

**COPY**

DEC 5 2012



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B. COLWELL  
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9 *Attorneys for Plaintiff*

10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
11 **IN AND FOR THE COUNTY OF MARICOPA**

12 Compassionate Care Dispensary Inc.

13 Plaintiff,

14 vs.

15 ARIZONA DEPARTMENT OF HEALTH  
16 SERVICES, an agency of the State of  
17 Arizona; WILL HUMBLE, Director of the  
18 Arizona Department of Health Services, in  
19 his Official Capacity; and DOES I-X, an  
20 Arizona non-profit corporation; et al.  
21 Defendants.

Case No. CV2012-057041

**COMPLAINT**

(Special Action and Regular Action for  
Mandamus, Declaratory Judgment,  
Injunctive Relief and Other Relief)

22 Plaintiff, by and through its attorney, undersigned, and for its Complaint against  
23 Defendants herein, alleges as follows:

24 1. Plaintiff, Compassionate Care Dispensary Inc. is an Arizona non-profit  
25 corporation, licensed to transact business in Maricopa and Navajo Counties.

26 2. Plaintiff desires to own and to operate a non-profit medical marijuana  
dispensary site, as defined in the Arizona Medical Marijuana Act, at 1600 E. Second

1 Street, Winslow, Arizona 86047, which is located entirely within the Winslow  
2 Community Health Analysis Area (“CHAA”).

3 3. Defendant Will Humble is the Director of the Arizona Department of  
4 Health Services (“DHS”), a political subdivision of the State of Arizona. Defendant  
5 Humble is responsible for the DHS employees who are implementing and overseeing the  
6 Arizona Medical Marijuana Act, A.R.S. §§36-2801, *et seq.* This includes, but is not  
7 limited to, the review, approval and denial of applications for medical marijuana  
8 Dispensary Registration Certificates and approvals to operate medical marijuana  
9 dispensaries and cultivation sites, after a Dispensary Registration Certificate is obtained.  
10

11 4. Defendants DOES I-X are fictitious names, used to denote other persons or  
12 entities whose acts and/or omissions caused or contributed to Plaintiff’s injuries. Plaintiff  
13 hereby requests leave of this Court to amend its Complaint to reflect the true names and  
14 statuses of Defendants DOES I-X, when the same have been ascertained.  
15

16 5. This action is brought for declaratory judgment, injunctive relief, and a  
17 special action pursuant to the Rules of Procedure for Special Actions, including, but not  
18 limited to, Rule 2. The acts and events complained of herein occurred in Maricopa  
19 County, Arizona. Jurisdiction and venue are appropriate in this court.  
20

21 **ARIZONA MEDICAL MARIJUANA ACT**

22 6. On or about November 2, 2010, the citizens of the State of Arizona passed  
23 and adopted Proposition 203, a voter initiative, known as the Arizona Medical Marijuana  
24 Act (the “AMMA”), A.R.S. §§ 36-2801-2819. Governor Jan Brewer signed the AMMA  
25 into law on December 14, 2010.  
26

1           7.       The AMMA provides for a limited number of highly regulated dispensary  
2 and cultivation sites. Stringent dispensary license regulations include, but are not limited  
3 to full vetting of the applicant, verification of substantial financial resources, possible  
4 reasonable zoning restrictions that limit the locale of the dispensaries, comprehensive  
5 background checks, audited inventory controls which regulate the origin, distribution,  
6 transfer and sale of the cannabis, and a \$5,000.00 application fee.  
7

8           8.       Pursuant to A.R.S. § 36-136 (F), and/or the AMMA, the Arizona  
9 Department of Health Services was granted rulemaking authority with regard to the  
10 AMMA. The current rules (the “Rules”) adopted by the Arizona Department of Health  
11 Services aid in the implementation of the AMMA and are contained within R9-17-101  
12 through R9-17-323. The effective date of the current Rules is on or about April 12, 2012.  
13

14           9.       These DHS-adopted Rules, among other things, incorporated the use of  
15 Community Health Analysis Areas or “CHAAs” which divide the State of Arizona into  
16 126 separate geographical areas where *only one* medical marijuana dispensary  
17 registration certificate or license may be allocated. The subject geographical area of this  
18 complaint is commonly referred to as the Winslow CHAA.  
19

20           10.       One of the relevant Rules, R9-17-304, provides, in pertinent part, that an  
21 entity that desires to operate a medical marijuana dispensary or cultivation site must first  
22 file an application for a Dispensary Registration Certificate (“Dispensary Certificate”)  
23 with DHS. The Rules further prescribe that in those CHAAs where more than one  
24 complete application is received by DHS, a lottery will be held to determine the recipient  
25 of the allocation.  
26

1           11. Pursuant to A.R.S. § 36-2806.01, cities, towns and counties may enact  
2 reasonable zoning regulations that limit the use of land for registered non-profit medical  
3 marijuana dispensaries to specific areas.

4           12. In order to obtain a Dispensary Certificate and in order to operate a  
5 dispensary or cultivation site, A.R.S. §36-2804 (B)(1)(d) and Rules, Rule R9-17-  
6 304(C)(6), state that an applicant must submit to DHS as part of their application a  
7 zoning clearance letter. The form for this letter was created by DHS and must be signed  
8 off by the local jurisdiction where the proposed dispensary is located, in this case the City  
9 of Winslow, and state that the dispensary applicants' proposed location is in compliance  
10 with local zoning restrictions.  
11

12           13. In accordance with Rule R9-17-304(A)(1), an applicant may not submit  
13 more than one Dispensary Certificate application in a single CHAA.  
14

15                           **CITY OF WINSLOW MEDICAL MARIJUANA ZONING**

16           14. The City of Winslow adopted a zoning ordinance requiring medical  
17 marijuana dispensaries to obtain a conditional use permit in order for the proposed  
18 location to be initially properly zoned, thus requiring the applicant to apply for and  
19 successfully obtain a conditional use permit before the City would issue a zoning  
20 clearance letter to the potential dispensary operator.  
21

22           15. On or about January 2011, in compliance with the Winslow ordinance  
23 provisions and in preparation for the initial June 2011 DHS application deadline, Plaintiff  
24 began the process of applying for a conditional use permit in the Winslow CHAA. After  
25 conducting several meetings with community leaders and local property owners, a  
26

1 suitable location was identified and the process was begun. Over the course of the  
2 following months, Plaintiff attended numerous community meetings to address  
3 community concerns, attending open public hearings, addressed the Winslow Planning  
4 commission, submitted sworn attestations, obtained detailed engineering and  
5 environmental impact reports, as well as its principals submitting to an intensive criminal  
6 background investigations. After all was complete and the Community and Commission  
7 were satisfied with the results, a non-transferrable conditional use permit was granted to  
8 Plaintiff on May 15, 2011. Attached as **Exhibit A** is a true and correct copy of the  
9 Conditional Use Permit.  
10

11  
12 16. After completing much of the same processes, on or about May 13, 2011,  
13 the Winslow Office of Planning and Development also issued a conditional use permit to  
14 Pursuit for Life (“PFL”) for the location at 701 Mike’s Pike, Winslow, Arizona.

15  
16 17. Shortly thereafter, Arizona Governor, Jan Brewer, filed suit for declaratory  
17 judgment and the Arizona Medical Marijuana Program was stayed with the next  
18 application date not taking place until May 25, 2012.

19  
20 18. On Tuesday May 15, 2012, at a regularly scheduled meeting, the City of  
21 Winslow Planning and Zoning Commission reviewed and approved Plaintiff’s request for  
22 renewal of its conditional use permit until its review date set for 2013. Attached as  
23 **Exhibit B** is a true and correct copy of Plaintiff’s May 16, 2012 Renewal Letter.

