See AR 2011-188(5)

Submitted by: ASSEMBLY CHAIR OSSIANDER,

VICE-CHAIR HALL AND ASSEMBLY

PUBLIC SAFETY

COMMITTEE CHAIR HONEMAN

Prepared by: Municipal Clerk For reading: July 12, 2011

### ANCHORAGE, ALASKA AR NO. 2011–188

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY STATING ITS PROTEST REGARDING A NEW BEVERAGE DISPENSARY/DUPLICATE LIQUOR LICENSE #5083 FOR BASILIO GALLO dba RUMRUNNERS OLD TOWN BAR AND GRILL, LOCATED AT 411 E STREET, AND AUTHORIZING THE MUNICIPAL CLERK TO TAKE CERTAIN ACTION.

WHEREAS, Basilio Gallo has made an application with the Alcoholic Beverage Control (ABC) Board and has paid the required fee for a New Beverage Dispensary/Duplicate Liquor License #5083, to be used for Rumrunners Old Town Bar and Grill, located at 411 E Street Anchorage, Alaska; and

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

WHEREAS, the Anchorage Municipal Clerk received a copy of this application on May 19, 2011 and has determined that the last day for the Assembly to file a protest is July 18, 2011 and

WHEREAS, the Assembly Meeting on July 12, 2011 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. No ABC Board violations and/or incidents that would lead to an ABC Board violation;
- 2. No taxes owing to the Municipality of Anchorage;
- 3. Anchorage Fire Department approval **has not** been received;
- 4. Conditional Use Permit required by AMC 21.50.160; has not been approved;
- 5. Approvals from the Municipal Health & Human Services and Building Safety Departments have not been received; and

WHEREAS, protest by the Assembly is in order pending Municipal Clerk confirmation that outstanding items required for this location have been completed;

NOW, THEREFORE, THE ANCHORAGE ASSEMBLY RESOLVES:

- Section 1. The Anchorage Assembly hereby enters its PROTEST for a New Beverage Dispensary/Duplicate Liquor License #5083 and until these conditions are met:
  - Approval from the Anchorage Fire Department is received and confirmed by the Municipal Clerk.
  - Successful completion of the Conditional Use Permit under AMC 21.50.160 is confirmed by the Municipal Clerk.
  - Approval from the Anchorage Building Safety Department is received and confirmed by the Municipal Clerk.
  - Approval from the Anchorage Health & Human Services Department is received and confirmed by the Municipal Clerk.
- A copy of this Assembly Resolution may be presented to the Alcoholic Beverage Control Board as proof that the Anchorage Assembly, as the local governing body, has stated its protest in order to allow the Director of the Alcoholic Beverage Control Board to hold processing of Beverage Dispensary/Duplicate Liquor License #5083 under local protest, until receipt by the Director of confirmation from the Municipal Clerk that the conditions in Section 1 have been met, and this protest is lifted as authorized by this Assembly Resolution.
- Section 3. The Anchorage Assembly hereby authorizes the Municipal Clerk, upon Municipal Clerk confirmation that all conditions in Section 1 have been met, to provide written notification to the Alcoholic Beverage Control Board that this protest by the Anchorage Assembly is lifted, without further action by the Assembly.

Chair

PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_ day of \_\_\_\_\_, 2011.

ATTEST:			
Municipal Clerk		•	



### State of Alaska

**Department of Public Safety** 

# **Alcoholic Beverage Control Board**

Sean Parnell, Governor
Joseph A Masters, Commissioner

May 18, 2011

Municipality of Anchorage Barbara Gruenstein P.O. Box 196650 Anchorage, Alaska 99519

Re: Rumrunners Old Town Bar & Grill - License # 5083

We have received the enclosed application for a new beverage dispensary duplicate liquor license within the Municipality of Anchorage. 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 44.62.330-44.62-630. 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 15 AAC 104.145, Local Governing Body Protest.

