



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 011-18

3617 STATE STREET
REVOCATION OF STOREFRONT COLLECTIVE DISPENSARY PERMIT
FEBRUARY 28, 2018

NOTICE OF DECISION TO REVOKE THE STOREFRONT COLLECTIVE DISPENSARY PERMIT ISSUED TO SANTA BARBARA PATIENTS COLLECTIVE AND HEALING CENTER, 3617 STATE STREET, APN: 051-051-005, C-P/SD-2 RESTRICTED COMMERCIAL/SPECIAL DISTRICT 2 ("UPPER STATE STREET AREA") ZONES, GENERAL PLAN DESIGNATION: COMMERCIAL/MEDIUM HIGH RESIDENTIAL (MST2014-00438)

WHEREAS, on June 4, 2015, the Planning Commission held a public hearing and conditionally issued a Medical Marijuana Storefront Collective Dispensary Permit to Santa Barbara Patients Collective and Health Center (SBPCHC) for a Storefront Collective Dispensary to be operated at 3617 State Street (Exhibit C to City Attorney Brief).

WHEREAS, on January, 25 2017, an Unlawful Detainer-Eviction was filed with the Superior Court of California, County of Santa Barbara by Richard Doolittle, property owner, against SBPCHC, and DOES 1 to 25 due to the non-payment of rent for the premises of 3617 State Street, Santa Barbara (Bates stamp 053-057).

WHEREAS, on February 24, 2017, the Superior Court of California, County of Santa Barbara entered a Default Judgement in favor of Richard Doolittle and a Writ of Execution was filed returning possession of the property to Richard Doolittle (Bates stamp 059-062).

WHEREAS, on November 3, 2017, pursuant to the requirements of Santa Barbara Municipal Code (SBMC) §30.185.250.L (formerly SBMC §28.80.120.C), the City Attorney's Office issued a Notice of Hearing and Intent to Revoke to the Attorney's representing the Management Members of SBPCHC as identified in the Storefront Collective Dispensary Permit, which gave notice that a hearing would be scheduled requesting the Staff Hearing Officer to revoke the Storefront Collective Dispensary Permit based on the evidence that neither SBPCHC nor any of its approved Management Members have possession of the property located at 3617 State Street (Exhibit A of City Attorney Brief).

WHEREAS, on February 28, 2018, the Staff Hearing Officer held the required public hearing to receive evidence, take testimony, and hear public comment on the City Attorney's Notice of Hearing and Intent to Revoke the Storefront Collective Dispensary Permit.

WHEREAS, the following persons were present at the hearing:

Susan Reardon, Staff Hearing Officer

Tava Ostrenger, Assistant City Attorney

WHEREAS, no member of the public appeared to speak during public comment in regard to the revocation, and the following Exhibits were presented for the record:

1. City Attorney's Hearing Brief Requesting Revocation of Approved Marijuana Dispensary Application with Exhibits A-H, February 21, 2018.
2. Correspondence received in support of the revocation from Gordon Brewer, Judy Williams, and Jordan Brewer.

NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer, after reviewing the written documents submitted by the City Attorney's Office and SBMC §30.185.250 (formerly SBMC §28.80), makes the following findings and determinations:

I. FINDINGS OF FACT

1. On June 4, 2015, the Planning Commission held a public hearing and conditionally issued a Medical Marijuana Storefront Collective Dispensary Permit to Santa Barbara Patients Collective and Health Center (SBPCHC) for a Storefront Collective Dispensary to be operated at 3617 State Street (Exhibit C to City Attorney Brief).
2. SBMC §30.185.250.M (formerly SBMC§28.80.130.A), states "*A permittee shall not operate a Storefront Collective Dispensary under the authority of a Storefront Collective Dispensary permit at any place other than the address of the Collective Dispensary stated in the application for the permit. All Collective Dispensary permits issued by the City pursuant to this Chapter shall be non-transferable to a different location.*"
3. Richard Doolittle is the property owner of the commercial property located at 3617 State Street (Bates stamp 099).
4. On January 25, 2017, an Unlawful Detainer-Eviction was filed with the Superior Court of California, County of Santa Barbara, by Richard Doolittle against SBPCHC, and DOES 1 to 25 due to the non-payment of rent for the premises of 3617 State Street, Santa Barbara (Bates stamp 053-057).
5. On February 24, 2017, the Superior Court of California, County of Santa Barbara entered a Default Judgement in favor of Richard Doolittle and a Writ of Execution was filed on that same day returning possession of the property to Richard Doolittle (Bates stamp 059-062).
6. A Lease, dated February 28, 2017, was executed on March 7, 2017, between Richard Doolittle and AP Investment Fund LLC for the premises located at 3617 State Street (Bates stamp 066-097).
7. APP Investment Advisors LLC is the manager of AP Investment Fund LLC, a California limited liability company (Bates stamp 064).

8. On November 6, 2017, Kyle Kazan, Chief Operating Officer/President and Manager of APP Investment Advisors LLC, a California limited liability company, signed a Declaration under the penalty of perjury that AP Investments LLC has no intention of ever assigning or subleasing its interest in 3617 State Street to Santa Barbara Patients Collective and Healing Center, or any of its members, managers, directors, or associates (Bates stamp 065).
9. On November 15, 2017, Richard Doolittle signed a Declaration, under the penalty of perjury, stating that SBPCHC has not occupied the property since at least February 24, 2017 and that Mr. Doolittle has no intention of leasing the property to SBPCHC, or any of its members, managers, directors, or associates in the future (Bates stamp 099-100).

II. CONCLUSIONS OF LAW

1. 3617 State Street is the address identified on the approved Storefront Collective Dispensary Permit as the property where the approved Storefront Collective Dispensary would be operated.
2. Per SBMC §30.185.250.M (formerly SBMC§28.80.130.A), a permittee may not operate a dispensary under the authority of Storefront Collective Dispensary Permit at any other location than the address of the Storefront Collective Dispensary identified in the application for the permit. A Storefront Collective Dispensary Permit is site specific and is not transferable to another location.

III. DECISION

Pursuant to SBMC §30.185.250.M (formerly SBMC§28.80.130.A), a Storefront Collective Dispensary Permit is site and property specific. Given that the approved Storefront Collective Dispensary Permit provides that the Dispensary will be located at 3617 State Street and that neither SBPCHC nor its management members have possession of the property, the Dispensary cannot operate in a manner consistent with the requirements under SBMC §30.185.250.

Therefore, pursuant to SBMC §28.80.130.D, I deem the Storefront Collective Dispensary Permit issued to SBPCHC revoked based upon the foregoing Findings of Fact and Conclusions of Law.

This decision may be appealed to the Planning Commission within 10 calendar days of the date of this decision pursuant to SBMC §28.80.110.A and SBMC §28.05.020.B.

Executed on March 7, 2018



Susan Reardon, Staff Hearing Officer