

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
CHARLES PAPPAS dba
"DIVINITY TREE PATIENTS' WELLNESS COOPERATIVE",)
Appellant(s))
vs.)
ZONING ADMINISTRATOR,)
Respondent

Appeal No. 14-149

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on August 25, 2014, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the **ISSUANCE** on August 11, 2014, of Letter of Determination (regarding whether a Medical Cannabis Dispensary (MCD) may be re-established at the retail space located at the subject property) at 958 Geary Street.

FOR HEARING ON October 29, 2014

Address of Appellant(s):

Charles Pappas dba "Divinity Tree
Patients' Wellness Cooperative", Appellant
1130 Sterling Avenue
Berkeley, CA 94708

Address of Other Parties:

954 Geary LP, Subject Property Owner
150 Post Street #320
San Francisco, CA 94108



Date Filed:

BOARD OF APPEALS

AUG 25 2014

APPEAL #

14-149

CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS

PRELIMINARY STATEMENT OF APPEAL

I / We, **Charles Pappas dba "Divinity Tree Patients' Wellness Coop"**, hereby appeal the following departmental action: **ISSUANCE of Letter of Determination** by the **Zoning Administrator** which was issued or became effective on: **August 11, 2014**, for the property located at: **958 Geary Street**.

BRIEFING SCHEDULE:

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: **October 09, 2014, (no later than three (3) Thursdays prior to the hearing date)**, up to 12 pages in length, double-spaced, with unlimited exhibits, with an original and 10 copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day.

Respondent's and Other Parties' Briefs are due on or before: **October 23, 2014, (no later than one (1) Thursday prior to hearing date)**, up to 12 pages in length, doubled-spaced, with unlimited exhibits, with an original and 10 copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day.

Only photographs and drawings may be submitted by the parties at hearing.

Hearing Date: **Wednesday, October 29, 2014, 5:00 p.m., City Hall, Room 416, One Dr. Carlton B. Goodlett Place.**

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any change to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should submit an original and 10 copies of all documents of support/opposition no later than one (1) Thursday prior to hearing date by 4:30 p.m. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection at the Board's office. You may also request a copy of the packet of materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

If you have any questions please call the Board of Appeals at 415-575-6880

The reasons for this appeal are as follows:

see attached

Appellant or Agent (Circle One):

Signature

Charles A. Pappas

Print Name:

CHARLES A. PAPPAS

Board of Appeals
1650 Mission, Room 304
San Francisco, CA 94103

Charles A. Pappas, chairman
Divinity Tree Patients' Wellness Coop
(958 Geary, formerly)
1130 Sterling Avenue
Berkeley CA 94708
August 25, 2014

Re: unfavorable Letter of Determination,
SF Zoning Administrator, August 11 2014

BOARD OF APPEALS
AUG 25 2014
APPEAL # 14-149

Dear Board of Appeals,

It is my intention to request respectfully a hearing before you to review and reverse the Zoning Administrator's unfavorable Letter of Determination regarding the medical cannabis dispensary permitting of Divinity Tree Patients' Wellness Coop (myself, co founder & currently chairman) at 958 Geary.

In March 2014, the Divinity Tree was informed by Planning that an 18 month closure period constituted permit "abandonment." In June 2014, Divinity Tree requested a Letter of Determination from the Zoning Administrator, who replied a full 9 weeks later August 11, 2014.

Briefly, several reasons for our permit reinstatement :

- 18 month closure = "abandonment," never mentioned by SF DPH, Planning
- Planning, SF DPH different closure dates (May 2012, December 2012)
- Reopening efforts – February 2013, September 2013 continuing
- Provided patient services (medicine and cultivation) after ending delivery service
- 958 Geary vacancy maintained by building owner for Divinity Tree return
- SF DPH medical cannabis dispensary permitting body never revoked permit
- Special circumstances of closure – US Atty landlord threats, fines, forfeiture, imprisonment.

In conclusion, as Divinity Tree chairman, I speak for myself, our Board of Directors, and Coop member patients protesting the lack of permit considerations from the Planning Dept., the absence of attention, acknowledgment, and answers addressing our reasons above, from the Zoning Administrator. His "clear and unambiguous" excuse for "permitting ineligibility" is the 1000ft proximity of 958 Geary to an elementary school, whose proximity had been allowed because of Divinity Tree beginning operating before April 2005. We hope the Board of Appeals will reconsider this narrow reasoning and vote to allow the Divinity Tree to serve our patients, neighborhood, City, and all other qualified patients.

Sincerely,

Charles A. Pappas

Charles A. Pappas chairman, Divinity Tree Patients' Wellness Coop



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

August 11, 2014

Charles A. Pappas
Divinity Tree Patients' Wellness Coop.
1130 Sterling Avenue
Berkeley, CA 94708

Site Address:
Assessor's Block/Lot:
Zoning District:
Staff Contact:

958 Geary Street
0693/012
RC-4 (Residential-Commercial, High Density) District
Kevin Guy, (415) 558-6163 or kevin.guy@sfgov.org

BOARD OF APPEALS

AUG 25 2014

APPEAL # 14-149

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Dear Mr. Pappas:

This letter is in response to your request for a Letter of Determination regarding the property at 958 Geary Street. This parcel is located in the RC-4 (Residential-Commercial, High Density) Zoning District, North of Market Residential Special Use District, Lower Polk Alcohol Restricted Use District, Fringe Financial Services Restricted Use District, and 80-T Height and Bulk District. The request is whether a Medical Cannabis Dispensary ("MCD") may be re-established at the retail space located at 958 Geary Street ("subject property").

According to your request letter and the supporting documentation provided, Divinity Tree began operating at the subject property in March 2005. In November 2005, the Board of Supervisors adopted legislation which established the regulations and permitting process associated with MCDs, including amendments to the Planning Code. These regulations drew an important distinction between those MCDs which had been operating prior to April 1, 2005 versus those MCDs which sought to begin operation after April 1, 2005. MCDs which began operating prior to that date could seek formal approvals to continue operating in that location even if they were within 1,000 feet of a school or recreation building that primarily services persons under 18 years of age. MCDs which commenced operations after this date would not be able to operate within 1,000 feet of a school or recreation building that primarily services persons under 18 years of age.

The subject property is located within 1,000 feet of Redding Elementary School, at the southwest corner of Pine and Larkin Streets. Because Divinity Tree began operating prior to April 1, 2005, it was eligible to receive approvals to continue operating within 1,000 feet of the school. In October 2007, the Planning Commission approved the continued operation of Divinity Tree at the subject property through the Mandatory Discretionary Review process (Case No. 2007.0657D).

As described in your request letter and supporting documentation, in 2011, the U.S. Department of Justice issued letters to landlords which leased commercial space to MCDs. These letters describe that MCDs are

Charles A. Pappas
Divinity Tree Patients' Wellness Coop
1130 Sterling Avenue
Berkeley, CA 94708

August 11, 2014
Letter of Determination
958 Geary Street

operating in violation of federal law, which makes no provision for use or sale of cannabis for medical purposes, even if such use is allowed by state law. These letters indicate that the landlords could be subject to criminal prosecution, with penalties that may include imprisonment and asset forfeiture, including seizure of the property where the MCD operates. Your supporting documentation includes such a letter issued to Paul Huang and Charles Huang (owners of the subject property) from Melinda Haig (U.S. Attorney in the Northern District of California, dated September 28, 2011).

Your letter indicates that, in response to the threats of prosecution, the storefront operations of Divinity Tree ceased in November 2011, and that the business shifted to a delivery-service format. Your letter further indicates that the delivery service ceased and that the lease for the space at 958 Geary Street was formally terminated in May 2012.

Planning Code Section 209.3(f) addresses the issues of abandonment of an MCD, stating:

"(f) If an MCD closes for a duration longer than 18 months or if the MCD's license is revoked by DPH pursuant to Health Code Section 3315, the MCD will be considered abandoned and any Planning Commission authorization for the parcel shall be null and void." [emphasis added]

More than 18 months have lapsed since Divinity Tree ceased storefront operations and the subsequent delivery service at 958 Geary Street. Therefore, the MCD use at this location is considered abandoned, and the previously-granted approvals by the Planning Commission are no longer valid. Your letter indicates that the Department of Public Health (DPH) never formally revoked the operating permit for Divinity Tree. However, regardless of the status of the DPH permit for the business, the Planning Code language cited above considers the MCD to be abandoned if the MCD is closed for longer than 18 months. Furthermore, the subject property is ineligible for new approvals to operate an MCD because it is located within 1,000 feet of Redding Elementary School.

The Planning Department acknowledges that Divinity Tree acted in good faith in obtaining necessary approvals from the various agencies within the City and County of San Francisco, and operated in good standing by complying with the conditions of these approvals. The Planning Department also recognizes the significant difficulties posed by the threat of Federal prosecution (which persisted from 2011 through 2013), as well as your efforts in collaborating with the Planning Department, the Department of Public Health, and Supervisor Kim's office in seeking to reestablish the business at the subject property. However, the cited Planning Code language regarding the abandonment of the MCD use, as well as the prohibition against the approval of new MCDs within 1,000 feet of schools, is clear and unambiguous. Pursuant these regulations, Divinity Tree's operations at 958 Geary Street are considered abandoned, and may not be reestablished at this location.

BOARD OF APPEALS

AUG 25 2014
APPEAL # 14-149

Charles A. Pappas
Divinity Tree Patients' Wellness Coop
1130 Sterling Avenue
Berkeley, CA 94708

August 11, 2014
Letter of Determination
958 Geary Street

APPEAL: If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,



Scott F. Sanchez
Zoning Administrator

cc: Kevin Guy, Planner
Property Owner
Neighborhood Groups
BBN Requestor (if any)

BOARD OF APPEALS

AUG 25 2014
APPEAL # 14-149

Board of Appeals
1650 Mission, Room 304
San Francisco, CA 94103

BOARD OF APPEALS

OCT 30 2014

APPEAL # 14-149

Charles A. Pappas, chairman
Divinity Tree Patients' Wellness Coop
(formerly 958 Geary)
1130 Sterling Avenue
Berkeley CA 94708
October 29, 2014

Re: Hearing # 14-149, November 19, 2014
Appellant's Brief – Divinity Tree 958 Geary
Letter of Determination denied August 11, 2014 by Zoning Administrator

Dear Board of Appeals,

As co-founder (2005), currently chairman, Divinity Tree Patients' Wellness Coop, I respectfully request the Board of Appeals to review Zoning Administrator Scott Sanchez' unfavorable Letter of Determination decision, and to judge the facts and find the reasoning to grant discretion, re-permitting the Divinity Tree. Because the circumstances of this appeal differ from normal Planning Department land use issues, I will attempt to present the case for permit reinstatement clearly and concisely with consideration for the Board's time and busy schedule.

