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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]

**DECLARATION OF GARY K.
BRUCKER, JR. IN SUPPORT OF
PETITIONER/PLAINTIFF'S 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 I, Gary K. Brucker, Jr., declare as follows:

2 1. I am an attorney duly admitted to practice in all of the courts of the State of
3 California and I am a partner with Lewis Brisbois Bisgaard & Smith LLP, attorneys of record for
4 petitioner/plaintiff UL Chula Two LLC (“Petitioner”) herein. The facts set forth herein are of my
5 own personal knowledge, and if sworn I could and would competently testify thereto.

6 2. The respondent and defendant City of Chula Vista (City), to date, has yet to prepare
7 the administrative record following Petitioner’s request on June 10, 2020.

8 3. Upon information and belief, including the exhibits referenced below, the City
9 denied *every* applicant for a retail cannabis storefront in its District One. Then, pursuant to City of
10 Chula Vista Cannabis Regulations section 0501(N)(2)(e), the City permitted March and Ash Chula
11 Vista, Inc. (from District Two) and TD Enterprise LLC (from District Four) to change districts,
12 select new locations in the City’s District One, and move to Phase II of the application process.

13 4. Attached as **Exhibit 14** to the Appendix of Exhibits is the City’s *List of Cannabis*
14 *Businesses Applicants Invited To Proceed to Phase Two (updated December 7, 2020)*. This list
15 identifies TD Enterprise LLC, which originally applied for a license in District Four, as
16 proceeding to Phase II of the application process in District One.

17 5. On December 9, 2020, I spoke with counsel for the City, Alena Shamos, Esq.,
18 regarding whether the parties would be amenable to a stipulated stay of licensing in the City’s
19 District One in lieu of motion practice. Ms. Shamos informed me on or about December 17, 2020
20 that, although the City would be amenable to a stipulated stay, the City would require the approval
21 of real parties March and Ash Chula Vista, Inc. and TD Enterprise LLC. On or about December
22 29, 2020, I participated in a conference call with Ms. Shamos and counsel for real parties, Heather
23 Riley, Esq. and David Kramer, Esq., to discuss a stipulated stay in lieu of motion practice. The
24 parties participated in a subsequent conference call on January 6, 2021. Counsel for real party
25 March and Ash Chula Vista, Inc. stated on the second conference call that it would be amenable to
26 a stipulated stay provided that the stay enjoined the issuance of a license for both of the real parties
27 in the City’s District One. Counsel for real party TD Enterprise LLC asserted his belief that TD
28 Enterprise LLC has priority over March and Ash Chula Vista, Inc. for a license in the City’s

1 District One and that TD Enterprise LLC may not be amenable to a stipulation to stay all
2 storefront licensing in the City's District One (as opposed to a stay of issuance of a single license
3 in the event Petitioner prevails in this action). On January 11, 2021, counsel for TD Enterprise
4 LLC confirmed that it would not agree to a stipulation that would enjoin the City from issuing any
5 storefront license in the City's District One (as opposed to a single license to be reserved for
6 Petitioner). On January 12, 2021, I informed counsel for all parties that Petitioner would proceed
7 with the instant motion practice given a stipulation was seemingly not possible.

8 I declare under penalty of perjury under the laws of the State of California that the
9 foregoing is true and correct and that this declaration was executed on this 19th day of January
10 2021, at San Diego, California.



Gary K. Brucker, Jr.