Note: Applications applied for under AS 04.11.400(g), 15 AAC 104.335(a)(3), AS 04.11.090(e), and 15 AAC 104.660(e) must be approved by the governing body.

Alcoholic Beverage Control Board 5848 E Tudor Rd - Anchorage, AK 99507 - Voice (907) 269-0350 - Fax (907) 272-9412

#### Alcoholic Beverage Control Board 5848 E Tudor Rd Anchorage, AK 99507

### NEW Liquor License

PAGE 1 OF 2

(907) 269-0350 Fax: (907) 272-9412 www.dps.state.ak.us/abc

SECTION A - LICENSE INFORMATION. Must be completed for all types of applications. FEES License Year: License Type: Statute Reference License Fee \$ 2011 Duplicate No I Beverage Dispensatory License Sec. 04.11. 090 Filing Fee: \$100.00 License #: Local Governing Body: (City, Borough or Unorganized) Community Council Name(s) & Mailing Address: Fingerprint: (\$54.25 per person) Anchorage, AK Downtown Total Name of Applicant (Corp/LLC/LP/LLP/Individual/Partnership): Submitted: S 2 100 Doing Business As (Business Name): Business Telephone Number: 907-563-1620 Basilio Gallo. Rumrunners Old Town Bar & Grill Fax Number: 907-563-1628 Mailing Address: Street Address or Location of Premise: Email Address: 411 F Street 401 W Int'l Airport Rd. #31 Anchorage, AK 99501 City, State, Zip: Anchorage, AK 99518 SECTION B - TRANSFER INFORMATION. Name and Mailing Address of CURRENT Licensee: ☐ Regular Transfer Basilio Gallo ☐ Transfer with security interest: Any instrument executed under AS 04.11.670 for purposes of applying AS 04.11.360(4)(b) in a later involuntary transfer, must be filed with this Application (15 AAC Business Name (dba) BEFORE transfer: 104,107). Real or personal property conveyed with this transfer must be Rumrunners Old Town Bar & Grill described. Provide security interest documents. Street Address or Location BEFORE transfer: ☐ Involuntary Transfer. Attach documents which evidence default under 411 E Street Anchorage, AK 99501 AS 04.11.670, SECTION C - PREMISES TO BE LICENSED. Must be completed for RELOCATION applications. ☐ Premises is GREATER than 50 miles from the boundaries of an Closest school grounds: Distance measured under: X AS 04.11.410 incorporated city, borough, or unified municipality. I Mile . ☐ Local ordinance No. Premises is LESS than 50 miles from the boundaries of an incorporated city, borough, or unified municipality. Closest church: Distance measured under: X Not applicable 44 Miles X AS 04.11.410 ☐ Local ordinance No. ☐ Plans submitted to Fire Marshall (required for new & proposed buildings) Premises to be licensed is: ☐ Diagram of premises attached ☐ Proposed building X Existing facility ☐ New building Does any individual, corporate officer, director, imited liability organization member, manager or partner named in this application have any direct or indirect interest in any other alcoholic beverage business licensed in Alaska or any other state? X Yes DNo If Yes, complete the following. Attach additional sheets if necessary. **Business Street Address** State Name of Business Type of License Name Hacienda #1 Beverage Disp. 6301 Debarr Alaska Baros, Inc. 791 Palmer Hwy Alaska Basilio, Inc. Hacienda #2 Beverage Disp. 312 E 4th Alaska LaCabana, Mexican Restaurant LaCabana Mexican Restaurant Boverage Disp Has any individual, corporate officer, director, limited liability organization member, manager or partner named in this application been convicted of a felony, a violation of AS 04, or been convicted as a licensee or manager of licensed premises in another state of the liquor laws of that state? ☐ Yes ☐ No If Yes, attach written explanation. Office use only Director's Signature Date Approved

