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**BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE**

In the Matter of the Citation Issued to  
**SEATTLE EVENTS/HEMPFEST CENTRAL**

by the Director, Department of Finance  
and Administrative Services, for violation of the  
Marijuana Businesses Code

NO. MJ-17-04-002

**NOTICE RE: ADDITIONAL ISSUES  
AND DEFENSES**

In light of Mr. Manning’s email of July 19, 2017 and his statement that “FAS has decided not to oppose the appellant’s motion for reconsideration and will agree to have a hearing on the merits,” Seattle Events identifies the following additional issues that will be presented, over and above the five issues listed in the Notice of Appeal – Or in the Alternative, Motion for Reconsideration (dated July 17, 2017) :

**ISSUE # 6.** Should the City be precluded or estopped from pursuing this case in light of 2015 communications between the undersigned counsel and the City Attorney’s Office, a copy of which is attached.

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ISSUE #7: Is SMC Chapter 6.500, including but not limited to SMC 6.500.030 pre-empted by state law, including but not limited to RCW Chapters 35.21, 36.62, and 69.50 ?

ISSUE # 8: Is SMC 6.500.030 void for vagueness under the Washington and/or federal constitutions?

ISSUE #9: Does this civil infraction prosecution violate due process?

ISSUE #10: Does this civil infraction prosecution violate equal protection?

DATED this 1<sup>st</sup> day of August, 2017.

LAW OFFICES OF  
FRED DIAMONDSTONE  
  
Fred Diamondstone  
WSBA No. 7138  
Attorney for Seattle Events

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DECLARATION OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing upon the individual(s) listed herein by the following means:

Stephen Manning, WSBA 36965 Assistant City Attorney 701 Fifth Ave, Suite 2050 Seattle WA 98104-7097	Via <input checked="" type="checkbox"/> email to <u>Stephen.manning@seattle.gov</u>  <input type="checkbox"/> Legal Messenger for delivery by 5:00 p.m. on: _____
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I declare under the penalties of perjury of the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

Signed at Seattle, Washington, on Aug 1<sup>st</sup>, 2017.

  
\_\_\_\_\_  
Fred Diamondstone

**From:** [Seu, Carlton](#)  
**To:** [Fred Diamondstone](#)  
**Cc:** [Nadelman, Jessica](#); [douglas@douglashiatt.net](mailto:douglas@douglashiatt.net)  
**Subject:** RE: public complaint  
**Date:** Thursday, October 29, 2015 4:23:54 PM  
**Attachments:** [image002.png](#)  
[image003.png](#)

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Fred,

Thanks for your response.



**Carlton W. M. Seu**  
Senior Assistant City Attorney  
Director, Government Affairs Section

Seattle City Attorney's Office  
Civil Division  
**701 Fifth Avenue, Suite 2050**  
**Seattle, WA 98104-7097**  
Phone: 206-733-9390  
FAX: 206-684-8284  
[carlton.seu@seattle.gov](mailto:carlton.seu@seattle.gov)

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**From:** Fred Diamondstone [<mailto:Fred@freddiamondstone.com>]  
**Sent:** Thursday, October 29, 2015 3:19 PM  
**To:** Seu, Carlton  
**Cc:** [Nadelman, Jessica](#); [douglas@douglashiatt.net](mailto:douglas@douglashiatt.net)  
**Subject:** RE: public complaint  
**Importance:** High

Carlton,

Thank you for your message.

Please be advised that this is a membership only event for Hempfest members. This annual Halloween party has occurred for a number of years. It is just that – a party for members. Beer, wine and/or hard cider or other alcohol may be served. This has occurred in past years, when I have attended. It is a once a year event.

Because of the service of alcohol, as well as the “adult” nature of the discussions that guests have about the marijuana reform movement, it is not appropriate for minors.

Hempfest holds this party in a house in the Fremont neighborhood. I do not know the specifics of the zoning of the property or the legal status of the owner.

It has **not** been advertized as “Tokefest,” though there is the “Toker’s Bowl” reference. Still, it is being advertized as a masquerade, costume party – not as a “smoke-in.”

We do not believe that this activity meets the definition of “conduct or maintain a public place where marijuana is held or stored”, as defined in RCW 69.50.4006 (2), whatever that awkward phrase may mean. Nor do we believe that this event, or support for Hempfest and its reform message, can be considered as the operation of a “marihuana club.”

If you have a different interpretation of the applicable law, feel free to provide your analysis.

*Fred Diamondstone*

Attorney  
1218 Third Ave., Suite 1000  
Seattle, WA 98101

206-568-0082  
206-568-1683 fax

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**From:** Seu, Carlton [<mailto:Carlton.Seu@seattle.gov>]  
**Sent:** Wednesday, October 28, 2015 8:20 AM  
**To:** Fred Diamondstone  
**Cc:** Nadelman, Jessica  
**Subject:** FW: public complaint

Fred,

I was forwarded the email below. I presume that Hempfest is aware of Section 1401 of SESSHB 2136 and is taking steps to remain in compliance?

