



**Washington State
Liquor Control Board**

February 10, 2010

To: Sharon Foster, Board Chairman
Ruthann Kurose, Board Member

From: Karen McCall, Senior Policy/Legislative Analyst

Subject: Rescind LCB Interim Policy #04-2009 Delegation of authority to make threshold decisions related to liquor license applications and renewals where objections have been received or the applicant/licensee appears to not meet eligibility requirements.

This interim policy was a result of the Board delegating the authority to the Director of Licensing and Regulation to make initial threshold decisions relative to liquor license applications and renewals where objections have been submitted. Rules were adopted by the Board on October 14, 2009 to implement Interim Policy #04-2009.

Move to rescind LCB Interim Policy #04-2009.

Approve

Not Approve

Sharon Foster, Board Chairman

Approve

Not Approve

Ruthann Kurose, Board Member



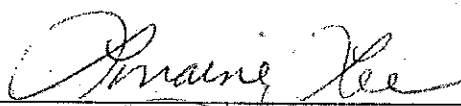
Liquor Control Board Interim Policy #4-2009

Subject of Policy: Delegation of authority to make threshold decisions related to liquor license applications and renewals where objections have been received or the applicant/licensee appears to not meet eligibility requirements

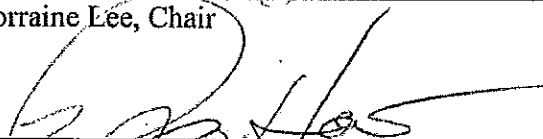
Effective Date: April 22, 2009

Ending Date: Upon adoption of WACs to implement this change in policy/procedure.

Approved:



Lorraine Lee, Chair



Roger Hoehn, Board Member



Ruthann Kurose, Board Member

Purpose and Background:

State law (RCW 66.24.010) governs the issuance of liquor licenses. When either a new license application is received or when a license is pending renewal, state law requires the applicable local government authority to be notified and given the opportunity to object to said issuance. Under current procedure, a pending application or renewal that has had an objection received is forwarded to the Board Members for an initial threshold determination. In making this submission Licensing and Enforcement staff submits recommendations with accompanied justification.

If the initial determination by the Board Members is contested by either the applicant/licensee or the local authority, they must make a final determination in the same case after an adjudicative hearing by an administrative law judge. While not inappropriate under administrative law (RCW 34.05), this process presents an appearance of fairness concern.

Policy Statement:

The Board hereby delegates authority to the Licensing and Regulation Division Director to make initial threshold determinations relative to liquor license applications and renewals where objections have been submitted. This threshold determination is to be

made in accordance with the provisions of RCW 66.24.010 as well as all other relevant sections of state law and title 314 WAC. The Licensing Director shall give substantial weight to objections from a local authority where said objections are based on chronic illegal activity. Further, the Licensing Director will give due consideration to the location of a new liquor license applicant as it relates to its proximity to churches, schools, public institutions as well other considerations raised by the local authority.

The Licensing Director is also granted the authority to make initial threshold determinations where the applicant/licensee appears to be ineligible for a license due to failure to meet requirements under statute or rule. This failure to meet eligibility requirements includes data obtained through a criminal background check or Criminal History Record Information (CHRI) report.

Where the Licensing Director determines that the Liquor Control Board (LCB) will seek denial of a license application or non-renewal of an existing license, an aggrieved applicant/licensee is granted a hearing before an administrative law judge. In a case where the Licensing Director determines that the LCB will seek to license over the objection of a local authority, the local authority may request an adjudicative hearing. The Board Members further delegate the Licensing Director the authority to determine whether said hearing will be granted. The Licensing Director is to grant such a hearing request where the objection is based on alleged conduct which is jurisdictional to the LCB under Title 66 RCW and/or Title 314 WAC.

