



Marysville Hearing Examiner

June 9, 2010

9:00 a.m.

Marysville City Hall

CALL TO ORDER

Hearing Examiner Ron McConnell opened the hearing at 9:02 a.m. giving a brief explanation of the appeal in front of him. He described the 13 Exhibits he had received from the City. Mr. McConnell described the packet he had received from Elevated Medical Treatment (EMT) which was a 190 page report regarding the Business License Denial Appeal.

ATTENDANCE

The following staff was noted as being present:

Hearing Examiner Ron McConnell, Chief Administrative Officer Gloria Hirashima, Planning Manager-Land Use Cheryl Dungan, and Recording Secretary Amy Hess

PUBLIC HEARING

1. **M10-02 –Elevated Medical Treatment**–Appeal of denial of business license issuance for Elevated Medical Treatment.

Appellant: **Elevated Medical Treatment
Kat Jensen, Business Manager**

Location: **15324 Smokey Point Boulevard**

Staff Comment:

City Attorney Thom Graafstra gave an opening statement regarding the appeal in front of the Hearing Examiner. He briefed the events leading up to the denial, including the misrepresentation of products the business included in the original business license application and what the City later found out the business was actually dispensing. Mr. Graafstra explained how the City had interpreted the Municipal Code and State Law in determining the denial of said business license. Mr. Graafstra also detailed the Medical Marijuana Act. He explained that the denial was based on failure to comply with the Medical Marijuana Act of the State of Washington.

Appellant Comment:

Kathleen Jensen 4032 B 167th St NE, Arlington WA 98223

Ms. Jensen gave an opening statement stating that there was never any purchasing done at her business, that it was based on a donation business model. She stated that the medicine was not withheld if an individual was unable to supply the donation and the businesses intent was not to make money from sick people. Ms. Jensen stated that she has been involved in Non-Profit Organizations for over 20 years. She explained that she was a disabled veteran and user of Medical Cannabis and felt that she and other war heroes and veterans should not have to run around on the streets looking for some sort of relief. She explained how she interpreted the one provider per patient provision in the Medical Marijuana Act and that by acting as volunteer for a non-profit organization, EMT was able to function within the law. She felt that supplying multiple patients was allowable as long as each patient signed a statement stating that they were not under the care of any other provider at that time. Ms. Jensen referred to documents in the packet she had supplied which included language stating that our state was to look to other states for best practices in the event that the law was unclear. She added that EMT was in full compliance with all state laws the entire time that the business was running.

Anna Orr 6719 SR 9, Sedro Woolley WA 98284

Ms. Orr stated that she entered her business license application in good faith and that she wasn't well versed in business license application processes. She admitted that there were mistakes and errors and stated that she had done her best to correct them. She used examples from California as well as King County to set up her business model. Ms. Orr reiterated that she knew she had made mistakes, but that before she could get an amendment filed, things fell apart.

Staff Rebuttal:

Mr. Graafstra questioned Ms. Jensen regarding operation as a designated provider within the one patient one provider provision. He questioned whether EMT was set up as Corporation or not and the number of employees or volunteers. Ms. Jensen responded that it was a set up as a corporation and that there were no actual employees, approximately 5-7 volunteers. Mr. Graafstra questioned how many patients per day were served. Ms. Jensen responded that it would vary on a day to day basis, but it could be between approximately 7-10 patients. Mr. Graafstra questioned who a check or credit card payment would be issued to if a donation was made. Ms. Jensen responded that at this point there had not been any checks or credit card transactions, only cash, so she was unsure as to whom the payment would be addressed to. Mr. Graafstra questioned how they would anticipate handling this in the future. Ms. Jensen responded that they had not yet figured that out and no bank accounts had been set up since they had voluntarily shut down, but that it would probably be payable directly to EMT non-profit.

Mr. Graafstra questioned the different media and species that were being offered at EMT. He wanted to know how the different types of media would be kept separate for each patient. Ms. Orr responded that everything was kept under lock and key and that each patient was served on a one on one basis. Mr. Graafstra questioned who would be included in the one on one. Ms. Orr responded that it would be the patient and either herself, or Ms. Jensen. Ms. Jensen explained that it would be set up as a Power of Attorney for a specific amount of time that is

spent at the business. When the patient exited the building, they were no longer a patient and EMT was no longer the provider. Mr. Graafstra clarified that the business would function as a one on one provider patient relationship.

Mr. Graafstra questioned the "cannabis cafeteria" information that had been listed on EMT's website. Ms. Orr responded that that information was not her quote, it was intended as simply information she had placed on the website for patient reference; adding that it had since been removed.

Mr. Graafstra questioned the multiple species that would be provided. Ms. Orr responded that she was unclear as to exactly how this would be handled because it was dangerous for a person growing at their own residence. Mr. Graafstra wanted to know how the marijuana was getting to the business. Ms. Jensen responded that patients donated any excess that they did not use as well as donating excess of the allowable 24 ounces per patient limit in an effort to remain in compliance of the law. Ms. Orr explained that the only product coming in is 100% patient donation. Mr. Graafstra asked if Ms. Orr or Ms. Jensen planned to purchase marijuana at any point. Ms. Jensen and Ms. Orr responded that there was no need to purchase at this point because the amount of product donation was meeting the need; adding that they had never purchased any marijuana.

Ms. Orr explained that they were not your stereotypical "pot heads". She wanted to make clear that the caliber of their patients were such that they needed wheelchair access and walker access to the store. It wasn't just a bunch of college students.

Cheryl Dungan was called to give testimony for the City.

Ms. Dungan explained the site visit that she had conducted when asked to verify the business. She stated that there was an open reception area and that there was a patient present when she was there. She could overhear the conversation between the patient and provider. She explained that they openly admitted to having marijuana on premises and that they were dispensing. She observed a gentlemen assist another patient. Ms. Dungan stated that she informed them that they were operating without a business license within City limits. She stated that the operators agreed to close their doors at that time, even turning away a patient that came in after the discussion had taken place. Ms. Dungan added that she could not be sure that it was a one patient to one provider situation because she could not verify that the first patient had left when the second one went in.

Ms. Jensen stated that they intended to document each patient coming in and out and that they intended to have very open books and wanted to work with the City in creating a business model. Ms. Jensen questioned Ms. Dungan on her observation of the people in the business. Ms. Dungan responded that she observed middle aged individuals. Ms. Jensen questioned the statement Ms. Dungan had made in the planning department at a previous date. Ms. Dungan replied that the comment she made was that she felt that they were operating very openly and admittedly stated that they had marijuana on the premises and were dispensing and not trying to hide anything.

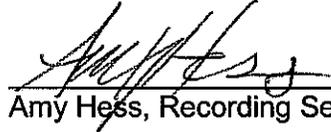
Mr. Graafstra stated that he had no further witnesses to call.

Public Comment:

None

ADJOURNMENT:

Based on the entry of the 190 page Report submitted by EMT, Hearing Examiner McConnell continued the hearing until Tuesday, June 15, 2010.



Amy Hess, Recording Secretary