

BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF:

TRUCKCITY CB INC
d/b/a TRUCKCITY CB

320 BIRCH ST
MILTON, WA 98354-9618

APPLICANT

LICENSE APPLICATION NO. 414329
UBI: 603 033 039 001 0001

LCB NO. M-25,343
OAH NO. 12-2014-LCB-00080

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 September 17, 2014, asserting that the Applicant failed to submit required documents to include verification of right to real property.
2. The Applicant timely submitted a request for a hearing.
3. On February 24, 2015, a hearing was held before Administrative Law Judge TJ Martin with the Office of Administrative Hearings.
4. At the hearing, the Applicant was represented by Attorney Chris Crew. Assistant Attorney General Aryna Anderson represented the Licensing Division of the Board.
5. On April 20, 2015, Administrative Law Judge TJ Martin 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.

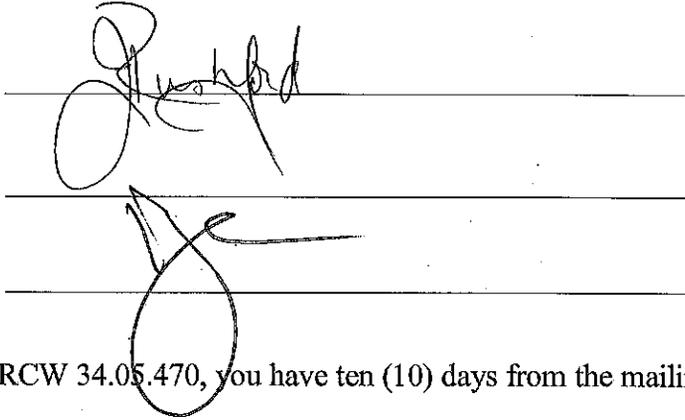
7. The entire record in this proceeding was presented to the Board for final decision, and the Board having fully considered said record and being fully advised in the premises;

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 414329 for Truckcity CB Inc. d/b/a Truckcity CB is DENIED.

DATED at Olympia, Washington this 7th day of July, 2015.

WASHINGTON STATE LIQUOR CONTROL BOARD



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**

July 8, 2015

Chris Crew
Crew Law Firm LLC
3815 100th Street SW Ste 2B
Lakewood, WA 98499-4409

William Rowling
Truckcity CB Inc
d/b/a Truckcity CB
320 Birch St
Milton, WA 98354-9618

Aryna Anderson, 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: Truckcity CB Inc
TRADE NAME: Truckcity CB
LOCATION: 320 Birch St, Milton, WA 98354-9618
LICENSE APPLICATION NO. 414329
LCB HEARING NO. M-25,343
OAH NO. 12-2014-LCB-00080
UBI: 603-033-039-001-0001

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,

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

Kevin McCarroll
Adjudicative Proceedings Coordinator

Enclosures (2)

cc: Becky Smith, Licensing Director, WSLCB
Frank O'Dell, Licensing Supervisor, WSLCB
Linda Thompson, Licensing Adjudication Coordinator, WSLCB

WASHINGTON STATE LIQUOR CONTROL BOARD

IN THE MATTER OF:

TRUCKCITY CB INC
d/b/a TRUCKCITY CB
320 BIRCH ST
MILTON, WA 98354-9618

APPLICANT

LICENSE APPLICATION NO. 414329

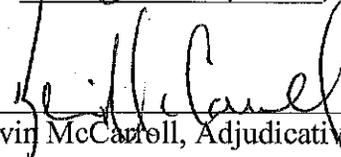
LCB NO. M-25,343
OAH NO.

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:

CHRIS CREW CREW LAW FIRM LLC 3815 100 TH STREET SW STE 2B LAKEWOOD, WA 98499-4409	OFFICE OF THE ATTORNEY GENERAL MAIL STOP 40100, GCE DIVISION ARYNA ANDERSON, ASSISTANT ATTORNEY GENERAL
WILLIAM ROWLING TRUCKCITY CB INC d/b/a TRUCKCITY CB 320 BIRCH ST MILTON, WA 98354-9618	

DATED this 8th day of JULY, 2015, at Olympia, Washington.


Kevin McCarroll, Adjudicative Proceedings Coordinator

RECEIVED

APR 21 2015

Liquor Control Board
Board Administration

WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS

In the matter of:

Truckcity CB Inc. d/b/a
TRUCKCITY CB,

Applicant.