24  
25 19. For the May 25, 2012 application process, there were three applicants in the  
26 Winslow CHAA: (1) Plaintiff, (2) The Medicine Room, LLC (“TMR”), and (3) Green

1 Cross Medical, Inc. ("GCM"). PFL did not participate in the May 25, 2012 application  
2 process.

3 20. Plaintiff and GCM applied using the 1600 E. Second Street, Winslow,  
4 Arizona address, the proposed location for which *only* Plaintiff had successfully obtained  
5 a conditional use permit.

6  
7 21. TMR applied using the location of 701 Mike's Pike, Winslow, Arizona, the  
8 address for which *only* PFL had obtained a conditional use permit.

9 22. Paul Ferris, Senior Planner for the City of Winslow, signed a  
10 Documentation of Compliance with a Local Jurisdiction Zoning form for each of these  
11 applicants under the false premise that the conditional use permits obtained for these  
12 locations by Plaintiff and PFL were transferrable.

13  
14 23. Given the conditional use permit process and the intent and purpose set  
15 forth in the Winslow ordinance, coupled with its non-transferability designation, Plaintiff  
16 objected to the action taken by the city planner. Ms. Ward, the legal representative for  
17 Plaintiff drafted a position letter on the issue. Attached as **Exhibit C** is a true and correct  
18 copy of Ms. Ward's May 25, 2012 letter to Paul Ferris. The matter was placed for review  
19 with the office of the City Attorney, Dale Patton.

20  
21 24. After review, Mr. Patton agreed with Ms. Ward's legal conclusion and  
22 agreed that the conditional use permits issued to Plaintiff and PFL were specific to those  
23 applicants and not transferrable as indicated on the face of the certificates with the words  
24 "NOT TRANSFERRABLE." Mr. Patton immediately took steps to clarify the City's  
25 position regarding this matter. On this same date, Mr. Patton contacted the principals for  
26

1 TMR and GCM and informed them of their non-compliance with local zoning as well as  
2 writing a letter to this effect the DHS. Attached as **Exhibit D** is a true and correct copy  
3 of Mr. Patton's may 25, 2012 letter to DHS.

4 25. Subsequently, litigation ensued between GCM and the former owner of the  
5 building located at 1600 E. Second Street, Winslow, Arizona. Mr. Patton was a witness  
6 in this case and as such submitted a sworn declaration and testimony in which he stated  
7 under oath that the DHS Document of Compliance form was confusing and that the  
8 purpose and intent of the Winslow ordinance was to exercise its rights under A.R.S. § 36-  
9 2806.01 to require a potential dispensary operator to apply for and obtain a conditional  
10 use permit prior to the applicant's location being deemed initially properly zoned.

11 Attached as **Exhibit E** is a true and correct copy of Mr. Patton's June 14, 2012  
12 Declaration.

13 26. Mr. Patton testified that neither TMR nor GCM had met these requirements  
14 as neither had taken the necessary steps to comply with local zoning prior to making their  
15 application. See **Exhibit E** ¶¶ 12-13. He also testified that while the use is restricted to  
16 the property upon which the application is based, granting of the permit is applicant  
17 specific and only granted after compliance with the requirements set forth in the Winslow  
18 Ordinance. See **Exhibit E** ¶¶ 9-11.

19 27. Specifically, Mr. Patton testified that it was the intent of the Winslow  
20 ordinance to require a prospective dispensary applicant to attend public hearings, address  
21 the Commission and submit to a comprehensive background investigation prior to the  
22 applicant's proposed location being deemed initially properly zoned. See **Exhibit E** ¶ 11.



1           32. On or about June 5, 2012, the DHS posted the number of proposed  
2 dispensary applicants in the Winslow CHAA, for a total of three (3).

3           33. On or about June 18, 2012, Plaintiff's counsel notified Defendant DHS that  
4 they had wrongfully processed at least two (2) applications for dispensary registry  
5 certificates in the Winslow CHAA despite their lack of bona fide zoning clearance from  
6 the local jurisdiction as required. Attached as **Exhibit F** is a true and correct copy of that  
7 letter dated June 19, 2012.  
8

9           34. On or about July 18, 2012, Defendant issued a letter of non-compliance to  
10 applicant GCM citing Mr. Patton's May 25, 2012,  
11

12                   The Arizona Department of Health Services (Department) has  
13 received a letter from the Winslow City Attorney dated May  
14 25, 2012, indicating that you have not obtained a Conditional  
15 Use Permit as required by the Winslow City Zoning Code.  
16 Based on this information from your local zoning jurisdiction,  
17 you are not in compliance with Arizona Administrative Code  
18 (A.A.C.) R9-17-304(C)(5)-(6).

19 Attached as **Exhibit G** is a true and correct copy of DHS' denial letter to GCM.  
20

21           35. Then, between July 18 and the scheduled lottery drawing, Ms. Ward made  
22 several follow up calls regarding TMR. While DHS recognized that GCM failed to  
23 comply with local ordinance, it had yet to do so for TMR even though TMR's proposed  
24 location was also not in compliance with local zoning.  
25

26           36. On or about August 7, 2012, Plaintiff's attorney telephoned DHS to notify  
27 them of this error and to demand that DHS remove TMR from the pending lottery  
28 drawing. Attached as **Exhibit H** is a true and correct copy of email correspondence from  
29 Ms. Ward to DHS regarding TMR's status. Rather than take action consistent with the

1 action it took regarding GCM's lack of compliance, however, Plaintiff learned that the  
2 DHS had telephoned the city attorney on behalf of TMR. Attached as **Exhibits H-K** are  
3 true and correct copies of an email chain between Ms. Ward and Ms. Flores.

4 37. After several phone calls and emails to the DHS regarding its actions, Ms.  
5 Flores from the Attorney General's office replied to Plaintiff via email and confirmed  
6 that the DHS had indeed "reached out" to the City of Winslow attorney, Dale Patton, and,  
7 as a result, he reversed his position on TMR's zoning issue. *See id.* For that reason, she  
8 said TMR was being left in the lottery. *See id.*

9  
10 38. From Ms. Flores communications, it appeared that the DHS pressured the  
11 City Attorney to make conflicting statements and/or statements that could be interpreted  
12 as conflicting so that it could avoid removing TMR from the lottery.

13  
14 39. Ms. Ward immediately telephoned Mr. Patton and relayed Ms. Flores  
15 interpretations of the conversations. In response, Mr. Patton emphatically denied this  
16 interpretation of his statements. Attached as **Exhibits L and M** are true and correct  
17 copies of emails detailing Ms. Ward's discussion with Mr. Patton. He again re-stated his  
18 long standing position regarding the City of Winslow zoning ordinance for this use,  
19 specifically that all dispensary applicants must obtain a conditional use permit *before*  
20 their proposed location will be deemed initially properly zoned. *See id.* He also stated  
21 that the DHS and the Attorney General's office were taking his comments out of context.  
22 He then reaffirmed the position set forth in his May 25 letter and sworn affidavit and  
23 affirmed that his position had not changed. *See id.*  
24  
25  
26

1           40. In light of her conversation with Mr. Patton, Ms. Ward made several  
2 attempts to discuss the matter with Tom Salow, DHS Program Director and Julie Boles,  
3 DHS MMJ Program Manager, and Ms. Flores. *See id.* She later received an email from  
4 Ms. Flores stating that she had instructed DHS personnel not to have any discussions  
5 with applicants or their counsel. Attached as **Exhibit N** is a true and correct copy of Ms.  
6  
7 Flores' email to Ms. Ward.

8           41. For whatever reasons, DHS took inconsistent positions regarding applicants  
9 for the Winslow CHAA. And Defendant DHS "reached out" to the City of Winslow  
10 attorney on behalf of TMR to the detriment of Plaintiff and to further its intention to  
11 unduly influence the City Attorney to reverse his position related to local zoning on  
12 behalf of TMR in further support of the DHS actions.  
13

14           42. DHS willfully or recklessly failed to remove TMR from the DHS lottery,  
15 even though its facts and circumstances were identical to GCM. While Plaintiff spent a  
16 year and half attending hearings, addressing the Winslow public and complying with all  
17 requirements of the ordinance, TMR, which had equal opportunity to do so, made no  
18 attempt to apply for or obtain a conditional use permit in compliance with local  
19 ordinance.  
20

21           43. On or about August 7, 2012, DHS held a lottery to determine who the  
22 Dispensary Certificate allocation would be awarded to in the Winslow CHAA.  
23

24           44. DHS wrongfully considered TMR as an applicant in the lottery.