### Alcoholic Beverage Control Board 5848 E Tudor Rd Anchorage AK 99507 PH: 907 269-0350 - FX: 907 272-9412

Transfer App 3/09

## Liquor License

PAGE 2 of 2 Licensee Information www.dps.state.ak.us/abc

Corporations, LLCs, LLPs and L.	Ps must be ree	istered wit	h the Dent	of Comm	unity and Econom	ic Dauglon	mont	
Corporations, LLCs, LLPs and LPs must be registered with the Dept. of Comm Name of Entity (Corporation/LLC/LLP/LP) (or N/A if an Individual ownership):			Telephone Number.		Fax Number:			
Corporate Mailing Address: City:		<del>-</del>	State:		Zip Code:			
Name, Mailing Address and Telephone Number of Registered Agent Same			Contification with DOTED.		State of Ir Alaska	State of Incorporation: Alaska		
Is the Entity in compliance with the reporti					∐ Yes ☐ No utes to be a valid liquor l	icensec.		
Entity Members (Must include Presiden	t Cooreton, Trans	west Visa Dr	anidant Mana	nan and Char	-1-11-0-1	1		
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NOTE: On a separate sheet provide info	rmation on owne	rship other o	rganized entit	ties that are	shareholders of the lie	ensee.		J
Individual Licensees/Affiliates (The	ABC Board defin			ouse or sign	nificant other of a licens	see. Each Af	filiate must	be listed.)
Name: Basilio Gallo		Applicant	X	Name:	,			cant □
Address: 6307 Debarr Rd.		Affiliate		Address:			Affilia	ate 🛘
Anchorage, AK 99504		Date of Bir	111/	Home Ph	one:		Date	of Birth:
Home Phone:		Ca /11/	/	Work Pho	one:		Date	n Ditti.
Work Phone:		6/17/	7.4	<u> </u>				
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Declaration	· · · · · · · · · · · · · · · · · · ·							<del> </del>
I declare under penalty of perjury that	I have examined	this application	on including th	e accomban	ving schedules and state	ments and to	the hest of t	my knowledge
and belief it is true, correct and complete	, and this applicat	ion is not in v	iolation of any	security int	erest or other contracted	obligations.		_
I hereby certify that there have been up	o changes in offic	ers or stockho	lders that have	not been re	ported to the Alcoholic	Beverage Cor	trol Board	The undersigned
<ul> <li>certifies on behalf of the organized entity</li> <li>I further certify that I have read and as</li> </ul>	, it is understood in familiar with Ti	that a misrepr	esentation of f	act is cause	for rejection of this apply	ication or revi	ocation of an	y license issued.
than the licensee(s) has any direct or indi	rect financial inte	rest in the lice	raska statutes a ensed business.	no ici iegui	ations, and that in accord	ance with AS	04.11.450,	no person outer
• Lagree to provide all information requ	ired by the Alcoh	olic Beverage	Control Boar	d is support	of this application.			
Signature of Current Licensee(s)			l ai	CCC				
Signature ( Current Licensee(s)			Signat Signat	ture of Trai	nsieree(s)			
Tardio Dallo			J.B.IMC					
Signature	William.	Signatu		иге				
Name & Title (Please Print)		NO COLOR	Name	& Title (Ple	ase Print)			
Basilio Gallo, Owner	o, Owner							
Subscribed and sworn to before me this  Subscribed and sworn to before me this				,				
Notary Public in and for the State of Alaska		10 m		day of	nd for the State of Al1-			
Notary Public in and for the State of Alaska  Notary Public in and for the State of Alaska								
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#### MUNICIPALITY OF ANCHORAGE

#### INFORMATION MEMORANDUM

**NO.** AIM 71–2011

Meeting Date: July 12, 2011

From:

MUNICIPAL CLERK

Subject:

AR 2011-188; AR 2011-188(S); AR 2011-182: REGARDING CONDITIONAL USE AND A NEW BEVERAGE DISPENSARY/DUPLICATE LIQUOR LICENSE #5083 FOR BASILIO GALLO DBA RUMRUNNERS OLD TOWN BAR AND GRILL, LOCATED

AT 411 E STREET, ANCHORAGE, ALASKA.