Location Address: 320 Birch Street
Milton, WA 98354

License No. 414329

UBI No. 603-033-039-001-0001

OAH Docket No. 12-2014-LCB-00080

INITIAL ORDER

Agency: Liquor Control Board
Program: Marijuana Retail Licensing
Agency No. M-25,343

1. ISSUES PRESENTED

- 1.1 Whether the Applicant, Truckcity CB Inc. doing business as (d/b/a) Truckcity CB, failed to submit required documentation including verification of the right to real property.
- 1.2 If so, whether the Liquor Control Board properly denied the Applicant's retail marijuana license application for failing to submit required documents, including verification of the right to real property, based on RCW 69.50.331(1) and WAC 314-55-020(12); and WAC 314-55-020(2).

2. ORDER SUMMARY

- 2.1 Truckcity CB did not submit the necessary documents, including verification of the right to real property.
- 2.2 Under RCW 69.50.331, WAC 314-55-020(12) and WAC 314-55-050(2), the marijuana retail license application of Truckcity CB, application number 41429, is **Denied**. The Liquor Control Board's 'Statement of Intent to Deny' is **affirmed**.

[Continued]

3. HEARING

- 3.1 Hearing Date: February 24, 2015
- 3.2 Location: Tacoma, Washington
- 3.3 Administrative Law Judge: TJ Martin
- 3.4 Licensee/Applicant: Truckcity CB, Inc., doing business as Truckcity CB
Representative: Chris Crew, THC Law Firm
Witnesses: William G. Rowling, Applicant, and
Colette Thomas, Marijuana Licensing Consultant
- 3.5 Agency: Liquor Control Board
Representative: Aryna Anderson, Washington State Assistant
Attorney General on behalf of the Washington State
Liquor Control Board
Witnesses: Kim Gabbard, Marijuana Licensing Supervisor and
Shadrach White, System Network Engineer
- 3.6 Exhibits: The administrative law judge admitted
Liquor Control Board Exhibit 1 through 8 and
Applicant's Exhibits 1 through 4.

4. FINDINGS OF FACT

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

Jurisdiction

- 4.1 On September 17, 2014, the Liquor Control Board ('LCB') issued and served on Truckcity CB Inc., a 'Statement of Intent To Deny Marijuana License', regarding License Application Number 414329. *Liquor Control Board's Exhibit 1.*
- 4.2 On September 25, 2014, the Applicant, Truckcity CB Inc., filed a 'Request for Hearing, Response To Statement Of Intent To Deny.' *Liquor Control Board's Exhibit 2.*

[Continued]

Verification of Right to Real Property

- 4.1 Sometime prior to February 23, 2014, Truckcity CB Inc. applied for a license to operate a retail marijuana business in Washington State.
Testimony of Kim Gabbard.
- 4.2 William G. Rowling, was the owner and managing partner of Truckcity CB and the person responsible for making application for the business's retail marijuana license to the Liquor Control Board. *Testimony of William Rowling.*
- 4.3 Prior to February 22, 2014, the Liquor Control Board notified Mr. Rowling, that due to a higher number of applications than expected, the LCB would be instituting a lottery for marijuana retail licenses. The LCB would be requesting certain information from applicants before they would be entered into a retail marijuana lottery. LCB referred to the lottery application materials as the 'Retail Pre-screen Information.' *Testimony of Gabbard.*
- 4.4 On February 23, 2014, LCB sent Mr. Rowling an email notifying him the Retail Pre-screen Information packet was available through an online service. Mr. Rowling received the email and accessed the Retail Pre-screen Information Form the same day. *Liquor Control Board Exhibit 4; Page 1.*
- 4.5 Five documents must be provided for the Pre-Screen Information Form to be complete. These documents must be provided within 30 days of the form being sent to an applicant. *Testimony of Gabbard; and Exhibit 6.*
- 4.6 Only one document, the verification of right to real property, is at issue in the present case. *Testimony of Gabbard.*
- 4.7 The Retail Pre-screen Information form notified Mr. Rowling that Truckcity CB "must submit all information requested within 30 days in order to be entered in the retail lottery." Truckcity CB's deadline was March 23, 2014.
Liquor Control Board Exhibit 3; Page 17.
- 4.8 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. Rowling identified himself as the primary applicant for the business.
Liquor Control Board Exhibit 3, page 17.
- 4.9 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. Rowling identified the proposed licensed physical location as 320 Birch Street, Milton, Washington. *Liquor Control Board Exhibit 3, page 17.*

- 4.10 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

Testimony of Gabbard.