See below facts and reasoning for Divinity Tree's permit reinstatement, followed by a summation, with relevant documentation included at Brief's conclusion.

- ³⁵/₁₇ 18 months of closure = "abandonment," never mentioned by San Francisco Department of Public Health, Planning Department
- ³⁵/₁₇ Planning Department, San Francisco Department of Public Health different closure dates (May 2012, December 2012)
- ³⁵/₁₇ Reopening efforts – February 2013, September 2013 continuing
- ³⁵/₁₇ Limited patient services (medicine and cultivation) provided after ending delivery service
- ³⁵/₁₇ 958 Geary vacancy maintained by building owner for Divinity Tree return
- ³⁵/₁₇ San Francisco Department of Public Health, medical cannabis dispensary permitting body, never revoked permit
- ³⁵/₁₇ Special circumstances of closure – United States Attorney fines, forfeiture, imprisonment threats to 958 Geary landlord

Upon closing storefront operations November 11, 2011 due to possible United States Department of Justice judicial action against our supportive landlord, Divinity Tree operated a delivery service from 958 Geary until May 15, 2012, when we terminated our lease with Gordon Property Management out of financial necessity. However, hoping for our possible future return the owners maintained 958 Geary vacancy. In April and May 2012, I met with the San Francisco Department of Public Health and Dan Sider of the Planning Department. At these meetings, the unfortunate circumstances for the San

Francisco medical cannabis dispensaries targeted by the local United States Attorney were discussed as well as medical cannabis dispensary relocation possibilities.

At that time, the San Francisco Department of Public Health mentioned these considerations, specifically, a new permit fee reduction and temporary permitting at a new location, in both April and September 2012 meetings. However, the 18-month closure provision enacted in April 2011 was not disclosed or discussed, which earlier this year Planning Department and the Zoning Administrator determined our permit invalid for "abandonment". This item was not part of the original medical cannabis dispensary permit process. This omission of conditions of the additional "Abandonment" enactment by the Planning Department and San Francisco Department of Public Health brings Divinity Tree's permit issue to this point.

In the Letter of Determination decision, the Zoning Administrator did not address this serious omission of conditions of a continued permit. Finally, in the submission of Letter of Determination documents I discovered the San Francisco Department of Public Health listed the Divinity Tree closure date to be December 2012, about 8 months later than Planning Department closure date May 2012, which also was not addressed in the Zoning Administrator's decision.

Honestly, knowledge of the 18-month closure period would have precipitated Divinity Tree attempting re-opening at 958 Geary a year ago. Instead, after the United States Deputy Attorney General Cole August 2013 memo, Divinity Tree began working with San Francisco District 6 Supervisor Jane Kim in an attempt to ascertain from the local United States Attorney what actions might be curtailed regarding San Francisco medical cannabis dispensaries in light of City regulation, enforcement, and public safety, cited as concerns for prosecutorial direction in the memo.

Before completing our letter to the local United States Attorney, United States Representative Barbara Lee and three other US Representatives drafted a similar letter to the local United States Attorney, sent November 21, 2013. It seemed re-opening at 958 Geary could be attempted. In December 2013, I contacted the San Francisco Department of Public Health regarding the Divinity Tree's medical cannabis dispensary permit status. They directed me to the Planning Department. An exchange of emails followed, from January through March, in which were shared an account of Divinity Tree's activity since May 2012.

Through Dan Sider, I understood the focus of Planning Department's interest was to review Divinity Tree continued collective activities, in addition to previous re-opening plans. A Divinity Tree chronology was requested, compiled and delivered. The emails from Divinity Tree to Dan Sider and the Planning Department, will be included in documents.

This is a request for reconsideration of Divinity Tree's permit status because of the lack of clear communication regarding the 18-month closure provision for a continued permit, and additional special circumstances also deserving attention. Your serious consideration of this request and documentation is appreciated.
Sincerely,

Charles A. Pappas – chairman, Divinity Tree Patients' Wellness Coop

HEARING # 14-149

DOCUMENTATION

1. SEPT. 2011 - DOJ 958 GEARY letter
2. MAY 2012 - SF DPH letter, consideration
3. AUGUST 2013 - DEPUTY ^{US} AG COLE MEMO
4. SEPT. 2013 - SF DPH MCD CLOSURES.
5. NOV. 2013 - BARBARA LEE + 3 US REPS.
LETTER TO LOCAL US ATTY.
6. JAN. - MARCH 2014 - DIVINITY TREE,
PLANNING EMAILS.



U.S. Department of Justice

*United States Attorney
Northern District of California*

*11th Floor, Federal Building
450 Golden Gate Avenue, Box 36055
San Francisco, California 94102-3495*

(415) 436-7200

FAX: (415) 436-7234

**VIA CERTIFIED MAIL (RETURN RECEIPT REQUESTED)
AND FIRST CLASS MAIL**

September 28, 2011

Paul D. Huang
Charles C. Huang
1744 Sanchez Street
San Francisco, California 94131

*Re: Marijuana Dispensary at 958 Geary Boulevard, San Francisco
City and County of San Francisco APN: 0693-012*

Dear Paul Huang & Charles Huang:

This office has been advised that there is a marijuana dispensary operating under the business name The Divinity Tree located at 958 Geary Boulevard, San Francisco, California (alternative address 954 Geary Boulevard, San Francisco), which property you own or have under your management or control. The dispensary is operating in violation of federal law, and persons and entities who operate or facilitate the operation of such dispensaries are subject to criminal prosecution and civil enforcement actions. Since the dispensary is operating within a prohibited distance of a playground, Sgt. John Macaulay Park, the unlawful operation of the dispensary is subject to enhanced penalties. Additionally, property involved in such operations, including real property, is subject to seizure by and forfeiture to the United States. These penalties and remedies apply regardless of the purported purpose of the dispensary or the uses for which marijuana is purportedly sold. Specifically, Title 21, United States Code, Section 856(a) provides:

It shall be unlawful to knowingly and intentionally rent, lease, or make available for use, with or without compensation, [a] building, room, or enclosure for the purpose of unlawfully manufacturing, storing, distributing or using a controlled substance.

Section 881(a)(7) of Title 21 provides:

The following shall be subject to forfeiture to the United States and no property right shall exist in them: All real property, including any right, title, and interest (including any leasehold interest) in the whole of any lot or tract of land which is used in any manner or part, to commit, or to facilitate the commission of, a

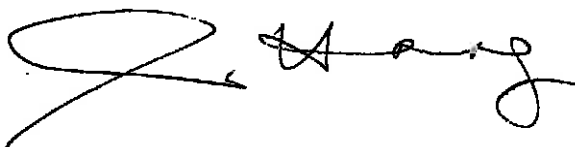
EXHIBIT 1

violation of this sub-chapter.

Violation of the federal law referenced above is a felony crime, and carries with it a penalty of up to 40 years in prison when operating within a prohibited distance of a school, playground, etc. An owner of real property with knowledge or reason to know of illegal drug sales on real property that he owns or controls may have his interest in the property forfeited to the government without compensation.

This letter is formal notification to you that there is a marijuana dispensary operating on the above described property within a prohibited distance of a playground. You are further advised that the violations of federal law relating to the marijuana dispensary operating on your property may result in criminal prosecution, imprisonment, fines, and forfeiture of assets, including the real property on which the dispensary is operating. Any money you receive (or have received) from the dispensary operator may also be subject to seizure and forfeiture. Your prompt attention to this matter is strongly advised. Please take the necessary steps to discontinue the sale and/or distribution of marijuana at the above-referenced location within 45 days of this letter. You may wish to seek independent legal advice concerning this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Melinda Haag', written in a cursive style.

MELINDA HAAG
United States Attorney

HEARING #14-149, APPELLANT BRIEF DOCUMENT –
SF DPH Letter to Divinity Tree (highlighted)

May 2, 2012

To Divinity Tree Patients' Wellness Cooperative:

The Department of Public Health understands that the Divinity Tree Patients' Wellness Cooperative, a permitted Medical Cannabis Dispensary located at 958 Geary in San Francisco has been involuntarily forced to relocate its permitted operation due to sanctions against its landlord recently threatened by the U.S. Department of Justice. Within the bounds of our legal authority, the Department is committed to supporting the Divinity Tree's ongoing operation and service in San Francisco.

The Department can affirm the Divinity Tree has remained compliant with all local rules and regulations regarding the operation of a medical cannabis dispensary since receiving its permit to operate in 2009. Because Divinity Tree has a valid permit and the **relocation is involuntary**, and because Divinity Tree has chosen to relocate to another San Francisco property, **the Department is willing to waive the share of the new application fee assigned to the Department (currently \$4336)**. In addition, **the Department will allow the Divinity Tree to make payments on the annual license fee for the Dispensary in quarterly installments.**

Once the Divinity Tree submits an application for a new location and secures required approvals from the Planning Dept, Dept of Building Inspection, Fire Dept, and Health Dept for an MCD use, **the Department can issue Divinity Tree a temporary MCD permit for the new location.** The temporary permit will allow Divinity Tree to operate while they finish any required construction under their issued building permit. This temporary permit will be valid for 6 months under the following conditions, or until they obtain a final permit to operate, whichever comes first:

1. No one appeals the permit issuance. If the permit is appealed, The Divinity Tree cannot operate until the appeal process is concluded
2. The Divinity Tree complies with all required operating conditions in SF Health Code Article 33.
3. The Divinity Tree pays required installments of the annual license fee beginning with the issuance of the temporary permit.