25           45. Because DHS wrongfully considered TMR in the lottery used to determine  
26 who the recipient of the dispensary registration would be, Plaintiff's odds of securing an

1 allocation for the Winslow CHAA were drastically reduced from a 100% chance to a  
2 50% chance.

3 46. Plaintiff lost the lottery for the Winslow CHAA Dispensary Certificate.

4 47. Defendant DHS has willfully, wrongfully, arbitrarily, capriciously and/or  
5 without cause, failed and refused and continues to fail or refuse to deny TMR's  
6 application for a Dispensary Certificate in the Winslow CHAA which they knew or  
7 should have known did not comply with the Rules and the AMMA.  
8

9 48. DHS' refusal to deny TMR's dispensary application in the Winslow CHAA  
10 wrongfully, arbitrarily, and capriciously deprived Plaintiff from obtaining a Dispensary  
11 Certificate.  
12

13 49. Based on information and belief, at least two other applicants attempted to  
14 apply in the Winslow CHAA but were told by the City of Winslow that their proposed  
15 location could not be deemed initially properly zoned because they did not hold a  
16 conditional use permit in their entity name.  
17

18 50. At the 11<sup>th</sup> hour, the DHS "reached out" to the Winslow City Attorney on  
19 behalf of TMR and then subsequently claimed that the City Attorney had "changed his  
20 position" as a result. To act on behalf of one applicant to the detriment of another and to  
21 cause differential treatment of prospective applicants results in unequal treatment under  
22 the law. Such capricious action by DHS not only violates Plaintiff's right to due process,  
23 but denies the City of Winslow its right to implement reasonable zoning rules related  
24 thereto. DHS' intentional interference and undue influence with the City of Winslow  
25 Attorney denies the City of Winslow and its residents the protections afforded under the  
26

1 act as the activities conducted by the Dispensary and its principals directly impact the  
2 community and its residents.

3 51. In fact, upon information and belief, at least two of the owners/principals of  
4 TMR are also the owners/principals of Green Cross Clinics, LLC (“GC Clinics”).

5 52. The police recently raided two GC Clinics during which raids they  
6 confiscated several pounds of marijuana and tens of thousands of dollars in cash. There  
7 have been multiple arrests made in connection with the illegal drug activities being  
8 conducted at the GC Clinics. For these reasons alone, TMR would be disqualified under  
9 the City of Winslow zoning ordinance.  
10

11 **PLAINTIFF’S STATUS AND DAMAGES**

12 53. A maximum of one (1) application for a Dispensary Certificate to operate a  
13 dispensary in the Winslow CHAA should have been accepted by DHS as complete and  
14 been admitted to the lottery.  
15

16 54. Plaintiff submitted the *only* application that was legitimately complete for a  
17 medical marijuana Dispensary Certificate in the Winslow CHAA. Absent Defendant  
18 DHS’ abuse of discretion, there would have been no drawing in the Winslow CHAA and  
19 Plaintiff would therefore be awarded the only Dispensary Certificate for Winslow, which  
20 is an authorization to commence construction of a dispensary and cultivation site and a  
21 license to open not-for-profit businesses, after inspection by DHS.  
22

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**FIRST CLAIM FOR RELIEF  
(Declaratory Judgment)**

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14

55. Plaintiff hereby realleges paragraphs 1 through 54 as though the same were fully set forth herein.

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56. Plaintiff is entitled to a judgment declaring that the applications in the Winslow CHAA submitted without bona fide zoning clearance letters from the City of Winslow are not complete due to lack of compliance with local zoning restrictions and therefore should *not* have been included in the lottery drawing conducted by DHS to award the Dispensary Certificate on August 8, 2012.

**SECOND CLAIM FOR RELIEF  
(Injunctive Relief)**

57. Plaintiff hereby realleges paragraphs 1 through 56 as though the same were fully set forth herein.

58. Plaintiff reasonably believes that, if Defendants Arizona Department of Health Services and Humble are not enjoined from moving forward with the issuance of approvals subsequent to the allocation of the Dispensary Certificate to an applicant in the Winslow CHAA, Plaintiff will have no adequate remedy at law because the damages that they will suffer will be unreasonably difficult, if not impossible, to prove for reasons including, but not limited to the fact that Plaintiff's business is a new business; because, if an illegitimate applicant is allowed to start a dispensary business, Plaintiff will not have an opportunity to re-apply in the CHAA as the Rules only allow one Dispensary Certificate per CHAA.



1 application deadline, and to expel the applicant that was wrongfully accepted and  
2 considered without meeting local zoning requirements.

3 D. For the issuance of an Order to Show Cause directing the Defendants to appear  
4 before this court and show cause, if any they have, why the relief requested should  
5 not be granted.

6  
7 E. For damages, in an amount in excess of the minimum jurisdictional requirements  
8 of this Court, the exact amount of which will be determined and proved at the time  
9 of trial;

10 F. For Plaintiff's reasonable attorney fees, in an amount to be determined by the  
11 court before or after the time of trial;

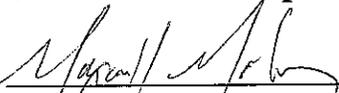
12  
13 G. For Plaintiff's accrued court costs;

14 H. For interest on all sums due and owing to Plaintiff, at the highest rate authorized  
15 by law, from the date of judgment, until paid in full; and

16  
17 I. For such other and further relief as is just and proper.

18  
19 Dated this 5th day of December, 2012.

20  
21 **ROSE LAW GROUP pc**

22 By   
23 Ken Frakes  
24 Max Mahoney  
25 6613 N. Scottsdale Road, Suite 200  
26 Scottsdale, Arizona 85250  
*Attorneys for Plaintiff*

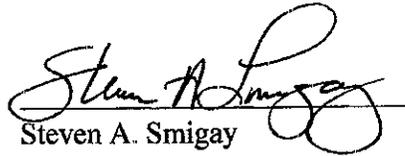
**VERIFICATION**

**STATE OF ARIZONA**     )  
  )  
**County of Maricopa**     )

Steven A. Smigay, upon his oath, states that he is a Principal Officer and Director of Compassionate Care, Inc., Plaintiff in the above-entitled action; that he has read the foregoing Verified Complaint and knows the contents thereof; that the allegations of the Verified Complaint are within his knowledge; and that such allegations are accurate and true.

To the best of my knowledge and belief, under penalty of perjury, the foregoing is true and correct.

Dated: December 4, 2012

  
Steven A. Smigay

# EXHIBIT 'A'



# City of Winxlow

21 Williamson Avenue  
Winslow, Arizona 86047

PERMIT NO. CUP 11-2

## CONDITIONAL USE PERMIT

The person listed below is hereby permitted to conduct the business of

Medical Marijuana Dispensary. Located at 1600 N. Second Street,  
Winslow, AZ

Issued To: Compassionate Care Date Commencing Business \_\_\_\_\_  
Dispensary, Inc.