- 4.11 Marijuana License applicants were given the option of submitting documents via facsimile, regular mail, electronically via the DocuSign software program, or by dropping documents off in person at the Liquor Control Board.

Testimony of Gabbard.

- 4.12 The Applicant decided to fill out the Pre-screen Information Form electronically, via the DocuSign software program, offered by the Liquor Control Board, to process his Pre-screen Information submission. *Testimony of Rowling.*

- 4.13 On March 4, 2014, the Applicant conducted five uploads of documents into his Pre-Screen Information file. *Liquor Control Board's Exhibit 4; Page 3.*

- 4.14 On March 4, 2014, the Applicant signed the Pre-screen Information Form, attesting he had submitted all necessary documents to the best of his knowledge. *Testimony of Rowling.*

- 4.15 On that same day, March 4, 2014, the Applicant received a 'Certificate of Completion', demonstrating he had submitted documents as a part of his response to the Pre-screen Information request by the Liquor Control Board. *Liquor Control Board's Exhibit 3; Page 8.*

- 4.16 The 'Certificate of Completion' did not confirm whether the Applicant had submitted the correct documentation, required as a part of the Pre-screen Information Form process, only that he had filed documentation. *See Liquor Control Board's Exhibit 3; Page 8.*

- 4.17 On March 12, 2014, eight days after submitting his Pre-screen documentation, the Applicant received an email from the Liquor Control Board stating it had received his 'Pre-screen Information' submission. *Applicant's Exhibit 4.*

- 4.18 Due to the high number of 'Pre-screen Information Form' submissions by applicants, the Liquor Control Board did not have time and adequate staffing to review all applicant submissions to ensure the correct documents were attached to each file, prior to the applicant deadlines. Accordingly, to be fair, the Liquor Control Board did not review any of the submissions prior to the deadlines. *Testimony of Gabbard.*

- 4.19 As a result, prior to the Pre-screen deadline, the Liquor Control Board did not verify if all the necessary documents had been submitted by the Applicant, only that his 'pre-screen Information' had been submitted. *Testimony of Gabbard.*
- 4.20 The March 12, 2014, Liquor Control Board email made no representations to the Applicant that his Pre-screen Information submission contained the correct documentation, as required. *See Applicant's Exhibit 4.*
- 4.21 On April 16, 2014, the Liquor Control Board determined the Applicant had failed to submit the requested real property documentation. *Liquor Control Board's Exhibit 3; Page 46.*
- 4.22 The DocuSign software program will list that a document is attached and uploaded. However, it "does not decipher whether the correct document has been submitted." *Testimony of Shadrach White.*
- 4.23 Applicants can review all documents submitted either via online review or by printing out a copy of the documents submitted. *Testimony of White.*
- 4.24 The Applicant uploaded only four documents. *Testimony of White.*
- 4.25 The only document uploaded by the Applicant regarding real property ownership was a 'Certificate of Incorporation' regarding Truckcity CB Inc. issued by the State of Washington Secretary of State. *Liquor Control Board's Exhibit 3; Page 28-30.*
- 4.26 It is possible to upload a blank page or upload a document twice. *Testimony of White.*
- 4.27 Once an application is completed, nothing can be removed without it being listed in the file's history. If removed, it would show the document had been 'removed.' Nothing in the Applicant's electronically file showed anything had been removed from the file. *Testimony of White.*
- 4.28 The DocuSign software has the capacity to track a file history, referred to as an 'envelope history', any time an applicant's Pre-Screen Information file is accessed, but does not detail what specific action, if documents are attached, is taken. *Exhibit 4; Page 1-5 and Testimony of White.*

[Continued]