Feel free to contact the medical cannabis inspection program manager, Larry Kessler, if you have questions at 415-252-3841.

Sincerely,

Rajiv Bhatia, MD, MPH.



The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole 
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.¹

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

¹ These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department's interest in preventing the distribution of marijuana to minors would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.

must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation's compliance with such a system, may allay the threat that an operation's size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation's large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.

As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

cc: Mythili Raman
Acting Assistant Attorney General, Criminal Division

Loretta E. Lynch
United States Attorney
Eastern District of New York
Chair, Attorney General's Advisory Committee

Michele M. Leonhart
Administrator
Drug Enforcement Administration

H. Marshall Jarrett
Director
Executive Office for United States Attorneys

Ronald T. Hosko
Assistant Director
Criminal Investigative Division
Federal Bureau of Investigation

HEARING #14-149, APPELLANT BRIEF DOCUMENT – SF MCD CLOSURES, SF DPH SEPT 2013

Divinity Tree / SF DPH e-mails, re: Cole 2013 memo, closure inquiries

SF DPH Spreadsheet Closures- reformulated... (sent to Divinity Tree Sept 25 2013)

-DBA address app date submitted, app closed/ (CLOSED = by DOJ)-

-MOD sent, rec, appr/ Planningsent, rec/ Fire Deptsent, rec/ MOD/ DBIsent, rec-

Green Acres 6256 3rd st 8.14.07, CLOSED 2008

Hope Net Co-Op 223 9th St. 1.27.06, CLOSED 12.5.12/ 1, 4.6.07, 2.6.09/ 1.27.06, 10.23.06/ 1.27.06/ 5.20.10, 6.15.10

Re-Leaf Center 2980 21st St. 6.22.07, CLOSED 5.3.08/ 1, TBD, 7.6.07/ 7.6.07, 10.2.06/ 9.21.06, appealed

SF Medical Cannabis Club #2 194 church, closed by MOD: 4.23.08 194 Church 2.27.07, CLOSED 2008

Happy Days 2421 Clement 4.8.11, CLOSED 4.25.11

Holistic Solutions 722 Columbus 9.21.06, CLOSED 5.6.08/ 1, 9.21.06 /denied, 7.19.07/ 9.21.06, 5.14.07/

San Francisco Holistic Community Center 350 Divisadero 5.7.07, CLOSED 2010/ 5.7.07, 10.3.07/ 5.7.07, 5.11.09

Happy Days Herbal Relief 607 Divisadero 6.27.07, CLOSED 2007/ 1/ 7.6.07, canceled/ 7.6.07, 10.17.06/ 9.26.06

Ray's Collective Farm 1 Embarcadero 6.22.11, CLOSED 2011

Green Goddess 940 Geary 4.28.09, CLOSED 6.12.09/ 4.28.09, denied, 6.12.09/ 4.28.09, 12.10.12

↗ Divinity Tree, the 958 Geary St. 12.21.06, CLOSED 12.5.12/ 1, 12.17.07, 1.13.09/ 12.21.06, 10.31.07/ 12.21.06, 6.24.10

Alternative Herbal Health Services 442 Haight St. 5.11.06, CLOSED 10.1.08/ 1, 4.30.08/ 5.12.06, 2.7.08/ 5.12.06, 9.19.07

Vapor Room, the 607A Haight St. 1.30.07, CLOSED 12.5.12/ 1, 12.6.07, 1.25.08/ 1.31.07, 9.20.07/ 1.31.07, 8.23.06/ 9.20.06

The Green Cross 2701 Leavenworth, 3.16.06, CLOSED

Market St Cooperative 1884 Market 1.1.07, CLOSED 2.23.13

Mason St Dispensary 120 Mason 12.4.06, CLOSED

Alternative Patients Caregivers 953 Mission 5.16.07, CLOSED 8.4.09

Patient and Caregivers Cooperative 1933 Mission St. 9.21.06, CLOSED/ 1, 9.5.07, 11.4.08/ 9.25.06, 5.10.07/ 9.25.06, 8.28.06/ 9.20.06

TBD 2345 Mission St 12.7.12 CLOSED 2013/ 1/ 12.10.12/ 12.10.12, 1.26.07/ 12.21.06

Re-Leaf Center 5036 Mission 8.7.07 CLOSED 2007

Sanctuary 669 O'farrel 11.16.06 CLOSED 4.2.12

CannaMed Care 1222 Sutter 9.25.06 CLOSED 2011/ 1, 5.30.07/ 9.26.06, 1.23.08/ 9.26.06, 10.2.06/ 9.25.06

Mr. Nice Guy 174 Valencia 12.21.06 CLOSED 2.27.12

HEARING #14-149, APPELLANT BRIEF DOCUMENT –

November 21, 2013 letter to Ms. Haag from Barbara Lee, 3 other US Reps.

"It is counterproductive and economically prohibitive to continue a path of hostility toward dispensaries. Moreover, it appears to directly counter the spirit of Deputy Attorney General Cole's memo, and is in direct opposition to the evolving view toward medical marijuana, the will of the people and, by now, common sense. Additionally, the State of California has also received legislative direction and guidelines from California Attorney General Kamala Harris on responsibly delivering medical marijuana.

It is our view that the intent of the Justice Department is to not enforce its anti-marijuana laws in conflict with the laws of states that have chosen to decriminalize marijuana for medical and recreational uses. California understands the urgency toward putting together a statewide regulatory system, and we can all be helpful in that regard, but some municipalities, including Oakland, have already done an extraordinary job regulating medical marijuana. California is moving in the correct direction in a measured manner, and should be given the opportunity to do so."

Congresswoman Barbara Lee said, "It is far past time for commonsense and economic sense to prevail in policies and actions related to medical cannabis dispensaries that serve the patients in our communities. This harassment and constant threat of prosecution should end."

October 23 2013 Alameda County Board of Supervisors Resolution: (see pdf- pages 2,3)

- end federal interference on municiple and state laws governing medical marijuana
- allow Colorado and Washington to implement laws legalizing recreational use of marijuana
- begin discussion, benefits of reforming federal laws for medical and recreational use of marijuana

Hearings 14-149

DIVINITY TREE LETTER OF DETERMINATION/ DOCUMENTATION

SF DPH #8: Divinity Tree- Planning Department, reopening discussions, January 2014

Divinity Tree / Planning Department E-mails Jan 2014- March 2014, pages 1-8

From: charles pappas **To:** rajiv **Cc:** Ray Stephanie Gordon Jane Kim Sunny Angulo

Sent: Sunday, January 26, 2014 **Subject:** SF DPH conversation

Hi Rajiv, Thank you for your time last week. As I mentioned, I have had **no response yet from SF DPH regarding the permitting process for medical cannabis dispensaries.** Currently I have several questions for the program director. Briefly, having closed Divinity Tree, a permitted SF MCD in good standing, due to a landlord letter in the Fall of 2011, myself and other MCD owners were told at a Sept 2012 meeting with Larry Kessler that MCDs could reopen at their original location with payment considerations, or find a new location, operate provisionally while going through a new permit process. For Divinity Tree, the former is a distinct possibility, and therefore I would like to discuss our situation with the present director. I appreciate any direction or assistance you could offer. Also, I am attaching a summary of AB604, a further reworking of a 2013 Ammiano bill to regulate medical cannabis statewide. Best regards, Charley Pappas,

From: charles pappas **To:** Dan Sider **Cc:** Jane Kim Sunny Angulo Ray Stephanie Gordon

Sent: Tuesday, January 28, 2014 **Subject:** Relevant materials - Divinity Tree reopen.

Dear Dan, **Thanks for your call this morning. I will send you all relevant materials from my records,** hopefully by tomorrow afternoon. I appreciate your attention and consideration.

Best regards, Charley Pappas - chairman, Divinity Tree Patients' Wellness Coop, (958 Geary)

From: charles pappas **To:** Daniel Sider

Date: Tuesday, January 28, 2014 **Subject:** Divinity Tree paperwork / phone conversation

Hi Dan, I have reviewed my paperwork and have a little more to look at. There is so much at the moment (20-30 pgs); it would be hard to scan and e-mail. Preferably, I could send or hand you a packet, by Fri (1/31), but perhaps early next week is more realistic. Please let me know, and I would appreciate some of your time again for a brief phone conversation tomorrow if possible. Thanks, Charley Pappas

From: Sider, Dan **To:** charles pappas

Sent: Wednesday, January 29, 2014 **Subject:** Re: Divinity Tree paperwork / phone conversation

No rush on our end, Charlie, we're on your schedule. I won't be able to discuss with my colleagues until next week regardless. As far as a phone conversation, we could talk on Friday afternoon after 3 pm. Please email me with a specific time that works between then and 5pm. Dan

Sent: Wednesday, January 29, 2014 **Subject:** Re: Divinity Tree paperwork / phone conversation

Thanks Dan, All sounds good. I will figure out Friday and let you know. Best, Charley

From: charles pappas **To:** Sider, Dan

Sent: Monday, February 10, 2014 **Subject:** Divinity Tree paperwork / phone conversation

Hi Dan, I can start on accumulating paperwork this week, maybe even finalize. Could we talk sometime at your convenience? Best, Charley Pappas

From: Sider, Dan **To:** charles pappas

Sent: Monday, February 10, 2014 **Subject:** RE: Divinity Tree paperwork / phone conversation

Hi Charley, My calendar is very, very full right now. We could schedule a call for late next week if you'd like, but my sense is that the most useful thing would be for you to transmit over whatever documents you have. **Do your best to give us a compelling package of information, but this needn't be perfect.** Best. Dan

EXHIBIT 6

Divinity Tree / Planning Department E-mails Jan 2013- March 2013, Page 2

From: charles pappas **To:** Sider, Dan **Cc:** Ray

Sent: Monday, February 10, 2014 **Subject:** Re: Divinity Tree paperwork / phone conversation

Hi Dan, Sounds good...perhaps in the next 2 days, I'll make some progress and we can talk more specifically late next week. In any event, I will put as much together as I can by this Fri. **Presently, I am working on/waiting for political support, news, encouragement to influence our landlord's decision.** Thanks for getting back to me so quickly. Best, Charley