Thanks,

Carlton



**Carlton W. M. Seu**  
Senior Assistant City Attorney  
Director, Government Affairs Section

Seattle City Attorney's Office

Civil Division  
701 Fifth Avenue, Suite 2050  
Seattle, WA 98104-7097  
Phone: 206-733-9390  
FAX: 206-684-8284  
[carlton.seu@seattle.gov](mailto:carlton.seu@seattle.gov)

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**From:** John Kingsbury [<mailto:ajkingsbury@hotmail.com>]  
**Sent:** Friday, October 23, 2015 3:12 PM  
**To:** Holmes, Peter  
**Subject:** public complaint

Dear Mr. Holmes,

I am writing to draw your attention to an October event, that seems to risk becoming a felony violation of the law.

The Seattle Hempfest organization is promoting an October 31 event called Tokefest, that will be hosted at a public venue. The event is being promoted to the public on Facebook, on the Seattle Hempfest website, in Seattle weekly newspapers, and in (what I presume to be) a paid advertisement in The Stranger. The conditions for attendance seem to be: above the age of 21; and the payment of money, either in the form of previous membership, or a one day membership, or by pressing a "buy tickets" button on some of their listings.

I know you must be aware of the recently passed House Bill 2136, which (according to the Office of Code Reviser) has yet to be coded into RCW 69.50. Section 1401 of HB 2136 states:

"(1) It is unlawful for any person to conduct or maintain a marijuana club by himself or herself or by associating with others, or in any manner aid, assist, or abet in conducting or maintaining a marijuana club.

(2) It is unlawful for any person to conduct or maintain a public place where marijuana is held or stored, except as provided for a licensee under this chapter, or consumption of marijuana is permitted.

(3) Any person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW "

I am not a lawyer, but I assume the questions to consider are:

**Is the Culture Yard or the Hempfest space a "marijuana club"?** HB 2136 defines a "marijuana club" as "...a club, association, or other business, for profit or otherwise, that conducts or maintains a premises for the primary or incidental purpose of providing a location where members or other persons may keep or consume marijuana on the premises."

**Is it necessary for a “marijuana club” to “provide a location” a long-term, fixed address, or would transient addresses still qualify ?** I don’t know the answer. HB 2136 seems to be silent about that.

Here, Seattle Hempfest seems to be promoting this event as a fundraiser and/or a membership drive. Entry is impossible without the exchange of money at some point. It seems to be accessible to anyone in the public who pays, who is also above 21 years of age.

Other entities which hold interests in the event include Hempfest Events, which appears to be a for-profit entity; and the Culture Yard, which appears to have a Seattle business license, but became “inactive” in Department of Revenue records as of 2012. I looked through the event listings for the Culture Yard, and it seems to host mostly reggae events as a public venue. I do not know if they hold a liquor license.

**Is a “primary or incidental purpose.” of this event about “... providing a location where members or other persons may keep or consume marijuana. “ ?** The event is called “Tokefest.”

Before writing to your office, I contacted the Hempfest organization and asked them about the propriety and legality of this event. Their clear and brief response was that this will be a “private party.” Whatever one makes of the definition of the word “private” in this context , HB 2136 does not differentiate between private and public in prohibiting some types of clubs and activities.

It seemed a strange defense, given that many involved in the Hempfest organization are very familiar with the details of HB 2136. In fact, the bill was openly advocated for in its final form by some Hempfest board members.

I will also draw to your attention to other public events and venues that have closed due to the new cannabis legalization –most notably the planned High Times Cannabis Cup. The August Cannacon parties were shut down repeatedly by the Tacoma Police as potentially violating the new marijuana club bans. It is easy to site numerous other cases, such as industry parties, for which it is standard that smoking in the social areas are expressly prohibited in order to avoid felony violations. The concerns about the Tokefest fund/membership drive are not unique and have precedent.

Of course you are better qualified than I am to determine which activities fit within the new marijuana laws. That is why I am bringing this event to your attention.

I think it is important, regardless of what we think of the new laws, that the laws are applied evenly to all persons and entities in the community. As a lifetime citizen of the Seattle area, my feeling is that while moving forward we want to be careful not to create a climate in which there a sense that there is one set of rules for some people and another set of rules for others. In the changing legal landscape of marijuana legislation, a sense of who are the “good actors” and the “not-so-good actors” needs to be based on equal application of, and compliance with, the law, but not on who has the best image, or the best relationships, or other subjective factors.

I appreciate your attention to these concerns.

I have attached a link to the Tokefest Stranger listings, as well as snapshots of their advertisements.

Thank you for your time.

<http://createsend.com/tj-73BF8417A3CBE280>

Regards

 **John Kingsbury**

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