Zone C-66 Date Issued May 17, 2011

Conditions See on back

  
\_\_\_\_\_  
ZONING ADMIN. CHAIRMAN

NOT TRANSFERABLE - MUST BE POSTED

# EXHIBIT 'B'

Mayor  
Robin R. Boyd

(928) 289-2422  
FX (928) 289-3742  
IDD (928) 289-4784



Council Members  
Peter Cake  
Thomas R. Chacon, Sr.  
Curtis Hardy  
Marsha Juergens  
Marshall Losey  
Harold Soehner

May 16, 2012

Compassionate Care Dispensary, Inc.  
4465 E. McKellips Rd, Suite 105  
Mesa, AZ 85215 and

Mr. John Gally  
208 W. 1<sup>st</sup> Street  
Winslow, AZ 86047

Re: Conditional Use Permit 11-02 Medical Marijuana Dispensary at 1600 E. Second Street,  
Winslow, AZ

Dear Sirs:

At their regular meeting on Tuesday, May 15, 2012, the City of Winslow Planning and Zoning Commission reviewed the above referenced Conditional Use Permit for a Medical Marijuana Dispensary at the address listed above. The Commission found the use in compliance with the conditions of approval. Therefore, the authorized conditional use on this property is declared active and in force until its review date in 2013 or its withdrawal.

Should you have any questions, please feel free to contact me at (928) 289-1415.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul H. Ferris".

Paul H. Ferris, AICP  
Principal Planner

PF: pw

# EXHIBIT 'C'

# K. L. WARD & Associates, PLLC

*Attorneys at Law*

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**Washington DC Area Office**

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760 W. Macaw Dr., STE 128  
Chandler, AZ 85248-2618  
(480) 802-9814 Fax (480) 802-9835

Kathryne Ward  
Licensed in AZ, NJ and VA

May 25, 2012

Paul H. Ferris, Principal Planner  
City of Winslow  
21 N Williamson  
Winslow, AZ 86047

## Local Jurisdiction Zoning Compliance

Mr. Ferris:

Section 17.44.04(P) of the City of Winslow zoning ordinance allows for the operation of a medical marijuana dispensary and cultivation site in an Industrial Zone. The Ordinance also requires that the operator of such proposed dispensary apply and successfully obtain a conditional use permit for such use. The Winslow rules and regulations for obtaining a conditional use permit ("CUP") are rigorous. The CUP process requires public hearings, submissions from the operator setting forth procedures, lay out designs and attestations of use. While the CUP runs with the land to prevent the CUP holder from substituting the approved location upon which the CUP is based, the permit is not transferrable. The conditional use permit is not issued to the land, but to the *Applicant*. The only applicant that has gone through the processes, the public hearings and met all conditional use permit requirements and successfully obtained a conditional use permit from the City of Winslow for a dispensary at 1600 E. Second Street in Winslow is Compassionate Care Dispensary Inc. (See, Attachment 1).

The Town of Queen Creek, Pinal County Government, as well as other Arizona localities, have implemented rules and regulations that mirror the Winslow zoning ordinance governing operators of proposed dispensary operations. Under advice of the City Attorneys' these localities will *not* sign the DHS local compliance form for any applicant who does not hold a conditional use permit for the proposed location in its particular name. This is true even where the Landlord has given permission to multiple applicants for the same location. The local authorities for these jurisdictions clearly recognize that while a conditional use permit runs with the land, it is not transferrable. Each applicant must comply with the conditional use permit requirements and cannot simply ride the back of another applicant who has met these rigorous requirements, specifically, an applicant who has addressed the public and the Zoning Commission at posted public hearings and met all other requirements for obtaining a conditional use permit as set forth in the Local Code.

We have information that the City of Winslow signed the Department of Health Services Local Jurisdiction Zoning Compliance Form (*See*, Attachment 2) for Green Cross Medical, Inc. Green Cross is not in compliance with the Winslow zoning ordinance. Green Cross has not applied for, nor successfully obtained, a conditional use permit in compliance with Winslow local zoning ordinance for a marijuana dispensary. Green Cross has not attended any public hearings nor demonstrated operational procedures or attestations of use as set forth in the Code. On the other hand Compassionate Care has met all of the requirements set forth in the City of Winslow zoning code. While the permit obtained by Compassionate Care runs with the land thus restricting the permitted use to the approved location, the permit is held by Compassionate Care and cannot simply be transferred to an unauthorized operator

As seen by other localities, if this were not the case, anyone could step into the shoes of an approved Applicant, regardless of their background or intention and avoid all public hearings, attestations or other rigors placed upon the applicant of a conditional use permit. For reasons of public safety and public policy, a conditional use permit while specific to the location upon which it is based, is not transferrable.

For the reasons set forth above, we respectfully request that the City of Winslow immediately inform Green Cross Medical and the Arizona Department of Health Services that Green Cross Medical is not in compliance with local jurisdiction zoning as set forth by the City of Winslow ordinance for dispensary use. Such notification must take place no later than 5pm today as this is the deadline for Green Cross Medical to withdraw its DHS dispensary application and get a full refund of its \$5,000 application fee.

If you have any questions regarding this letter, please contact me on my cell phone 480-802-9814.

Respectfully,

/s/ Kathryne Ward

Kathryne L Ward

K.L. Ward & Associates, PLLC

*Attorneys for Compassionate Care Dispensary Inc*

Attachments:

Compassionate Care Conditional Use Permit

Local Zoning Compliance Form

# EXHIBIT 'D'

Mayor  
Robin R. Boyd

(928) 289-2422  
FX (928) 289-3742  
IDD (928) 289-4784



Council Members  
Peter Cake  
Thomas R. Chacon, Sr.  
Curtis Hardy  
Marsha Juergens  
Marshall Loscy  
Harold Soehner

Discover Winslow-A City in Motion

May 25, 2012

Arizona Department of Health Services  
Medical Marijuana Dispensaries Program  
150 N. 18<sup>th</sup> Avenue  
Phoenix, AZ 85007

Re: ADHS Medical Marijuana Dispensaries Program form  
"Documentation of Compliance with Local Jurisdiction Zoning"

Dear Sirs:

There has been a question raised with the City of Winslow Zoning Administrator regarding the efficacy or accuracy of your form "Medical Marijuana Dispensary Documentation of Compliance with Local Jurisdiction Zoning".

Our Zoning Administrator's understanding of that form is that an individual whose name must be inserted in the form is applying for a dispensary at the location described in the form. The form then asks whether the location for the dispensary "is in compliance with local zoning restrictions related to where a dispensary may be located". Our Zoning Administrator has taken that assertion, i.e., that "the location of the proposed dispensary is in compliance with the local zoning restrictions related to where a dispensary may be located" to simply require an indication that the overall zoning, i.e., commercial, industrial or residential, is an appropriate zone for a medical marijuana dispensary. As a result of his interpretation of your form, the City of Winslow Zoning Administrator has signed several such forms indicating that the proposed use is appropriate in a commercial zone. However, two of the four companies that have asked that such form be signed have not obtained a Conditional Use Permit for their proposed locations.

Pursuant to the Winslow City Zoning Code, Section 17.40.040, the commercial zone is a proper zone for a medical marijuana dispensary, if a conditional use permit is obtained. The requirements for a CUP include how the applicant will run the dispensary at that location, requires that the dispensary applicant provide operating procedures, provide surveys, provide business plans, provide times of operation, provide methods for securing the site, for securing the marijuana and for disposal of marijuana residue or parts or by-products, among other requirements.

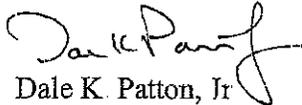
Arizona Department of Health Services  
May 25, 2012  
Page 2

Thus, to be absolutely clear, the City of Winslow is advising Arizona Department of Health Services that Compassionate Care Dispensary, Inc. has applied for and obtained a Conditional Use Permit for the site located at 1600 E Second Street, in Winslow, Arizona, which site is located in the Commercial Zone. The City also wants to make clear to ADHS that Pursuit for Life Care Centers has applied for and obtained a Conditional Use Permit to place a medical marijuana dispensary at 701 Mike's Pike in Winslow, Arizona, a commercial zone.

