

**BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD**

IN THE MATTER OF:

THE LID LLC  
d/b/a THE LID

826 SR 173 STE B  
BREWSTER, WA 98812-9326

APPLICANT

LICENSE APPLICATION NO. 413671  
UBI: 603 353 091 001 0001

LCB NO. M-25,221  
OAH NO. 2014-LCB-0100

FINAL ORDER OF THE BOARD

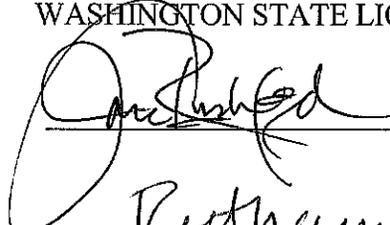
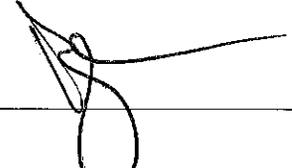
The above-captioned matter coming on regularly before the Board, and it appearing that:

1. The Licensing Division of the Liquor Control Board issued a Statement of Intent to Deny Marijuana License dated June 16, 2014.
2. The Applicant submitted a request for a hearing.
3. On July 18, 2014, Administrative Law Judge Joshua D. Sundt issued his Initial Order, affirming the decision to deny the Applicant's license application.
4. No Petition for Review was received.
5. The entire record in this proceeding was presented to the Board for final decision, and the Board having fully considered said record and being fully advised in the premises; NOW, THEREFORE, IT IS HEREBY ORDERED that the Statement of Intent to Deny Marijuana License for case M-25,221 in this matter is ADOPTED.

IT IS HEREBY FURTHER ORDERED that the marijuana license application, number 413671, for The Lid LLC d/b/a The Lid is DENIED.

DATED at Olympia, Washington this 3<sup>rd</sup> day of March, 2015.

WASHINGTON STATE LIQUOR CONTROL BOARD

  
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Reetham Kurose  
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Reconsideration. Pursuant to RCW 34.05.470, you have ten (10) days from the mailing of this Order to file a petition for reconsideration stating the specific grounds on which relief is requested. A petition for reconsideration, together with any argument in support thereof, should be filed by mailing or delivering it directly to the Washington State Liquor Control Board, Attn: Kevin McCarroll, 3000 Pacific Avenue Southeast, PO Box 43076, Olympia, WA 98504-3076, with a copy to all other parties of record and their representatives. Filing means actual receipt of the document at the Board's office. RCW 34.05.010(6). A copy shall also be sent to Mary M. Tennyson, Senior Assistant Attorney General, 1125 Washington St. SE, P.O. Box 40110, Olympia, WA 98504-0110. A timely petition for reconsideration is deemed to be denied if, within twenty (20) days from the date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written notice specifying the date by which it will act on the petition. An order denying reconsideration is not subject to judicial review. RCW 34.05.470(5). The filing of a petition for reconsideration is not a prerequisite for filing a petition for judicial review.

Stay of Effectiveness. The filing of a petition for reconsideration does not stay the effectiveness of this Order. The Board has determined not to consider a petition to stay the effectiveness of this Order. Any such request should be made in connection with a petition for judicial review under chapter 34.05 RCW and RCW 34.05.550.

Judicial Review. Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. The petition for judicial review of this Order shall be filed with the appropriate court and served on the Board, the Office of the Attorney General, and all parties within thirty days after service of the final order, as provided in RCW 34.05.542.

Service. This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).



Washington State  
Liquor Control Board

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March 4, 2015

Tim Ostreim  
The Lid LLC  
d/b/a The Lid  
281 Leslie Way  
East Wenatchee, WA 98802-5621

Kim O'Neal, AAG  
GCE Division, Office of Attorney General  
1125 Washington Street SE  
PO Box 40100  
Olympia, WA 98504-0100

**RE: FINAL ORDER OF THE BOARD**  
**APPLICANT: The Lid LLC**  
**TRADE NAME: The Lid**  
**LOCATION: 826 SR 173 Ste B, Brewster, WA 98812**  
**LICENSE APPLICATION NO. 413671**  
**LCB HEARING NO. M-25,221**  
**OAH NO. 2014-LCB-0100**  
**UBI: 603-353-091-001-0001**

Dear Parties:

Please find the enclosed Final Order of the Board and Declaration of Service by Mail in the above-referenced matter.

If you have any questions, please contact me at (360) 664-1602.

