

**BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD**

IN THE MATTER OF:

JOSEPHINE TOWNSEND  
d/b/a THE LEGAL JOINT

221 NE 104<sup>TH</sup> AVE STE 202  
VANCOUVER, WA 98664-4599

APPLICANT

LICENSE APPLICATION NO. 414156  
UBI: 603 187 376 001 0002

LCB NO. M-25,255  
OAH NO. 10-2014-LCB-00038

FINAL ORDER OF THE BOARD

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

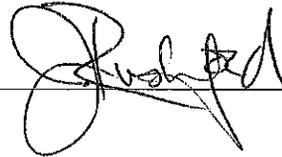
1. The Licensing Division of the Liquor Control Board issued a Statement of Intent to Deny Marijuana License dated July 3, 2014, asserting that the Applicant failed to submit a required, valid and signed letter of intent to lease or purchase from property owner or designee.
2. The Applicant timely submitted a request for a hearing.
3. On December 8, 2014, a hearing was held before Administrative Law Judge Gina L. Hale with the Office of Administrative Hearings.
4. At the hearing, the Applicant Josephine Townsend represented herself. Assistant Attorney General Kim O'Neal represented the Licensing Division of the Board.
5. On March 30, 2015, Administrative Law Judge Gina L. Hale issued an Initial Order, affirming the decision to deny the Applicant's license application as expressed in the Statement of Intent to Deny Marijuana License.
6. No Petition for Review was received.

7. 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 Administrative Law Judge's Findings of Fact, Conclusions of Law and Initial Order are, AFFIRMED and adopted as the Findings of Fact, Conclusions of Law and Final Order of the Board;

IT IS HEREBY FURTHER ORDERED that marijuana license application number 414156 for JOSEPHINE TOWNSEND d/b/a THE LEGAL JOINT is DENIED.

DATED at Olympia, Washington this 9<sup>th</sup> day of JUNE, 2015.

WASHINGTON STATE LIQUOR CONTROL BOARD



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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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June 10, 2015

Josephine Townsend,  
d/b/a The Legal Joint  
211 E 11<sup>th</sup> St, Ste 104  
Vancouver, WA 98660-3248

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: Josephine Townsend**  
**TRADE NAME: The Legal Joint**  
**LOCATION: 221 NE 104<sup>TH</sup> Ave, Ste 202, Vancouver, WA 98664-4599**  
**LICENSE APPLICATION NO. 414156**  
**LCB HEARING NO. M-25,255**  
**OAH NO. 10-2014-LCB-00038**  
**UBI: 603 187 376 001 0002**

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,

A handwritten signature in black ink, appearing to read "Kevin McCarroll".

Kevin McCarroll  
Adjudicative Proceedings Coordinator

KM:mg

Enclosures (2)

cc: Becky Smith, Licensing Director, WSLCB  
Kim Gabbard, Licensing Supervisor, WLSCB  
Mary Henley, Administrative Assistant, WSLCB

**WASHINGTON STATE LIQUOR CONTROL BOARD**

IN THE MATTER OF:

JOSEPHINE TOWNSEND  
d/b/a THE LEGAL JOINT  
221 NE 104<sup>TH</sup> AVE STE 202  
VANCOUVER, WA 98664-4599

APPLICANT

LICENSE APPLICATION NO. 414156

LCB NO. M-25,255

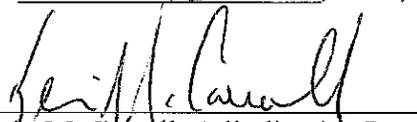
OAH NO. 10-2014-LCB-00038

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:

JOSEPHINE TOWNSEND, ATTORNEY AT LAW PLLC d/b/a THE LEGAL JOINT 211 E 11 <sup>TH</sup> ST, STE 104 VANCOUVER, WA 98660-3248	OFFICE OF THE ATTORNEY GENERAL MAIL STOP 40100, GCE DIVISION KIM O'NEAL, ASSISTANT ATTORNEY GENERAL
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DATED this 10<sup>th</sup> day of JUNE, 2015, at Olympia, Washington.

