

DECISION OF THE CANNABIS LICENSING BOARD (the “Board”)

February 10, 2020

ITEM #19-12

IN THE MATTER OF AN APPLICATION BY:

Cannilux Inc.

FOR:

Sub-class 2 Cannabis Retail Licence, for Cannilux Inc. at Unit 4, 151 Industrial Road in Whitehorse, Yukon under the *Cannabis Control and Regulation Act*, SY 2018, c. 4

Board

**David Sloan – Chair
James Lindsay – Member
John Farynowski – Member**

Applicant

Cannilux Inc.

Yukon Liquor Corporation

**Will Tewnion – Director, Regulatory Services
Mark Manolis – Licensing and Compliance Officer**

OVERVIEW

On September 19, 2019, the President of the Yukon Liquor Corporation received an application (the "Application") from Cannilux Inc. (the "Applicant") for a Sub-class 2 Cannabis Retail License (the "License"). Pursuant to the Application, the Applicant is requesting the issuance of the License for BUDS by Cannilux, at 4-151 Industrial Road, Whitehorse Yukon.

The Application was deemed complete by the President on December 24, 2019. Accordingly, the President delivered a copy of the Application to the Cannabis Licensing Board (the "Board") and circulated public notice of the Application by placing ads in the Whitehorse Star on January 3, January 10 and January 17, 2020. Public notice was also posted on the Yukon Liquor Corporation web page and Yukon Liquor Corporation Facebook page, and letters were sent to the local municipality, City of Whitehorse, and to the local First Nation governments, Kwanlin Dün First Nation and Ta'an Kwäch'än Council.

Members of the public were given the opportunity to object to the Application during the four-week objection period, which ran until 3:00 p.m. on January 21, 2020.

No objection was received. As such, the Board reviewed the Application pursuant to section 31 of the Cannabis Control and Regulation Act SY 2018, c. 4 (the "CCRA").

ISSUE

Taking into account the Application, the relevant considerations set out in section 2 of the CCRA, the public interest, and the conformity of the Application to requirements set out in the CCRA and accompanying regulations, will the Board:

- (a) grant the licence;
- (b) grant the licence subject to conditions; or
- (c) refuse to grant the licence?

DECISION

Having considered the Application, and taking into account the relevant considerations enumerated in section 1 of the CCRA, the requirements imposed by the CCRA and accompanying regulations, and after determining that a grant of the licence would be in the public interest, the Board has decided to issue a sub-class 2 licence without conditions for the period from the date of the issuance of the licence by the president until March 31, 2022, for the premises located at Unit 4, 151 Industrial Road in Whitehorse, Yukon.

LAW

In reaching its decision on the issue, the Board considered the following legislation:

Cannabis Control and Regulation Act, SY 2018, c.4, and in particular sections 1, 2, 16, 17, 21, 25, 26, 27, 28, 30, 31, 53, 55, 57, 79, and 80;

Cannabis Control and Regulation General Regulation, O.I.C. 2018/184, and in particular, sections 4, 7, 11, 12, and 14;

Cannabis Licensing Regulation, O.I.C. 2019/42, Section 3;

Cannabis Licensing Regulation, O.I.C. 2019/43, and in particular sections 2, 3, 4, 5, 6, 7, 8, 10, and 16; and

Cannabis Licensing Regulation, O.I.C. 2019/45, Section 2.

EVIDENCE BEFORE THE BOARD:

The Board considered the written Application submitted by the Applicant and the President’s inspection report.

ANALYSIS OF LAW AND EVIDENCE:

Section 31 of the *CCRA* directs the Board as follows:

Decision of the Board no Objection Received

31(1) If no objection to the granting of the licence has been served under subsections 29(1) and (2), the board must make one of the following decisions, taking into account the application received under paragraph 27(6)(b) and other documents received under subsection 30(1) and the relevant considerations:

- (a) to grant the licence, for the licence period that it determines, that contains no conditions additional to the statutory conditions, if satisfied that
 - (i) the requirements of this Act and the regulations have been complied with,
 - (ii) to grant the licence would be in the public interest, and
 - (iii) it is not necessary for the licence to contain any additional conditions;
- (b) to grant the licence, for the licence period that it determines, on the conditions additional to the statutory conditions that the board determines to be appropriate, if satisfied that
 - (i) the requirements of this Act and the regulations have been complied with,
 - (ii) to grant the licence would be in the public interest, and
 - (iii) it would be beneficial for the licence to contain those additional conditions;
- (c) to refuse to grant the licence, if not satisfied that
 - (i) the requirements of this Act and the regulations have been complied with, or
 - (ii) it would be in the public interest to grant the licence.

The “documents received under subsection 30(1)” include:

Consideration of Application

30(1) Without delay after the service described in subsection 29(2), the president must give the following documents to the board, and a copy of them to the applicant:

- (a) any comments on the application or the applicant that the president may have, including with respect to the licence period of the licence applied for;
- (b) any objection served on the president within the four weeks referred to in subsection 29(1);
- (c) a report of an inspection or investigation arranged for under subsection 27(7);
- (d) any other relevant information of which the president is aware (Emphasis Added).