From: charles pappas **To:** Dan Sider **Cc:** Ray

Sent: Wednesday, February 19, 2014 **Subject:** Divinity Tree paperwork progress

Dear Dan, I have made some progress this week and should be completed by the end of next week. I will forward you what I come up with, and perhaps we can meet the first week in March. Best, Charley Pappas

From: charles pappas **To:** Dan.Sider **Cc:** Ray Jane.Kim Sunny Angulo

Sent: Thursday, March 6, 2014 **Subject:** Divinity Tree Patients' Wellness Coop info

Dear Dan, I believe I have reviewed nearly all Divinity Tree information in my computer. Rather than sending many different documents, **I prepared a chronology(attached)** beginning with the 1st US Atty. SF mcd landlord forfeiture letters. It is a lengthy 3 page document; important and relevant events pertaining to Divinity Tree operations are highlighted in green. Perhaps, you could read through these events and let me know what specific documentation the Planning Department might want to consider and review. I hope this method is convenient for you. If you would prefer, **I could compile a much shorter chronology** and choose/ provide documents. Whatever works best for you, I am very familiar with my materials at this point. Also, earlier today I spoke with the landlord management company for 958 Geary. **As early as March 21, a decision could be made on allowing Divinity Tree to lease and re-open.** Best regards, Charley Pappas - chairman, Divinity Tree

To: charles pappas **Sent:** Thursday, March 6, 2014 **Subject:** RE: Divinity Tree Patients' Wellness Coop info
Thanks for your thoughtful work, Charlie. This should be fine for now. **We'll review and get back to you as soon as possible.** Best. Dan

From: charles pappas **To:** Sider, Dan **Cc:** Ray Jane Kim Sunny Angulo

Sent: Thursday, March 6, 2014 **Subject:** Re: Divinity Tree Patients' Wellness Coop info

You're welcome Dan and thanks always for your attention and consideration. Charley Pappas

Sent: Thursday, March 6, 2014 **Subject:** RE: Divinity Tree Patients' Wellness Coop info

Charley- I've arranged a time to discuss this during the week of the 17th with colleagues. Having thought about this a bit more, would you please prepare a very succinct chronology of what has happened with the Divinity Tree at this particular location (e.g. when it opened, when it got approval from the City, when it was open on a retail basis vs. delivery basis) etc. If possible, I'll need this before the end of next week. Dan

From: charles pappas **Sent:** Friday, March 7, 2014

Dan, For now I thought to offer a brief paragraph re: your requests without specific time line, events, paperwork, which I can dig up and complete before next week ends. I did attach events since landlord forfeiture letter, closing, delivering, various political interactions, lease termination, then considering re-opening, ending that idea, but now revisiting... The chronology next week will be shorter, I promise. Perhaps after reviewing each chrono, you could whatever documentation necessary. What I have available is in red type. You could just give me the date for any requested material.

In March 2005, Health and Wellness MCD was initiated and opened on Howard St. between 5th and 6th. We had a lease, business permit and SFDPH listing as an SF MCD. After April 1, our status was challenged twice, but we prevailed providing all proper documents, perhaps to Planning or Building Insp. While dispensing medicine since late March, we had an unhappy neighbor, Laura Weil, who managed to obtain a restraining order in July.

Divinity Tree / Planning Department E-mails Jan 2013- March 2013, Page 3

At that time friends from Stockton, who had opened Divinity Tree also in March, invited us to take over their lease and dispense from 958 Geary. They were weary of the commute and we all believed the City would appreciate 2 dispensaries merging, and did. New paperwork was adjusted; grandfathered in because of pre-April 1 operations, we began the permit process in 2006. Our small space was ironically difficult to meet the permit process accessibility standards. A combination of diligence by our architect, thoroughness by the MOD (Jim and Susan), and Divinity Tree perseverance -managing to have Supes Alioto and Daly co-sponsor accessibility adjustment to the permit process and passing BOS unanimously January 2009. After installing an expensive top of the line platform lift in our store, I believe our final permit was issued August 2009. By the way, at our Planning Dept. public hearing, we had no public objections despite existing under a 6 floor apartment building, adjacent to 2 others, and across the street from 2 more. We employed 12 (half with families) at \$20 per hr, with full benefits. Divinity Tree mantra - best possible medicine, lowest cost, for those most in need. **We had excellent relations with Gordon Property Management; I believe our lease was renewed for 5 years in 2009. By 2011 Divinity Tree had over 7500 member-patients. We operated in strict compliance with the AG guidelines, August 2008, and paid over a million dollars per year in sales tax. On September 28, 2011 our landlord received a letter from the US Atty. Melinda Haag threatening fines, forfeiture and 40 years imprisonment. Divinity Tree's proximity to Sgt. Macaulay Park was given as the reason. We were involved in park maintenance, and have promised District 6 Sup Jane Kim to continue, offer improvements and upgrade the park working with Parks & Rec., and contribute financially to accomplish that goal. Divinity Tree closed in 45 day compliance on November 11, 2011. We began a delivery service in December lasting until June 2012. One last note, on Post St., Grassroots MCD, across the alleyway (Cedar St.), behind Divinity Tree was allowed to stay open, prospered and opened another establishment south of Market.**

Thanks Dan, Charley Pappas - chairman, Divinity Tree Patients' Wellness Coop,

From: charles pappas **To:** Sider Dan **Cc:** Ray; Kim, Jane Angulo Sunny

Sent: Tuesday, March 11, 2014 **Subject:** Re: Divinity Tree Patients' Wellness Coop info

Dan, Please let me know if the second paragraph below is enough of a "succinct chronology" regarding start to finish of Divinity Tree store front operation, or I could format a listed chronology tomorrow (weds, 3/12). After checking my stored paper work, the months and years mentioned below are correct. Best, Charley Pappas

Sent: Tuesday, March 11, 2014 **Subject:** RE: Divinity Tree Patients' Wellness Coop info

Just the basics would be helpful, Charley. Please provide a bulleted list including (1) dates (e.g. Jan 1, 2012 – March 1, 2012) followed by (2) a max 1 line description of the activity occurring during those dates (e.g. provided delivery only service from location without any walk-in customers). Sorry to make for more work, but this would help me understand and articulate your situation to my colleagues. Dan

Sent: Tuesday, March 11, 2014 **Subject:** Re: Divinity Tree Patients' Wellness Coop info

OK, no problem...thanks for your promptness! Charley

From: charles pappas **To:** Dan Sider

Sent: Wednesday, March 12, 2014 **Subject:** Divinity Tree info, update

Dan, I hope to have something late tomorrow, so really early Fri. for you practically speaking. The chronology may contain less precise dates, but basically accurate. If so, I will improve on the accuracy, or if they are acceptable as is, let me know. I'm looking forward to your review and appreciate your attention and consideration. Best regards, Charley Pappas

From: charles pappas **To:** Dan Sider **Cc:** Jane Kim Sunny Angulo Ray

Sent: Thursday, March 13, 2014

Subject: Divinity Tree chronology - opening March 2005 - ending delivery service May 2012

Dear Dan, Here's what I have, pasted below and attached (2 pages). If needed, I could supply more exact dates after the weekend. Sorry for the length, but it has indeed been a difficult period. After all, there is another year and a half not included!

I think I have mentioned speaking with the owner of 958 Geary, Friday 3/21. From what I've heard from Gordon Prop. Mgt., he is considering allowing DT another lease, and will make his decision then. We believe reopening at 958 Geary would enable our co-op to continue our previous good works in the most timely, convenient and beneficial manner, for our patients and community, for the block in the TL we called home for over 6 years. If that can't happen, Divinity Tree would consider re-location, which unfortunately previously has proved difficult and futile. Thanks for your time, attention and consideration. Best regards, Charley Pappas - chairman, Divinity Tree Patients' Wellness Coop, 958 Geary

Divinity Tree Patients' Wellness Coop, 958 Geary, SF

Chronology -

Storefront Business opening March 2005, Delivery Service, lease ending May 2012

- **March 2005-** Divinity Tree secures 5 year lease from Gordon Prop. Mgt., business permit from SF City Hall, listed as MCD with SFDPH
- **April 2005-** Divinity Tree offers Planning Dept. copies of above to prove commencing business operations before **April 1, 2005.**
- **May 2005-** Divinity Tree operations receive "grandfathered" status from SFDPH, allowing dispensing while seeking permit approval.
- **January 2006-** SF BOS approves MCD permitting process, regulations, and time period.
- **December 21, 2006-** Divinity Tree files permit application.
- **January 2007-** Divinity Tree retains services of architect Arnie Lerner to resolve accessibility problems.
- **September 2008-January 2009-** negotiations with SF MOD(Jim Whipple, Susan Mizner) continue.
- **January 2009-** SF BOS amends MCD permit process to allow platform WC lifts in smaller dispensaries.
- **June 2009-** Divinity Tree installs quality platform lift.
- **July 2009-** Divinity Tree receives Planning Commission approval with no neighbors objecting.
- **August 2009-** SF DPH grants Divinity Tree MCD permit.
- **September 2009-** Divinity Tree signs 5 year lease for 958 Geary with Gordon Prop. Mgt.
- **August 2010-** Divinity Tree patient members number over 6000, 12 full time, full benefited employees.
- **August 2011-** Divinity Tree patient member number increases to 7500, Dis 6 Supe Jane Kim visits store.
- **September 28, 2011-** Paul Huang, owner of 958 Geary, receives DOJ letter from Melinda Haag, threatening fines, forfeiture, 40 yrs imprisonment due to Divinity Tree proximity to Sgt. Macaulay Park.
- **October 11, 2011-** local State Reps Ammiano & Leno hold press conference at CA State Bldg, SF decrying Federal action. Divinity Tree chairman speaks as well.
- **October 14, 2011-** Divinity Tree begins series of letters -Obama- 2, Jerry Brown-3, Kamala Harris-2.
- **November 11, 2011-** 3 other CA civil rights attorneys file additional federal lawsuit statewide in all 4 CA federal districts -Divinity Tree, co plaintiff speaks at press conference.
http://norml.org/pdf_files/brief_bank/2011_11_03_DOJ_Lit_Complaint_EDCA.pdf
- **November 11, 2011** Divinity Tree, 3 other SF MCDs close in 45 day compliance with DOJ landlord letters, 12 employees(half with families) laid off.
- **December 9, 2011-** Divinity Tree letter to SF DPH announcing delivery service beginning **December 11, 2011.**
- **December 12, 2011-** local State Rep Ammiano meets with US atty Melinda Haag, no agreement or possibility of ending federal action, Rep. brings Divinity Tree neighbor / local business recommendations, <http://ebar.com/news/article.php?sec=news&article=6268>
- **December 12, 2011-September 15, 2012-**Divinity Tree contacts Friends of Macaulay Park to participate in regular clean ups.
- **January 3, 2012-**SF DPH sends Divinity Tree delivery service requirements.

