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## **PLANNING COMMISSION AGENDA REPORT**

**June 3, 2015**

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**TO: HON. CHAIR TODD HOOKS AND MEMBERS OF THE PLANNING COMMISSION**

**FROM: NICHOLAS HERMSEN, DEPUTY CITY ATTORNEY**

**SUBJECT: CONSIDERATION OF AN APPLICATION FOR MEDICAL MARIJUANA DISPENSARY CONDITIONAL USE PERMIT FOR KING BLAISE COOPERATIVE (68860 RAMON ROAD) PURSUANT TO CATHEDRAL CITY MUNICIPAL CODE SECTION 9.108.080(B)**

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### **RECOMMENDATION:**

That the Planning Commission adopt the recommendation made by the Community Development Director, based on the findings by the Police Department set forth below, and deny the application for a medical marijuana dispensary Conditional Use Permit for King Blaise Cooperative (68860 Ramon Road) for violating Cathedral City Municipal Code ("CCMC") Section 9.108.100.

## **DISCUSSION:**

As the Planning Commission is aware, last year the City Council enacted an ordinance which allows three medical marijuana dispensaries to open and operate in the City, subject to a Conditional Use Permit ("CUP"). (The ordinance regulating medical marijuana dispensaries is codified at CCMC chapter 9.108 (the "Ordinance")). Under the ordinance, a deadline was established to submit a CUP application to the City, after which a lottery was held to determine in which order the applications would be processed. A total of 24 applications were received, the lottery was held, and each of the applications was ranked.

The application for King Blaise Cooperative was ranked sixth in the lottery and is next in line to be considered the ("Application").<sup>1</sup> The entire application is attached for your reference and review.

Cathedral City Municipal Code section 9.108.100 provides that following a public hearing, the Planning Commission shall deny a dispensary CUP application upon making any of the following findings:

- "The applicant has made one or more false or misleading statements or omissions on the application or during the application process;"
- "The applicant, or any person who is managing or is otherwise responsible for the activities of the dispensary, or any employee(s) or volunteer(s), if any, has been convicted of a felony...with the exception of marijuana related offenses for which the conviction occurred prior to passage of Compassionate Use Act ("CUA"), and which would be defensible today under the CUA..."
- "The applicant, or any person who is managing or is otherwise responsible for the activities of the proposed dispensary has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices..."

The Police Department conducted a background check as required by the Ordinance and made the following findings:

1. Blaise Raymond Moreno, who is listed as an Officer of King Blaise Cooperative on the application, was convicted of a violation of Penal Code section 245(A)(1), assault with a deadly weapon (not a firearm) in 1991 and sentenced to two years in State prison.
2. When Mr. Moreno took over a collective (California Alternative Medicinal Solutions) in Yucca Valley in 2012, he failed to change the ownership on the business license because it would have required him to close the business and reapply for a permit.

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<sup>1</sup> One of the first five applications was approved; the others were either withdrawn or denied. Some of the applicants who were denied have challenged the denials in cases pending in Superior Court.

If the business closed, Mr. Moreno believed the business would not have been allowed to reopen. The Police Department determined Mr. Moreno was fraudulent and deceptive in his business dealings with Yucca Valley, and violated Yucca Valley's ordinance.

3. Mr. Moreno was complicit in the transportation from his "grow house" in Cherry Valley, California to his store in Yucca Valley. Mr. Moreno admitted he is in violation of State and Federal laws by operating a marijuana "grow house," but said that without doing so he would be unable to meet the supply demands to sell marijuana. The Police Department determined this is an unlawful business practice by Mr. Moreno.
4. Brian Scott Nicholson, who is listed as President of King Blaise Cooperative on the application, admitted he had taken over full responsibility of California Alternative Medicinal Solutions in Yucca Valley from the previous owner. Mr. Moreno admitted that he and Mr. Nicholson failed to follow the process for changing ownership of the business in Yucca Valley because they feared they would not be allowed to reopen. The Police Department determined Mr. Nicholson also engaged in unlawful, fraudulent and deceptive business acts.
5. Mr. Nicholson failed to provide background investigators the information regarding the business license for California Alternative Medicinal Solutions, but presented the ownership change from the previous owner as compliant with the law. Mr. Nicholson told background investigators he did not have to undergo a background investigation in Yucca Valley and showed newspaper clippings where he was identified as the Director of California Alternative Medicinal Solutions. The Police Department determined Mr. Nicholson's failure to volunteer this information was not only an admission, but was done to mislead the background investigators.

On the basis of these determinations and findings, the Community Development Director recommends that King Blaise Cooperative's application be denied. The City Attorney's office supports that recommendation.

Attorney Michele McKee, who represents the #8 applicant, Green Cross Co-op/PSGC, Inc., has submitted an email opposing the application on the ground that the applicant does not have an actual signed lease, although the applicant does have written permission from the property owner to operate a dispensary on the property. A copy of that email is attached. While Cathedral City Municipal Code Section 9.108.080(A)(7) does require a notarized acknowledgment from the property owner that a medical marijuana dispensary will be operated on the property, a signed lease is not required. Therefore, the City Attorney's office recommends that this objection not be used as a ground to deny the application or deem it incomplete.

In the event the Planning Commission disagrees with this recommendation of denial and believes the application should be granted, the hearing must be continued to a later date. The Superior Court has issued a restraining order prohibiting the City from granting any further applications until at least June 10, 2015. However, the City is not prohibited from denying any applications—so following staff's recommendation will not result in a violation of the Court order.

**RECOMMENDED ACTION:**

That the Planning Commission adopt the findings above and the recommendation of the Community Development Director and deny the Application for the Medical Marijuana Dispensary Conditional Use Permit (CUP) for King Blaise Cooperative (68860 Ramon Road) for violating Cathedral City Municipal Code section 9.108.100.

**Attachment:**

CUP Application  
Email from Michele McKee

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