

6/14/2018

Ann Arbor Planning Commissioners
Ann Arbor City Council
Ann Arbor City Mayor Taylor

Steve Kay
Curatives AA
3050 Packard
248.388.2143
skay011@aol.com

Mayor Taylor, Commissioners and Council Members;

June 13th, 2018

Dear Commissioners, Council Members, and Mayor Taylor

My name is Steve Kay I am a part of a petitioning group for a marijuana provisioning center license in your city at 3050 Packard. I am an educated, lifetime long Michigan resident, and businessman. My partners and I purchased 3050 Packard in Ann Arbor in 2016 because conclusively we couldn't think of a more historically progressive location in the State to participate in the new economy of Medical Marijuana. Since purchasing the building we have always asked for the City's direction on our property and its use. We have always listened. We were always treated professionally and with respect by everyone we have ever interacted with in our Ann Arbor dealings. Ironically, our abidance to City rules and requests has created an unintended problem. We are now confronted with this unforeseen issue that will seemingly prevent our business from receiving a special exception. It is with great horror and humility that we also realize we may suddenly be seen as an agitator to the City by trying to raise awareness to our problem. This is a City we continue to respect idealistically. We do not think the problem was intentionally caused by the City or even perhaps by the business interest that has caused us to bring our issue to light. When at the end of the last Planning Commission we heard the floor be cleared for a political figure of great historic influence to the City speak freely and openly about her perspective, we were scared. We are not conspiracy theorists. As a group we took a deep breath and all came to some conclusions:

1 We have a problem that the City didn't intend or create.

2 The mistake made by the petitioner that has created the problem may or may not have done so unintentionally. This petitioner, however, created a problem because of her abuse of the State's MMFLA memorandum for rules on temporary operations of existing and recognized dispensaries which gave her an unfair advantage.

3 We simply need to have our position understood by the City to come up with a fair solution for us all so we are not seen as an agitator.

We do not want to compare our position to the great wrongs of our world, but ultimately we feel victim shamed for bringing this issue to light. We can palpably feel the dismissive tone because it's a medical marijuana issue. We chose Ann Arbor because of your leadership and respect of this industry. Our potential loss on our building and site plan is secondary to the fear that we were not treated fairly and with equal consideration to the City's process on these type of businesses.

Time line and Our Story

-April of 2016 we bought 3050 Packard. We knew that an EXISTING and known dispensary, Ann Arbor Health Collective located at 3060 Packard, that is within our "marijuana business radius" who would apply going forward and thereby block our application according Ann Arbor's 600 ft radius ordinance. In other words, if Ann Arbor Health Collective decided to apply for a license, that would preclude us from using 3050 Packard as it's intended purpose, a legal marijuana dispensary. We were told by the City there would be no more dispensaries allowed to open because the City had a moratorium on new dispensaries. We were told if anyone, including us were to open, they would be immediately shut down. We were told no favoritism would be shown upon State licensing to the already existing open dispensaries. We knew we had an open dispensary 50 ft away from us. We knew we would have to share and participate in a fair process at the appropriate time to apply within the City. Thinking there would be no grandfathering we waited. Important point: from April of 2016 to November 2018, no new dispensaries were allowed to open legally in Ann Arbor. We are aware of three failed attempts within the City during that period that new dispensaries attempted to open but were given Cease and Desist Orders by Ann Arbor.

-February 10th-12th 2018 our team waited outside in line for 2 days in a blizzard to ultimately secure a 3rd place position to apply to the City for an SEU hearing

-February 14th 2018 our application was denied because a building interfered with an application that was submitted. It was not the building 50ft in front that blocked us, rather a building at 3152 Packard.

- 3152 Packard Huron View Business from April 2016 to February 12th would have been in conflict with any 600 ft allowable zone from the same building at 3060 Packard that we had our zone conflict 50ft in front of us.

-The concentric zones now put us in conflict with 3152, but also allowed someone behind us in process to apply 600 ft from Huron View, but not 600 ft from us.

Huron View claims they were in business on 12/1/17. Intentional or by mistake, they are allowed to wipe away our SEU because they were allowed to be considered an "established marijuana dispensary". The spirit of the memorandum by the State of Michigan was not to allow people to rush in at the last day and say they were open to gain an unfair advantage. It is damaging to us and every other petitioner that 3162 Huron View be given preferential treatment as an existing dispensary and be allowed to apply for a city license before the general public is allowed to do so. We were told grandfathering, and certainly one day of grandfathering, would not be allowed. Should one person be allowed to unilaterally open a marijuana dispensary when City Council publicly discussed and established the fair and legal process to do so? We followed the rules you set forth.