The Office of Municipal Clerk is in receipt of the attached information related to the above-listed items:

- Rumrunners Change of Use Event Timeline, forwarded by Deputy Director & Municipal Building Official Sharen Walsh, PE.
- Letter from Furniture Classics Owner Colleen M. Hickey, dated July 12, 2011.
- Letter from Terri L. Russi, on behalf of THE HISTORIC ANCHORAGE HOTEL dated July 11, 2011.

Prepared by: Assembly Counsel

Respectfully submitted: Jacqueline Duke, Deputy Municipal Clerk

Date	Event
Date	Fire Prevention performed a routine after hours inspection. Discovered that a bar was active in the
31_Oct_10	basement area, which was formerly used for storage. FP informed Rumrunners (RR) of some
31-001-10	miscellaneous fire violations and noted that a change of use permit must be applied for.
	Fire Prevention returned for a follow-up inspection. Identified some additional miscellaneous
1-Nov-10	violations.
	RR came in to Development Services (DS) and applied for a change of use permit. The
]	application included drawings of proposed additions to the sprinkler system but lacked any other
1-Dec-10	building plans showing work done, in progress, or proposed. A milestone meeting to outline
	requirements also occurred, either on or about this date.
1-Dec-10	FP conducted follow-up inspection to check progress of remediating violations
2-Dec-10	FP conducted follow-up inspection to check progress of remediating violations
1	Zoning Reviewer commented that a conditional use approval for an additional liquor license would
2-Dec-10	be required. Also commented that approval from Dept. of Health and Human Services (DHHS)
2-500-10	would be necessary before issuing a building permit for the change of use work.
	Meeting was held regarding the requirements of the change of use. Meeting was attended by the
8-Dec-10	Owner, the Architect, DS Engineering Services Manager and Mechanical, Architectural and Fire
	plan reviewers
9-Dec-10	RR advertised in the paper to notice application for an additional liquor license
14-Dec-10	FP conducted follow-up inspection to check progress of remediating violations
1	(basement already sprinklered). Pemit issued on condition that RR would apply for a building
15-Dec-10	ipelitiff to include all terrodes work, whether provided in the
	part of the change of use. RR promised to prepare plans and submit.
22-Dec-10	Architect sends letter to FP requesting approval to use basement areas beginning on 12/30/10
	FP conducted a follow-up inspection and approved sprinkler system completed to point of CCO for
30-Dec-10	basement and 1st floor. (Note - this only meant that sprinkler system was ready - not that full CO
	could be granted, that is done by the Building Official)
	RR submits plans for general building permit - plans limited to remodel of 1st and 2nd floor,
14-Mar-11	including some mechanical work in basement to facilitate HVAC on 1st and 2nd floor. Plans did
	not include any of the work in the basement that was required for the change of use.
	RR's contractor came to DS to advocate for release of building permit. DS responded that no
i	permit would be granted until complete plans had been received and conditional use application
29-Apr-11	had been received. This prompted a meeting of available personnel to identify requirements. RR
	representative stated that events were being held under catering permits and that approx 3
	permits/week had been granted since the beginning of the year. RR noted that work was minor
	and requested inspections without submittal of plans. Following the meeting, Mike Shomer and
	two other RR representatives met with DS, Fire, and Planning. Shomer was informed that he
	needed to submit plans for the work that had already been done without building permits. He was
	again informed that he needed to submit a conditional use application for alcoholic beverages and
	also apply for a alcohol license with the State of Alaska Alcohol Beverages Control Board. Shomer
1	acknowledged that he was aware of the need to obtain a conditional use for alcoholic beverages.
	Electrical inspectors visited site and found that much work had been done without permit and that
	scope exceeded that which could be inspected without engineered drawings. Informed RR that
4-May-11	stamped and approved engineered electrical drawings were required. Also notified that any
	concealed work would required inspection.
	DS informs RR contractor that RR had exceeded number of allowable catering permits and that
11-May-11	the basement area could not be used as a bar until change of use permit work approved and
	completed. Change of use building permit approval contingent on receipt of application of
	conditional use request and approval by DHHS of proposed plans. Also informed that any work
	done before conditional use approval was at owner's risk.
	Judito poloro continuidad applicate, interest and an annual and applicate, interest and an annual and applicated interest and an annual and an an annual and an annual an annual and an annual