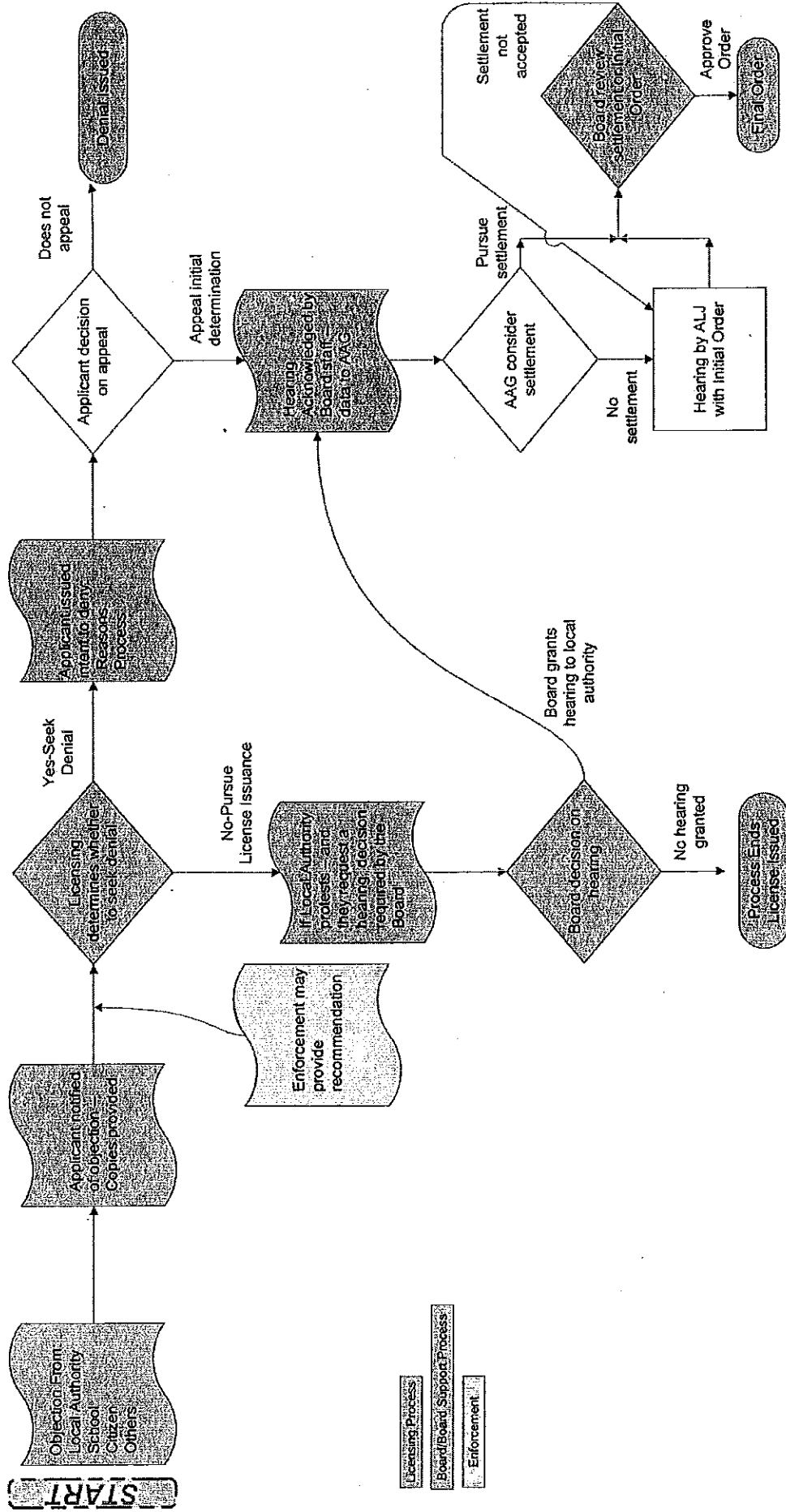
The following procedure relates directly to an application/renewal which is objected to by a local authority or others. In those circumstances where the applicant/licensee does not appear to meet eligibility requirements, some of these steps will not apply.

Procedure and/or Desired Outcome	Responsible Party
Receive objection from local authority, school or citizen. Evaluate objection for timeliness, subject jurisdiction and whether further supporting documentation is necessary. Acknowledge receipt as appropriate.	LCB Licensing and Regulation Division
Feedback and recommendations requested from Enforcement and Education Division.	LCB Licensing and Regulation Division
Enforcement provides written recommendations to the Licensing Director with justification.	LCB Enforcement and Education Division
Licensing managers evaluate all relevant information and develop DRAFT recommendations on the application/renewal. File submitted to prosecuting AAGs for their review and comment.	LCB Licensing and Regulation Division
Prosecuting AAGs advise licensing managers of their comments on recommended action.	LCB Licensing and Regulation Division
Licensing managers prepare recommendation and submit to Director for action. While the recommendation will be in writing, the presentation may be in person with representatives from Enforcement in attendance.	LCB Licensing Managers

