

## Herbal Green case update

(Penticton BC – May 7, 2018) – The City of Penticton concluded its final marijuana dispensary civil injunction in B.C. Supreme Court today at the Kelowna Court House. The City obtained an injunction against Jukka Laurio doing business as Herbal Green for operating a marijuana dispensary within the City of Penticton.

Madame Justice Baker approved a consent order with key points as follows:

1. "Herbal Green Café" also known as the "Russian and Finish Café" is prohibited and restrained from selling, using, storing or possessing marijuana/cannabis in anyway at its premises located at 256 and 248 Westminister Avenue in the City of Penticton (the "Properties");
2. Jukka Laurio must comply with five separate City bylaws and two provincial statutes;
3. Jukka Laurio must withdraw the judicial review proceedings he filed against the City of Penticton without costs; and
4. Jukka Laurio must pay a fine in the amount of \$15,000.00 to the City of Penticton by November 15<sup>th</sup>, 2018, the failure of which will result in doubling of the fines to \$30,500.00.

This is the largest fine amount made against a marijuana dispensary/owner or operator in British Columbia. The Herbal Green action was the final part of the City's bylaw enforcement department's prosecution of three dispensaries in the City through Court orders. Dispensaries are expected to follow these orders which prohibit the sale of non-medicinal marijuana until such time as the law changes.

"Council instructed Bylaw Services to treat all dispensaries equally under the law and we have been able to do so with three Court orders on three dispensaries" said Bylaw Supervisor, Tina Siebert. "Herbal Green was more punitive because there were two outstanding legal actions filed in the Penticton and Kelowna registries."

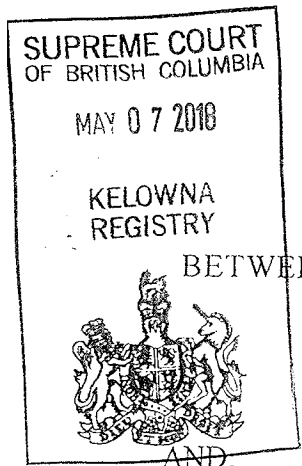
For more information, please see the attached and entered Court order dated May 7<sup>th</sup>, 2018.

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### Contacts:

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NO.: PEN-S-41880  
PENTICTON REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

THE CORPORATION OF THE CITY OF PENTICTON

PETITIONER

JUKKA LAURIO

RESPONDENT

**CONSENT ORDER**

BEFORE

*Madam Justice Baker*  
[  ] A JUDGE OF THE COURT  
or  
[  ] A MASTER OF THE COURT  
or  
[  ] A REGISTRAR

*Mon* day, the *7<sup>th</sup>*  
day of *May*, 2018

ON THE APPLICATION of the Petitioner, coming on for hearing at Kelowna, British Columbia, on May 7, 2018, and on hearing Troy DeSouza, counsel for the Petitioner City of Penticton, and Glen Nesbitt, agent for counsel for the Respondent, and BY CONSENT;

THIS COURT ORDERS that:

1. The Respondent, his employees and agents are until further order of this Court enjoined and prohibited from operating:
  - a. the "Herbal Green" marijuana dispensary business and cafe and the medicinal baked goods kitchen business known as "Herbal Green Café", also known as "Rush In and Finish Café" (collectively, the "Business") at the following properties:

Civic Address: 256 Westminster Avenue, Penticton, British Columbia  
PID 012-022-534  
Lot 7, District Lot 4, Group 7, Similkameen Division Yale (formerly Yale-Lytton) District, Plan 871

and

Civic Address: 248 Westminster Avenue, Penticton, British Columbia P1O 012-092-518 (together, the "Property"); and

- b. any other business within the boundaries of the City of Penticton, including at the Property, in a manner which contravenes the City of Penticton *Business Licence Bylaw No. 2012-5020* (the "**Business License Bylaw**") or the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19 (the "**CDSA**"). For greater clarity, this prohibition includes the following activities undertaken by the Respondent, his employees or agents while same are within the boundaries of the City of Penticton, to the extent such activities contravene the *Business License Bylaw* or the *CDSA*:
    - i. importing, using, storing, keeping, transferring, processing, cooking, selling, distributing, displaying, advertising, and prescribing marijuana or marijuana-based products or substances; and
    - ii. running any website, social media account, or other online presence which advertises, offers, or sells marijuana, marijuana-based products, or any other substance prohibited by the *CDSA*.
2. The Respondent must comply with all City of Penticton Bylaws, including as amended or replaced:
    - a. the *Business Licence Bylaw*, defined above;
    - b. City of Penticton *Zoning Bylaw No. 2017-08* (the "**Zoning Bylaw**");
    - c. City of Penticton *Fire & Life Safety Bylaw No. 2004-57* (the "**Fire Bylaw**");
    - d. City of Penticton *Building Bylaw No. 94-95* (the "**Building Bylaw**"); and
    - e. City of Penticton *Good Neighbour Bylaw No. 5030* (the "**Good Neighbour Bylaw**").
  3. The Respondent must comply with the:
    - a. *Fire Services Act*, [RSBC 1996], Chapter 144, its *Regulations*, and the *British Columbia Fire Code*; and
    - b. *Building Act*, [SBC 2015], Chapter 2, its *Regulations*, and the *British Columbia Building Code*;
  4. The Respondent will provide a copy of this Order to its directors, managers, employees, volunteers, and to the owner and landlord of the Property.
  5. In respect of the Municipal Ticket Informations brought by the City of Penticton against the Respondent, as set out in **Schedule "A"** to this Order, the Respondent shall by November 15, 2018 pay to the City of Penticton \$15,000.00 ("**Reduced Fine Settlement**") which is half of the \$30,500.00, actually owed to the City by the Respondent ("**Actual Fines**"). Failure to pay the Reduced Fine Settlement by November 15, 2018 will result in the Actual Fines be due and owing to the City of Penticton.

7. Leave granted to have this Order entered in Kelowna. - *ad*

6. Upon signing this order, both parties agree to file a consent dismissal order without costs on the Judicial Review action of *Jukka Laurio v. The Corporation of the City of Penticton* - S.C.B.C. Action No. S-S-115733, Kelowna Registry.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS NOTED ABOVE:

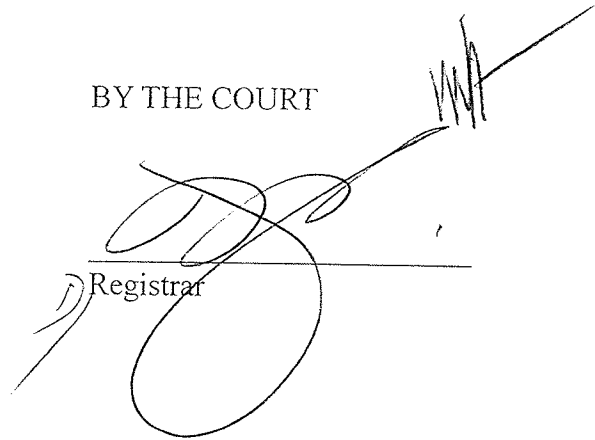


Troy Desouza  
Lawyer for the Petitioner



Glen P. Nesbitt  
Agent for lawyer for the Respondent

BY THE COURT



Registrar