Other companies for which the Zoning Administrator signed the Medical Marijuana Dispensary Documentation of Compliance With Local Jurisdiction Zoning form, Green Cross Medical and The Medicine Room, LLC, have not obtained Conditional Use Permits for their proposed locations. Green Cross Medical applied for a Medical Marijuana Dispensary at 1600 E. Second Street, and The Medicine Room, LLC, applied for a Medical Marijuana Dispensary at 701 Mike's Pike. As indicated above, both of those locations are in the commercial zone, and would be an appropriate location for a medical marijuana dispensary. However, neither of those companies have applied for nor obtained a Conditional Use Permit allowing the placement of a medical marijuana dispensary at those locations.

If you have any questions to clarify this issue, please feel free to contact the undersigned attorney.

Very truly yours,



Dale K. Patton, Jr  
City Attorney

cc: Compassionate Care, LLC (K.L. Ward)  
Green Cross Medical, Inc. (William H. Brothers)  
The Medicine Room, LLC (Dixon Oates)  
Peter Cake

# EXHIBIT 'E'

1 **Kathryne L. Ward (#21382)**  
2 **K.L. Ward & Associates, PLLC**  
3 760 W Macaw Dr. Ste 128  
4 Chandler, Arizona 85286  
5 (480) 802-9814  
6 *Attorneys for Defendant*

7  
8 **IN THE SUPERIOR COURT IN THE**  
9  
10 **COUNTY OF NAVAJO AND STATE OF ARIZONA**

11 **GREEN CROSS MEDICAL, INC**, an Arizona non-  
12 profit corporation  
13 Plaintiff,

Case No. 2:12-cv-00208

14 **DECLARATION OF**  
15 **DALE PATTON, CITY ATTORNEY**  
16 **FOR THE CITY OF WINSLOW**  
17 **ARIZONA**

18 vs

19 **JOHN V. GALLY**, Trustee of the John V. Gally  
20 Family Protective Trust, dated January 11, 1993,  
21 Defendant(s).

22 I, Dale Patton, upon oath, declare as follows:

- 23 1. I serve as City Attorney for the City of Winslow.
- 24 2. The City of Winslow is in the Winslow Community Health Analysis Area referred to  
25 as the Winslow CHAA.
- 26 3. In order for an applicant's proposed location to be in compliance with local  
27 jurisdiction zoning, the City of Winslow Ordinance requires that the applicant apply for and  
28 successfully obtain a conditional use permit for that location.
- 29 4. The requirements for obtaining a conditional use permit are rigorous and include but  
30 are not limited to the following:
  - 31 a. Submission of engineering reports;
  - 32 b. Submission of professional CAD drawings of the facility and surrounding area that include  
33 topographical detail regarding electricity and water access;
  - 34 c. A detailed security plan;
  - 35 d. making public notice and attending public hearings before the City Zoning Commission and  
36 the Winslow public at large; and

1 e. Officer attestations regarding use and community impact.

2 5. In implementing the zoning requirements for a medical marijuana dispensary, it was  
3 the intent of the City of Winslow to require a conditional use permit to demonstrate compliance with  
4 local zoning restrictions before making application to the Arizona Department of Health Services  
5 (“DHS”) for a dispensary license.  
6

7 6. The DHS has openly stated that a city or locality is well within their rights to make  
8 this a pre-condition and addressed this issue in one of its frequently asked question for cities and  
9 towns. CT-Q03 provides as follows:

10 **Q: CT-Q03: Our city requires a special or conditional use permit before a  
11 dispensary opens. Will applicants need a special or conditional use permit in order to  
12 get a registration certificate? Will they need it to get their Operating License approval?  
13 What about a Certificate of Occupancy?**

14 **A: DHS Answer: An applicant does not need to submit a special or conditional  
15 use permit from a city or town with an application for a dispensary registration  
16 certificate. The applicant is required to submit documentation from a city or town that  
17 the proposed dispensary location complies with any zoning restrictions. A city or town  
18 may however require a special or conditional use permit for the proposed dispensary  
19 location before issuing documentation of compliance with local zoning restrictions.  
20 Check with your city or town for local requirements (emphasis added).  
21 (See [www.azdhs.gov/medicalmarijuana/faqs/citiesandtowns.htm#Q03](http://www.azdhs.gov/medicalmarijuana/faqs/citiesandtowns.htm#Q03)).**

22 7. This DHS Answer directly responds to position taken by the City of Winslow. The  
23 Winslow Ordinance does require a conditional use permit as a precondition to issuing an  
24 applicant with documentation of compliance with local zoning restrictions. Green Cross  
25 Medical, or any other applicant who has failed to apply for and successfully obtain a  
26 condition use permit, is not in compliance with the City of Winslow local jurisdiction  
27 zoning.

28 8. The only two applicants who are in compliance with Winslow local jurisdiction zoning the  
Winslow CHAA are Compassionate Care Dispensary Inc. and Pursuit for Life. As  
clarified in my letter to the DHS dated May 25, 2012, these are the two applicants who

1 qualify under the Winslow Ordinance to make application to the DHS for a dispensary  
2 license.

3 9. A conditional use permit, while it runs with the land thus restricting the applicant's use to  
4 the location upon which the permit is based, is NOT TRANSFERRABLE.

5  
6 10. Principal Planner, Paul Ferris, signed a preprinted DHS form for Green Cross Medical and  
7 the Medicine Man with the understanding that he was affirming that the proposed locations  
8 in general are in the proper zone. He in no way was affirming the applicants', Green Cross  
9 Medical or the Medicine Man, proposed locations are in compliance with local jurisdiction  
10 zoning.

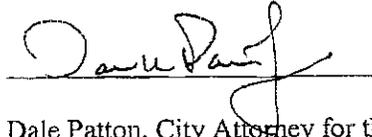
11  
12 11. Locations do not obtain conditional use permits, applicants do. Locations do not attend  
13 public hearings, address the commission, or make attestations or commitments to the  
14 communities, applicants do.

15  
16 12. To clarify the City's position, I drafted a letter to the DHS on May 25, 2012 and  
17 immediately notified Mr. Brothers of Green Cross Medical and Mr. Oates for the Medicine  
18 Room, LLC of the City's position. Specifically, while the proposed locations are in the  
19 proper zone, the City is not attesting that either of these "applicants' proposed locations" is  
20 in compliance with local jurisdiction zoning. The clarification letter was submitted to the  
21 DHS and both applicants notified on May 25, 2012. This was done so that these applicants  
22 could either withdraw, or make the necessary corrections, to their applications prior to the  
23 close of the application period.

24  
25 13. Neither Green Cross Medical nor The Medicine Room holds a conditional use permit for  
26 their proposed locations. Therefore, it is the position of this office that neither applicant's  
27 proposed location is in compliance with Winslow jurisdiction zoning and neither qualifies  
28 to apply for medical marijuana dispensary certification in the Winslow CHAA.

1  
2 To the best of my knowledge and belief, under the penalty of perjury, the above numbered  
3 paragraphs, and the facts contained therein, are true and correct.