  
Kevin McCarroll, Adjudicative Proceedings Coordinator

RECEIVED

APR 03 2015

Liquor Control Board  
Board Administration

WASHINGTON STATE  
OFFICE OF ADMINISTRATIVE HEARINGS

In the matter of:

Docket No. 10-2014-LCB-00038

The Legal Joint,

**INITIAL ORDER**

Josephine Townsend  
d/b/a/ The Legal Joint  
211 E. 11<sup>th</sup> Street, Suite 104  
Vancouver, WA 98660

Agency: Liquor Control Board  
Program: Marijuana Licensing  
Agency No. M-25,255

Location Address:  
221 NE 104<sup>th</sup> Ave, Suite 202  
Vancouver, WA 98664

Applicant.

License Application No. 414156  
UBI No. 603-187-001-0002

**1. ISSUES PRESENTED**

- 1.1. **Issue No. 1.** Whether the Applicant, The Legal Joint, failed to submit a signed letter of intent to lease or purchase the premises proposed to be licensed.
- 1.2. **Issue No. 2.** If so, then whether The Legal Joint'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. **Issue No. 1.** The Legal Joint did not submit a signed letter of intent to lease or purchase the proposed premises as required.
- 2.2. **Issue No. 2.** The license application for The Legal Joint is therefore denied under RCW 69.50.331, WAC 314-55-020(12) and WAC 314-55-050(2).

**3. HEARING**

- 3.1. **Hearing Date:** December 8, 2014
- 3.2. **Administrative Law Judge:** Gina L Hale

- 3.3. **Applicant:** The Legal Joint
- 3.3.1. **Representative:** Josephine Townsend
- 3.3.2. **Witnesses:** Josephine Townsend
- 3.4. **Agency:** Liquor Control Board
- 3.4.1. **Representative:** Kim O'Neal, Senior Counsel, Office of the Attorney General
- 3.4.2. **Witnesses:** Rebecca Smith – LCB Marijuana Unit Manager  
Kim Gabbard – LCB Marijuana Supervisor
- 3.5. **Exhibits:** The administrative law judge admitted LCB exhibits 1-3, and Applicant exhibits 1-3.
- 3.5.1. **LCB Exhibits:**
1. Statement of Intent to Deny License; (2 pages)
  2. Applicant's Request for Hearing; (2 pages)
  3. Applicant's Prescreen Documents; (55 pages)
- 3.5.2. **Applicant's Exhibits:**
1. Email dated January 3, 2014; (2 pages)
  2. Lease Application; (3 pages)
  3. Email dated January 5, 2014; (3 pages)
- 3.6. **Non-Evidentiary Presentations Considered.** The following non-evidentiary documents were filed with OAH and considered by the Administrative Law Judge (some of the following may also have been included by the parties as part of their evidentiary presentation):
- 3.6.1. The Applicant's Request for Administrative Hearing and the Notice of Hearing dated November 14, 2014.
- 3.6.2. The parties' opening statements.

#### 4. FINDINGS OF FACT

Based on a preponderance of evidence, the undersigned makes the following Findings of Fact:

## Jurisdiction

- 4.1 On July 3, 2014, the Liquor Control Board (Board) issued a Statement of Intent to Deny Marijuana License to the Applicant, Josephine Townsend, d.b.a. The Legal Joint (Applicant). Exhibit 1.
- 4.2 Ms. Townsend submitted a Request for Hearing dated July 18, 2014. Exhibit 2, page 2.
- 4.3 The Board received the Applicant's request on July 22, 2014. Exhibit 2, page 1.

