



February 9, 2022

Kittery Planning Board
200 Rogers Road
Kittery, ME 03904

Re: February 10, 2022 Planning Board Hearing

Dear Planning Board Members,

Please be advised that Sweet Dirt, through counsel, objects to consideration of applications for marijuana retail business licenses while there is an ongoing criminal investigation into the Town of Kittery's license invitation lottery process. I have attached our counsel's correspondence to the Town of Kittery's counsel for additional information about our objection.

Thank you for your attention to this matter. We implore you to temporarily pause all consideration of marijuana retail business license applications unless and until the Office of Attorney General provides notice that it has concluded its investigation.

We appreciate the Planning Board's time in hearing our public comment.

Sincerely,
Sweet Dirt

Attachment



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February 9, 2022

BY EMAIL ONLY

Kristin M. Collins, Esq.
KCollins@preti.com

Stephen E. F. Langsdorf
SLangsdorf@preti.com

Re: The Marijuana Retail Business License Invitation Lottery

Dear Kristin and Stephen:

We have carefully reviewed the letter that the Town of Kittery received from the Office of the Maine State Attorney General (OAG), dated January 14, 2022, and your response, on the Town's behalf, dated January 26, 2022.

As you know, based on its investigation to date, the OAG believes that the marijuana retail business license invitation lottery constituted unlawful gambling—a criminal offense under 17-A M.R.S. § 954. While the OAG invited you to address its concerns, it has not notified the Town that your response sufficiently did so. In fact, as Stephen told me during our conversation yesterday, you have not heard anything from the OAG since submitting the Town's response.

Yet, despite an ongoing criminal investigation into Kittery's marijuana license invitation procedure, the Town is proceeding under the results of that illegal lottery, considering one applicant's planning board submission for completion tomorrow night (February 10, 2022). Sweet Dirt believes it would be entirely improper for any Town of Kittery committee to take action on a marijuana retail business license application while the OAG's criminal investigation is ongoing. We therefore respectfully request that all Town committees refrain from considering marijuana retail business license application material unless and until the OAG provides notice that it has discontinued its investigation and is satisfied with the legality of Kittery's lottery procedure.

We request that this letter be entered on the public record as part of the public comment concerning Item 1 of the February 10, 2022 planning board meeting agenda, and be made accessible on the Town's website today.

Sincerely,

/s/ Michael E. Strauss

Michael E. Strauss

Bart McDonough

From: Kendra Amaral
Sent: Wednesday, February 9, 2022 3:56 PM
To: Bart McDonough
Cc: Adam Causey; Dutch Dunkelberger; Karen Kalmar
Subject: FW: Correspondence from Sweet Dirt Attorney
Attachments: 2022-02-09 - LT Town counsel re. AG Investigation (revised for public comment).pdf

Hello Bart,

Please include this communication with the materials for the Planning Board. It is not public comment (since our attorney's are hired by the Town), but it should be included in what is posted online and provided to the Planning Board.

Hope this is helpful. Let me know if there are any questions.

Thank you,
Kendra

From: Langsdorf, Stephen E. F. <SLangsdorf@preti.com>
Sent: Wednesday, February 9, 2022 3:49 PM
To: Kendra Amaral <KAmaral@kitteryme.org>
Cc: Patricia Moore <PMoore@kitteryme.org>; Collins, Kristin M. <KCollins@preti.com>
Subject: Correspondence from Sweet Dirt Attorney

Kendra, attached is correspondence from the attorney for Sweet Dirt which he has requested be included in the public record. He has asserted that it is improper for the Planning Board to proceed with its review of the marijuana license applications because of a letter the Town received from the Maine Attorney General's office dated January 14, 2022. The AG's letter raised questions about the legality of the licensing process. As you know, we, as Town Attorneys, sent a response to the AG on January 26, 2022 explaining the process and particularly why the Town's ordinance does not violate any Maine statutes. The AG's office has not responded to the letter. There are no pending injunctions or cease and desist letters which would impact the Town's process set forth in the ordinance. Accordingly there is no legal reason at this time not to continue with the Planning Board's review of the license applications. Please let me know if you have questions.

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