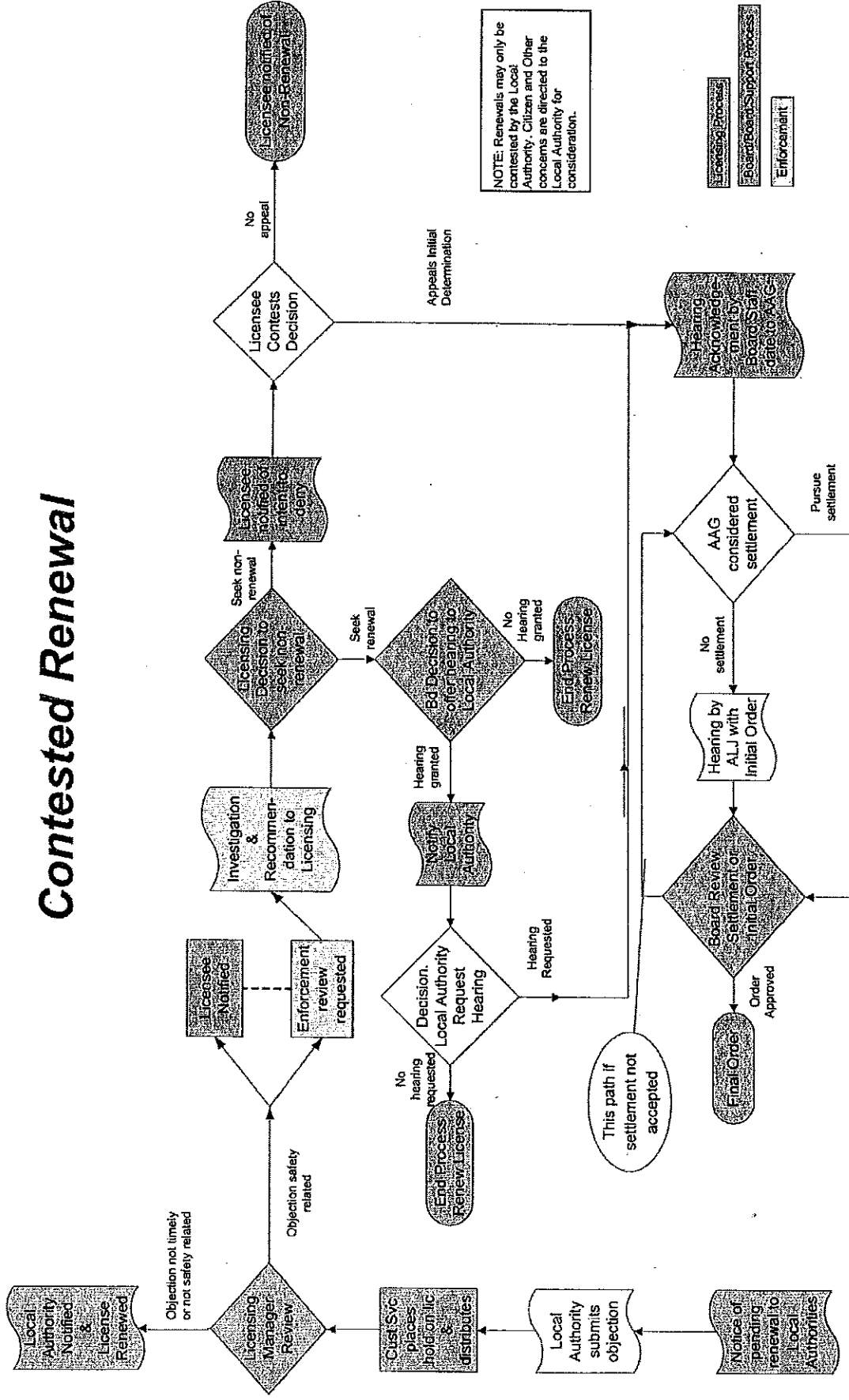
Procedure and/or Desired Outcome	Responsible Party
<p>Licensing Director makes threshold determination and directs preparation of either:</p> <ul style="list-style-type: none"> • Intent to deny/not renew to applicant/licensee; or • Notice to local authority that license will be issued/renewed over their objection <p>These notifications will include appropriate information relative to appeal rights and required response timeframes.</p>	<p>Licensing Director</p>
<p>Licensing notifies all parties of threshold determination.</p>	<p>LCB Licensing and Regulation Division</p>
<p>Where the threshold determination is to issue a license or renewal over an objection by the local authority, granting such a hearing will be discretionary based on whether the objection is based on safety related issues jurisdictional to the LCB under statute or rule.</p>	<p>Licensing Director</p>
<p>This is the end of LCB Licensing Division's direct role in this process.</p> <p>In cases where the applicant/licensee appeals the threshold decision by Licensing, the process for handling the request for a hearing will be the responsibility of Board's Adjudicative Proceedings Coordinator. Similarly, where the local authority is granted a hearing, the handling of this request will be by the Board's Adjudicative Proceedings Coordinator.</p>	

Attached are flowcharts for the Contested License Application and Contested Renewal process.

Contested License Application



Contested Renewal



NOTE: Renewals may only be contested by the Local Authority. Citizen and Other concerns are directed to the Local Authority for consideration.

Licensing Process
 Board/Board Support Process
 Enforcement