We have obtained the following considerations from Through the Freedom of Information Act:

-In an email dated 12/13/17, from Derek Delacourt to Huron View and CC'd Brett Lenart, Jill Thacher and Kristen Larcom, Mr. Delacourt says, "I don't have that address (3152 Packard) on file at the City nor do I have any type of request for occupancy, zoning compliance, or any other record of operation on file."

-In an email dated 12/13/17 Ann Arbor Community Services Administrator, Derek Delacourt to Huron View questions their facility as operational. " I asked our Zoning Administrator to go out and take a look at the location you request and it

is clear that the facility is not open or operational. ...Facilities that are not open are required to receive applicable approvals prior to opening.”

In an email dated 12/14/17 From Derek Dalecourt writes to Huron View Ms. Montague, “There does not appear to be an active or operational provisioning center located at this address. There is a (paper) sign and what appears to be two empty display cabinets at the location and nothing that would give the indication of an operating site. Staff is correct to not accept an occupancy permit requests at this time, currently nothing is being accepted or processed until a final determination on the ordinance is made. “

Christina Montague responds, “Huron View has been open daily since December 1 and serving our existing patients. We are open and operating daily and I am sorry if someone came by when we were out.” How convenient to say, “Sorry ,we were not there.” Huron View was NEVER open.

In another email dated 12/15/17 from Mr. Delacourt to response to Ms. Montague, “There does not appear to be an active or operational provisioning center located at (3152 Packard).”

In an email dated 12/15/17 from Kristen Larcom to Jacqueline Beaudry and cc's to Jill thatcher, Derek Dalecourt, Jacqueline Beaudry, Kevin McDonald and Stephen Postema, Kristen sends an attached file of Medical Marijuana Zoning ordinance Amendments.

“ Whereas, LARA established Emergency Rule 19 to conditionally allow applicant for a state operating license who is operating and had operated the proposed marijuana facility since before December 15, 2017, to temporarily continue to operate the existing facility on and after December 15, 2017, even though continued operation would otherwise require a state operating license.”

As of 12/15/17 The Provisioning Centers list for the City of Ann Arbor had not been able to verify Huron View Provisioning center. That said, if they were to have proven their business was open, were they going to get a cease and desist consistent to the period going back to April 2016?

Email dated 12/28/17 Christina asks Matt Morrow, Administrative Assistant Level III for Ann Arbor, “ I am unsure where I need to start the Ann Arbor MML application process.”

Wait, 12/28/2017 she is asking this? 27 days after she said she was opening? She said they were open and servicing patients since 12/1/17.

In an email dated 1/4/2017 Huron View Christina Montague tells Ann Arbor City Clerk, Jacqueline Beaudry she "is the CEO of Huron View and wants to be put on the "list."

Ms Beaudry responds, "Do you represent an existing medical marijuana facility? We are currently only signing the Attestation E forms businesses. the new zoning ordinance will go into effect on February 12, 2018." This seems to be the correct response to her claim.

On 1/5/18 Christina Montague emails Jill Thacher says, " Jacqueline (sp) Beaudry recommended that I contact you. I would like to meet with you next week or as soon as possible to get briefed on how to complete the application / registration process for my my provisioning center located at 3152 Packard." In an email dated 1/17/18 Christina Montague asks Jill Thacher for a site plan for her business. Ms. Thacher responds, "I checked my files and could not find any site plan for your address. One or two of the lots are site planned, but not this one unfortunately."

Metaphorically, and literally Huron View skipped in line. When someone skips a long important line they thumb their noses at the core decency of the people behind them. We are sorry we are bringing this to your attention, but we also depend on the fair and equal consideration to this problem. Huron View's disregard for protocol has impacted our business plan and will impact others. We ask that you take a close look at this situation and decide if this is the precedence that should be set for business operations going forward, not only for us, but others that seek the leadership of this fine city.

Respectfully,

A handwritten signature in black ink, appearing to read 'Steve Kay', with a long vertical line extending downwards from the end of the signature.

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