## Marijuana License Pre-Screen Process and Lottery

- 4.4 In 2013, the Board was charged with creating an application process for issuing retail marijuana licenses. State-wide there was a limit of 334 licenses that would be issued. The Board received 2,100 retail applications.
- 4.5 To better manage the large number of applications, the Board designed a pre-screening process, the goal of which was to allow only successfully vetted applicants into the lottery for a chance to win a retail license.
- 4.6 The pre-screen process was also designed to address the Board's concern that unprepared applicants would cause a delay in the licensing process and create an opportunity for product to go into the black market. Testimony of Ms. Smith.
- 4.7 The Board provided a 30-day window for all applicants to submit their documents for the "Retail Pre-Screen Information" process. No Pre-Screen application would be reviewed until the close of the 30-day application window. However, applicants had the entire 30-day period to submit their documents, and to change or update any documents previously submitted.
- 4.8 Following the close of the 30-day window, the submitted Pre-Screen information was reviewed and investigated by the Board staff. If all the required information was provided, was correct, and was not disqualifying, applicants were not automatically given a license. Rather, they had won the right to be included in the lottery.
- 4.9 No applicant would know whether they successfully met the Pre-Screen requirements until after the 30-day window had closed. Once it had closed, the applicant was not allowed to submit any additional documents to correct or supplement their information. If an applicant failed to meet the requirements, they would be excluded from the lottery.

## Pre-Screen Requirements

- 4.10 The Retail Pre-Screen Information form required, among other things, the physical location of the proposed premises.

- 4.11 Along with the location of the premises, 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

Applicant's Pre-Screen Documentation: Letter of Intent

- 4.12 As part of her application information, Ms. Townsend attached a three-page letter indicating her intent, and that of the other members of the Limited Liability Corporation (LLC), to lease property located at 221 N.E. 104<sup>th</sup> Avenue, Suite 202, Vancouver, Washington 98664. The letter was addressed to real estate broker, Todd D. Amacher. The letter was not signed by Ms. Townsend or any other member of the LLC. Exhibit 3, page 41-43.
- 4.13 The Board received no other information showing that Ms. Townsend had a signed letter of intent to lease or purchase the premises proposed to be licensed.
- 4.14 At the hearing, Ms. Townsend provided three Exhibits which the Board staff had not seen prior to the hearing. Applicant's Exhibit 1, was an email dated January 3, 2014, from Ms. Townsend to the realtor, Mr. Amacher. Exhibit 1, pages 1-2.
- 4.15 In the email, Ms. Townsend expressed her interest to lease property to sell marijuana on a retail basis. Mr. Amacher responded to her with a list of five requirements from the property owner and an offer to draft some boiler plate language for the Letter of Intent (LOI). Applicant's Exhibit 1, page 1.
- 4.16 Mr. Amacher's email to Ms. Townsend ended with a graphic block of information. The block included Mr. Amacher's real estate logo, his name, title, a street address, telephone numbers, and email addresses. There was no signature on the email by Mr. Amacher on behalf of the property owner.
- 4.17 On March 15, 2014, Ms. Townsend signed the Retail Pre-screen Information form using an online service known as DocuSign, and submitted the form to the Board. The acknowledgment above her signature stated "I, Josephine Townsend, 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 17.
- 4.18 Following the end of the 30-day application window, the Board Staff reviewed Ms. Townsend's application for The Legal Joint and determined that the application should be administratively closed because there was no letter of intent to purchase the property provided as part of the application.

- 4.19 On July 3, 2014, the Board issued a Statement of Intent to Deny Marijuana License to The Legal Joint, stating that the Board had administratively closed the application due to the Applicant's failure to submit "[A] valid and signed letter of intent to lease or purchase from property owner or designee." Exhibit 1 and Exhibit 3, page 40.

### Applicant's Arguments

- 4.20 Ms. Townsend has argued that the Board's application process is unfair in that: 1) even though she reviewed the uploaded documents, the computer system failed to indicate that any of the documents was missing; 2) the process failed to indicate that an application is deficient, for whatever reason, and therefore was a denial of due process; 3) the process failed to allow for an opportunity to cure the defects, which was also a denial of due process; and 4) The graphic block on Mr. Amacher's email constituted a valid signature for the purposes of the Letter of Intent.
- 4.21 Applicant's Document Review. Ms. Townsend uploaded her documents, but failed to include the Letter of Intent as required. Her review of the application contents revealed only that documents had been uploaded for various sections; it did not indicate in detail the specific content of each section.
- 4.22 The undersigned finds that the Letter of Intent, Applicant's Exhibit 1, was not uploaded as required and was not a part of the Retail Pre-Screen Information packet which was reviewed by the Board staff following the close of the 30-day application window.
- 4.23 Denials of Due Process. Ms. Townsend's position is that the Board has denied due process on the basis that there was no indication of any deficiencies in the application and on the basis that there was no opportunity to cure any deficiencies.
- 4.24 Valid Signature. It is Ms. Townsend's argument that the graphic block on Mr. Amacher's email does constitute a valid "signature" for the purposes of the Letter of Intent. She believes that it is an enforceable contract for the lease of the property.

