

CANNABIS LICENSING BOARD

Application #21-01

IN THE MATTER OF AN APPLICATION BY

Happy Trails Cannabis Ltd.

APPLICANT

FOR:

Sub-class 2 Cannabis Retail Licence
Cannabis Control and Regulation Act, SY 2018, c. 4

PLACE AND DATE OF HEARING: Video Conference,
June 29, 2021 at 10:00am

PRESENT IN PERSON:

Board

David Sloan – Chair
James Lindsay – Member
John Farynowski – Member
Hilary Lubbers – Secretary

Applicant(s)

Rowena Shannon, Applicant
Sandy Sierra, Officer (General Manager)

Yukon Liquor Corporation

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

Objector(s)

Dalyce Stubenberg (Not present)
Chief Stephen Charlie, Liard First Nations

OVERVIEW

1. On, March 11, 2021, the President of the Yukon Liquor Corporation received an application (the “Application”) from Rowena Shannon (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 Happy Trails Cannabis Ltd, at 516 Adela Trail, Watson Lake, YT.
2. The Application was deemed complete by the President on May 4, 2021. 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 Yukon News on May 7, 14 and 21, 2021. Public notice was also posted on the Yukon Liquor Corporation web page, and letters were sent to the local municipality (Watson Lake), and to the local First Nation government (Liard First Nation).

3. Members of the public were given the opportunity to object to the Application during the four-week objection period, which ran until 3:00pm on June 4, 2021.
4. The President received 2 objections within the objection period. The objections received were as follows: Dalyce Stubenberg, Watson Lake resident, sent in an objection by email on June 4, 2021; Chief Stephen Charlie of the Liard First Nations, sent an objection email on June 4, 2021.
5. The President delivered a copy of the objections to the applicant and the prescribed groups as well. Upon receiving the objections, the Board served a notice to the Applicant, the Objectors, and the President on June 10 and 11, 2021 advising that a hearing would be held on June 29, 2021 at 10:00am to consider the Objections.
6. Pursuant to section 32, the hearing proceeded as scheduled on June 29, 2021 at 10:00am. The hearing was scheduled so that each Objection may be heard and responded to one at a time.
7. Attending the hearing by video conferencing was one of the applicants, Sandy Sierra. In person was lead Licensing and Compliance Officer, Mark Manolis, Director Regulatory Services, Will Tewnion, 3 Board members: David Sloan, John Farynowski and James Lindsay, Secretary to the Board, Hilary Lubbers and objector Chief Charlie, Liard First Nations. Not in attendance was objector Dalyce Stubenberg.

ISSUE

8. 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?

LAW

9. 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, 29, 30, 32, 33, 53, 55, 57, 79, 80;
Cannabis Control and Regulation General Regulation, O.I.C. 2018/184., and in particular, sections 4, 7, 11, 12, 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, 16; and
Cannabis Licensing Regulation, O.I.C. 2019/45., Section 2.

EVIDENCE BEFORE THE BOARD:

10. The Board considered the written Application submitted by the Applicant, the President's application analysis, the Objector's written Objection, and the Applicant's reply to the Objections.

ANALYSIS OF LAW AND EVIDENCE:

11. The relevant portions of section 33 of the CCRA direct the Board as follows:

Decision of board after hearing

33(1) After the hearing, the board must make one of the following decisions, taking into account the documents received under subsection 30(1), the relevant considerations and any representations of the persons served with notice of hearing:

- 12. to grant the licence, for the licence period that it determines, that contains no conditions additional to the statutory conditions, if satisfied that*
 - a. the requirements of this Act and the regulations have been complied with, to grant the licence would be in the public interest,*
 - b. it is not necessary for the licence to contain additional conditions;*
- 13. 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*
 - a. the requirements of this Act and the regulations have been complied with,*
 - b. to grant the licence would be in the public interest, and*
 - c. it would be beneficial for the licence to contain those additional condition*
- 14. to refuse to grant the licence, if not satisfied that*
 - a. the requirements of this Act and the regulations have been complied with, or*
 - b. it would be in the public interest to grant the licence. (Emphasis Added)*

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

Consideration of Application

16. 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).

17. 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.
18. 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.
19. 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

20. 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,
21. the population of the area, including
 - a. seasonal variations in the population, and
 - b. 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,
22. any economic benefit in the area that could reasonably be expected to flow from the business of the sale of cannabis,
23. 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,
24. the amount of the actual or projected capital expenditure made or to be made by the applicant in relation to the premises,
25. 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,
26. 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,
27. 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,
28. 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,
29. the sufficiency of the arrangements proposed by the applicant for operating and controlling the premises in accordance with the statutory conditions,

Statutory Requirements

30. 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.

The Objections

31. The President received 2 emailed objections, one from Dalyce Stubenberg and one from Chief Stephen Charlie on June 4, 2021.
32. The Objector Dalyce Stubenberg did not attend the virtual hearing on June 29, 2021. The Objector Chief Stephen Charlie attended the virtual hearing on June 29, 2021 at 10:30am. Their objections can be summarized/reproduced as follows:
33. Dalyce Stubenberg's objections:
 - a. Proximity of the proposed retail store interfered with enjoyment of property
 - b. Septic/well issues
 - c. Concerns raised regarding character of the applicants spouse. Specifically the selling of uninspected produce
 - d. Personal behavior of the applicants spouse regarding liquor and cannabis use
34. Chief Stephen Charlie's objections:
 - a. Conflict with the applicant's spouse regarding personal behaviors
 - b. Jurisdictional questions that exceed the authority of the board
 - c. Lack of consultation and involvement in the process

Issues Raised By the Objector(s)

35. The Board understands the Objection to consist of the following elements:
 - a. Concerns of the level of involvement of the applicant's spouse with the retail process
 - b. Concerns about issues unrelated to the application. Specifically, sewage issues and sale of uninspected farm produce
 - c. Lack of consultation regarding cannabis legalisation and impact of First Nations communities

Analysis of the Objection(s)

36. Concerns of the level of involvement of the applicant's spouse with the retail process
 - a. Assurances were given by the representative of Happy Trails Cannabis that there will be no involvement of applicant's spouse in the operations of any proposed retail outlet.
37. Concerns about issues unrelated to the applications. Specifically, sewage issues and sale of uninspected farm produce
 - a. The board does not see these objections as being relevant to this application.
38. Lack of consultation regarding cannabis legalisation and impact of First Nations communities
 - a. Chief Stephen Charlie raised the issue of First Nations lands and jurisdiction thereof. There were consultations raised in 2017 and 2018 in the community of Watson Lake prior to the legalisation of cannabis. These issues are beyond the scope of the licensing board.

Public Interest

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

DECISION

40. Having considered the Application the objections, the applicant's response to the objections 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 granting the licence would be in the public interest, the Board has decided to issue a sub-class 2 license without conditions for the period from the date of the issuance of the licence by the president until March 31, 2024.

CONCLUSION

41. In reaching the decision, the board was satisfied that the proposed management of Happy Trails Cannabis would remain independent of outside influences presented by the objectors. This led to the Board reaching its final decision to grant a sub-class 2 licence without conditions to Happy Trails Cannabis for the period from the date of the issuance of the licence by the president until March 31, 2024 for the premises located at 516 Adela Trail located in Watson Lake.

Signed on behalf of the Board:

A handwritten signature in black ink, appearing to read 'David Sloan', is written over a horizontal line.

David Sloan

Chair, Cannabis Licencing Board