18-May-11	Letter sent to RR by Building Official noting that the change of use area was not yet approved for occupancy and that MOA would be issuing notice to vacate that area. Letter also noted that building permit could be finalized after conditional use approval or alternately, RR could submit plans to convert areas not approved for alcohol into a use that is allowed in B-2A, with no alcohol sales or service allowed until conditional use approved.
24-May-11	Planning accepted an application for a conditional use and handed the applicant the letter from DS dated May 18th., conditional use scheduled for Assembly meeting of 7/12/11
26-May-11	FP sent protest to ABC to flag that no license should be issued until work was permitted and completed and full CO issued
27-May-11	Telephone conversation and email follow-up by Chief of Code Enforcement informing RR that they would be allowed to hold one last special event over the coming weekend, with no other events allowed until the conditional use approved.
31-May-11	Architectural review completed, DHHS inspected premises, DHHS informed RR of items needed
1-Jun-11	THOOL OTHY
1-Jun-11	Sprinkler contractor requested inspection by FP but cancelled due to missing item
6-Jun-11	DS issued Mechanical (HVAC) permit for work in basement and 1st and 2nd floor
8-Jun-11	Code Abatement sent protest to ABC to flag that no license should be issued until work was permitted and completed and conditional use granted.
14-Jun-11	DS issued Plumbing permit for work in basement and 1st and 2nd floor
21-Jun-11	Mechanical contractor requested inspection but cancelled before inspection occurred
23-Jun-11	RR asked FP for 2 week extension on 2nd floor sprinkler because ceiling work still needed to be completed - FP agreed to extension to July 11.
5-Jul-11	Contractor requested mechanical and electrical inspections and CCO. DS performed mechanical inspection (list of corrections provided to contractor) but informed contractor that no electrical inspection could be conducted until engineered drawings had been submitted, reviewed, and approved.
	As of this date, still no electrical plans provided.
	Meeting held with Mike and Ellie Shomer, Jerry Weaver, Sharen Walsh, Jack Frost, Francis McLaughlin, Angela Chambers, Rick Thornton and James Gray. RR advised to request postponement of their case for 60 days and to finish the required work before requesting to go
	back before the assembly. Must have fire sprinkler system approved and operating by Wednesday July 13 and must have all drawings in within 30 days.

### Furniture Classics 433 West 5th Avenue Anchorage, Alaska 99501

907-278-6844

Fax

907-278-0216

### RECEIVED

July 12, 2011

JUL 12 2011

All Assembly Members Municipal Clerks Office

MUNICIPALITY OF ANCHORAGE
PLATTING DIVISION

Subject: Protest Duplicate Liquor License/Protest Conditional Use Permit for Rumrunner's Old Town Bar & Grill

Dear Assembly Members:

I would like to take this opportunity to write in protest to the renewal of the Liquor License and Conditional use permit for Rumrunner's Old Town Bar & Grill, located at 415 E Street. As the owner of Furniture Classics, I have concerns about the approval of this license.

