

August 01 2014 3:13 PM

KEVIN STOCK
COUNTY CLERK
NO: 14-2-10487-7

**SUPERIOR COURT OF WASHINGTON
COUNTY OF PIERCE**

MMH, LLC, a Washington limited liability
company,

No. 14-2-10487-7

Plaintiff,

and

**DECLARATION OF EDWARD
WETHERBEE IN SUPPORT OF
PLAINTIFFS' MOTION FOR PARTIAL
SUMMARY JUDGMENT**

CITY OF FIFE, a Washington municipal
corporation

Defendant.

**Hearing Date: August 29, 2014
Time: 8:30 a.m.**

I, Edward Wetherbee, subject to penalty of perjury under the laws of the state of Washington, declare as follows:

1. Graybeard Holdings, LLC is a Washington limited liability company. Attached as **Exhibit 1** is a true and correct copy of the Certificate of Formation for Graybeard Holdings, LLC. I am the sole member and manager of Graybeard Holdings, LLC. "The Gallery" is a d/b/a of Graybeard Holdings, LLC. I am over the age of twenty-one and competent to testify to the matters addressed herein. I make this declaration from personal knowledge.

**DECLARATION OF EDWARD WETHERBEE IN SUPPORT OF
PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

DAVIES PEARSON, P.C.
ATTORNEYS AT LAW
920 FAWCETT -- P.O. BOX 1657
TACOMA, WASHINGTON 98401
TELEPHONE (253) 620-1500
FAX (253) 572-3052

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2. In November 2013, I timely submitted to the Washington State Liquor Control Board ("WSLCB") an application for a marijuana retail outlet license. My application included an operating plan as required by the WSLCB that demonstrates I am qualified to hold a marijuana license. The operating plan included all necessary elements in accordance with the applicable standards in the Washington Administrative Code ("WAC").

3. I am qualified in every way to be issued a license by WSLCB: I am over the age of twenty-one, have passed all personal/criminal history background checks, have satisfied all financial investigations, am familiar with WSCLB marijuana laws and rules, have resided in the state of Washington for more than three months, and am current in any tax obligations to the Washington State Department of Revenue.

4. In October 2013, WSLCB promulgated rules setting forth the application requirements for a marijuana license and the method by which retail locations would be distributed throughout the state. The number of retail outlet locations was determined using a formula that distributed the number of locations proportionate to the most populous cities within each county. Retail outlets that were not assigned to a specific city were deemed "at large." Under WSLCB rules, an at large license may be used to establish a retail outlet in a city that was not formally assigned licenses in the process described above.

5. WSLCB determined that there would be seventeen at large retail licenses in Pierce County and zero retail licenses assigned to the City of Fife.

1 6. In April 2014, WSLCB held a lottery to award qualified applicants retail
2 outlet licenses. Graybeard Holdings, LLC d/b/a The Gallery was awarded two Pierce
3 County at large licenses. Attached as **Exhibit 2** are true and correct copies of the letters
4 from the Washington State Liquor Control Board stating that Graybeard Holdings, LLC
5 d/b/a The Gallery's applications were selected second and ninth for Pierce County at
6 large retail locations.
7

8 7. Throughout 2014, I actively participated in the City of Fife's development
9 of marijuana land use ordinances. I attended nearly every City Council meeting and
10 nearly every Planning Commission meeting. I met with or had phone conversations with
11 the City Manager, City Attorney, and members of the Planning Commission. I carefully
12 reviewed the Planning Commission's recommendations to the Council. I learned the
13 Planning Commission recommended that Fife's temporary moratorium be repealed and
14 that zoning ordinances permitting marijuana retail outlets be adopted.
15

16 8. I entered into a lease agreement at 4500 Pacific Highway East, Fife,
17 Washington, for the purpose of operating a retail marijuana outlet. The City of Fife did
18 not object to its application.

19 9. On July 7, 2014, I attempted to submit a business license application for
20 Graybeard Holdings, LLC's retail outlet to the Fife City Clerk. The Clerk would not
21 accept the application.

22 10. On July 21, 2014, I attempted to submit a business license application for
23 Graybeard Holdings, LLC's retail outlet to the Fife City Clerk. The Clerk would not
24

1 accept the application.

2
3 11. Graybeard Holdings, LLC's WSLCB license will be finalized once its place
4 of business is inspected. Without the City of Fife business license, it is unable to
5 prepare for inspection.

6 12. Graybeard Holdings, LLC's has expended an extensive amount of time
7 and money in developing a retail outlet in Fife. But for the City's denial of a business
8 license, Graybeard Holdings, LLC d/b/a The Gallery would be licensed by the WSLCB
9 and operating a retail outlet. It has lost and will continue to lose significant revenue due
10 to the City's denial of a business license.

11 Signed at Gig Harbor, Washington, this 31st day of July, 2014.

12 GRAYBEARD HOLDINGS, LLC

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14 
15 EDWARD WETHERBEE
16 Plaintiff

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25 DECLARATION OF EDWARD WETHERBEE IN SUPPORT OF
PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT
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EXHIBIT 1

UNITED STATES OF AMERICA

The State of  Washington

Secretary of State

I, **KIM WYMAN**, Secretary of State of the State of Washington and custodian of its seal, hereby issue this

CERTIFICATE OF FORMATION

to

GRAYBEARD HOLDINGS LLC

a/an WA Limited Liability Company. Charter documents are effective on the date indicated below.

Date: 9/26/2013

UBI Number: 603-336-732



Given under my hand and the Seal of the State of Washington at Olympia, the State Capital



Kim Wyman, Secretary of State

Date Issued: 9/27/2013

EXHIBIT 2



Washington State
Liquor Control Board

May 1, 2014

THE GALLERY
12517 101ST AVENUE CT NW
GIG HARBOR, WA 98329

RE: Marijuana Retail Lottery Results
Trade name: THE GALLERY
License No.: 413258
UBI No.: 6033367320010001

Dear Sir or Madam:

The marijuana retail license lottery for Pierce at large is complete. Pierce at large has been allotted 17 retail locations.

Your application was selected number 2.

We will begin processing applications for the allotted number of stores in the coming weeks. If an application is disqualified for any reason or withdrawn by the applicant, the next application on the lottery list will take its place. If an application appears to not qualify, a statement of Intent to Deny will be issued with the right to appeal that decision. Once all licenses have been issued in a jurisdiction the remaining applications will be administratively closed.

Applicants selected in the lottery to move forward in the licensing process are not guaranteed to receive a license. The application must undergo our rigorous investigation process and pass a final inspection prior to issuance.

Sincerely,

WSLCB Marijuana Licensing Unit



Washington State
Liquor Control Board

May 1, 2014

THE GALLERY
12517 101ST AVENUE CT NW
GIG HARBOR, WA 98329

RE: Marijuana Retail Lottery Results
Trade name: THE GALLERY
License No.: 413420
UBI No.: 6033367320010002

Dear Sir or Madam:

The marijuana retail license lottery for Pierce at large is complete. Pierce at large has been allotted 17 retail locations.

Your application was selected number 9.

We will begin processing applications for the allotted number of stores in the coming weeks. If an application is disqualified for any reason or withdrawn by the applicant, the next application on the lottery list will take its place. If an application appears to not qualify, a statement of Intent to Deny will be issued with the right to appeal that decision. Once all licenses have been issued in a jurisdiction the remaining applications will be administratively closed.

Applicants selected in the lottery to move forward in the licensing process are not guaranteed to receive a license. The application must undergo our rigorous investigation process and pass a final inspection prior to issuance.

Sincerely,

WSLCB Marijuana Licensing Unit