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BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of:

DOUG WAUN

Denial for a Marijuana Business License issued
by the Director, Regulatory Compliance &
Consumer Protection Division, Department of
Finance and Administrative Services,

)
)
) Civil Case No.: L-18-007
)
)

) DEPARTMENT'S MOTION TO
) CONTINUE SEPTEMBER 13, 2018
) 1:00 P.M. HEARING
)
)
)
)

I. RELIEF REQUESTED

This appeal hearing is scheduled for Thursday, September 13, 2018 at 1:00 PM. Faith Lumsden, Code Compliance Director for Seattle Department of Construction and Inspections, has been identified as a necessary witness for both Appellant, Doug Waun, and for the City Department of Finance and Administrative Services. Ms. Lumsden is unavailable on September 13th due to a pre-scheduled vacation out-of-state. Additionally, the City has filed a Motion for Summary Judgment and Appellant's response is due September 12, 2018. There is no dispute that the decision on that motion will be dispositive and will eliminate the need for a full hearing. Due to the witness's unavailability and due to the pending motion, the Department requests a 30-day continuance of the hearing. This is the first request for a continuance in this case.

1 **II. STATEMENT OF FACTS**

2 The Department of Finance and Administrative Services (FAS) denied a marijuana business
3 license to Seattle Cannabis Company, owned by Doug Waun, in an Order of the Director dated July
4 20, 2018. On July 26, 2018, the Appellant filed an electronic appeal of that decision. On July 27,
5 2018 the Hearing Examiner issued Notice of Appeal Hearing for Case L-18-007 setting the case for
6 hearing on September 13, 2018. A witness identified by both parties, Faith Lumsden of SDCI, is on
7 vacation out-of-state September 13 to 18, 2018 and unavailable to testify.¹

8 **III. ISSUE PRESENTED**

9 Is the unavailability of a necessary witness good cause for a continuance of the hearing
10 under Hearing Examiner Rule 2.20?

11 **IV. EVIDENCE RELIED UPON**

12 The filings and pleadings already on file with the Hearing Examiner and the attached
13 Declaration of Stephanie P. Dikeakos in support.

14 **V. AUTHORITY AND ARGUMENT**

15 Hearing Examiner rule 2.20(a) provides that, "A scheduled hearing may be continued on the
16 Examiner's initiative, or on the motion of a party for good cause shown."

17 This is the first request for a continuance of the hearing. Witness Faith Lumsden is the SDCI
18 employee who is most familiar with the permit for Seattle Cannabis Co.'s building and the application
19 of the Land Use Code. She is on scheduled vacation out-of-state on the date of the hearing and
20 unavailable to testify. Furthermore, the City has a pending Summary Judgment motion which will
21 resolve the legal issue in this case. Continuing the hearing would allow Ms. Lumsden to be present
22 for the hearing and will allow time for the Hearing Examiner to rule on the Department's Motion for

23

¹ Declaration of Stephanie P. Dikeakos in support of Department's Motion to Continue.

1 Summary Judgment which will obviate the need for a hearing. Since this is the first request for a
2 continuance, the Department submits that a witness's unavailability is good cause for a short
3 continuance.

4 **VI. CONCLUSION**

5 For the reasons stated above, the Department requests a 30-day continuance of the hearing in
6 this case.

7
8 DATED this 6th day of September, 2018.

9 PETER S. HOLMES
10 Seattle City Attorney

11 By:



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13 Assistant City Attorney
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20 *Attorney for Respondent, Regulatory Compliance &*
21 *Consumer Protection Division, Department of*
22 *Finance and Administrative Services*

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CERTIFICATE OF SERVICE

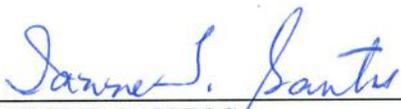
I hereby certify under penalty of perjury under the laws of the State of Washington, that on this date, I caused to be served a true and correct copy of the foregoing document, **Department's Motion to Continue and Declaration of Stephanie P. Dikeakos in support**, on the parties listed below and in the manner indicated:

Drew Duggan
Miller Nash Graham & Dunn
2801 Alaskan Way, Suite 300
Pier 70
Seattle, WA 98121
Counsel for Appellant

(x) U.S. First Class Mail, postage prepaid
(x) via e-mail drew.duggan@millernash.com

the foregoing being the last known address of the above-named party.

Dated this 6th day of September, 2018, at Seattle, Washington.



IANNE T. SANTOS