When Rumrunner's ownership changed, we directly saw the impact of having them as a neighbor. Almost daily, we sweep up the neon drink straws, plastic drink cups, and associated garbage that are either dropped in the alley by Rumrunner's patrons or spill out of over-filled garbage bags in their dumpsters. It's a pig sty. We see these cups and straws in their dumpsters, and know for certain that the other restaurants who are our neighbors do not use either of these items in their establishments. I know from speaking to someone who works for Solid Waste Services that the dumpsters in the alley behind our building are serviced on an every other day schedule. My second reason for protesting their license and permit renewal is more than just littering; it's property damage. Twice in the last 12 months, my place of business, Furniture Classics, has had front windows shot or kicked out to the tune of \$1500+ each. Is it possible for me to prove that someone from Rumrunner's did this? No, but in 22 years in business at this location we haven't experienced anything like this until this year. It's the kind of people Rumrunner's is attracting. They are intoxicated and out roaming the streets after closing time and troubles ensue. Broken windows, torn up flower pots, trash, and litter-this is what we are left with.

I should point out that I'm not against a variety of responsibly run bar/restaurant businesses downtown. However, Rumrunner's is not contributing to the safety and security of its patrons or the overall wellbeing and appearance of downtown. Additional security to help control crowds and ensure that patrons get home safely, and paying for additional garbage service might be two ways to help stem the problems. There are three other bar/restaurants on our block that are good neighbors, and Rumrunner's is the one glaring exception to this. Right now, their establishment is a detriment to a clean, safe, and vital downtown. I shouldn't have to pay for property damage and extra daily clean up resulting from their business. I'm tired of having to clean up their mess! This situation needs your attention today.

Sincerely yours,

Colleen M. Hickey Owner Furniture Classics



July 11, 2011

All Assembly Members Municipal Clerks Office

Subject: Protest Duplicate Liquor License / Protest Conditional Use Permit Rumrunner's Old Towne Bar & Grill

Dear Assembly Members:

It has come to my attention that Rumrunner's Old Towne Bar & Grill, located at 415 E Street has made application for a Beverage Dispensary Duplicate Liquor License and a Conditional Use Permit, which, if approved, would allow an additional 150 + customers onto the premises and into the neighborhood. As General Manager of the Historic Anchorage Hotel, I am concerned about these actions.

Since Rumrunner's was acquired by AB & M Enterprises, Inc. in late May of 2010 the noise coming from inside and directly outside the popular establishment has increased tremendously.

On a typical Thursday, Friday, or Saturday night, loud, thumping music blaring through open doors can be heard throughout the neighborhood. The noise reaches its peak from approximately 11.30pm to 2.30am. We have written letters, spoken to the manager and security, and called APD many times. Requests to simply shut the front doors of the bar are seemingly ignored, or, when acknowledged, apparently forgotten by the following weekend.

The Historic Anchorage Hotel is located directly across 4<sup>th</sup> Avenue from this disturbance. All windows in the building are double-glazed, and white noise machines are in all guest rooms in an effort to counteract the noise coming from Rumrunner's. Nevertheless, many of the guest rooms are subject to uncomfortably loud noise late at night, and this noise is now **negatively affecting hotel reputation and revenue**. In the first two weeks of June 2011 more than \$2000 of room revenue was lost through stays shortened or cancelled due to noise, and the hotel's online reputation has plummeted, resulting in more lost revenue. We were #2 hotel rated by TripAdvisor members, and now fallen to #7 due to noise we can not control!

In its failure to control noise coming from its property, Rumrunner's management is not abiding by Municipal Code and is acting not only as a bad neighbor but as bad owners. Approving an unconditional duplicate liquor license and a CUP is rewarding them for poor behavior. Suggestions for conditions are adding additional professional security, charging a cover charge and providing an alternate entrance to the property, all of which would help control the flow of people through the building and help keep the noise inside of Rumrunner's.

Thank you for your attention to this matter. I do plan to attend the July 12th Assembly Meeting to give public testimony.

Sincerely,

Terri L. Russi

cc: Municipal Clerk F.D McLaughlin ABC Board