

Ohio Releaf a Level I Cultivator license to grow medical marijuana as part of Ohio's medical marijuana control program (which medical marijuana would then be processed by "processors" and delivered to "dispensaries" where patients could purchase it). Ohio Releaf also seeks a mandatory injunction and a declaratory judgment ordering Director Williams and Commerce to identify the hearing examiner for Ohio Releaf's Chapter 119 hearing, so that subpoenas can be issued for documents Ohio Releaf needs to ultimately conduct the Chapter 119 hearing. Commerce has previously represented to the Ohio Medical Marijuana Advisory Committee that hearing examiners have been selected by Commerce for the Chapter 119 hearings that have been requested. Ohio Releaf has repeatedly requested its Chapter 119 hearing be scheduled and the hearing examiner identified yet – **over two months later** – Commerce has still not scheduled the hearing, identified the hearing examiner assigned to its case, or even provided Ohio Releaf with potential dates for the hearing. This despite Commerce taking the express public position that unsuccessful Cultivator applicants, such as Ohio Releaf, cannot substantively challenge the application process and the results of that process in any Ohio Court until Ohio Releaf has completed the Chapter 119 hearing process. Ohio Releaf cannot **complete** the Chapter 119 hearing process because Commerce will not allow Ohio Releaf to **start** that process.

2. There were serious errors and irregularities in the evaluation and scoring of Ohio Releaf's application. Ohio Releaf responded fully and completely to nearly two dozen sections and subsections of Commerce's Cultivator I application, yet received **no** points for those responses. Had Ohio Releaf received the points for these responses that it deserved, it would have received one of the Cultivator I provisional licenses. In addition, Commerce's scoring rubric utilized unannounced, undefined, and vague criteria in numerous sections and subsections, which Ohio Releaf would have fully and completely responded to if that criteria had been

disclosed. This unannounced criteria further robbed Ohio Releaf of points to which it was entitled. Commerce then – after application submission – publicly demonstrated bias against applicants, such as Ohio Releaf, who proposed greenhouse cultivation facilities, after encouraging applicants to propose greenhouse facilities at all times leading up to application submission. These errors are in addition to Commerce employing a third-party “subject matter expert” with a felony conviction and employing two other “subject matter experts” who had improper conflicts of interest with at least one other Cultivator I applicant receiving a provisional license, while utilizing a scoring rubric with arbitrary and capricious point allocations, assignments, and spreads. This was a process riddled with serious and material errors that resulted in wholly unreliable and unfair results and were arbitrary, capricious and contrary to the law and the request for applications.

3. In this case Ohio Releaf also seeks a writ of mandamus ordering Director Williams and Commerce to respond immediately to a public records request Ohio Releaf made to Commerce on **December 13, 2017**, over **three months ago**. Ohio Releaf’s public records request seeks public records regarding the operation of the Cultivator I application process, including how evaluators were vetted and chosen; how the underlying application and evaluation/scoring instructions and rubric were developed; and how the applications were evaluated and scored. These requested public records are those that were integral to the selection of the evaluators, the development of the application, the scoring of the applications Commerce received, and how Commerce reached its conclusions regarding who to award provisional licenses. These public records are not obscure or difficult to find – indeed they are the public records that form the bases for Commerce’s decision to award the provisional licenses at issue. These records consist of emails to and from the individuals specifically involved in the

development of the application and scoring rubric and in the evaluation of applications, and records contained on a web portal specifically designed by Commerce to house records related to the Cultivator I application evaluation and scoring process. And, upon information and belief, this same web portal is being utilized for the current evaluation and scoring of processor and/or dispensary applications, the provisional license awards of which are expected to be announced soon. In a December 14, 2017 PowerPoint presentation to the Ohio Medical Marijuana Advisory Committee (a true and accurate copy of which is attached as Exhibit A), Director Williams and Commerce touted the allegedly robust and detailed nature of the Cultivator I application development and evaluation process. Yet now, over three months later, they have not produced the underlying public records about that process, despite specific requests for those records made by Ohio Releaf.