- **January 22, 2012-June 2012-** Divinity Tree initiates contact with SF City Attorney, 6 emails ignored.
- **February 9, 2012-** Divinity Tree expresses dispensary concerns to SF DPH
- **March 27, 2012-** SF DPH inspection for Divinity Tree, 958 Geary.
- **April 19, 2012-** Divinity Tree sends suggestions to SF DPH director Barbara Garcia.
- **April 20, 2012-** SF DPH director Barbara Garcia / Divinity Tree meeting - plans considered for closed MCDs to re-open.
- **April 24, 2012-** Mechanics Bank withdraws banking option for CA MCDs / Divinity Tree.
- **May 2, 2012-** SF DPH letter to Divinity Tree explaining re-location permitting.
- **May 14, 2012-** Divinity Tree Patients' Wellness Coop ends delivery service / terminates 958 Geary lease.
- **May 16, 2012-** Divinity Tree meets Dan Sider, Planning Dept, relocation discussed, zoning map provided.
- **July 18, 2012-** SF DPH requests Divinity Tree permit fee(1/2 yr installment) by **August 1, 2012.**
- **September 10, 2012-** SF DPH meets with closed SF MCD operators- inspections/permit fees suspended temporarily, suggested use of City property for relocation- will be discussed with proper authorities.
- **October 18, 2012-** SF DPH explores the use of City properties for relocation – Mayor's office, “*not feasible to advance the use of city property for this purpose*”

From: charles pappas **To:** Sider, Dan **Cc:** Clausnitzer, Ryan Ray

Sent: Wednesday, March 19, 2014 **Subject:** Conversation before Friday / attached documents

Dear Dan, I hope we can speak or meet before Friday. As I mentioned previously, **the ex landlord for the Divinity Tree will be in SF Friday and may decide to offer us a lease. I would like to be able to tell him that re-permitting from SFDPH / Planning Dept. is a possibility.**

Also, I included(attached) a letter from SFDPH (5/12), and several other relevant emails, which I will forward previous to this email. I will label emails according to their chronology placing. Hopefully, their relevance will be clear enough, and I am not complicating matters, in my attempt to be helpful and offer Divinity Tree clarity Thanks always for your attention and consideration. Best, Charley Pappas - chairman, Divinity Tree

From: Sider, Dan **To:** charles pappas

Sent: Wednesday, March 19, 2014 **Subject:** RE: Conversation before Friday / attached documents

Charley, my understanding of your time line based on information you've provided is as follows:

- Divinity Tree opened for retail-type business at 958 Geary in March 2005.
- It closed for retail-type operations and commenced **delivery operations at the same location on Nov 11, 2011.**
- **Delivery operations continued until May 14, 2012, when all MCD-related activities at the site halted.**
- **The first effort you made to reopen at this site, my records, seems an email to me dated Jan 28, 2014.**

Can you add any facts pertinent to what I've written above, and is what I've written above correct?
Please be succinct. Thanks. Dan

From: charles pappas **To:** Sider, Dan **Cc:** Ray

Sent: Wednesday, March 19, 2014 **Subject:** Re: Conversation before Friday / attached documents

Hi Dan, Your statements (above) are correct, except before January this year, Divinity Tree considered re-opening from Feb. - May 2013 because Shambhala had re-opened at its original location in Nov. 2012 after closing July 1, 2012. Their continuing operation without Federal intervention prompted conversations with Gordon Prop. Mgt. and 3 letters to Paul Huang, owner 958 Geary. Divinity Tree was asking for a new lease until the landlord of Shambhala was served with forfeiture proceedings by the DOJ May 2013. I will paste below a chronology. It would be helpful if we could speak briefly tomorrow. Thanks and Best, Charley Pappas

- **November 23 12,** SF MCD Shambhala reopens- “...Closed by Feds Re-opens. Is the Crackdown Over?”
http://blogs.sfweekly.com/thesnitch/2012/11/marijuana_dispensary_shut_down.php
- **February 20, 13,** After conversations with Atty. Eric Saffire (Shambhala landlord atty.) as well as with Shambhala owner, **first of 3 letters sent to Paul Huang, Divinity Tree former landlord, requesting consideration for new lease and reopening at 958 Geary.**

- **May 2, 13,** "Cal NORML has learned that the DOJ also filed a forfeiture suit against the Shambhala dispensary in SF, for operating too close to a park. Not only is the park closed, but Shambhala is located over 1,000 feet from it door-to-door, liquor store is located much closer."
<http://www.sfexaminer.com/local/development/2013/05/feds-move-seize-sf-pot-club-building>
- **May 14.13, Divinity Tree ends re opening at 958 Geary due to Shambhala landlord forfeiture suit.**

From: Sider Dan **To:** charles pappas

Sent: Wednesday, March 19, 2014 **Subject:** Re: Conversation before Friday / attached documents

Thanks for that, Charley. **When you state that the Divinity Tree tried to re-open roughly between Feb - May 2013, that was at the 958 Geary site, correct? And do I understand correctly that you were making efforts to negotiate a new lease with the landlord at 958 Geary until it became clear - based on Shambhala's experience - that the Feds were still likely to take enforcement action?**

If so, can you provide any information to substantiate your efforts to arrange a new lease and any reciprocation by the landlord? (emails, letters, meeting minutes, etc) **You don't need to provide the evidence now, but I need to know that it's available.**

In person or phone conversations are made very difficult right now because of my exceedingly busy schedule. Best to email. Thanks. Dan

From: charles pappas **To:** Daniel Sider **Cc:** Ray Stephanie Gordon

Date: Wednesday, March 19, 2014 **Subject:** Re: Conversation before Friday / attached documents

Hi Dan, Thanks for working late! Yes, we were discussing in 2013 re-opening at 958 Geary, over the phone with Stephanie Gordon, Gordon Prop. Mgt., who forwarded 3 communications to Paul Huang, owner of 958 Geary. Yes, when Shambhala's landlord heard from the DOJ, I informed Stephanie, and I believe Mr. Huang as well; I do have emails. Reciprocation only consisted of conversations with Stephanie -mainly "no decision yet from Paul.. he tends to delay decisions still under consideration."

I can appreciate your time constraints. When Mr. Huang is in SF for the day Friday 3/21, I would like to say in a note to him that Divinity Tree re-permitting is under consideration by SF DPH and SF Planning Dept., or even better would be "a likely possibility." Please comment if your time permits. Best regards, Charley Pappas

From: Sider Dan **To:** charles pappas

Sent: Wednesday, March 19, 2014 **Subject:** Re: Conversation before Friday / attached documents

We're getting there Charley. Last question: did you send any emails/letters with City staff or conduct any meetings with City staff in the context of reopening at 958 Geary even a little bit before you're email to me on Jan 28, 2014? Even a few weeks earlier would be of significant note. Thanks. D

From: charles pappas **To:** Sider, Dan **Cc:** Ray

Sent: Wednesday, March 19, 2014 **Subject:** "We're getting there..." / starting Aug. 29, 2013 / still working late!

Thanks Dan, I just briefly reviewed emails. Starting Aug. 29, 2013 are various emails to SFDPH & BOS & Jane Kim regarding Cole 2013, SF DPH regs and the number of MCDs closed before Federal intervention, drafting a letter to Ms. Haag based on the previous and asking for clarification, realistically seeking local political comment/response to a perceived improved Federal perspective, with as much city staff input available.

In general, the process of searching for a way to re-open Divinity Tree began again. More specifically, I public commented at BOS mtg Oct.1 2013, and after that began with District 6, Jane Kim's office, to draft a letter to Ms. Haag (from District 6, and other Supes hopefully) as well as discussing Divinity Tree re-opening. Stephanie Gordon, Gordon Prop. Mgt., 958 Geary was kept in the loop. I can search a little bit more to where you became involved. I believe it was after phone inquiries to SFDPH about re-opening. Best, Charley

From: Sider, Dan **To:** charles pappas

Sent: Thursday, March 20, 2014 **Subject:** RE: "We're getting there...", starting Sep 17, 2013, still working late!
We need a concrete date on which you took a meaningful action that was specifically done in order to re-open Divinity Tree at the Geary Street location (e.g. your email to me from January 2014). Understanding that the word 'meaningful' is open to some discussion, please let me know if there is anything more than what you've described thus far. D

From: charles pappas **To:** Sider, Dan **Cc:** Ray

Sent: Thursday, March 20, 2014 **Subject:** "Meaningful action, done, to re-open Divinity Tree, Geary St."

I will look for emails, but **my 2 minutes of public comment at the SF BOS Oct. 1 2013 meeting** are easily available - http://sanfrancisco.granicus.com/MediaPlayer.php?view_id=10&clip_id=18497

Go to **3hr 38 min. 40 sec.**

The video seems "concrete" to me, but I don't mind looking for further data. I want to provide what you need.

Best, Charley Pappas

Sent: Friday, March 21, 2014 **Subject:** RE: October 18, 2013 Divinity Tree re-opening / Jane Kim's office

Thanks for the emails, Charley. I think we've run this to ground. **I'll discuss with colleagues as soon as I can** and get you a read. just to be absolutely positive, I've assumed based on the materials provided that the period of time during which the Divinity Tree was open on a delivery only basis it was done so from the Geary Street location (rather than from some other location in SF or elsewhere). Please confirm. Thanks. dan

From: charles pappas **To:** Sider Dan **Cc:** Ray **Sent:** Friday, March 21, 2014

Subject: Thanks / DT delivery service / SF DPH & Planning Dept.