Sincerely,

Kevin McCarroll  
Adjudicative Proceedings Coordinator

Enclosures (2)

cc: Becky Smith, Licensing Director, WSLCB  
Frank O'Dell, Licensing Supervisor, WSLCB  
Mary Henley, Licensing Administrative Assistant, WSLCB

WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF:

THE LID LLC  
d/b/a THE LID

826 SR 173 STE B  
BREWSTER, WA 98812-9326

APPLICANT

LICENSE APPLICATION NO. 413671  
UBI: 603 353 091 001 0001

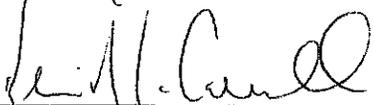
LCB NO. M-25,221  
OAH NO. 2014-LCB-0100

DECLARATION OF SERVICE BY  
MAIL

I certify that I caused a copy of the FINAL ORDER OF THE BOARD in the above-referenced matter to be served on all parties or their counsel of record by US Mail Postage Prepaid via Consolidated Mail Service for applicants and licensees, by electronic mail for WSLCB offices, and Campus Mail via Consolidated Mail Services for state offices on the date below to:

|  |  |
|--|--|
| TIM OSTREIM<br>THE LID LLC<br>d/b/a THE LID<br>281 LESLIE WAY<br>EAST WENATCHEE, WA 98802-5621 | OFFICE OF THE ATTORNEY GENERAL<br>MAIL STOP 40100, GCE DIVISION<br>KIM O'NEAL,<br>ASSISTANT ATTORNEY GENERAL |
| THE LID LLC<br>d/b/a THE LID<br>1931 NW CASCADE AVE<br>EAST WENATCHEE, WA 98802-4124           | THE LID LLC<br>d/b/a THE LID<br>826 SR 173 STE B<br>BREWSTER, WA 98812-9326                                  |

DATED this 4<sup>th</sup> day of March, 2015, at Olympia, Washington.

  
Kevin McCarroll, Adjudicative Proceedings Coordinator

STATE OF WASHINGTON  
OFFICE OF ADMINISTRATIVE HEARINGS  
LIQUOR CONTROL BOARD

RECEIVED  
DEC 18 2014  
Liquor Control Board  
Board Administration

In the matter of:

The Lid LLC,

Applicant.

Location address:  
826 SR 173 Suite B  
Brewster, WA 98812

License Application No. 413671  
UBI 603-353-091-001-0001

Docket No. 2014-LCB-0100  
Agency No. M-25,221

**INITIAL ORDER**

**1. ISSUES PRESENTED**

- 1.1 Whether the Applicant, The Lid LLC (The Lid), failed to submit a signed letter of intent to lease or purchase the premises proposed to be licensed.
- 1.2 If so, then whether The Lid's application for a marijuana retailer license is subject to administrative closure and denial under RCW 69.50.331, WAC 314-55-020(12) and WAC 314-55-050(2).

**2. ORDER SUMMARY**

- 2.1 The Lid LLC did submit a letter of intent to lease or purchase the proposed premises, but the letter was not signed by the property owner or seller.
- 2.2 The Liquor Control Board's action is affirmed. Under RCW 69.50.331, WAC 314-55-020(12) and WAC 314-55-050(2), the marijuana retail license application of The Lid LLC, application number 413671, is DENIED.

**3. HEARING**

- 3.1 Hearing Date: November 21, 2014
- 3.2 Administrative Law Judge: Joshua Sundt
- 3.3 Applicant: The Lid LLC
  - 3.3.1 Representative: Tim Ostreim, sole member of The Lid LLC
  - 3.3.2 Witnesses: Tim Ostreim
- 3.4 Agency: Liquor Control Board
  - 3.4.1 Representative: Kim O'Neal, Senior Counsel, Office of the Attorney General

