

STATE OF FLORIDA
DEPARTMENT OF HEALTH

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DEPARTMENT OF HEALTH
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REDLAND NURSERY, INC.,

Petitioner,

v.

CASE NO.:

DEPARTMENT OF HEALTH,

Respondent.

PETITION FOR FORMAL ADMINISTRATIVE HEARING

Petitioner, Redland Nursery, Inc. ("Redland Nursery"), files this Petition for Formal Hearing Involving Disputed Issues of Material Fact pursuant to section 120.57(1) , Florida Statutes, and Rule 28-106.201, Florida Administrative Code, to contest the Department of Health's (the "Department") preliminary approval of Costa Nursery Farms, LLC's application to become a Low THC Cannabis Dispensing Organization for the Southeast region and the denial of Redland Nursery's application to become a Low THC Cannabis Dispensing Organization for the Southeast region. In support thereof, Petitioner states:

Agency Affected

1. The affected agency is the Department of Health, Office of Compassionate Use, 4052 Bald Cypress Way, Bin #A-06, Tallahassee, Florida 32399-3265. The Department is the state agency responsible for the issuance of licenses to (and the regulation of) Low THC Cannabis Dispensing Organizations ("Dispensing Organizations").

Petitioner's Substantial Interests

2. The petitioner is Redland Nursery, Inc., 18455 SW 264th Street, Homestead, Florida 33031-1883. Redland Nursery timely filed an application to become the Low THC Cannabis Dispensing Organization for the Southeast region pursuant to section 381.986, Florida

Statutes and Chapter 64-4, Florida Administrative Code. Redland Nursery's substantial interests are affected because its application to become the Low THC Cannabis Dispensing Organization for the Southeast region was denied by the Department. For the purpose of this proceeding, the address, telephone number and email address of Redland Nursery is that of its undersigned counsel.

Notice of Agency Determinations

3. Redland Nursery received notice of the Department's denial of its application on November 23, 2015. (See, Exhibit A, attached hereto). Additionally, this petition challenges the approval of the application filed by Costa Nursery Farms, LLC ("Costa Nursery") because only one Low THC Cannabis Dispensing Organization can be approved for the Southeast region. (See, Exhibit B, attached hereto). This petition has been filed within twenty-one days of the denial of Redland Nursery's application and the approval of Costa Nursery's application.

Disputed Issues of Material Fact

4. The disputed issues of material fact in this case include whether the application filed by Redland Nursery is the best application submitted for the Southeast region and, as such, should have been scored higher than the Costa Nursery application and all other applications filed for the Southeast region, and whether the application filed by Costa Nursery and all applications filed for the Southeast region meet the mandatory requirements of section 381.986, Florida Statutes and Chapter 64-4, Florida Administrative Code.

Ultimate Facts

5. The application filed by Redland Nursery complies with all mandatory requirements of section 381.986, Florida Statutes and Chapter 64-4, Florida Administrative Code. In addition, it is the best application submitted for the Southeast region and Redland

Nursery should be selected as the Low THC Cannabis Dispensing Organization for the Southeast region.

Statutes and Rules That Require Reversal

6. The statutes and rules that require reversal of the Department's proposed action include sections 120.57(1), 120.60, and 381.986, Florida Statutes and Chapter 64-4, Florida Administrative Code.

Relief Sought by Petitioner

WHEREFORE, Petitioner, Redland Nursery, Inc., respectfully requests:

- a) that this petition be transferred to the Division of Administrative Hearings for the assignment of an administrative law judge to conduct a hearing involving disputed issues of material pursuant to section 120.57(1), Florida Statutes; and
- b) that a recommended order and a final order be entered selecting Redland Nursery as the Low THC Cannabis Dispensing Organization for the Southeast region.

RESPECTFULLY SUBMITTED this 14th day of December, 2015.



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Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

November 23rd, 2015

Redland Nursery, Inc.
18455 SW 264th Street
Homestead, FL 33031-1883

Re: Low-THC Cannabis Dispensing Organization Application

Dear Applicant:

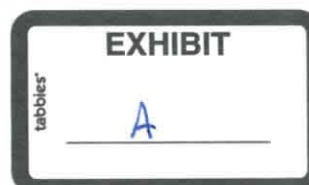
Redland Nursery, Inc.'s Application to become a Low-THC Cannabis Dispensing Organization for the Southeast region has been substantively reviewed, evaluated, and scored by a panel of evaluators according to the requirements of Section 381.986, Florida Statutes and Chapter 64-4, of the Florida Administrative Code. As Redland Nursery, Inc. was not the highest scored applicant in the Southeast region, your application for the Southeast region is denied.

