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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
10/30/2017 at 08:00:00 AM
Clerk of the Superior Court
By Katelin O'Keefe, Deputy Clerk

Attorneys for Petitioner/Plaintiff Darryl Cotton

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO
CENTRAL DIVISION

DARRYL COTTON, an individual,
Petitioner/Plaintiff,

v.

CITY OF SAN DIEGO, a public entity; and
DOES 1 through 25,
Respondents/Defendants,

CASE NO: 37-2017-00037675-CU-WM-CTL

EX PARTE APPLICATION FOR (1)
ALTERNATIVE WRIT OF MANDATE AND
ORDER TO SHOW CAUSE WHY
PEREMPTORY WRIT SHOULD NOT
ISSUE, AND (2) THE SCHEDULING OF A
HEARING AND EXPEDITED SCHEDULE
FOR VERIFIED PETITION FOR WRIT OF
MANDATE

[IMAGED FILE]

Assigned to:
Hon. Eddie C. Sturgeon, Dept. C-67

Date: October 31, 2017
Time: 8:30 a.m.
Dept.: C-67

Petition Filed: October 6, 2017
Trial Date: Not Set

REBECCA BERRY, an individual;
LARRY GERACI, an individual; and
ROES 1 through 25,

Real Parties In Interest.

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EX PARTE APPLICATION FOR (1) ALTERNATIVE WRIT OF MANDATE AND ORDER TO SHOW
CAUSE WHY PEREMPTORY WRIT SHOULD NOT ISSUE, AND (2) THE SCHEDULING OF A HEARING
AND EXPEDITED SCHEDULE FOR VERIFIED PETITION FOR WRIT OF MANDATE

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on October 31, 2017, at 8:30 a.m. or as soon thereafter as the matter may be heard in Department C-67 of the above-entitled court, located at 330 West Broadway, San Diego, California 92101, petitioner/plaintiff Darryl Cotton ("Cotton") will appear ex parte to request the Court issue the following relief pursuant to Code of Civil Procedure section 1085:

1. An alternative writ of mandate under seal of this Court and an order to show cause why a peremptory writ should not issue. Specifically, Cotton respectfully requests (1) an alternative writ of mandate directing respondent/defendant City of San Diego ("City") to recognize Cotton, the sole record owner of the real property located at 6176 Federal Boulevard, San Diego, California 92114 ("Property"), as the sole applicant with respect to Conditional Use Permit Application – Project No. 520606 ("Cotton Application") for a Conditional Use Permit to operate a Medical Marijuana Consumer Cooperative at the Property, and to process the Cotton Application with Cotton as the sole applicant, and (2) an order to show cause why a peremptory writ should not issue.

2. In the alternative, Cotton requests the Court schedule the following expedited hearing and briefing schedule on Cotton's verified petition for writ of mandate:

<u>Event</u>	<u>Date/Deadline</u>
Cotton's Petition/Application	October 31, 2017
Oppositions of City, Berry, and Geraci	November 7, 2017
Cotton's Replies	November 10, 2017
Hearing on Cotton's Petition/Application	November 14, 2017

Pursuant to California Rules of Court, Rule 3.1202(a), so far as is known to Cotton, the names, addresses, and telephone numbers of attorneys and parties in this case are as follows:

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<u>Parties</u>	<u>Attorneys</u>
Darryl Cotton	David S. Demian Adam C. Witt Rishi S. Bhatt Finch, Thornton & Baird, LLP 4747 Executive Drive, Suite 700 San Diego, California 92121 Telephone: (858) 737-3100
City of San Diego c/o City Clerk - Elizabeth Maland 202 C Street, 2nd Floor San Diego California 92101 Telephone: (619) 972-5280	Jana Mickova Will, Deputy City Attorney 1200 Third Avenue Suite 1100 San Diego, California 92101 Telephone: (619) 235-5872
Rebecca Berry	Michael R. Weinstein Ferris & Britton 501 West Broadway, Suite 1450 San Diego, California 92101 Telephone: (619) 233-3131
Larry Geraci	Michael R. Weinstein Ferris & Britton 501 West Broadway, Suite 1450 San Diego, California 92101 Telephone: (619) 233-3131

This application is based on upon the concurrently filed memorandum, declaration of Darryl Cotton, declaration of David S. Demian, notice of lodgment, request for judicial notice, proposed order, the pleadings and records on file in this action, including the verified petition and its exhibits, and other oral and documentary evidence that may be presented at the time of the hearing on this application.

Timely notice for this application was given by counsel for Cotton to all parties pursuant to California Rules of Court, rule 3.1203(a). (Declaration of David S. Demian, ¶ 3.)

DATED: October 27, 2017

Respectfully submitted,

FINCH, THORNTON & BAIRD, LLP

By: 

DAVID S. DEMIAN
ADAM C. WITT
RISHI S. BHATT

Attorneys for Petitioner/Plaintiff Darryl Cotton

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