4. Director Williams and Commerce are required under the Ohio Public Records Act to fully respond to Ohio Releaf's request and produce all responsive public records to Ohio Releaf. In direct violation of Ohio law, they have not. And, despite repeated requests from Ohio Releaf, Director Williams and Commerce refuse to provide any timetable for when they will. The actions (or more accurately, inaction) of Director Williams and Commerce with regard to Ohio Releaf's public records request are particularly prejudicial here, as Ohio Releaf needs the public records to prepare for and prosecute its Chapter 119 hearing. Director Williams and Commerce are improperly withholding these records from Ohio Releaf – and have been doing so now for months.

5. As will be detailed in this Complaint, Ohio Releaf has been tirelessly working in good faith to obtain Director Williams' and Commerce's compliance with its mandatory obligations under Ohio law to schedule Ohio Releaf's Chapter 119 hearing and provide Ohio

Releaf with the public records it has requested. Ohio Releaf's efforts have been to no avail. With time running out before final Cultivator I licenses are to go into effect (on September 8, 2018), Ohio Releaf has been left with no choice but to file this lawsuit to compel Commerce to do what it is statutorily required to do under Ohio law: schedule Ohio Releaf's Chapter 119 hearing and identify the assigned hearing examiner and provide Ohio Releaf with the public records it requested.

Parties and Background

6. Ohio Releaf is an Ohio limited liability company. Ohio Releaf is part of the largest cultivating, processing, and dispensing medical marijuana operations in the United States, with affiliated operations currently in California and Arizona. Indeed, one greenhouse utilized in the Arizona operations is larger in square footage than **all** of the currently proposed medical marijuana Level I cultivation facilities in Ohio **combined** and has passed all State inspections to date. Ohio Releaf is well capitalized and an industry leader in operations, quality assurance, and security in the field of medical marijuana cultivation, processing and distribution.

7. Commerce is a "public office" as that term is defined under Ohio Revised Code §149.011(A), and has custody of the public records which are the subject of this action. Commerce is also an "agency" as that term is defined in Ohio Revised Code §119.01(A)(1).

8. Director Williams is a "public official" as that term is defined under Ohio Revised Code § 149.011(D), and has custody of the public records which are the subject of this action.

9. Jurisdiction and venue are proper in this Court pursuant to Article IV, §2(B)(1)(b) of the Ohio Constitution, Ohio Revised Code §149.43(C)(1), Ohio Revised Code Chapter 119, and Rule 3(B)(4) and (6) of the Ohio Rules of Civil Procedure.

10. Under Ohio Revised Code §149.43(A)(1), “public record” means “records kept by any public office, including, but not limited to state. . . units.”

11. Ohio’s medical marijuana control program (or “MMCP”) has its beginning in the passage of H.B. 523 on September 8, 2016. The MMCP is a part of and administered by Commerce. Under the MMCP, people with certain medical conditions may purchase and use medical marijuana, provided they obtain a recommendation from an Ohio-licensed physician certified by the Ohio Medical Board. The statutes that govern the MMCP are found in Chapter 3796 of the Ohio Revised Code. The regulations controlling the MMCP are found in Chapter 3796 of the Ohio Administrative Code.

12. During 2017, Commerce developed the application and “scoring rubric” to be utilized to select the entities to be awarded one of 12 available Cultivator I provisional licenses. According to Commerce, Commerce employees reviewed legal challenges to medical marijuana procurements in other states and conversed with regulators in other states to assist in developing the Cultivator I application and associated scoring rubric. See Exhibit A. Commerce also hired at least three outside “subject matter experts” to assist in developing the Cultivator I application and scoring rubric and/or to participate in the actual evaluation and scoring of the Cultivator I applications ultimately submitted. Id.

