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April 15, 2021

El Dorado County Planning Commission  
2850 Fairlane Court  
Placerville CA 95667  
Attn: Jon Vegna, Chair

Re: Explanation of Background Check Score for Applicant Tahoe Honey Company.

Dear Members of the Planning Commission:

This letter provides an explanation for the scoring by the El Dorado County Sheriff's Office of the Background Check component of the Meyers Commercial Cannabis Retail Selection & Award application of Tahoe Honey Company.

Please note that California law generally grants a high degree of confidentiality to the results of background investigations conducted for various purposes, including licensing and permitting. However, in the present matter, Appellant Tahoe Honey Company has directly disclosed in its appeal to the Planning Commission all of the information that is relevant to the explanation below. Accordingly, the Sheriff's Office will discuss in this letter the impact of the voluntarily-disclosed information on the Appellant's score. No other information from the background investigation will be herein disclosed; such information was not relevant to the scoring, though.

The El Dorado County Planning and Building Department published the following criteria for scoring the Background Check component of the Meyers Commercial Cannabis Retail Selection merit based scoring of the applications received:

1. An applicant with a total of three or more relevant infractions or misdemeanors or one felony conviction on the background checks for all owners will be given a score of 1.
2. An applicant with two relevant infractions or misdemeanors on the background checks for all owners will be given a score of 2.
3. An applicant with one relevant misdemeanor on the background checks for all owners will be given a score of 3.

4. An applicant with one infraction on the background checks for all owners will be given a score of 4.
5. An applicant with an absolutely clean background check for all owners will be given a score of 5.

Of particular note here is the distinction in criteria number 1 between infractions/misdemeanors and felonies. Infractions and misdemeanors must be relevant<sup>1</sup>; however, the “relevant” modifier is not applied to felonies. Per the published scoring system, any felony conviction on record for an owner of the applicant will result in a score of “1” on the Background Check component. This is non-discretionary, and is not limited by date, jurisdiction, or type of felony.

As part of its appeal, Appellant attached a document entitled “State of New York Certificate of Relief from Disabilities.” This document shows that one of Appellant’s identified owners, Charles Willett, was convicted of a felony in the State of New York for criminal possession of a controlled substance. In its appeal, Appellant makes arguments regarding the age of the felony, and that this possibly would not be a felony in California if committed today. None of these factors are relevant under the published scoring system. This was a felony conviction for a listed owner, which by the plain language of the scoring criteria results in a Background Check score of “1”.

The fact that Mr. Willett obtained a Certificate of Relief from Disabilities with respect to this conviction is also irrelevant. Under New York law, a Certificate of Relief from Disabilities does not operate as an exoneration or pardon. The Certificate simply means that automatic bars to employment and other privileges resulting from the conviction are no longer completely prohibitive. For example, if a conviction resulted in a person being unable to apply for a certain job, the Certificate would restore the person’s ability to apply for that job. However, the person would still need to respond affirmatively if asked whether he or she had ever been convicted of a crime. *Certificate of Relief from Disabilities – NY CourtHelp* (August 13, 2020), <https://www.nycourts.gov/courthelp/Criminal/CRD.shtml>. New York law also explicitly states that convictions for which a Certificate of Relief from Disabilities has been received may still be considered for licensing and permitting purposes:

A certificate of relief from disabilities shall not, however, in any way prevent any judicial, administrative, licensing or other body, board or authority from relying upon the conviction specified therein as the basis for the exercise of its

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<sup>1</sup> According to the published scoring system:

For purposes of a commercial cannabis application, a relevant infraction, misdemeanor, or felony is one that the Sheriff’s Office determines “makes it more likely than not that any amount of funding for the operation will be or was derived from illegal activity or because the criminal history or other information discovered in the background check of an owner or spouse of an owner weighs against the owner’s trustworthiness or ability to run a legal business in compliance with all regulations, including but not limited to the risk of involvement or influence by organized crime, prior convictions involving controlled substances or violent crimes, the likelihood that sales and income will not be truthfully reported, or the risk that cannabis will be illegally provided or sold to individuals under the age of 21”.

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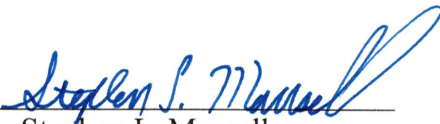
discretionary power to suspend, revoke, refuse to issue or refuse to renew any license, permit or other authority or privilege.

N.Y. Correct. Law § 701 (McKinney).

The Appellant's score of "1" on the Background Check component of its application was the only possible result given the published scoring system and the facts and law described above. If you have any further questions, please contact me.

Very truly yours,

DAVID A. LIVINGSTON  
County Counsel

By :   
Stephen L. Mansell  
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