## **5. CONCLUSIONS OF LAW**

Based on the above Findings of Fact, the undersigned makes the following Conclusions of Law:

### Jurisdiction

- 5.1. The undersigned administrative law judge has jurisdiction over the persons and subject matter of this case under Revised Code of Washington (RCW) 69.50.331(2)(c), RCW 69.50.334, chapter 34.12 RCW, and under Washington Administrative Code (WAC) 314-55-070.

#### Board Responsibilities

- 5.2. The Board is authorized to "inquire and request documents regarding all matters in connection with the marijuana license application. WAC 314-55-020. Therefore, the Board has the legal authority to request specific information or documentation regarding the proposed licensed premises.
- 5.3. Board 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).
- 5.4. Under the provisions of WAC 314-55-020(12), the Board has 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."

#### The Legal Joint's Application

- 5.5. In the present case, the Board requested that The Legal Joint submit either a real estate purchase and sale agreement signed by buyer and seller; or a real estate closing statement; or a signed lease agreement; or a letter of intent to lease signed by property owner. The Legal Joint was given 30 days to provide the requested documentation, as were all applicants state-wide.
- 5.6. The Legal Joint submitted none of the above, but did submit, at the hearing, an email indicating its intent to lease the property from Mr. Amacher's client.
- 5.7. The Board has indicated that the email is not a valid "Letter of Intent" because it lacked the required signature by the property owner. Ms. Townsend has argued that the graphic block showing Mr. Amacher's contact information is a valid signature as the owner's agent. The undersigned disagrees, and Ms. Townsend has failed to show, by a preponderance of the evidence, that it would suffice as the required signature.
- 5.8. Ms. Townsend had 30 days to provide the Board with a properly signed Letter of Intent. Mr. Amacher even offered to draft language for Ms. Townsend. That could have been done and submitted, with a valid signature, within the 30-day application window.

- 5.9. Due process requires notice and an opportunity to be heard. In the present case, Ms. Townsend, as were all other applicants, was given notice of the application window and the process. They were also informed that if what they submitted did not satisfy the application requirements, they could be "excluded from the lottery" and their "application administratively withdrawn." There has been no denial of due process in the instant case. The Applicant was given notice of the process and the opportunity to submit her information.
- 5.10. Ms. Townsend was also given the opportunity to make changes to her submitted documents, but only for 30-day period.
- 5.11. The Board made it clear to all applicants that there was one and only one opportunity to submit all required documents. It was therefore, incumbent on the applicants to provide as much accurate and complete information as possible. A decision to provide less information or something other than what was explicitly requested left applicants vulnerable to being excluded from the lottery process.
- 5.12. Ms. Townsend believed that she had submitted a Letter of Intent, in the form of the unsigned email, but none was found as part of her application packet. If the email had been included, it would not have been sufficient because it did not have the property owner's signature.
- 5.13. The Board did not administratively close the application because of an invalid signature. Rather, the application was denied because there was no record that a Letter of Intent was actually submitted.
- 5.14. Because The Legal Joint 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 Board action should be affirmed.

## 6. INITIAL ORDER

- 6.1. The Liquor Control Board's action is affirmed. The marijuana retail license application of The Legal Joint, application number 414156, is DENIED.

Dated: March 30, 2015.



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Gina L Hale  
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 Legal Joint  
c/o Josephine Townsend  
211 E. 11th Street, Ste 104  
Vancouver, WA 98660  
Appellant

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

Alan Rathbun  
Licensing Director  
WSLCB  
P.O. Box 43098  
Olympia, WA 98504-3098  
Agency Contact

Becky Smith  
Licensing Manager  
WSLCB  
P.O. Box 43098  
Olympia, WA 98504-3098  
Agency Contact

Dated March 30, 2015, at Olympia, Washington.  
(DATE OF MAILING)



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