

July 31 2014 3:00 PM

KEVIN STOCK
COUNTY CLERK
NO: 14-2-10487-7
Hon. Vicki Hogan

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

MMH, LLC, a Washington limited liability
company,

Plaintiff,

vs.

CITY OF FIFE, a Washington municipal
corporation,

Defendant.

No. 14-2-10487-7

DECLARATION OF DAVID K. ZABELL IN
SUPPORT OF SUMMARY JUDGMENT

The undersigned makes the following Declaration under penalty of perjury as permitted by RCW
9A.72.085:

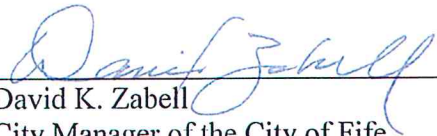
I, David K. Zabell, state and declare as follows:

1. I am over the age of eighteen (18) and not a party to the above referenced action. The matters hereinafter set forth are within my own direct knowledge and I am competent to provide evidence and testimony in these proceedings.
2. I am the City Manager for the City of Fife.
3. On August 9, 2011, the City of Fife passed Ordinance 1750, declaring a six month moratorium on medical marijuana collective gardens, as authorized under E2SSB 5073.
4. The moratorium was necessary to provide the City with sufficient time to study the potential impacts of medical marijuana collective gardens upon the City.

- 1 5. Of specific concern were issues of public health, public safety, and potential criminal
2 liability that could attach the City and City employees if medical marijuana collective
3 gardens were licensed and zoned within City limits.
- 4 6. The concern for potential criminal liability of municipal employees under federal law was
5 evidenced in a letter from the U.S. Attorney's Office to then Governor Gregoire in April
6 2011, as well as in Governor Gregoire's explanation letter of her line-item-vetoes of E2SSB
7 5073.
- 8 7. The moratorium in Ordinance 1750 was extended three times, for six months each, through
9 Ordinance 1765, Ordinance 1825, and Ordinance 1838, as the City attempted to assess the
10 potential impacts of medical marijuana collective gardens and to follow the changes in the
11 law as enacted by the state legislature and the Washington State Liquor Control Board
(WSLCB).
- 12 8. This moratorium was extinguished on August 13, 2013, and replaced by a one year
13 moratorium via Ordinance 1841 on both medical marijuana collective gardens, and any
14 producing, processing, or retail marijuana business, as authorized by Initiative 502.
15 Initiative 502 was approved by Washington voters in November 2012, codified mainly in
16 RCW 69.50, and it allowed the WSLCB to set rules to regulate marijuana, tax marijuana, as
17 well as license recreational marijuana producers, processors, and retailers.
- 18 9. On July 8, 2014, the City Council passed Ordinance 1872, amending the zoning codes for
19 the City of Fife to list collective gardens, marijuana producers, processors, and retailers as
20 "prohibited uses" in all zoning districts.
- 21 10. Since the passage of E2SSB 5073, the regulatory and statutory schemes for medical and
22 recreational marijuana in this state have been altered repeatedly, by citizen initiative, by
23 adoption of new WACs, by WSLCB adopted rules, and by changes to RCW 69.50 by the
24 state legislature. Throughout these changes, marijuana still remains illegal per federal law.
The City's moratoriums, and now the adopted ban in all zoning districts allows the City to

1 maintain the status quo while the state legislature, the WSLCB, and the federal government
2 finalize how, or if, marijuana will be licensed, regulated, and maintained in Washington
3 State.

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5 Dated at Tacoma, Washington, this 31st day of July, 2014

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8 David K. Zabell
9 City Manager of the City of Fife

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MMH, LLC, a Washington Limited liability
company,

Plaintiff,

vs.

CITY OF FIFE, a Washington municipal
corporation,

Defendant.

Cause No. 14-2-10487-7

DECLARATION RE: SIGNATURE on
ELECTRONIC DOCUMENT

I, Alison Rigby, declare under penalty of perjury under the laws of the state of Washington,
that the foregoing electronic documents attached to this declaration, which consist of four (4) pages
including this declaration page, is a complete and legible image that I have examined personally and
that was received by me via:

E-mail at the following address arr@vsilawgroup.com

DATED at Tacoma, Washington, this 31st day of July, 2014.



Alison Rigby, Paralegal