3.4.2 Witnesses: Tim Lynch, Frank O'Dell, Rebecca Smith

3.5 Exhibits: The administrative law judge admitted exhibits 1 through 3. Exhibits A and B were not admitted.

#### 4. FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

- 4.1 Sometime prior to February 21, 2014, The Lid LLC (The Lid) expressed interest in applying for a license to operate a retail marijuana business in Washington.
- 4.2 Tim Ostreim, at all times relevant to this action, was the sole member of The Lid and the person responsible for making application for the business's retail marijuana license.
- 4.3 Also prior to February 21, 2014, LCB notified Mr. Ostreim that LCB would be instituting a lottery for marijuana retail licenses and that it would be requesting certain information from applicants before they would be entered in the lottery. LCB referred to the lottery application materials as the Retail Pre-screen Information.
- 4.4 On February 21, 2014, LCB sent Mr. Ostreim an email notifying him that the Retail Pre-screen Information application packet was available through an online service. Jodi Davidson, who was the owner of the property Mr. Ostreim planned to lease for The Lid's retail operations, received the email and forwarded it on to Mr. Ostreim. Mr. Ostreim accessed the Pre-screen Information envelope on March 13, 2014. Exhibit 3, page 9.
- 4.5 The Retail Pre-screen Information form notified Mr. Ostreim that The Lid "must submit all information requested within 30 days in order to be entered in the retail lottery." Exhibit 3, page 11.
- 4.6 The Retail Pre-screen Information form required, among other items, the name of an individual who would serve as the primary applicant for the business. Mr. Ostreim identified himself as the primary applicant for the business. Exhibit 3, page 11.
- 4.7 The Retail Pre-screen Information form also required the applicant to identify the address of the physical location the applicant intended to enter in the retail lottery. Mr. Ostreim identified the proposed licensed physical location as 826 B SR 173, Brewster, Douglas County, Washington 98802 (Property). Exhibit 3, page 11.
- 4.8 In addition, the Retail Pre-screen Information form stated that the applicant was required to attach the following information regarding the physical location proposed to be licensed:

- Real Estate Purchase and Sale Agreement signed by buyer and seller; or

- Real estate closing statement; or
- Signed lease agreement; or
- Letter of intent to lease signed by property owner

- 4.9 Mr. Ostreim attached to his Pre-screen Information envelope a one-page letter of intent to lease the Property, dated March 1, 2014. Although Julie Davisson's [sic] typewritten name appeared at the bottom of the letter as the purported property owner, no signature had been affixed to the document. Exhibit 3, page 19.
- 4.10 On March 13, 2014, Mr. Ostreim signed the Retail Pre-screen Information form using an online service known as DocuSign, and submitted the form to LCB. The acknowledgment above his signature stated "I, Timothy S. Ostreim, am aware that failure to provide all documentation requested within 30 days may result in my application for a marijuana retailer license being excluded from the lottery and my application being administratively withdrawn." Exhibit 3, page 11.
- 4.11 Upon reviewing his own application materials, Mr. Ostreim noticed that the letter of intent that had been submitted was missing a signature, and in fact brought the matter up with Jodi Davidson, who was helping him with the application process. Despite having noticed the lack of a signature on the letter of intent, though, Mr. Ostreim chose not to resubmit his Pre-screen Information, based on representations from Ms. Davidson that her printed name would suffice to show intent to lease. Mr. Ostreim did not check with LCB on the matter, instead choosing to rely on Ms. Davidson's representation.
- 4.12 Staff at LCB initially "screened in" the application and included it in the retail lottery, apparently overlooking the fact that the applicant's submitted letter of intent was unsigned.
- 4.13 LCB's practice was to review all applications which received a winning lottery number. Following this practice, Marijuana Licensing Specialist Tim Lynch reviewed The Lid's application on May 28, 2014. Exhibit 3, page 1. Upon review, Mr. Lynch determined that the application should be administratively closed because no signed letter of intent had been submitted. On May 29, 2014 Mr. Lynch communicated his decision to Mr. Ostreim via a telephone conversation.
- 4.14 For applications being processed for denial, LCB required a second internal review. To this end, Marijuana Unit Supervisor Frank O'Dell reviewed the file again and concluded that denial was appropriate.
- 4.15 On June 16, 2014, LCB issued a Statement of Intent to Deny Marijuana License to The Lid, stating that LCB had administratively closed the application due to the applicant's failure to submit "[A] signed letter of intent to lease or purchase from property owner or designee." Exhibit 1, page 1.

4.16 The Lid filed a Request for Hearing, Response to Statement of Intent to Deny on July 9, 2014.

## 5. CONCLUSIONS OF LAW

Based on the facts above, I make the following conclusions:

