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June 22, 2016

Karl Hall, Esq.
Reno City Attorney
One East First Street
Reno, NV 89501

RE: LivFree Wellness Reno, L.L.C./Steve Menzies
Medical Marijuana Dispensary
100 W. Plumb Lane
Agenda Item E.1.d.
June 15, 2016 City Council (Continued)

Dear Karl:

This office represents the Applicant LivFree Wellness Reno, L.L.C. and Steve Menzies (LivFree) relative to the above application.

At the caucus meeting held on June 13, 2016, Councilmember Brekhus asked for additional information on the history of the Conservatory of Movement Dance Academy (Conservatory) located at 73 W. Plumb Lane. The Conservatory, together with some patrons of the business, had made objections to the City to the issuance of the LivFree license on the basis the Conservatory was a licensed center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents within the meaning of NRS 453A.322(7), therefore precluding the issuance of the license by the City of Reno because RMC Titles 5 and 18 requires a 300-foot separation from a Community Facility defined in RMC Section 5.21.012. Conservatory is approximately 200 feet from the LivFree location.

An investigation of the relevant facts and applicable law (RMC and NRS) reveals the following:

1. The Conservatory's primary purpose is not to provide recreational opportunities or services to children or adolescents, as shown on the Conservatory's web pages and advertising. A review of that information reveals nothing more than a dance academy for all ages and mediums of dance.

2. The Conservatory is not a licensed center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents under any provision or agency of the State of Nevada, Federal Government, or City of Reno.

3. The Conservatory's business license expired as of January 31, 2011. That license and any renewal thereof contains no license language that its primary purpose is to provide recreational opportunities or services to children or adolescents.

4. RMC 18.08.202(b)(20) states LivFree must show "proof of compliance, at the time of application for a zoning verification letter with the City of Reno, with all spacing requirements set forth in RMC and NRS shall be provided by a State of Nevada licensed surveyor."

LivFree submitted its proof of compliance to the City through a licensed surveyor in August, 2014 and were granted a Zoning Verification Letter that same month. Assuming, arguendo, that the Conservatory was a location that disqualified LivFree's location, it would have had to be a business in good standing on August, 2014.

RMC 4.04.020 provides that it is "unlawful for any person to do business for himself . . . or to hold themselves out as a business within the city unless such person has first paid all applicable license fees and obtained all licenses required under Title 4 or Title 5."

The State's definition of "Community Facility" includes "A center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents." NRS 453A.322(7) The City of Reno definition adds a very important modifier in that it must be "A licensed center or facility." RMC 5.21.010.

At the time the zoning verification letter was submitted and approved by the City, and through the time the tenant improvements were made, state approvals obtained, building permits submitted and obtained, and all City inspections performed, the Conservatory was not a licensed center or facility for children or adolescents.

Based upon the above, there is no legal basis upon which the City may deny the LivFree license based upon the objections of the Conservatory.

Sincerely,

PREZANT & MOLLATH

By 

Stephen C. Mollath, Esq.

SCM/ja

Enclosure

cc: Steve Menzies