13. Commerce decided to break the Cultivator I application into two sections. Section 1 required applicants to provide basic company information, including, but not limited to, ownership and employee information, tax records, and information regarding the applicant’s capitalization and funding sources. Section 1 was scored on a pass-fail basis (based on the information provided by each applicant, the accuracy of which Commerce did not verify).

Section 2 of the application was where each applicant provided the details of its proposed cultivator facility and associated operations.

14. Section 2 was divided into five subsections or “plans” worth a total of 100 points: (1) Business Plan (worth 10 maximum points); (2) Operations Plan (30 points); (3) Quality Assurance Plan (30 points); (4) Security Plan (20 points); and (5) Financial Plan (10 points). Section 2 of each applicant’s application was reviewed by a 3-member “team” of evaluators. One team reviewed the Business and Financial plans, and three additional teams reviewed the Operations, Quality Assurance, and Security plans. A conversion factor was then applied to each applicants’ raw score for each of the five Plans, and those scores added together to obtain a final overall score for each applicant. After utilizing the conversion factor for each of the 5 “plans,” the total available points increased from 100 to 200. If an applicant failed to receive at least 60% of the available points for any one of the plans, or failed to receive at least 60% of the overall available points, the applicant was disqualified.

15. From June 19, 2017 through June 30, 2017, Commerce accepted applications from applicants interested in receiving a Level I Cultivator provisional medical marijuana license. Applicants awarded a Level I Cultivator provisional medical marijuana license are eligible to then receive a Certificate of Operation from Commerce permitting them to operate an initial marijuana cultivation area of up to 25,000 square feet.

16. On June 30, 2017, Ohio Releaf timely submitted its Level I Cultivator application to Commerce. In total, Commerce received 109 Level I Cultivator license applications.

17. On November 30, 2017, Commerce announced that there were 12 successful applicants who were each awarded a Level I Cultivator provisional license. Ohio Releaf was not one of the 12 successful applicants.

18. Seventy-three of the 109 applications submitted (66.9%), including Ohio Releaf's, were disqualified. Upon information and belief, the disqualification average in other states is approximately 5%.

19. Ohio Releaf received formal notice from Commerce of Commerce's intent to deny/disqualify Ohio Releaf's application on December 19, 2017. Ohio Releaf then timely requested a Chapter 119 hearing to challenge this determination on January 11, 2018.

20. Since the announcement of the provisional license awards on November 30, 2017, Commerce has been plagued by serious criticisms, including from Ohio State Auditor Dave Yost, based upon multiple improprieties in the Cultivator I evaluation and scoring process. For example, one applicant, PharmaCann, was not originally awarded a provisional license due to a mathematical error in Commerce calculating its score. Commerce has acknowledged the error, but has not announced how it will redress the error (however, Commerce intimated that it will simply issue PharmaCann a license). Moreover, at least 5 of the 12 successful applicants have been accused of providing materially false information in their applications, including regarding their actual ownership structure and the locations of their proposed facilities, and 2 of the 3 "subject matter experts" have been publicized as having an improper conflict of interest with at least 1 of the successful applicants. Furthermore, Ohio Auditor Dave Yost is reviewing the Cultivator I process and has already found numerous substantial flaws that call in to question the integrity of the evaluation and scoring of the applications at issue. Auditor Yost's investigation led to finding 9 more instances (in addition to PharmaCann) where mathematical errors were made in calculating an applicant's score. Auditor Yost also found that at least two Commerce employees had improper unlimited access to the MMCP web portal and could have used that access to alter applicants' score sheets without authorization and in violation of Ohio law. While

Auditor Yost's investigation is still ongoing, Auditor Yost already concluded in a February 6, 2018 letter to Director Williams that "neither this office, nor the public, can rely upon the cultivator application score results." Id. See Exhibit B. Auditor Yost's Office's findings are based upon public records provided to Auditor Yost by Commerce. Ohio Releaf has requested those same public records be produced to it by Commerce. To date, they have not been.