Sincerely,

Dr. Celeste Philip
Deputy Secretary for Health

CB/cc

Cc: Office of the General Counsel



NOTICE OF RIGHTS

This notice is agency action for purposes of section 120.569, Florida Statutes. A party whose substantial interest is affected by this action may petition for an administrative hearing pursuant to sections 120.569 and 120.57, Florida Statutes. A petition must be filed in writing and must be received by the Agency Clerk within twenty-one (21) days from receipt of this notice. The petition may be mailed to the Agency Clerk, Department of Health, 4052 Bald Cypress Way, BIN #A-02, Tallahassee, FL 32399-1703; hand delivered to the Agency Clerk, Department of Health, 2585 Merchants Row Blvd., Prather Building, Suite 110, Tallahassee, FL; or sent by facsimile to (850) 413-8743. Such petition must be filed in conformance with Florida Administrative Code Rules 28-106.201 or 28-106.301, as applicable.

Mediation is not available.

Failure to file a petition within 21 days shall constitute a waiver of the right to a hearing on this agency action.

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November 23rd, 2015

Costa Nursery Farms, LLC
22290 SW 162 Avenue
Gloucs, FL 33170

Re: Low-THC Cannabis Dispensing Organization Application

Dear Applicant:

I am pleased to inform you that Costa Nursery Farms, LLC's Application to become a Low-THC Cannabis Dispensing Organization for the Southeast region has been substantively reviewed, evaluated, and scored by a panel of evaluators according to the requirements of Section 381.986, Florida Statutes and Chapter 64-4, of the Florida Administrative Code. As your application received the highest score for the Southeast region, your application is granted. Costa Nursery Farms, LLC's is approved as the dispensing organization for the Southeast region of Florida.

Costa Nursery Farms, LLC has 10 business days to post a \$5 million performance bond in accordance with Rule 64-4.002(5)(e), of the Florida Administrative Code. The original bond, payable to the Florida Department of Health, must be received by the Department no later than 5:00 PM EST on December 9th, 2015. If the performance bond is canceled and Costa Nursery Farms, LLC fails to file a new bond with the Department in the required amount on or before the effective date of cancellation, Costa Nursery Farms, LLC's approval shall be revoked.

Costa Nursery Farms, LLC must notify the Department that it is prepared to be inspected and seek authorization to begin cultivation, processing, and dispensing. The following deadlines, as outlined in Rule 64-4.005, of the Florida Administrative Code, apply.

Cultivation

Costa Nursery Farms, LLC has 75 days from this approval to request Cultivation Authorization. No less than 30 calendar days prior to the initial cultivation of low-THC cannabis Costa Nursery Farms, LLC shall notify the Department that it is ready to begin cultivation, is in compliance with Section 381.986, F.S., and Chapter 64-4, of the Florida Administrative Code, and is seeking Cultivation Authorization. Failure to meet the deadline to seek Cultivation Authority may result in the revocation of the Department's approval. Please note, no low-THC cannabis plant source material may be present in any Dispensing Organization facility prior to Cultivation Authorization.

EXHIBIT

B

Costa Nursery Farms, LLC
November 23rd, 2015

Processing

No less than 10 calendar days prior to the initial processing of low-THC cannabis, Costa Nursery Farms, LLC must notify the Department that it is ready to begin processing, is in compliance with Section 381.986, F.S., and Chapter 64-4, of the Florida Administrative Code, and is seeking Processing Authorization.

Dispensing

Costa Nursery Farms, LLC must begin dispensing derivative product within 210 calendar days of being granted cultivation authorization. No less than 10 calendar days prior to the initial dispensing of derivative product, Costa Nursery Farms, LLC must notify the Department that it is ready to begin dispensing, is in compliance with Section 381.986, F.S., and Chapter 64-4, of the Florida Administrative Code, and is seeking Dispensing Authorization. Failure to meet the deadline to begin dispensing may result in the revocation of the Department's approval.

Finally, submission of an application for Dispensing Organization approval constitutes permission for entry by the Department at any reasonable time, into any Dispensing Organization facility to inspect any portion of the facility; review the records required pursuant to Section 381.986, F.S., or Chapter 64-4, of the Florida Administrative Code; and identify samples of any low-THC cannabis or Derivative Product for laboratory analysis, the results of which shall be forwarded to the Department.

Once again, congratulations on receiving approval to become the Low-THC Dispensing Organization for Southeast region. Should you have any questions about this approval, please contact the Florida Department of Health, Office of Compassionate Use.

Sincerely,



Dr. Celeste Philip
Deputy Secretary for Health

CB/cc
Cc: Office of the General Counsel

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