4 Dated this 14 day of June 2012.

5  
6   
7

8 Dale Patton, City Attorney for the City of Winslow

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# EXHIBIT 'F'

# K. L. WARD & Associates, PLLC

*Attorneys at Law*

**Washington DC Area Office**  
P.O. Box 710694  
Herndon, Virginia 20171-1502  
(703) 981-9209 Fax (703) 935-8870

**Phoenix Area Office**  
760 W. Macaw Dr., STE 128  
Chandler, AZ 85248-2618  
(480) 802-9814 Fax (480) 802-9835

June 19, 2012

Kathryne Ward  
Licensed in AZ, NJ and VA  
Writer's direct: 480-802-9814  
[kward@klwardlawgroup.com](mailto:kward@klwardlawgroup.com)

## **VIA ELECTRONIC MAIL**

Thomas Salow, J.D. Manager [salowt@azdhs.gov](mailto:salowt@azdhs.gov)  
Juli Boles, Program Administrator [Juli.Boles@azdhs.gov](mailto:Juli.Boles@azdhs.gov)  
Office of Administrative Counsel & Rules  
1740 W. Adams, Room 203  
Phoenix, AZ 85007  
Tel: 602-542-1020 Fax: 602-364-1150

**Re: Winslow CHAA Applicants**  
Compassionate Care Dispensary Inc.  
Green Cross Medical, Inc.  
The Medicine Room, LLC

Dear Mr. Salow and Ms. Boles:

Recent pivotal developments have occurred that need immediate attention regarding the above named applicants for medical marijuana certification in the Winslow CHAA:

**1. Green Cross Medical, Inc. (GCM) GCM's application for dispensary certification in the Winslow CHAA is deficient for two reasons:**

A. GCM does not have Landlord permission for its proposed dispensary location. On or about April 26, 2012, the Landlord for GCM's proposed location, Mr. John Gally, withdrew permission and revoked the GCM lease. (*See*, Landlord permission supplement attached hereto as **Exhibit 1** and incorporated herein by reference). GCM sued Mr. Gally seeking injunctive relief to enforce the lease and asking the Court to "Order" Mr. Gally to give Landlord permission for the proposed use. While the Court found Mr. Gally's revocation of the lease improper and granted GCM's motion for injunctive relief, it did not "Order" Mr. Gally to give GCM Landlord permission. Rather, the Court instructed Mr. Gally to start detainer action if he felt GCM's proposed use was unlawful. (*See*, Navajo County Court Ruling attached hereto as **Exhibit 2**).

B. **GCM's proposed location is not in compliance with local jurisdiction zoning.** Mr. Patton, the City Attorney for the City of Winslow testified at the GCM/Gally hearing to set forth the City's position on the issue of compliance with local jurisdiction zoning. Specifically, Mr. Patton testified that neither Green Cross Medical, Inc. nor The Medicine Room, LLC's proposed locations are in compliance with local jurisdiction zoning in the Winslow CHAA. (*See*, Dale Patton Decl. attached hereto as **Exhibit 3** and incorporated herein by reference.)

2. **The Medicine Room, LLC's application is deficient as its proposed location is not in compliance with local jurisdiction zoning.** (See, 1(B) above.)

3. **Compassionate Care Dispensary Inc.** Mr. Patton testified that Compassionate Care Dispensary Inc. is the *only* applicant whose proposed location is in compliance with local jurisdiction zoning for the Winslow CHAA. (*See*, **Exhibit 3** Dale Patton Decl.)

In his sworn testimony, Mr. Patton specifically addressed the City of Winslow requirements for documentation of compliance of an applicant's proposed location for dispensary certification. Specifically, Mr. Patton testified that the City of Winslow ordinance requires a conditional use permit ("CUP") before it can certify an applicant's proposed location is in compliance with local jurisdiction zoning. Mr. Patton also testified that Green Cross Medical has not applied for a conditional use permit for this location and thus its proposed location is *not* in compliance with local jurisdiction zoning.

He went on to testify that the Medicine Room's proposed location is *not* in compliance with local jurisdiction zoning because they, too, had not sought nor obtained a conditional use permit for their proposed location and contrary to GCM's assertion, these applicants cannot use Compassionate Care's conditional use permit to meet compliance requirements. He stated that while a conditional use permit runs with the land, prohibiting the holder from changing the location upon the permit is based, the conditional use permit is specific to the applicant and not transferrable. (*See*, Compassionate Care's CUP which specifically notes at the bottom NON TRANSFERRABLE, attached hereto as **Exhibit 4** and incorporated herein by reference.) Mr. Patton testified that this denotation was intentional to prevent someone from using another's CUP without submitting to the process as the requirements for obtaining a CUP are quite rigorous and applicant specific to include but not limited to: addressing the Commission and the Residents in a public forum; making sworn attestations; and submitting to back-ground checks.

When asked about the compliance form signed by the City for these applicants, Mr. Patton explained that Paul Ferris, Principal Planner, was confused by the wording on the DHS form when he signed it for Green Cross Medical and The Medicine Room, LLC. He went on to say that his office had no intention of documenting compliance of a proposed location for any applicant who had not obtained a conditional use permit for their proposed location. To correct this misunderstanding, Mr. Patton sent a letter to the

DHS on May 25, 2012 attempting to clarify the City's position on this issue. (See City Attorney letter to DHS dated May 25, 2012, attached hereto as **Exhibit 5** and incorporated by reference herein.)

The withdrawal of Landlord permission for Green Cross Medical and the City Attorney's sworn testimony that Compassionate Care is the *only* applicant whose proposed location is in compliance with local jurisdiction zoning are pivotal developments in a DHS determination of completeness for the applications submitted for dispensary certification in the Winslow CHAA. Please update the files for these applicants to reflect this information. If you have any questions or need further information regarding this matter, please contact me directly at 480-802-9814.

Respectfully,

/s/ Kathryn Ward

Kathryne L. Ward  
K.L. Ward & Associates, PLLC

# EXHIBIT 'G'



***Division of Public Health Services***

*Office of the Assistant Director*

*Public Health Preparedness Services*

150 N. 18<sup>th</sup> Avenue  
Phoenix, Arizona 85007  
(602) 364-0857  
(602) 364-1073 FAX  
Internet: [www.azdhs.gov](http://www.azdhs.gov)

IANICE K BREWER, GOVERNOR

WILL HUMBLE, DIRECTOR

July 18, 2012

Green Cross Medical, Inc  
ATTN: William H Brothers  
4650 N US Highway 89, Suite A8  
Flagstaff, AZ 86004

RE: Dispensary Application #AZDS000000155

Dear Green Cross Medical, Inc.:

Your application was inadvertently deemed substantively complete. The Arizona Department of Health Services (Department) has received a letter from the Winslow City Attorney dated May 25, 2012, indicating that you have not obtained a Conditional Use Permit as required by the Winslow City Zoning Code. Based on this information from your local zoning jurisdiction, you are not in compliance with Arizona Administrative Code (A.A.C.) R9-17-304(C)(5)-(6). Additionally, the Department is requiring current Documentation of Property Ownership from the current owner indicating that you have permission to operate per A.A.C. R9-17-304(C)(7)(b). Unless you can get this resolved or notify the Arizona Department of Health Services that you would like to withdraw your application by August 1, 2012, we will have to deny your application.

Sincerely,

The Arizona Medical Marijuana Program

# EXHIBIT 'H'

## **Kathryne Ward Esq.**

---

**From:** Flores, Laura <Laura.Flores@azag.gov>  
**Sent:** Tuesday, August 07, 2012 4:35 PM  
**To:** 'Kathryne Ward'  
**Cc:** 'Thomas Salow'  
**Subject:** RE: Medicine Room App 456 is not in compliance with AAC R-17-304(C)(5)-(6)

Ms. Ward:

We have received your e-mails. I have instructed my client not to meet with attorneys for any applicants at this time, so no one from DHS will be available to meet with you tomorrow

Furthermore, please be advised that DHS is not permitted to discuss the contents of any other applicant's application pursuant to A.R.S. §36-2810.

Regards,

Laura Flores

**From:** Kathryne Ward [mailto:kathryneward@cox.net]  
**Sent:** Tuesday, August 07, 2012 3:45 PM  
**To:** 'Thomas Salow'; Flores, Laura  
**Subject:** Medicine Room App 456 is not in compliance with AAC R-17-304(C)(5)-(6)  
**Importance:** High

### **URGENT !!**

Tom or Laura

Please call me regarding Winslow CHAA #18. The Medicine Room APP 456 is not in compliance with Winslow ordinance as set forth in the May 25th letter from the Winslow City Attorney and should not have been placed into the Winslow random selection. Just as APP 155 was not in compliance, the same facts apply to The Medicine Room App 456 and thus they are not in compliance with Arizona Administrative Code (A.A.C.) R9-17-304(C)(5)-(6). Just like GCM APP 155, TMR APP 456 has not obtained a conditional use permit in compliance with local ordinance. Both the City Attorney's letter and his sworn testimony provides that the Medicine Room is NOT in compliance. Compassionate Care is the only qualified applicant for the Winslow CHAA and is legally entitled to dispensary certification in the Winslow CHAA. Compassionate Care will suffer irreparable harm if this not remedied immediately. It stands to lose financing and its proposed location if this is not immediately remedied.