- 4.29 The Applicant offered Colette Thomas as an 'expert witness.' At the hearing, the undersigned administrative law judge 'reserved' the issue as to whether Ms. Thomas qualified as an 'expert', taking the issue under advisement. The undersigned administrative law judge finds the Applicant's witness, Colette Thomas, does not qualify as an 'expert witness'. Ms. Thomas is not qualified in computer science and did not design or assist the Liquor Control Board to implement the DocuSign software as an option for applicants to submit their Pre-screen Information Forms. However, she did have firsthand knowledge regarding the use of the DocuSign software in order to file marijuana license applications and Pre-screen Information submissions. Ms. Thomas has helped 32 applicants file for marijuana licenses. 'More than one or two' had issues with the DocuSign software and submitting such documents. However, Ms. Thomas did not have specific details how the DocuSign software had failed in either of the two cases she cited at the hearing.
- 4.30 Prior to submitting his Retail Pre-screen Information on March 4, 2014, the Applicant, William Rowling, went to his title company and gathered documentation showing he is the owner of the real property where his marijuana retail shop was to be located. *Applicant's Exhibit 1-3.*
- 4.31 The Liquor Control Board stipulated the Applicant is the owner of the real property at issue. *Applicant's Exhibit 2 & 3.*
- 4.32 The Applicant reviewed his DocuSign file envelope on three days, on February 24, 2014, March 2, 2014 and March 4, 2014, prior to submitting it on March 4, 2014. *Liquor Control Board's Exhibit 4; Page 1-5 and Testimony of Rowling.*
- 4.33 In reviewing his 'Pre-screen Information Forms', prior to submission, the Applicant observed he saw all of the 'Pre-screen Information Forms' attached to his file. *Testimony of Rowling.*
- 4.34 The Applicant believed he had submitted all of the necessary documents. *Testimony of Rowling.*
- 4.35 The Liquor Control Board received the Applicant's Pre-screen Information documents. However, it did not receive any documentation regarding ownership of the real property, where the marijuana retail shop was to be located. *Testimony of Gabbard.*
- 4.36 The Liquor Control Board has no record of the filing or receiving of the title company documents by the Applicant. *Testimony of Gabbard.*
- 4.37 The Applicant has no proof of receipt by the Liquor Control Board proving all of the necessary documents were provided to the Liquor Control Board as a part of his Pre-Screen Information Form submission. *Testimony of Rowling.*

- 4.38 Based on these facts, the undersigned administrative law judge finds the LCB requested the Applicant, Truckcity CB, to 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. Truckcity CB asserted it filed such real property documents as a part of submitting its Pre-screen Information documentation. However, the Liquor Control Board did not receive such documentation, nor does the Applicant have proof of such documentation being sent to the Liquor Control Board. The burden is on the Applicant to prove he submitted all of the necessary required documentation as a part of his Pre-screen Information Form submission. The burden is not on the Liquor Control Board to prove it did not receive the requested documentation. Since the Applicant can provide no written proof of such real property documentation submission to the Liquor Control Board, the undersigned administrative law judge finds the Applicant failed to submit all necessary documentation, including the right to real property, when he submitted his 'Pre-screen Information Form' submission.
- 4.39 As a result of the Applicant failing to demonstrate a right to the real property at issue, on the September 17, 2014, the Liquor Control Board ('LCB') issued 'Statement of Intent To Deny Marijuana License', regarding the Applicant's retail marijuana license application. *Liquor Control Board's Exhibit 1.*

5. CONCLUSIONS OF LAW

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

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) 69.50.334, chapter 34.12 RCW, and under Washington Administrative Code (WAC) 314-42-070.

[Continued]

Verification of Right to Real Property

- 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 Because Truckcity CB failed to submit the requested real estate documentation within the timeline required, its submission was incomplete and 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 denying of the applicant's application is appropriate. The LCB action should be affirmed.

6. INITIAL ORDER

Under RCW 69.50.331, WAC 314-55-020(12) and WAC 314-55-050(2), the marijuana retail license application of Truckcity CB, application number 414329, is **Denied**. The Liquor Control Board's 'Statement of Intent to Deny' is **Affirmed**.

Dated: April 20, 2015.



TJ Martin
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:

Aryna Anderson
Assistant Attorney General
PO Box 40100
Olympia, WA 98504-0100

Agency Representative

Chris Crew
THC Law Firm
3815 - 100th Street SW, Suite 2B
Lakewood, WA 98499

Applicant Representative

Truckcity CB
C/O William Rowling
320 Birch St.
Milton, WA 98354-9618

Applicant

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

Agency Contact

Becky Smith
Licensing Director
P.O. Box 43098
Olympia, WA 98504-3098

Agency Contact

Dated April 20, 2015, at Olympia, Washington.
(DATE OF MAILING)



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