21. To date, at least seven other unsuccessful applicants have filed lawsuits based in part on the significant improprieties in the Cultivator I application evaluation and scoring process, including those uncovered as part of the State Auditor's ongoing review. See Greenleaf Gardens, LLC v. Jacqueline T. Williams, Franklin Cty. Comm. Pl. Case No. 17-CV-11437 (Serrot, J.); CannAscend Ohio LLC et al v. Jacqueline T. Williams, Franklin Cty. Comm. Pl. Case No. 18-CV-1505 (Brown, J.).

Ohio Releaf's Public Records Requests.

22. After learning that it did not receive a Cultivator I provisional license, on December 13, 2017, Ohio Releaf submitted a public records request to Commerce, a true and accurate copy of which is attached as Exhibit C. Ohio Releaf's public records request sought public records regarding the operation of the Level I Cultivator application process. Specifically, Ohio Releaf sought public records related to: (1) the development of the application; (2) the development of the "scoring rubric" utilized to evaluate the applications received by Commerce; (3) how the evaluators (a mixture of State employees and third-party consultants) were chosen; (4) how each of the applications was reviewed and scored; and (5) copies of each applicant's application and the corresponding scoring sheets for each application. Id. Again, these public records should be easy to identify and to locate, as they are at the heart of how the evaluators were selected, the application and scoring records were developed, and how the winning

applicants were ultimately chosen. That same day, Commerce acknowledged receipt of Ohio Releaf's public records request and said it would "respond within a reasonable time." See Exhibit D. No date certain was given, nor were any limits on what Commerce considered "reasonable" articulated. Rather, Commerce was reserving to itself the unfettered discretion to dole out what public records it wanted to dole out when it suited its own agenda.

23. After hearing nothing further from Commerce for two weeks regarding its public records request, Ohio Releaf followed up with Commerce on December 26, 2017 with a reiteration of its demand for public records. See Exhibit E.

24. On January 2, 2018, Commerce made its first "substantive" response: Commerce produced the consensus Section 2 scoring sheets for Ohio Releaf's application. These were public records Commerce had already provided to Ohio Releaf in December. So, in reality, this was **not** a meaningful or "substantive" response.

25. Finally, on January 12, 2018, Commerce agreed to convene a telephone conference call to discuss Ohio Releaf's public records request. During this telephone conference, Commerce requested Ohio Releaf: (i) identify items from its public records request that should be "prioritized;" and (ii) provide search terms to assist Commerce in locating additional public records covered by Ohio Releaf's requests, including, but not limited to, emails. See Exhibit F. It was also during this January 12, 2018 telephone conference that Ohio Releaf learned for the first time that Commerce had a "shared drive" and web portal which were utilized during the Level I Cultivator application development and evaluation process which also contained public records covered by Ohio Releaf's public records request. Id. The shared drive and web portal were utilized by Commerce, the evaluators, and Commerce's "subject matter experts"/consultants throughout the application development, evaluation, and scoring process.

Upon information and belief, the web portal in particular was where evaluators uploaded records, including, but not limited to, their individual and/or consensus score sheets for each “plan” of each applicant’s Section 2 application.

26. As requested, on January 19, 2018, Ohio Releaf provided the requested search terms to Commerce. Id. Ohio Releaf also identified the potential custodians of the requested public records that were known to Ohio Releaf, while acknowledging that the full extent of the potential custodians was not publicly available to Ohio Releaf, but certainly known internally at Commerce. To this end, Ohio Releaf additionally identified “categories” of potential custodians, which categories Ohio Releaf prepared based upon the limited publicly available information regarding how the Level I Cultivator application process worked (from the development of the application and “scoring rubric” through the award of the 12 provisional licenses). A large portion of what Ohio Releaf knew about the process was obtained from the aforementioned PowerPoint presentation Commerce presented at the December 14, 2017 meeting of the Medical Marijuana Advisory Committee. See Exhibit A. Ohio Releaf agreed to limit the time parameters for searches. The searches were from live systems, meaning there were no back-up tapes or systems that needed to be restored and searched.

