

T- -24

FEDERAL COURT

BETWEEN:

LEE THOMPSON

Applicant

and

MOHAWK COUNCIL OF KAHNAWÀ:KE
KAHNAWÀ:KE CANNABIS CONTROL BOARD

Respondent

NOTICE OF APPLICATION

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears on page 3.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at the Federal Court at 30 McGill Street, Montreal, Quebec.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant's solicitor, or if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN
IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

(Date)

Issued by: _____
(Registry Officer)

Address of local office: Federal Court of Canada
30 McGill Street
Montreal, Quebec
H2Y 3Z7

TO: **MOHAWK COUNCIL OF KAHNAWÀ:KE**
Kahnawà:ke Cannabis Control Board
P.O. Box 720
1 Church Road
Kahnawà:ke, Quebec J0L 1B0

APPLICATION

This is an application for judicial review in respect of the Kahnawà:ke Cannabis Control Board, a board of the Mohawk Council of Kahnawà:ke established under the Kahnawà:ke Cannabis Control Board (the “**Board**”).

In a decision dated March 11, 2024 (the “**Decision**”), the Board dismissed the applicant’s application for pre-eligibility for a cannabis dispensary licence.

The applicant makes application for a writ of *certiorari*:

1. QUASHING the decision of the Board dated March 11, 2024;
2. ORDERING the inclusion of the applicant on the pre-eligibility list;
3. MAKING any other order or declaration that the Court may deem expedient or just;
4. The whole with costs against the respondent.

The grounds for the application are:

1. The applicant, his spouse Ms. Lauren Phillips, and an employee of his, Ms. Trudy Stacey, filed applications for pre-eligibility for a cannabis dispensary licence.
2. The application form included a Declaration of a Natural Person that explicitly asked whether the applicant has “a close personal or business relationship with any other person(s) who are also submitting a pre-eligibility form under the *Regulation concerning Dispensaries and Dispensary Licences*.”
3. Without due reflection, the applicant checked a box indicating no such relationship.
4. The size and nature of the community in Kahnawà:ke is such that the applicant’s relationship with the two other applicants is generally known within the community and among the members of the Board, and could not be hidden.
5. On submitting the application, the applicant, through his attorney, was advised that were there matters to complete or correct, the applicant would be notified and given 30 days to correct or complete the application.

6. The applicant's application was rejected on the premise that "the Declaration of a Natural Person [he] filed in support of [his] pre-eligibility application did not accurately reflect [his] close personal or business relationship to other applicants."
7. The Regulation Concerning Dispensaries and Dispensary Licences, K.R.L. c. C-4, r-4, provides the following definition:

"close personal relationship" means an ongoing romantic or intimate personal relationship that can include, but is not limited to, dating, living together or being a partner or significant other as well as immediate familial relationships, whether by blood, marriage or adoption.

(our underlining)

8. On or about March 19, 2024, the Board issued its pre-eligibility list. The list approved pre-eligibility for Roger Stacey and Scott Stacey as distinct applicants.
9. Darlene Alfred is one of the three members of the Board and one of the signatories of the Decision. In 2013, her son Clayton Diabo was sentenced to prison in a matter in which the applicant was the principal witness.
10. The Decision was not rendered in accordance with the rules of procedural fairness, because:
 - a. it was not made in a manner that is free from a reasonable apprehension of bias;
 - b. the prohibition on permitting the applications of two people with a "close personal relationship" is applied in an arbitrary manner;
 - c. the applicant was not given an opportunity by the Board to rectify any problems with the application.

This application will be supported by the following material:

1. Affidavit of the applicant and its exhibits;
2. Affidavit of Mtre Philip Schneider and its exhibits;
3. Kahnawà:ke Cannabis Control, K.R.L. c. C-4;
4. Regulation Concerning Licensing Requirements and Procedures, K.R.L. c. C-4, r-3;

5. Decision of the Board dated March 11, 2024;
6. All material that the Board took into account when rendering the Decision;
7. All materials provided by the Board pursuant to the request under Rule 317.

The Applicant requests the Board to send a certified copy of the following material that is not in the possession of the applicant but is in the possession of the Board to the applicant and to the Registry:

1. The complete record of the Board with respect to the pre-eligibility application of the applicant and the Decision;
2. The complete record of the Board regarding the pre-eligibility applications of Roger Stacey, Scott Stacey, Lauren Phillips, and Trudy Stacey, and the decisions made regarding those applications;
3. The applications and decisions regarding all other applicants whose pre-eligibility applications were rejected;
4. The Dispensary License Applicants Fourteen Day Feedback Period notice published by the Board on or about March 19, 2024.

March 26, 2024

Arishma D. Gokhool, Avocate inc.

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