- 5.1 The Office of Administrative Hearings has jurisdiction over the persons and subject matter of this case under Revised Code of Washington (RCW) 69.50.331(2)(c), RWC 69.50.334, chapter 34.12 RCW, and under Washington Administrative Code (WAC) 314-55-070.
- 5.2 When granting a marijuana retailer license, LCB must license not only the applicant business entity, but also the physical premises used by the business. Thus, if one licensed entity operates multiple locations, a separate license must be obtained for each location. RCW 69.50.325(3). There are multiple provisions of the law which impose a duty on LCB, or grant it discretion, to assess the proposed licensed premises, including the following:
  - a. RCW 69.50.331(1) confers on LCB the authority to inspect the premises and inquire into all matters in connection with the construction and operation of the premises. *See also*, WAC 314-55-020(6).
  - b. RCW 69.50.331(7) requires LCB to notify the applicable city or county government of a pending license application for a location within the city's or county's jurisdiction, so that such government may file a written objection against the applicant *or the premises*.
  - c. RCW 69.50.331(8) provides that LCB must not issue a marijuana license for any premises within one thousand feet of certain businesses and facilities.
  - d. WAC 314-55-020(9) requires the applicant to submit a detailed floor plan or site plan for the proposed licensed premises.
- 5.3 To carry out its regulatory duties, LCB "may inquire and request documents regarding all matters in connection with the marijuana license application." WAC 314-55-020. It is evident, then, that LCB has the legal authority to request specific information or documentation regarding the proposed licensed premises.
- 5.4 LCB has broad discretionary authority to deny a marijuana license application, including for "[f]ailure or refusal to submit information or documentation requested by the board during the evaluation process." WAC 314-55-020(2).
- 5.5 WAC 314-55-020(12) gives LCB specific authority to administratively close or seek denial of an application upon the applicant's "failure to respond to the board licensing and regulation division's requests for information within the timeline provided."

- 5.6 In the present case, LCB requested that The Lid submit either a real estate purchase and sale agreement signed by buyer and seller; a real estate closing statement; a signed lease agreement; or a letter of intent to lease signed by property owner. The Lid submitted only an unsigned letter of intent.
- 5.7 Because The Lid failed to submit the requested real estate documentation within the timeline required, its application is subject to administrative closure and denial under RCW 69.50.331, WAC 314-55-020(12) and WAC 314-55-050(2). The Liquor Control Board's action in administratively closing the application was supported by law and denial of the application is appropriate. The LCB action should be affirmed.

## 6. INITIAL ORDER

The Liquor Control Board's action is affirmed. Under RCW 69.50.331, WAC 314-55-020(12) and WAC 314-55-050(2), the marijuana retail license application of The Lid LLC, application number 413671, is DENIED.

Dated: Tuesday, December 16, 2014.



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Joshua D Sundt  
Administrative Law Judge  
Office of Administrative Hearings

## APPEAL RIGHTS

**Petition for Review of Initial Order:** Either the licensee or permit holder or the assistant attorney general may file a petition for the review of the initial order with the Liquor Control Board within twenty (20) days of the date of service of the initial order. RCW 34.05.464, WAC 10-08-211 and WAC 314-42-095.

The petition for review must:

- (i) Specify the portions of the initial order to which exception is taken;
- (ii) Refer to the evidence of record which is relied upon to support the petition; and
- (iii) Be filed with the liquor control board within twenty (20) days of the date of service of the initial order.

A copy of the petition for review must be mailed to all of the other parties and their representatives at the time the petition is filed. Within ten (10) days after service of the petition for review, any of the other parties may file a response to that petition with the

Liquor Control Board. WAC 314-42-095(2)(b). Copies of the reply must be mailed to all other parties and their representatives at the time the reply is filed.

Mail the petition for review of initial order to:

Washington State Liquor Control Board  
Attention: Kevin McCarroll  
P.O. Box 43076  
Olympia, Washington 98504-3076

**Final Order and Additional Appeal Rights:** The administrative record, the initial order, any petitions for review, and any replies filed by the parties will be circulated to the board members for review. WAC 314-42-095(3).

Following this review, the board will enter a final order. WAC 314-42-095(4). Within ten days of the service of a final order, any party may file a petition for reconsideration with the board, stating the specific grounds upon which relief is requested. RCW 34.05.470 and WAC 10-08-215.

The final decision of the board is appealable to the Superior Court under the provisions of RCW 34.05.510 through 34.05.598 (Washington Administrative Procedure Act).

DECLARATION OF SERVICE

I declare under penalty of perjury under the laws of the State of Washington that today I served a copy of this document, by placing it in the mail with postage prepaid, addressed to the following parties of record:

Kim O'Neal  
Assistant Attorney General  
PO Box 40100  
Olympia, WA 98504-0100

Agency Representative

The Lid LLC dba The Lid  
Attn: Tim Ostreim  
281 Leslie Way  
East Wenatchee, WA 98802-5621

Applicant

Alan Rathbun  
Licensing Director  
PO Box 43098  
Olympia, WA 98504-3098

Agency Contact

Becky Smith  
WSLCB  
PO Box 43098  
Olympia, WA 98504-3098

Agency Contact

Kevin McCarroll  
Adjudicative Proceedings Coordinator  
P.O. Box 43076  
Olympia, WA 98504-3076

Agency Contact

Dated December 17, 2014, at Olympia, Washington.  
(DATE OF MAILING)



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Representative  
Office of Administrative Hearings  
2420 Bristol Court SW  
Olympia, WA 98502