27. Since January 19, 2018, Ohio Releaf and its counsel have followed up with Commerce regarding its outstanding public records request on the following occasions (either by telephone or by email):

- (1) January 24, 2018;
- (2) February 5, 2018;
- (3) February 13, 2018;
- (4) February 15, 2018;

(5) February 17, 2018;

(6) February 28, 2018;

(7) March 1, 2018; and

(8) March 12, 2018. See attached Exhibits G, H & I. **Every time** Ohio Releaf asked about the status of these unproduced public records, Ohio Releaf heard the same thing from Commerce in response: either the records “are under legal review” or the records will be produced “in a reasonable period of time.” **Not once** was an actual timetable or plan for their production provided by Commerce to Ohio Releaf.

28. To date, Commerce has produced only a carefully curated, generic records production that is largely meaningless and not on point with many of Ohio Releaf’s actual public records requests. The limited production from Commerce so far includes only: (1) Cultivator I applications (many, including several of those who received a provisional license, which are heavily and/or entirely redacted); (2) consensus scoring and redaction sheets for Sections 1 and 2; (3) a one-page spreadsheet identifying the Section 1 and Section 2 reviewers; (4) an incomplete production of the RFIs and RFPs and responses for the “subject matter experts;” (5) the Chapter 119 hearing requests and notices scheduling (and then cancelling) 119 hearings; and (6) personnel files for State employees involved in reviewing the applications.

29. To date, with its public records request outstanding over 3 full months, the essential public records remain unproduced. Specifically, the still outstanding and unproduced public records include the following (emails and records other than emails), which make up the substantial majority of the public records Ohio Releaf requested on December 13, 2017:

- Public records regarding how the Level I Cultivator third-party consultants were vetted and selected;

- Public records regarding how the Level I Cultivator evaluators who are Commerce employees were vetted and selected;
- Public records regarding the development of the Level I Cultivator application and scoring rubric (including, but not limited to, any accompanying training materials/guides provided to the evaluators);
- Public records regarding the review, evaluation, and scoring of the Level I Cultivator applications;
- Public records Commerce provided to Auditor Dave Yost;
- Public records on the Commerce/MMCP web portal (including, but not limited to, any user's manual or guide and training materials);
- Public records regarding content, log-in access and use of the web portal; and
- Any additional public records (including emails and records located on the Commerce shared drive and web portal) collected using the search terms Ohio Releaf provided to Commerce on January 19th.

30. These public records exist and are readily available. **Indeed, many of them have been provided by Commerce already to the Ohio Auditor.** It further appears that Commerce relied in whole or in part on these records in making the representations it made to the Medical Marijuana Advisory Committee in its December 14, 2017 PowerPoint presentation. Moreover, Commerce has known since the day it received Ohio Releaf's public records request on December 13, 2017 who the custodians of these records are, what roles those custodians played in the application process, and where those records are housed. These are records of how Commerce performed its duties on behalf of the taxpayers and citizens of Ohio. They are the people's records; not privileged communications and/or the trade secrets of private parties.

31. Yet, despite repeatedly stating that the records would be produced in a "reasonable period of time," Commerce has in fact not provided these public records to Ohio Releaf in the "reasonable period of time" required by Ohio Revised Code § 149.43 of the Ohio Public Records Act. Quite the contrary, it appears Commerce is "slow rolling" the records

production to prevent Ohio Releaf from exercising its Chapter 119 rights before the Medical Marijuana Control Program becomes operational on September 8, 2018. It also appears that Commerce is “slow rolling” the production because the announcement of the applicants who will receive one of the “processor” licenses is forthcoming, and Commerce utilized the same and/or similar application and scoring rubric for the processor applications as it did for the cultivator applications. Commerce does not want a knowledgeable challenge to the scoring and evaluation process it is using for processor applications until it can again claim the protections of Chapter 119.