Please call me and advise as to how and when the DHS will correct this error. I plan on being at the DHS office in the morning to meet on this. Please provide an exact address for the office of compliance.

Thank you  
Kathryne Ward

K.L. Ward & Associates, PLLC  
Tel: 480-802-9814  
Fax: 480-323-2730  
[kward@klwardlawgroup.com](mailto:kward@klwardlawgroup.com)

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Thank You.

-----Original Message-----

From: Kathryn Ward Esq. [mailto:kward@klwardlawgroup.com]  
Sent: Tuesday, August 07, 2012 12:25 PM  
To: 'Thomas Salow'; 'Flores, Laura'  
Cc: 'Juli Boles'; 'M2Dispensaries'  
Subject: RE: Read: The Medicine Room App 456 is not in compliance  
Importance: High

1. App 404 for Queen Creek #81 was omitted from the drawing in error. App 404 was put in the Superior #93 CHAA drawing in error.  
How and when does the DHS plan on correcting this error!

2. Winslow should not have had two approved apps. The Medicine Room has no CUP and is not in compliance with local jurisdiction zoning any more than Green cross Medical. The DHS sent a letter to GCM and should have sent the same letter to The Medicine Room because the City Attorneys letter applies to both and his sworn testimony applies to both. Neither has a conditional use permit and neither complies with local code. How does the DHS plan on remedying this error?

I need someone to call me right away!

K.L. Ward & Associates, PLLC  
Tel: 480-802-9814  
Fax: 480-323-2730  
kward@klwardlawgroup.com

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Thank You.

-----Original Message-----

From: Thomas Salow [mailto:Thomas.Salow@azdhs.gov]  
Sent: Tuesday, August 07, 2012 10:12 AM  
To: Kathryn Ward Esq.  
Subject: Read: The Medicine Room App 456 is not in compliance

CONFIDENTIALITY NOTICE

NOTICE: This E-mail is the property of the Arizona Department of Health Services and contains information that may be PRIVILEGED, CONFIDENTIAL or otherwise exempt from disclosure by applicable law. It is intended only for the person(s) to whom it is addressed. If you receive this communication in error, please do not retain or distribute it. Please notify the sender immediately by E-mail at the address shown above and delete the original message. Thank you.

# EXHIBIT 'I'

## **Kathryne Ward Esq.**

---

**From:** Kathryne Ward Esq. <kward@klwardlawgroup.com>  
**Sent:** Wednesday, August 08, 2012 7:18 AM  
**To:** 'Flores, Laura'  
**Cc:** 'Thomas Salow'  
**Subject:** RE: Medicine Room App 456 is not in compliance with AAC R-17-304(C)(5)-(6)

**Importance:** High

Ms Flores,

I was planning on coming to the DHS today, but will advise my client of your communication. Given the urgency of this situation, please call me today as I need to advise my client regarding legal remedy in the event the DHS does not expeditiously make the necessary correction here

While I realize you cannot discuss another applicant's application, we have been working with the Winslow City Attorney and the Winslow planning commission for more than a year and half. We know the Medicine Room's proposed location is not in compliance with local zoning. The City Attorney made this abundantly clear in his May 25<sup>th</sup> letter and in his sworn declaration. He personally telephoned Mr Oates from the Medicine Room On May 25 BEFORE he submitted app 456 and informed of this. The DHS took the proper action with Green Cross Medical but failed to do so with The Medicine Room. Every applicant must be held to the same standard.

Compassionate Care has complied with every letter of the Winslow ordinance and within the time frames set forth by the DHS rules. Compassionate Care is the only applicant that is in compliance with local ordinance and the only applicant that should have been deemed complete.

I cannot sit on this, as time is critical here so please call me to discuss.

Thank you.

Kathryne Ward

**K.L. Ward & Associates, PLLC**  
**Tel: 480-802-9814**  
**Fax: 480-323-2730**  
**kward@klwardlawgroup.com**

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Thank You

**From:** Flores, Laura [mailto:Laura.Flores@azag.gov]  
**Sent:** Tuesday, August 07, 2012 4:35 PM  
**To:** 'Kathryne Ward'  
**Cc:** 'Thomas Salow'  
**Subject:** RE: Medicine Room App 456 is not in compliance with AAC R-17-304(C)(5)-(6)

# EXHIBIT 'J'

## **Kathryne Ward Esq.**

---

**From:** Kathryne Ward Esq. <kward@klwardlawgroup.com>  
**Sent:** Wednesday, August 08, 2012 8:36 PM  
**To:** 'Flores, Laura'  
**Cc:** 'Dale Patton'  
**Subject:** FW: Medicine Room App 456 is not in compliance with AAC R-17-304(C)(5)-(6)

We have spoken with the City Attorney and he has made it clear that The Medicine room is not in compliance with local zoning. We will be filing suit against the DHS and filing for a restraining order for this CHAA

**From:** Flores, Laura [mailto:Laura.Flores@azag.gov]  
**Sent:** Wednesday, August 08, 2012 3:47 PM  
**To:** 'Kathryne Ward Esq.'  
**Cc:** 'Thomas Salow'  
**Subject:** RE: Medicine Room App 456 is not in compliance with AAC R-17-304(C)(5)-(6)

Ms Ward,

Thank you for your emails. We have reviewed the information we have provided to you and believe it sufficiently sets forth DHS' position.

DHS does not intend to change its position, and we feel there is nothing further we can do to respond to your emails and phone calls at this time

Regards,

**Laura Flores**  
Assistant Attorney General  
Office of the Arizona Attorney General  
1275 W Washington St.  
Phoenix, AZ 85007  
Office: (602) 542-7668  
[Laura.Flores@azag.gov](mailto:Laura.Flores@azag.gov)

This email may be privileged or confidential. If you receive this transmission by mistake, please contact me immediately and destroy this copy.

**From:** Kathryne Ward Esq [mailto:kward@klwardlawgroup.com]  
**Sent:** Wednesday, August 08, 2012 10:33 AM  
**To:** Flores, Laura  
**Cc:** 'Thomas Salow'; 'Dale Patton'  
**Subject:** RE: Medicine Room App 456 is not in compliance with AAC R-17-304(C)(5)-(6)

The City of Winslow code requires a conditional use permit in order for the City to attest that a proposed location is in compliance with local zoning.

There is no provision in the Code to get one after the fact. This is a precondition.

On May 25 BEFORE he submitted app 456 and informed of this. The DHS took the proper action with Green Cross Medical but failed to do so with

The Medicine Room Every applicant must be held to the same standard.

Compassionate Care has complied with every letter of the Winslow ordinance and within the time frames set forth by the DHS rules Compassionate Care is the only applicant that is in compliance with local ordinance and the only applicant that should have been deemed complete

I cannot sit on this, as time is critical here so please call me to discuss

Thank you

Kathryne Ward

**K.L. Ward & Associates, PLLC**

**Tel: 480-802-9814**

**Fax: 480-323-2730**

**[kward@klwardlawgroup.com](mailto:kward@klwardlawgroup.com)**

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Thank You.

**From:** Flores, Laura [<mailto:Laura.Flores@azag.gov>]

**Sent:** Tuesday, August 07, 2012 4:35 PM

**To:** 'Kathryne Ward'

**Cc:** 'Thomas Salow'

**Subject:** RE: Medicine Room App 456 is not in compliance with AAC R-17-304(C)(5)-(6)

Ms. Ward:

We have received your e-mails. I have instructed my client not to meet with attorneys for any applicants at this time, so no one from DHS will be available to meet with you tomorrow.