Hi Dan, I appreciate your quick response. Absolutely - **Divinity Tree continued deliveries from 958 Geary, we were inspected March 27, 2012 and gave up delivering and our lease May 15, 2012.**

- **November 11. 2011-** Divinity Tree, 3 other SF MCDs close in 45 day compliance with DOJ landlord letters, 12 employees(half with families) laid off.
- **December 9. 2011-** Divinity Tree letter to SF DPH announcing delivery service beginning
- **January 3.2012-** SF DPH sends Divinity Tree delivery service requirements.
- **March 27.2012-** SF DPH inspection for Divinity Tree, 958 Geary.
- **May 2.2012-** SF DPH letter to Divinity Tree explaining re-location permitting.
- **May 14.2012-** Divinity Tree Patients' Wellness Coop ceases delivery service / ends 958 Geary lease.
- **May 16.2012-** Divinity Tree meeting with Dan Sider, Planning Department, relocation discussed, zoning map provided, 18 month closure period not mentioned

Finally, I have tried to provide what you and Planning requested and require. My previous experiences with SF DPH and Planning Dept. have always been pleasant, straight forward, reasonable and efficient. Today, or soon after, I should hear from the owner of 958 Geary regarding a new lease. Of course, I would welcome re establishing Divinity Tree MCD permitting from the City at our original location, after a lease approval from our former landlord. If 958 Geary is not available, Divinity Tree will search immediately for an alternative location. Thanks always for your attention and consideration.

Best regards, Charley Pappas - chairman, Divinity Tree, 958 Geary (formerly)

P.S. If you haven't, please check out the SF BOS 10/1/13 mtg, public comment video. 3hr 38 min. 40 sec.

http://sanfrancisco.granicus.com/MediaPlayer.php?view_id=10&clip_id=18497

From: Sider Dan **To:** charles pappas **Sent:** Friday, March 21, 2014 **Subject:** Letter of Determination Process
Charley, per our phone conversation, information regarding the Letter of Determination is found here.

Best, dan

From: charles pappas **To:** Sider Dan **Sent:** Friday, March 21, 2014 **Subject:** Letter of Determination Process
Much appreciated-your previous time and attention as well...

From: charles pappas **To:** Dan Sider **Cc:** Ray

Sent: Monday, March 24, 2014 **Subject:** Letter of Determination guidance..

Dear Dan, I'm sorry **not to be quite clear on the process**, which I have investigated via Planning Dept. and Zoning Administrator websites. My question, I believe on the Zoning Administrator website letters of determination are listed -since 958 Geary is not, I am assuming that means Divinity Tree was denied a letter of

Divinity Tree / Planning Department E-mails Jan 2013- March 2013, Page 8

determination? And that, I request a letter of determination from the ZA, am denied, and then appeal? I'm also assuming I ask from the ZA what the fee is to be included in the request. In any event, I will be on the phone early, and I hope you will have some time to respond and clarify. Best, Charley Pappas

From: charles pappas **To:** Sider, Dan **Cc:** Kim Jane Angulo Sunny Ray

Sent: Monday, March 24, 2014 **Subject:** One last question- planning code section DT needs amending

Hi Dan, Could you please provide the planning code section applicable to denying Divinity Tree re-permitting? Thanks so much, Charley Pappas

From: Sider Dan **To:** charles pappas **Cc:** Kim Jane (BOS) Angulo Sunny (BOS) KimStaff (BOS) Ray

Sent: Monday, March 24, 2014 **Subject:** RE: One last question- planning code section DT needs amending

Sure. Planning Code Section 209.3(k)(f), which applies in all RH, RM, RTO and RC Districts, states: "If an MCD closes for a duration longer than 18 months or if the MCD's license is revoked by DPH pursuant to Health Code Section 3315, the MCD will be considered abandoned and any Planning Commission authorization for the parcel shall be null and void."

958 Geary is located within an RC-4 District, and because it has been more than 18 months since the Divinity Tree closed, an MCD cannot reopen at this property without first being re-authorized under current Planning Code provisions. Because it appears that the property is located within 1,000 feet of at least one school and at least one recreation building primarily serving youth, the site appears to be ineligible under today's Planning Code for a new MCD. Hope this helps. Dan

From: charles pappas **To:** Sider, Dan **Sent:** Monday, March 24, 2014

Subject: Re: One last question- planning code section DT needs amending -Much thanks, again...

From: charles pappas

Sent: Tuesday, March 25, 2014 **Subject:** Clearer understanding...DT codes, permit considerations

Dan, Thanks again, but was this section added after the original MCD permitting process, Jan 2006? At that time I thought 500 ft was the school distance mentioned. I will research the regulations. I just did- 500 ft for prior April 1, 2005 operation.

Re: the 18 months closure stipulation (adopted 4/27/11)- after the federal interference was initiated, I believed from what I was told (Garcia / Kessler), that provisions would be available for our closed MCD, Divinity Tree, to reopen, e.g. "Within the bounds of our legal authority, the Department is committed to supporting the Divinity Tree's ongoing operation and service in San Francisco...etc." (Rajiv Bhatia 5/2/12 & similar Larry Kessler 9/10/12). Indeed Dan, when we met (5/16/11), I don't believe the 18 month closure provision was discussed.

For these reasons, could you please review, perhaps even with your colleagues, final attached considerations for the status of Divinity Tree Patients' Wellness Coop? If not, of course I understand; at least I have something begun for the ZA, Board of Appeals, or the SF BOS... Best, Charley Pappas

From: Sider Dan **To:** charles pappas

Sent: Tuesday, March 25, 2014 **Subject:** RE: Clearer understanding..DT codes, permit considerations

Charley, I'm sorry, but the Planning Code is clear on the 18 month provision and we are bound to implement the Planning Code as it exists today, rather than at a point in the past. As I mentioned in my previous email – and based on the information you've provided - your most likely avenues to reopen at the Geary location are a Letter of Determination and successful appeal or a legislative change to the Planning Code.

Divinity Tree / Planning Department E-mails Jan 2013- March 2013, Page 9

From: charles pappas **To:** Sider Dan **Cc:** Kim, Jane Angulo Sunny Ray bill panzer

Sent: Tuesday, March 25, 2014 **Subject:** Re: Clearer understanding..DT codes, permit considerations

Thanks, of course I understand. I hope to follow your advice, with District 6 willing to help. I believe a 6 month planning code extension is reasonable and appropriate considering Divinity Tree situation...You have been so generous with your time and attention. Best, Charley

Charles Malcolm
954 Geary St #01
San Francisco, CA 94109

October 17, 2014

Board of Appeals
City and County of San Francisco
1660 Mission Street, Room 3036
San Francisco, CA 94103-2414

Re: Appeal No. 14-149 - 958 Geary Street

Dear Members of the Board of Appeals:

I am Charles Malcolm and I reside at 954 Geary Street #01, San Francisco CA.

This letter is regarding the possible re-issuing of a business license for an MCD at 958 Geary Street. The above mentioned MCD address is located in a residential Apartment building and is directly below my apartment. I am strongly opposed to this license being issued for said business.

Over the past few years, our neighborhood has worked very hard to remove the bad element's that once ruled our streets. We have worked to reduce the amount of people plying the trade of prostitution and drug dealing on our street. We have families on our block with young children, and it is feared that the wrong type of element will once again gain a foot hold in our neighborhood if an MCD is allowed to do business.

In closing, I would like to stress once again that our neighborhood has worked too hard to allow the wrong elements back into our area. I strongly disapprove of the issuing of any business license for an MCD in our neighborhood. I wish to thank the board for its time and consideration in the above mentioned appeal

Sincerely,

Charles Malcolm

October 15, 2014

City and County of San Francisco
Board of Appeals
1650 Mission Street Suite 304
San Francisco, CA 94013

BOARD OF APPEALS

OCT 24 2014

APPEAL # 14-149

RE: Appeal No. 14-149 958 Geary Street

Dear Board of Appeals:

I am a property owner in the area (via an LLC that owns the building at 921-925-927 Larkin Street) and am writing in opposition to the re-establishment of a Medical Cannabis Dispensary (MCD) at 958 Geary Street.

Our opposition is based on the following reasons:

1. There are already other MCD's in the neighborhood that can fulfill the medical needs of people who live in this neighborhood.
2. There is a portion of the MCD customer base, that, we believe, are not respectful of the neighborhood and pollute the area through lounging on the sidewalk and blocking pedestrian traffic, defecating in the alleys, and leaving trash in the street. We do not want any retail establishments that would potentially add to this problem.

Respectfully,



Bonnie Bridges
Bonbon Development LLC
921 Larkin Street
SF, CA 94109

Board of Appeals
1650 Mission
Room 304
San Francisco CA 94103

Nov 11, 2014

Dear Board Members,

It is a pleasure to offer this written support for Charles Pappas and the Divinity Tree Dispensary. I have known Charlie as a patient advocate, a dispensary care provider, and personally for the past six years and have no doubt to his sincerity about offering patients safe alternative medicine. Charles is always focused on the needs of the patient first and foremost and his desire to help them has been unwavering. The personal courage and fortitude he displays as he continues his desire to reopen his dispensary should be a standard to us all. In my opinion, Charles Pappas is exactly the type of dispensary owner/operator the city of San Francisco would want to attract; a genuine, honest, caring individual.

If there is anything else I may offer in support not addressed above, please feel free to contact me directly at 925-719-0463. I am

Yours very truly,

Robert W. Martin, Ph. D.

Co-founder and Chief Operating Officer
CW Analytical Laboratories
Oakland/San Francisco CA

Huang, Cecilia (PAB)

From: Roy Benson <bensonroy@hotmail.com>
Sent: Wednesday, November 12, 2014 11:14 AM
To: Board of Appeals (PAB); Roy Benson
Subject: SF Board of Appeals Hearing #14-149 emailed public comment

To Honorable SF Board Members and Team,

Divinity Tree has always treated me like a patient, providing safe location, medicine, education and resources to help with pain management.