The “**relevant considerations**” referred to in section 33(1) of the *CCRA* are defined in section 2 of the *CCRA*:

“relevant considerations”, in relation to an application for a licence, means the following:

- (a) the number of licences, and of different types of licences, in the area in which the premises where it is proposed that cannabis would be sold are situated,
- (b) the population of the area, including
 - (i) seasonal variations in the population, and
 - (ii) variations in the population both in the immediate area where the premises are situated and more distant areas capable of being served by the premises,
- (c) any economic benefit in the area that could reasonably be expected to flow from the business of the sale of cannabis,
- (d) the expressed views of the population, both in the immediate area surrounding the premises and more distant areas capable of being served by the premises, of the need for, or desirability of, licensed premises in the area, including the need to serve the projected travelling public in the area,
- (e) the amount of the actual or projected capital expenditure made or to be made by the applicant in relation to the premises,
- (f) whether the premises
 - (i) conform to the requirements of all relevant enactments,
 - (ii) are constructed so as to be sanitary and secure, and
 - (iii) are otherwise suitable for the carrying on of the business of the sale of cannabis in a reputable way,
- (g) the extent to which the applicant is financially responsible and is otherwise of good character and a fit person to keep and operate the premises and to be a licensee,
- (h) whether the applicant is the owner of, or the lessee for a term of at least the proposed licence period of the licence of, the premises,
- (i) the compliance history of the applicant in relation to the conditions of a licence, a licence under the Liquor Act, or a licence under an Act regulating cannabis or liquor in another jurisdiction, held by the applicant before or at the time of the application,
- (j) the sufficiency of the arrangements proposed by the applicant for operating and controlling the premises in accordance with the statutory conditions,
- (k) a matter prescribed to be a relevant consideration.

Taken together, these sections of the *CCRA* require the Board to grant or refuse a licence, with or without conditions, based on a review of the documents in its possession and representations of persons served with a notice of hearing, after taking into account the relevant considerations, determining that the requirements of the *CCRA* and accompanying regulations have been complied with, and deciding whether or not a grant of the licence would be in the public interest.

In accordance with the reasons that follow, and taking into account the relevant considerations prescribed by the *CCRA*, the Board is satisfied that the grant of this license is in the public interest, and that the Applicant has met or exceeded the requirements of the *CCRA* and accompanying regulations.

Relevant Considerations

(a) the number of licences, and of different types of licences, in the area in which the premises where it is proposed that cannabis would be sold are situated,

The Board acknowledges the existence of one active liquor licenses in the area and two cannabis licenses farther than 100m from the License Site.

(b) the population of the area, including

(i) seasonal variations in the population, and

(ii) variations in the population both in the immediate area where the premises are situated and more distant areas capable of being served by the premises,

The Licence Site is located in the downtown area of Whitehorse, Yukon. The Board accepts that the population of Whitehorse is approximately 31,527, and that there are approximately 3,108 residents living in the downtown core. As a popular tourism destination, the Whitehorse population fluctuates considerably year round. Based on a Tourism Yukon assessment of visitor populations in 2012, the Territory receives approximately 317,200 visitors between June 1, and September 1, and 75,700 visitors between October 1, and April 1, of each year.

Although not explicitly required as part of this consideration, the Board takes notice of the fact that the intended location of Cannilux is not in a residential area. This area is primarily industrial.

(c) any economic benefit in the area that could reasonably be expected to flow from the business of the sale of cannabis,

The Applicant has provided indicia in its Application and that the proposed business will confer an economic benefit on the surrounding area.

The Applicant will hire eight employees. The Applicant projects to spend a significant amount in annual salaries for those employees. The Applicant entered a lease agreement for the Licence Site and has projected a capital investment for construction and design for the Licence Site. The Applicant also intends to allocate 3.33% of sales to community programs.

The Board accepts these submissions as evidence of anticipated economic benefit. The Board also recognizes that local construction, and communication businesses will benefit from initial capital investments made by the Applicant.

(d) the expressed views of the population, both in the immediate area surrounding the premises and more distant areas capable of being served by the premises, of the need for, or desirability of, licensed premises in the area, including the need to serve the projected travelling public in the area,

No objections were received.

(e) the amount of the actual or projected capital expenditure made or to be made by the applicant in relation to the premises,

The Applicant references a substantial capital expenditure in the Application. The Applicant has indicated these funds are required for the renovations, equipment, security, and other costs associated with setting up the premises.

(f) whether the premises

- a. conform to the requirements of all relevant enactments,**
- b. are constructed so as to be sanitary and secure, and**
- c. are otherwise suitable for the carrying on of the business of the sale of cannabis in a reputable way,**

The Board understands that the Applicant's Licence Site conforms to City of Whitehorse bylaw restrictions that are currently in effect.

(g) the extent to which the applicant is financially responsible and is otherwise of good character and a fit person to keep and operate the premises and to be a licensee,

The applicant demonstrates financial responsibility and is of good character.

(h) whether the applicant is the owner of, or the lessee for a term of at least the proposed licence period of the licence of, the premises,

The applicant is the lessee.

(i) the compliance history of the applicant in relation to the conditions of a licence, a licence under the Liquor Act, or a licence under an Act regulating cannabis or liquor in another jurisdiction, held by the applicant before or at the time of the application,

Not applicable to this applicant.

(j) the sufficiency of the arrangements proposed by the applicant for operating and controlling the premises in accordance with the statutory conditions,

The lessee will be making renovations, which will be inspected by YLC.

Statutory Requirements

Generally, and based in large part on the considerations in the above portion of this decision, the Board finds the Application to be in conformity with the requirements of the CCRA and the accompanying regulations.

Public Interest

The Board is satisfied that on balance, and taking into consideration all of the evidence before it, including the Objection reviewed in this decision, public interest will be served by granting the licence to the Applicant.

CONCLUSION

Based on the completeness of the application, which led to the Board reaching its final decision, to grant a sub-class 2 licence without conditions to the Applicant for the period from the date of the issuance of the licence by the president until March 31, 2022, for the premises located at Unit 4, 151 Industrial Road in Whitehorse, Yukon.

Signed on behalf of the Board:



David Sloan

Chair, Cannabis Licencing Board