32. Ohio Revised Code § 149.43 **requires** Commerce, without excuse, to “promptly prepare” documents requested pursuant to a public records request. Ohio courts have interpreted the term “promptly” to mean “without delay and with reasonable speed.” See State ex rel. Young v. Bd. of Edn. Lebanon School Dist., 12th Dist. No. CA2012-02-013, 2013-Ohio-1111, ¶ 15 (citing State ex rel. Consumer News Serv., Inc., 97 Ohio St. 3d 58, 776 N.E.2d 82, 2002-Ohio-5311, ¶ 37)). Ohio courts have defined the word “prompt” to mean “performed readily or immediately.” See State ex rel. McCray v. Ohio Dept. of Commerce, 10th Dist. No. 11AP-1055, 2012-Ohio-2997. Under Ohio Revised Code § 149.43(B)(1), “a public office or person responsible for the public record shall make copies of the requested public record available...within a reasonable period of time.” Commerce has admitted that it maintains the public records requested by Ohio Releaf.

33. Indeed, the Ohio Supreme Court has previously held that “no pleading of too much expense, or too much time involved, or too much interference with normal duties, can be used by the [public agency] to evade the public’s right to inspect and obtain a copy of public records within a reasonable time.” See State ex rel. Fox v. Cuyahoga Cty. Hops. Sys., 39 Ohio

St. 3d 108, 111, 529 N.E.2d 443 (1988). As a public agency, Commerce is thus “under a statutory duty to organize [its] office and employ [its] staff in such a way that [its] office will be able to make records available for inspection and to provide copies when requested within a reasonable time.” *Id.* As such, Commerce is legally not permitted to utilize the “volume” of the records requested as an excuse or justification for delay. This is particularly true here, where Commerce itself created the volume of records knowing the process would be highly visible and likely challenged, and where that process is already littered with material flaws and errors and an ever-growing list of Commerce’s arbitrary, capricious and improper conduct.

34. Commerce’s failure to comply with its legal duty to promptly provide the public records Ohio Releaf has requested violates Ohio law and is particularly prejudicial to Ohio Releaf in this case. This is because Ohio Releaf has requested the public records to prepare for and potentially use at the Chapter 119 hearing regarding its denial of a Level I Cultivator provisional license. As discussed in detail below, Commerce has also failed to timely schedule Ohio Releaf’s Chapter 119 hearing, thereby materially jeopardizing Ohio Releaf’s ability to establish its entitlement to a Level I Cultivator provisional license in advance of the scheduled September 8th launch of Ohio’s Medical Marijuana Control Program.

Commerce’s Failure To Schedule Ohio Releaf’s Chapter 119 Hearing.

35. On December 14, 2017, Commerce provided Ohio Releaf with the formal notice of intent to deny Ohio Releaf’s Level I Cultivator application, which further instructed Ohio Releaf that it had 30 days to request a Chapter 119 hearing contesting the denial. See Exhibit J. Ohio Releaf timely requested a Chapter 119 hearing on January 11, 2018. See Exhibit K.

36. On January 17, 2018, Commerce scheduled Ohio Releaf’s Chapter 119 hearing for January 24, 2018, but then immediately and unilaterally continued the hearing “on its own

motion” and without contemporaneously scheduling a new hearing date and/or contacting Ohio Releaf to select a new hearing date. See Exhibit L. The failure of Commerce to promptly reschedule the Chapter 119 hearing in consultation with Ohio Releaf violates the letter and spirit of Chapter 119 of the Ohio Revised Code, which requires that Chapter 119 hearings be scheduled without unreasonable delay and with due regard for the rights of the litigants.