The DT location, I travel to the SF to get my medicine because my county does not have any dispensary access in San rafael.

Neighborhood gains a responsible neighbor, improving neighborhood, education and resource assistance.

I have witnessed Divinity Tree helping patients who could not afford to pay for their medicine.

Please please allow Divinity Tree Dispensary to open doors. A win win for SF, neighborhood and patients.

Thank you for reading and listening

take care of each other,

Roy Benson

1537 4th Street #60

San Rafael, Ca.

415-250-3371 phone

RECEIVED

By chuang at 12:04 pm, 11/13/14

Huang, Cecilia (PAB)

From: Brian Webster <brian.ufcw@gmail.com>
Sent: Thursday, November 13, 2014 11:28 AM
To: Board of Appeals (PAB)
Cc: Brian Webster
Subject: SF Board of Appeals Hearing #14-149 - UFCW5 Attached letter for allowing the Divinity Tree SF MCD permit to be reinstated.
Attachments: UFCW5 CD Letter for Divinity Tree to SF Zoning.pdf

Dear Board of Appeals,

I am writing on behalf of the United Food and Commercial Workers Union Local 5 (UFCW5) to recommend allowing the Divinity Tree SF MCD permit to be reinstated.

SF Board of Appeals Hearing #14-149

The re-permitting of Divinity Tree Patients' Wellness Coop at 958 Geary would benefit SF medical cannabis patients, the local neighborhood, and UFCW5 union members. Our UFCW5 Cannabis Division represents retail, food processing and agricultural workers.

Attached is UFCW5's May 27 letter to the Office of Zoning Administration recommend allowing the Divinity Tree SF MCD permit to be reinstated.

Thank you entering this attached letter into the record for the Divinity Tree SF MCD permit to be reinstated.

Sincerely,

-Brian Webster

--

Brian Webster
Special Projects Union Representative
UFCW5 Cannabis Division
240 Golden Gate Avenue Room 103
San Francisco, CA 94102

Mobile & Office 415-243-8900

brian.ufcw@gmail.com

www.cannabisworkers.org

www.unioncannabis.com



May 27, 2014

Scott Sanchez, Zoning Administrator
Office of Zoning Administration
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Divinity Tree Patients' Wellness Coop request for Letter of Determination

Dear Zoning Administrator Sanchez:

I am writing to you on behalf of the United Food and Commercial Workers Union Local 5 (UFCW5) to recommend reinstating the permit for the Divinity Tree Medical Cannabis Dispensary (MCD) in San Francisco.

UFCW5 is a 33,000 member labor union based in San Jose, California. We are the Bay Area affiliate of the United Food and Commercial Workers International union based in Washington DC, with 1.3 million members in the US and Canada. Local 5 cannabis division members work in permitted medical cannabis dispensaries serving authorized patients that suffering from illnesses like cancer, HIV/AIDS, multiple sclerosis and epilepsy.

UFCW5 and Divinity Tree have a Neutrality and Card Check Agreement in place which we expect will lead to a Collective Bargaining Agreement in the future when Divinity Tree re-opens. All UFCW5 contracts include a commitment to the Medical Cannabis Dispensary Code of Conduct. Please be assured that Chales Pappas and the Divinity management team are well known to us, and that we know them to be diligent in their compliance to all relevant California State laws, the highest standards and our industry code of conduct. The Divinity Tree Cooperative has greatly benefitted qualified medical cannabis Coop member patients, their neighbors at 958 Geary, other citizens of the community, and through their standards and operating procedures the City of San Francisco.

I believe your discretion should be exercised especially considering the Divinity Tree good standing with SF DPH, the good union jobs it will provided to San Francisco and now the 958 Geary landlord's willingness to offer Divinity Tree a new lease.

I can attest to their honesty and integrity in their business dealings, and the agreements that we maintain with them. Please do not hesitate to contact me directly at 415-243-8900, or by email at brian.ufcw@gmail.com.

Respectfully,

A handwritten signature in blue ink that reads "Brian Webster".

Brian Webster, Special Projects Union Representative

UFCW5 Cannabis Division Field Office
240 Golden Gate Avenue, Room 103, San Francisco, CA 94102
www.ufcw5.org www.unioncannabis.com



**UFCW5 Cannabis Division Field Office
240 Golden Gate Avenue, Room 103, San Francisco, CA 94102
www.ufcw5.org www.unioncannabis.com**



Mejia, Xiomara (PAB)

From: Axis of Love SF, Shona Gochenaur <axisoflovesf@gmail.com>
Sent: Thursday, November 13, 2014 4:28 PM
To: BOARD.OF.APPEALS@sfgov.org; Kim, Jane (BOS); Sunny Angulo; Charles A Pappas
Subject: Fwd: Divinity Tree

greetings!

I will be forwarding a series of letters in support of the appeal for Divinity Tree to re-open at its current location from disabled patient activists from District Six!

----- Forwarded message -----

From: Alex <analyze420@gmail.com>
Date: Thu, Nov 13, 2014 at 1:49 PM
Subject: Divinity Tree
To: axisoflovesf@gmail.com

BOARD OF APPEALS
NOV 13 2014
APPEAL # _____

Hello,

My name is Alex. I'm an Axis of Love member who was a resident of the Tenderloin at the time of Divinity Tree's closure by the federal government. Within a week of the aforementioned shutdown, I started seeing people who were the most disabled approaching the street dealers to buy cannabis. The block itself was quickly overrun by the "TL" business as usual. It was sad to see because while Divinity Tree was open they had security at the door which pushed a lot of deviant behaviour to other blocks. Please do what's in your power to allow them to re-open. Thank you for your consideration in this matter.

Shona Gochenaur
Executive Director
Axis of Love SF
<http://www.facebook.com/axisoflove>
<http://www.twitter.com/axisoflove>

Mejia, Xiomara (PAB)

From: Axis of Love SF, Shona Gochenaur <axisoflovesf@gmail.com>
Sent: Thursday, November 13, 2014 4:29 PM
To: BOARD.OF.APPEALS@sfgov.org; Kim, Jane (BOS); Charles Pappas; Sunny Angulo
Subject: Fwd: Divinity Tree

----- Forwarded message -----

From: Gilbert Canedo <foghornsf56@gmail.com>
Date: Thu, Nov 13, 2014 at 1:41 PM
Subject: Divinity Tree
To: Shona <axisoflovesf@gmail.com>

BOARD OF APPEALS

NOV 13 2014

APPEAL # _____

Divinity Tree is a very grassroots club, they are very compassionate with poor folk. Divinity Tree has been a service to its community. Unfortunately service was postponed by the DEA. It would be a great blow to the local community if you did not allowed Drinity Tree to open. Veterans are hurting enough without the City Hall causing more problems. We get screwed by the VA all the time we need a break !

--

Shona Gochenaur
Executive Director
Axis of Love SF
<http://www.facebook.com/axisoflove>
<http://www.twitter.com/axisoflove>

Huang, Cecilia (PAB)

From: Axis of Love SF, Shona Gochenaur <axisoflovesf@gmail.com>
Sent: Thursday, November 13, 2014 4:53 PM
To: BOARD.OF.APPEALS@sfgov.org; Kim, Jane (BOS); Sunny Angulo; Charles Pappas
Subject: Axis of Love SF support of the appeal by divinity tree

Greetings Board of Appeals Members,

Our organization has been active in district six for over a decade and represents majority of concerned patients in the area in which divinity tree seeks to re -open.

We voted in agreement to the following points and facts.

- 1) That the permit was not abandon,with knowlegde that the prior case of 350 dividadoro was not going to re opened by the same group, therefore sets no presentance of law , that by any reasonable persons veiw divinity tree permit WAS NOT ABANDON BUT INTERRUPTED- by the federal government - and was promised by the city and politicans that its needed services would be supported once the federal government went thru with their exit plans of the drugwar. This is a clear case of special and extrardnary circumstances.
 - 2) As outlined by the impact report of the medical cannabis taskforce of the city and county of san francisco. Once closures occured gang related drug dealing and neighborhood safety concerns re surfaced.
 - 3) That currently there are no community based and service orienated mdc's in the tenderlion area - where they are needed the most .
 - 4) That Divinty Tree leadership supported the patients rights movement at the taskforce level engaged with patient advocates to create better laws for safe access to the very poor.
 - 5) That the qaulity care of their direct services, including free medical cannabis to lowincome and veterans has not been matched and that patients are still suffereing from unfair targeting of the most compassionate providers in our city and suspect foul play from predatory competitors well versed in navigating city and federal system to the profits and business advantages..
 - 6) The tenderlion has the most disabled patients in need and by law, san francisco is a santurary for medical cannabis, and for the city to assist in blocking safe to those who need the most from providers with a proven track record of excellent and equal care to the porrest of poor - is amoral and ethically wrong.
- Inclosing we urge this board to support the appeal of the judgement by planning and zoning, request a overveiw of the mdc permit process ,if its meeting the needs of the patients or the profit driven and alllow this collective to serve the patients in a key location - local neighbor access being priority for the disabled,and reutrtn safety o the neighborhood.

--

Shona Gochenaur
Executive Director
Axis of Love SF

<http://www.facebook.com/axisoflove>

<http://www.twitter.com/axisoflove>

RE: Supervisor Jan Kin
San Francisco Board of Appeals

My name is Archie M. Hinkle
& I would like to see Divinity Tree
to reopen their MAP. It not
far to them. They just doing
whats best for landlord. They
provide a great service to our
Vets here local we need MAP
like Divinity Tree.
let them reopen
Please

Archie Hinkle
SF. 415 912 6208



RE: Supervisor Jan Kin
San Francisco Board of Appeals

My name is Archie M. Hinkle
& I would like to see Divinity Tree
to reopen their MAP. It not
far to them. They just doing
whats best for landlord. They
provide a great service to our
Vets here local we need MAP
like Divinity Tree.
let them reopen
Please

Archie Hinkle
SF. 415 912 6208



Attention: Supervisor Jane Kim
SF Board of Appeals

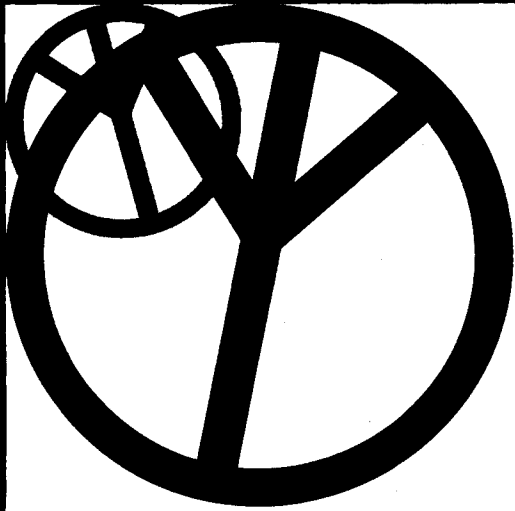
My name is Elihu, and I am inquiring of the reason for denying Divinity Tree M.C.D. to reopen their business, after the Federal Government interrupted their permit of services. This is not an "abandonment" of permit.

