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13 UL CHULA TWO LLC

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **COUNTY OF SAN DIEGO – CENTRAL DIVISION**

16 UL CHULA TWO LLC,

17 Petitioner/Plaintiff,

18 vs.

19 CITY OF CHULA VISTA, a California public
20 entity; CHULA VISTA CITY MANAGER,
21 and DOES 1-20,

22 Respondents/Defendants,

23 MARCH AND ASH CHULA VISTA, INC.;
24 TD ENTERPRISE LLC; and DOES 23
25 through 50,

26 Real Parties In Interest.

ELECTRONICALLY FILED

Superior Court of California,
County of San Diego

01/19/2021 at 02:44:00 PM

Clerk of the Superior Court
By Gen Dieu, Deputy Clerk

Case No. 37-2020-00041554-CU-WM-CTL
[Related To Case Nos. 2020-00041802-CU-
MC-CTL; 37-2020-00033446-CU-MC-CTL]

**PETITIONER/PLAINTIFF'S NOTICE OF
MOTION AND MOTION FOR
PRELIMINARY INJUNCTION AND
STAY OF DECISION**

Hearing Date: April 30, 2021
Time: 9:00 a.m.
Judge: Hon. Richard E. L. Strauss
Dept.: C-75
Action Filed: November 13, 2021
Trial Date: None Set

1 TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on April 30, 2021, at 9:00 am, or as soon thereafter as the
3 matter may be heard in Department C-75, of the above entitled court, located at 330 West
4 Broadway, San Diego, California 92101, petitioner and plaintiff UL Chula Two LLC
5 (“Petitioner”), will and hereby does move the Court under Code of Civil Procedure § 526 for a
6 preliminary injunction to enjoin respondents and defendants City of Chula Vista and the Chula
7 Vista City Manager (collectively, “Respondent” or “City”) and its agents, officers, employees, and
8 representatives from taking or failing to take any action that would in any way interfere with the
9 full and fair consideration of Petitioner’s application for a retail storefront cannabis business
10 license (Application ID 57074). Compliance with the requested order should include, but is not
11 limited to, halting the issuance of any other cannabis licenses in the City’s District One. Further,
12 to the extent that Respondent has already issued such licenses, the Court’s order should declare
13 such licenses null and void.

14 A preliminary injunction is necessary and appropriate pursuant to Code of Civil Procedure
15 § 526(a) because:

- 16 1. Petitioner is entitled to the relief requested [Cal. Civ. Proc. Code § 526(a)(1)];
- 17 2. Petitioner would suffer irreparable injury if the injunction is not issued [Cal. Civ. Proc.
18 Code § 526(a)(2)];
- 19 3. Respondent continues the licensing process for other applicants pending this
20 mandamus proceeding, which could result in the awarding of licenses to Petitioner’s
21 competitors and render a judgment herein ineffectual because only two retail storefront
22 cannabis business licenses are permitted per City district [Cal. Civ. Proc. Code §
23 526(a)(3)];
- 24 4. Pecuniary damages will not adequately compensate Petitioner for the harm caused by
25 Respondents [Cal. Civ. Proc. Code § 526(a)(4)]; and
- 26 5. It would be extremely difficult to ascertain the amount of compensation that would
27 afford Petitioner adequate relief [Cal. Civ. Proc. Code § 526(a)(5)].

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1 For these same reasons, petitioner further moves for a stay of the City's May 6, 2020
2 Notice of Decision denying Petitioner's application for a retail storefront cannabis business license
3 (Application ID 57074), as well as its August 26, 2020 decision denying Petitioner's
4 administrative appeal, pursuant to Code of Civil Procedure § 1094.5(g).

5 This Motion is based upon this Notice of Motion and Motion, the concurrently filed
6 Memorandum of Points and Authorities, the Declarations of Gary K. Brucker, Jr. and Willie Senn,
7 and the Appendix of Exhibits, as well as all pleadings, papers, records, and files herein (including
8 the Verified Petition and Complaint), and upon such further oral and documentary evidence as
9 may be presented at the time of the hearing on this Motion.

10 DATED: January 19, 2021

Respectfully submitted,

11 LEWIS BRISBOIS BISGAARD & SMITH LLP

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13 By:



14 GARY K. BRUCKER, JR.
15 Attorneys for Petitioner/Plaintiff
16 UL CHULA TWO LLC
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