37. Ohio Releaf’s counsel followed up by telephone regarding rescheduling its Chapter 119 hearing. During one of those calls, Ohio Releaf learned that a few Cultivator I hearings had been scheduled for February and March 2018, but then had also been “continued,” further raising Ohio Releaf’s concern that Commerce will not schedule Ohio Releaf’s Chapter 119 hearing in a timely manner. On February 28, 2018, Ohio Releaf sent the attached letter to the Assistant Attorney General assigned to Ohio Releaf’s Chapter 119 hearing requesting she immediately contact Ohio Releaf’s counsel to schedule the hearing. To date, Ohio Releaf has received no response to that letter. See Exhibit M. Ohio Releaf is not aware of a single Cultivator I Chapter 119 hearing having yet been held, despite the fact that Commerce has publicly represented that it has all of the hearing examiners lined up to conduct the hearings. Indeed, the Chapter 119 notices produced by Commerce to date confirm that **no** Chapter 119 hearing is currently scheduled for any of the unsuccessful Cultivator I applicants. Commerce is trying to “run out the clock” on Ohio Releaf’s ability to meaningfully exercise its Chapter 119 hearing rights before it moves the improperly awarded provisional licenses to full licenses.

38. Ohio Revised Code §119.07 provides that, “whenever a party requests a hearing in accordance with this section and section 119.06 of the Revised Code, the agency shall immediately set the date, time, and place for the hearing and forthwith notify the party thereof. The date set for the hearing shall be within fifteen days, but not earlier than seven days, after the

party has requested a hearing, unless otherwise agreed to by both the agency and the party.” Here, Ohio Releaf requested its Chapter 119 hearing on January 11, 2018. Commerce originally scheduled Ohio Releaf’s Chapter 119 hearing for within fifteen days of January 11th (January 24th), but then unilaterally continued the hearing indefinitely without consulting Ohio Releaf and without scheduling a new hearing date. And, while Ohio Revised Code §119.09 permits Commerce to “postpone or continue” the hearing “upon its own motion,” it is required to then reschedule the hearing within a reasonable period of time. Commerce has not done so. Instead, now over two months after unilaterally continuing Ohio Releaf’s Chapter 119 hearing, Commerce has not rescheduled the hearing or even provided Ohio Releaf with potential new dates for consideration. Again, with September 8th looming as the date by which provisional licenses will be converted to licenses and full certificates of operation, Commerce’s failure to schedule Ohio Releaf’s Chapter 119 hearing in a reasonable period of time is materially prejudicing Ohio Releaf’s ability to fully exercise its statutory rights under Chapter 119.

39. Commerce’s actions violate Chapter 119 of the Ohio Revised Code. Commerce’s actions are directly preventing Ohio Releaf from exercising its right to a timely and meaningful Chapter 119 hearing – a right to which Ohio Releaf is expressly entitled under Ohio law. Commerce must therefore be ordered to immediately schedule Ohio Releaf’s Chapter 119 hearing.

COUNT I
(Mandamus Pursuant to the Ohio Public Records Act)

40. Ohio Releaf repeats and realleges the foregoing allegations as if fully set forth herein.

41. Under Ohio Revised Code §149.43(B)(1), “all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all

reasonable times during regular business hours.” Additionally, “a public office or a person responsible for public records shall make copies available at cost, and within a reasonable period of time.”

42. Under Ohio Revised Code §149.43(B)(2), in order “[t]o facilitate broader access to public records, a public office or the person responsible for public records shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with division (B) of this section.”

43. Commerce has failed to timely produce the records requested by Ohio Releaf in violation of Ohio Revised Code §149.43.

44. Commerce violated the Ohio Public Records Act by failing to release the public records requested by Ohio Releaf, including, but not limited to, by failing to release the requested public records promptly and in a reasonable time. Ohio Releaf lacks any remedy at law for Commerce’s acts other than the issuance of a writ of mandamus. Ohio Releaf is therefore entitled to a writ of mandamus requiring Commerce to immediately and fully produce the documents requested.