Since the forced closure, the neighborhood I live in has seen an increase of gang activity, along with an increase in Petty Crime (stats submitted by SFPD). Please allow Divinity Tree to reopen to help with the Compassionate Care, and Product, they serve within the community.

Thank you once again for taking the time to listen to the ones, that the reopening of Divinity Tree will be a beautiful blight in our community.

Sincerely,
Elihu Hernandez
Member: Axis of Love





Board of Appeal
Fajersin: James Kamin

I'm a 57 year old Trans gender
person who lives in the Tenderloin
Community for the past 10 years, as long
as I've been in San Francisco. I have
a number of access points where I can
get medical services.
There are no medical Comm. Clubs
in the area. I do have a eye
condition that a medical (Comms)
can help:

Respectfully

Roni Kamin

To Board of Appeals
Supervisor Jane Kim

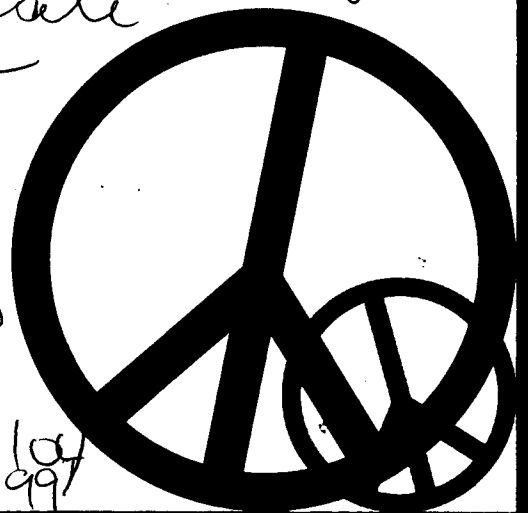
Nov 13, 2014

Dear lawmakers/Upholders of laws;
I have lived in San Francisco for many decades + have observed a growing number of disabled people many of them veterans living in the Tenderloin district. I also have noticed a decrease in medical Cannabis dispensaries to serve them, especially compassionate MCDs due to them being targeted for closure by the DEA. The City of San Francisco pledged to reopen every dispensary unfairly forced to close + patients are waiting...

I am supporting Divinity Tree, a compassionate dispensary to reopen after being forced to close + am upset that planning + zoning is blocking SAFE ACCESS.

Sincerely yours

Denise Dorey 216 Eddy #104
415 368 3599



¹⁰
San Francisco Board of Appeals / Supervisor JANE KIM

THURSDAY NOVEMBER 13, 2014

RE: REINSTATEMENT OF DIVINITY TREE DISPENSARY

DIVINITY WAS INVOLVED WITH A FEDERAL INTERRUPTION
OF SERVICES, NOT AN ABANDONMENT OF SERVICES AND
OR PROPERTY. They should be allowed to reopen
in the SAME AREA AS their loss has CAUSED
AN INCREASE IN NEIGHBORHOOD CRIME. Compassionate
providers in the TENDERLOIN are absolutely necessary.

AXIS OF LOVE MEMBER

Jonathan Dyer



NOV 13, 2014



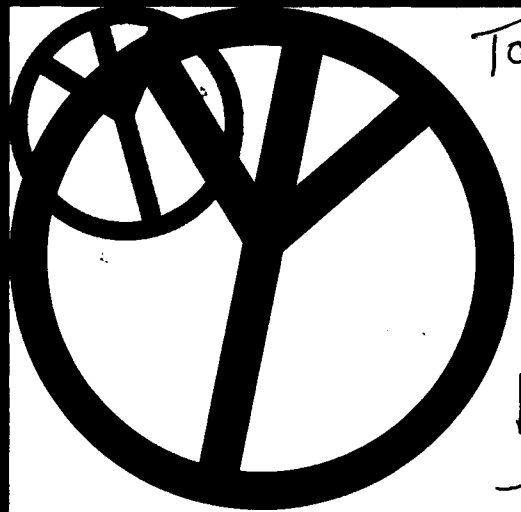
FROM A. JON MARTINELLI
TO: S.F. BOARD OF APPEALS
& SUPERVISOR JANE KIM

11-13-14

RE: DIVINITY TREE PERMIT STATUS,
THEY WERE FORCED TO CLOSE BY D.F.A.
& DID NOT ABANDON THEIR PERMIT.
PLEASE, FIND IN THEIR FAVOR, AS
THEY WERE ONE OF THE FEW THAT
GAVE ME COMPASSION IN EARLY DAYS,

Peace & Love
A. Jon Martirelli





To: The Board of appeal and ¹⁰⁻¹³⁻²⁰¹⁴ ~~Are Kin~~
My Name IS Gobelay Ruiz Elizondo

I have many friends who have been negatively affect by the shut down of Divine Tree. They did NOT aban Their permit but were forced to close.

Gobelay Ruiz Elizondo

To: The Board of Appeals and
Supervisor Jane Kim

Re: Divinity Tree Club

Dear Board of Appeals and Supervisor Jane Kim,

I am writing on behalf of Divinity Tree Medical Marijuana Club whose permit has been suspended during the federal crackdown. This is a federal interruption of services, not the abandonment of a permit.

I support the reopening of Divinity Tree in the same location as before. This is because Divinity Tree is needed in the neighborhood for safety and harm reduction. Divinity Tree has helped veterans and low income persons and they should continue to do so.

Thank you.

Sincerely,
Christine Moyer



IS The Board of Appeals
and
Supervisor Jane Kim

I strongly favor the granting
of the reopening ~~of~~ of Divinity Tree
They did not abandon their permit
but were forced to close. Their
compassion was first rate.
Many have been harmed as a result

John Glenn

John Glenn
Axis of Love Activist

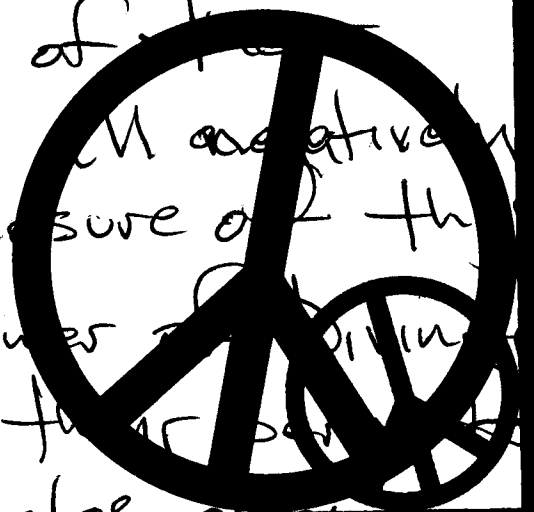


11.12.14

Dear Board of Appeals

Attn. Jane Kim

I support the re-opening of
Divinity Tree... My name is Penny
Kaiser and I am a Patient Advocate
Community activist... Group Facilitator
Divinity Tree serves the needs of
the community. They had a
Compassionate care program that
was inclusive... And staff
members who cared about the
community... As a matter of
fact... the staff had paid for
my medication out of their
pocket. We were all negatively
affected by the closure of the
dispensary... The Owner of Divinity
Tree didn't abandon the community...



Kenneth W. Limon

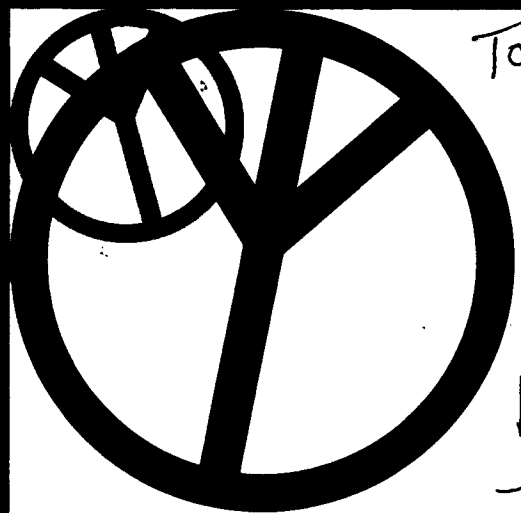
To The board of Appeals
and Sup. Jane Kim DIS 6.

The federal closer of Dining
tree left all of the pastants
in the federatom with no optio
It is my hope that they are
allowed to ~~re~~ open in the
same place it was. please
think of us for once.

Thank you

KW L.





To: The Board of appeal and ¹⁰⁻¹³⁻²⁰¹⁴ ~~Save~~ ^{Save} ~~kin~~
My Name IS Gobelay Ruiz Elizondo

I have many friends who have been negatively affect by the shut down of Divine Tree. They did NOT aban Their permit but were forced to close.

Gobelay Ruiz Elizondo

To The Board of Appeals 11/13/14
District 6 Supervisor Jane Kim.

The Permit for the Driventry
Tree wasn't Abandoned, it was
Closed in a Federal Crack down
The tender Loin (where I Live)
has no MCD and all the MCD
that had Commission programs
were targeted. I am a disabled
American Veteran and I have
mobility Problems. The Closest
MCD to me is 6 or more
blocks and I have trouble
walking that far. We need
a Compassionate MCD
in the TL as there
are a lot of Patients
There. Thank you,

James Ward

