

1 JAN I. GOLDSMITH, City Attorney
 JOHN HEMMERLING, Assistant City Attorney
 2 ONU O. OMORDIA, Deputy City Attorney
 California State Bar No. 231583
 3 Office of the City Attorney
 Community Justice Division/Code Enforcement Unit
 4 1200 Third Avenue, Suite 700
 San Diego, California 92101-4103
 5 Telephone: (619) 533-5500
 Fax: (619) 533-5696
 6 oomordia@sandiego.gov

No Fee GC §6103

7 Attorneys for Plaintiff

8 SUPERIOR COURT OF CALIFORNIA
 9 COUNTY OF SAN DIEGO

10 CITY OF SAN DIEGO, a municipal
 corporation,
 11
 12 Plaintiff,
 13 v.
 14 DARRYL COTTON, an individual; and
 DOES 1 through 50, inclusive,
 15
 16 Defendants.

Case No. 37-2016-00005526-CU-MC-CTL
 DECLARATION OF ROWDY SPERRY IN
 SUPPORT OF PLAINTIFF CITY OF SAN
 DIEGO'S *EX PARTE* APPLICATION FOR
 TEMPORARY RESTRAINING ORDER AND
 ORDER TO SHOW CAUSE WHY A
 PRELIMINARY INJUNCTION SHOULD
 NOT BE GRANTED
 IMAGED FILE
 Date: March 3, 2016
 Time: 8:30 a.m.
 Dept: C-70
 Judge: Hon. Randa Trapp
 Complaint filed: February 18, 2016
 Trial Date: None Set

20 I, Rowdy Sperry, declare:

21 I have personal knowledge of the following facts and am competent to testify as to these
 22 facts if called as a witness.

23 1. I am a Land Development Investigator with the City of San Diego's Development
 24 Services Department, Code Enforcement Division. I have been employed by the City of San
 25 Diego as a Land Development Investigator since September 2014. I have received extensive
 26 training on administration and enforcement of the zoning regulations contained in Chapter 13 of
 27 the San Diego Municipal Code (SDMC). Specifically, I received training on how to read and
 28 interpret the zoning regulations contained in the SDMC, the original City Ordinances adopting

1 these zoning regulations, zoning maps, County Tax Assessor's Records and other City and
2 County records related to the permitted uses on a given parcel. I also have extensive training on
3 the administration and enforcement of the regulations contained in SDMC Chapters 11 through
4 15 as they relate to land use, zoning, building/housing and health and safety issues. Prior to my
5 employment with the City of San Diego, I was a Sheriff's Deputy for San Joaquin County.

6 2. As a Land Development Investigator, I conduct field inspections on properties
7 throughout the City of San Diego. I routinely inspect residential, commercial, industrial and
8 agricultural properties, gathering and interpreting the necessary regulations and documents to
9 determine whether the uses at the properties are permitted.

10 3. As a Zoning investigator, I conduct field inspections on properties throughout the City
11 of San Diego. I am assigned to inspect residential, commercial, industrial, and agricultural
12 properties, gathering and interpreting the necessary regulations and documents to determine
13 whether the uses at the properties are permitted.

14 **INVESTIGATION**

15 4. On October 21, 2015, I opened an investigation of a marijuana dispensary by the name
16 of "Pure Meds" operating at 6176 Federal Boulevard in the City of San Diego (PROPERTY) in
17 violation of local zoning laws.

18 5. In my research of the ownership of the PROPERTY, I determined that a Grant Deed
19 was recorded with the San Diego County Recorder's Office on February 27, 1998, document
20 number 1998-0102763, listing the owner of record of the PROPERTY as "Darryl Cotton, A
21 Single Man." See Lodged Exhibit 1.

22 6. During my investigation, I located advertisements showing "Pure Meds" was
23 operating as an illegal marijuana dispensary at the PROPERTY. I discovered "Pure Meds" has
24 been advertising in San Diego Reader Magazine since the magazine's August 13, 2015 edition.

25 7. During my investigation, I also located several "Pure Meds" advertisements at the
26 following online websites: weedmaps.com; Nuweedorder.com; Headshopfinder.com;
27 Familyhigh.com; 420friends.club; ifindweeds.com; and wheresweed.com. See Lodged Exhibit 4.

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1 8. From August 3, 1987 to January 13, 2016, the PROPERTY was zoned to Southeastern
2 San Diego Planned District Industrial zone (SESDPD-I-1). At the time, the zone allowed for
3 Medical Marijuana Consumer Cooperative (MMCC) with Conditional Use Permit required.

4 9. During my investigation on December 1, 2015, I confirmed that "Pure Meds MMD"
5 was the occupant at the PROPERTY. I also located a dissolved Business Entity Detail for "Pure
6 Medical Collective Inc", with an Agent for Service, "Makar Ghazaryan", out of Studio City,
7 California.

8 10. I determined that there was an active Business Tax Certificate (BTC) for this
9 PROPERTY since September 9, 2004. The certificate listed the business as "Fleet Systems". I
10 did not locate a BTC for "Pure Meds" and "Pure Meds" is not registered with the Secretary of
11 State. See Lodged Exhibit 5.

12 11. Effective January 14, 2016, Southeastern San Diego Planned District was eliminated
13 and the PROPERTY were rezoned to Commercial Office zone (CO-2-1): SDMC sections - -
14 131.0520, 131.0522, and Table 131-05B list the permitted uses in a CO-2-1 zone where the
15 PROPERTY is located. According to 131.0520, 131.0522, and Table 131-05B, a Medical
16 Marijuana Consumer Cooperative is not a permitted use in a Commercial Office zone. See
17 Lodged Exhibit 2.

18 12. Previously conforming rights do not apply to separately regulated uses pursuant to
19 SDMC 127.0107. A MMCC is a separately regulated use. As such, the PROPERTY does not
20 have a previously conforming right to MMCC as a permitted use. "Pure Meds" never applied for
21 nor did it receive a Conditional Use Permit to operate and maintain a marijuana dispensary at the
22 PROPERTY. Any marijuana dispensary now operating at the PROPERTY is violating local
23 zoning laws.

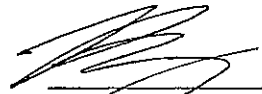
24 13. Furthermore, pursuant to SDMC sections 131.0520, 131.0522, and Table 131-05B, the
25 PROPERTY being operated or maintained with the use of Distribution and Storage is not a
26 permitted use in a Commercial Office zone. Therefore, use of storage or distribution at the
27 PROPERTY is violating local zoning laws.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed in San Diego, California, on February 24, 2016.



Rowdy Sperry
Land Development Investigator II