Furthermore, please be advised that DHS is not permitted to discuss the contents of any other applicant's application pursuant to A.R.S. §36-2810

Regards,

Laura Flores

**From:** Kathryne Ward [<mailto:kathryneward@cox.net>]

**Sent:** Tuesday, August 07, 2012 3:45 PM

**To:** 'Thomas Salow'; Flores, Laura

**Subject:** Medicine Room App 456 is not in compliance with AAC R-17-304(C)(5)-(6)

**Importance:** High

**URGENT!!**

Tom or Laura

# EXHIBIT 'K'

**Kathryne Ward Esq.**

---

**From:** Flores, Laura <Laura.Flores@azag.gov>  
**Sent:** Wednesday, August 08, 2012 9:38 AM  
**To:** 'Kathryne Ward'  
**Cc:** 'Thomas Salow'  
**Subject:** FW: Medicine Room App 456 is not in compliance with AAC R-17-304(C)(5)-(6)

Ms Ward,

Please be advised that DHS did reach out to the City Attorney to clarify local zoning requirements subsequent to the issuance of his May 25<sup>th</sup> letter and his sworn statement. Once the City Attorney became aware that an applicant who was initially properly zoned could seek a conditional use permit during the approval to operate process under R9-17-305, he clarified that this would satisfy local zoning requirements. DHS proceeded with the lottery process based on this information.

I hope this provides some clarity for you.

Regards,

Laura Flores

**From:** Kathryne Ward Esq. [<mailto:kward@ktwardlawgroup.com>]  
**Sent:** Wednesday, August 08, 2012 7:18 AM  
**To:** Flores, Laura  
**Cc:** 'Thomas Salow'  
**Subject:** RE: Medicine Room App 456 is not in compliance with AAC R-17-304(C)(5)-(6)  
**Importance:** High

Ms. Flores,

I was planning on coming to the DHS today, but will advise my client of your communication. Given the urgency of this situation, please call me today as I need to advise my client regarding legal remedy in the event the DHS does not expeditiously make the necessary correction here.

While I realize you cannot discuss another applicant's application, we have been working with the Winslow City Attorney and the Winslow planning commission for more than a year and half. We know the Medicine Room's proposed location is not in compliance with local zoning. The City Attorney made this abundantly clear in his May 25<sup>th</sup> letter and in his sworn declaration. He personally telephoned Mr. Oates from the Medicine Room. On May 25 BEFORE he submitted app 456 and informed of this. The DHS took the proper action with Green Cross Medical but failed to do so with the Medicine Room. Every applicant must be held to the same standard.

Compassionate Care has complied with every letter of the Winslow ordinance and within the time frames set forth by the DHS rules. Compassionate Care is the only applicant that is in compliance with local ordinance and the only applicant that should have been deemed complete.

I cannot sit on this, as time is critical here so please call me to discuss. Thank you.

# EXHIBIT 'L'

## Kathryne Ward

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**From:** Kathryne Ward <kathryneward@cox.net>  
**Sent:** Wednesday, August 08, 2012 10:24 AM  
**To:** 'Flores, Laura'  
**Cc:** 'Dale Patton'; 'Thomas Salow'  
**Subject:** APP 456 not in compliance

**Importance:** High

| <b>Tracking:</b> | <b>Recipient</b> | <b>Read</b>               |
|------------------|------------------|---------------------------|
|                  | Flores, Laura    |                           |
|                  | Dale Patton'     | Deleted: 8/9/2012 9:08 AM |
|                  | Thomas Salow'    |                           |
|                  | 'Kathryne Ward   |                           |
|                  | Pharrgone Gmail  |                           |
|                  | 'David Mech      |                           |

Ms. Flores

Contrary to what the DHS is telling you, we just spoke to Mr. Patton and he has confirmed in no uncertain terms that APP 456, The Medicine Room, is not in compliance with local zoning and does not qualify

To apply in Winslow.

He will be calling you

**K.L. Ward & Associates, PLLC**

**Tel: 480-802-9814**

**Fax: 480-323-2730**

**[kward@klwardlawgroup.com](mailto:kward@klwardlawgroup.com)**

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Thank You.

# EXHIBIT 'M'

## Kathryne Ward

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**From:** Kathryne Ward <kathryneward@cox.net>  
**Sent:** Wednesday, August 08, 2012 10:30 AM  
**To:** 'Flores, Laura'  
**Cc:** 'Thomas Salow'; 'Dale Patton'  
**Subject:** DHS is misrepresenting the city position

| <b>Tracking:</b> | <b>Recipient</b> | <b>Read</b>               |
|------------------|------------------|---------------------------|
|                  | 'Flores, Laura'  |                           |
|                  | 'Thomas Salow'   |                           |
|                  | Dale Patton'     | Deleted: 8/9/2012 9:08 AM |

Ms Flores

For whatever reason, the DHS is misrepresenting to your office the position of the City of Winslow  
We just spoke to Mr. Patton and he emphatically reiterated the following:

"The Medicine Room's proposed location is not in compliance with local jurisdiction zoning"

I have him on record and he has made the city's position clear on several occasions.

For now, we will assume this is an inadvertent error by the DHS. But this must be immediately corrected!

Kathryne Ward

**K.L. Ward & Associates, PLLC**

**Tel: 480-802-9814**

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Thank You.

# EXHIBIT 'N'

**Kathryne Ward Esq.**

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**From:** Flores, Laura <Laura.Flores@azag.gov>  
**Sent:** Wednesday, August 08, 2012 3:42 PM  
**To:** 'Kathryne Ward Esq.'  
**Cc:** 'Thomas Salow'  
**Subject:** RE: APP 404 QC mix up

Ms. Ward,

Please be advised that I have instructed my client not to speak with attorneys for any applicants at this time.

As to your question regarding CHAA 81 and CHAA 93, the address listed on application #404 is actually located in CHAA 93, not CHAA 81, so the drawing was correct.

Before the random selection took place on 8/7/12, the Arizona Medical Marijuana Program verified all dispensary registration certificate applications to make sure that the proposed physical address of the dispensary corresponded with the listed CHAA. This was done through the interactive CHAA map on the Medical Marijuana Program website (<http://www.azdhs.gov/medicalmarijuana/chaa/index.htm>). This map has been available for applicants to use throughout the application process.

For application #404, the proposed physical address was listed as 36359 N Gantzel Rd, San Tan Valley, AZ 85140. When this address is mapped, it is listed in CHAA 93, not CHAA 81. As a courtesy, this application was included in the random selection drawing for CHAA 93 rather than being excluded from the drawing altogether.

Regards,

**Laura Flores**  
Assistant Attorney General  
Office of the Arizona Attorney General  
1275 W. Washington St.  
Phoenix, AZ 85007  
Office: (602) 542-7668  
[Laura.Flores@azag.gov](mailto:Laura.Flores@azag.gov)

This email may be privileged or confidential. If you receive this transmission by mistake, please contact me immediately and destroy this copy.

**From:** Kathryne Ward Esq. [<mailto:kward@klwardlawgroup.com>]  
**Sent:** Wednesday, August 08, 2012 3:12 PM  
**To:** 'M2Dispensaries'; 'Juli Boles'  
**Cc:** Flores, Laura; 'Thomas Salow'  
**Subject:** APP 404 QC mix up  
**Importance:** High

Juli

I have left several messages and have yet to get a response. Time is of the essence.

We need to know what action the DHS is going to take to remedy the drawings for Queen Creek #81 and Superior #93.

Also, can you please verify that the application that the DHS listed as the sole applicant in Queen Creek is truly Queen Creek.

At this point, the integrity of the lottery program is in question.

Your immediate attention to this matter is respectfully requested.

Kathryne Ward

**K.L. Ward & Associates, PLLC**

**Tel: 480-802-9814**

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**[kward@klwardlawgroup.com](mailto:kward@klwardlawgroup.com)**

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Thank You.