors has indicated interest in establishing a satellite office in Bethel of which Brown Jug Liquors would employ an individual to take alcoholic beverage orders to be sent into Anchorage, the employee would check on stock availability, arrange shipment back to Bethel and receive cash or credit card payment for the product;

WHEREAS, on April 21, 2011, Assistant Attorney General John Novak, responded to a question from the Alcohol Beverage Control Board stating yes, Brown Jug would be required to obtain a package store license in the community pursuant to AS 04.11.150. Package store license; permit for delivery to social events;

WHEREAS, Bethel Municipal Code (BMC) 4.16.010 Defines "Sale and "sales transaction" to mean any sale, lease, rental, transfer or assignment of any right, title or interest in any goods, fixtures, real property, things in action, investment securities, future goods, goods to be severed from realty, admission privilege, right of participation or attendance, general intangibles, accounts, chattel paper, documents, instruments or money, and any sale, provision or performance of service, for valuable consideration;

WHEREAS, Bethel Municipal Code further states under 4.16.080: A sale occurs in the city when: The sale agreement is reached between a buyer and seller in the city; 2. Goods, property or rights sold by or through a seller or seller's agent in the city are delivered to the buyer in the city; Any other activities related to the sale of goods, services or rentals occur within the city with a sufficient connection and relationship to the city to permit the imposition of the tax under this chapter;

WHEREAS, the city attorney determined, according to the above mentioned Bethel Municipal Code Sections, with a representative of the of the agent accepting the orders and
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payments for the orders the transaction would constitute a sale agreement within the city and would therefore be taxable within the City of Bethel, further supporting the need for a liquor license to be issued by the Alcohol Beverage Control Board to Brown Jug Liquors;

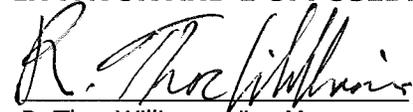
WHEREAS, Brown Jug Liquors has not yet applied for a liquor license through the Alcohol Beverage Control Board, but has provided a proposal of their intent for the Alcohol Beverage Control Board's review;

WHEREAS, it has been the practice of the City of Bethel to protest the issuance of any liquor license within the city limits;

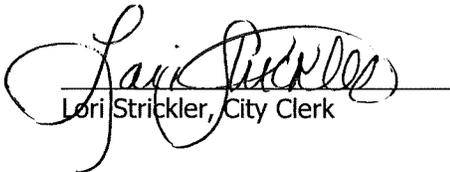
WHEREAS, if Brown Jug Liquors were to submit an application for a liquor license to the Alcohol Beverage Control Board, the City of Bethel would review the details of that application to determine the findings of fact necessary to protest the action as outlined in AS 04.11.480;

NOW, THEREFORE, BE IT RESOLVED by the Bethel City Council for the reasons set forth above, does hereby protest the proposal put forward by Brown Jug Liquors and any application for the above identified liquor license and requires the City Clerk to send this resolution to the Alcohol Beverage Control Board before May 12, 2011.

ENACTED THIS 10th DAY OF MAY 2011, BY A VOTE OF 6 IN FAVOR AND 1 OPPOSED.


R. Thor Williams, Vice-Mayor

ATTEST:


Lori Strickler, City Clerk