COUNT II
(Declaratory Judgment)

45. Ohio Releaf repeats and realleges the foregoing allegations as if fully set forth herein.

46. This is a claim pursuant to Ohio Revised Code §2721.03 and Rule 57 of the Ohio Rules of Civil Procedure for a declaration of Ohio Releaf’s rights under the Chapter 119 of the Ohio Revised Code.

47. Pursuant to Ohio Revised Code §119.06, Commerce is required to schedule Ohio Releaf’s Chapter 119 hearing and assign a hearing examiner within a reasonable time after Ohio

Releaf timely requested a Chapter 119 hearing on January 11, 2018, so that subpoenas can be issued and the hearing can proceed in a timely manner.

48. An actual controversy exists regarding whether Commerce has and/or will provide Ohio Releaf with the Chapter 119 hearing and hearing examiner to which it is entitled under Ohio law and in sufficient time for Ohio Releaf to use the Chapter 119 hearing process to establish its entitlement to a Level I Cultivator provisional license. The declaration requested by Ohio Releaf will afford relief from the uncertainty and controversy with respect to rights, status and legal relations between the parties.

49. As a direct and proximate result of Commerce's wrongful actions, Ohio Releaf is threatened with permanent and irreparable injury.

50. A declaration that Ohio Releaf is entitled now to have its Chapter 119 hearing scheduled for a date certain and ordering Commerce to so schedule Ohio Releaf's Chapter 119 hearing and identify the hearing examiner for the hearing will settle the conflicting and disputed claims and issues of the parties. It will also afford Ohio Releaf the security of knowing its right to a timely Chapter 119 is preserved, and will prevent further detrimental results that will arise if the parties continue their present course of action without a judgment from this Court.

51. Declaratory relief is equitable, necessary and proper under the circumstances presented by this case.

COUNT III
(Mandatory Injunction)

52. Ohio Releaf repeats and realleges the foregoing allegations as if fully set forth herein.

53. As a direct and proximate result of Commerce's failure to schedule Ohio Releaf's Chapter 119 hearing, Ohio Releaf has sustained harm that is irreparable, continuing, and for

which Ohio Releaf has no adequate remedy at law. This is because Commerce's failure to schedule Ohio Releaf's Chapter 119 hearing, which is a violation of Ohio Revised Code §119.06, is preventing Ohio Releaf from exercising its rights under Chapter 119 to challenge Commerce's notice of intent to deny Ohio Releaf the Level I Cultivator provisional license for which it applied, and to establish that it should have been awarded one of the provisional licenses. Ohio Releaf is being improperly prevented by Commerce from exercising its Chapter 119 hearing rights. Commerce's actions are particularly egregious, considering that in at least two recent Franklin County Common Pleas cases filed by other unsuccessful Cultivator I applicants, Commerce has taken the position that applicants must exhaust their administrative remedy of a Chapter 119 hearing prior to filing a lawsuit challenging the scoring of their applications and/or other improprieties in the application process (PharmaCann Ohio, LLC v. Jacqueline T. Williams, Franklin Cty. Comm. Pl. Case No. 17-CV-10962 (Schneider, J.); Greenleaf Gardens, LLC v. Jacqueline T. Williams, Franklin Cty. Comm. Pl. Case No. 17-CV-11437 (Serrot, J.)). As such, if this Court does not issue injunctive relief, Ohio Releaf will suffer irreparable harm and Commerce will convert the current 12 Level I Cultivator provisional licenses into certificates of operation before Ohio Releaf has the opportunity to assert, through the Chapter 119 hearing to which it is statutorily entitled, that it should have received one of those 12 Level I Cultivator provisional licenses.

54. Because Ohio Releaf is clearly entitled to the timely scheduling of a Chapter 119 hearing, Ohio Releaf is likely to succeed on the merits. Indeed, Ohio law requires that Chapter 119 hearings be scheduled without unreasonable delay and with due regard for the rights of the litigants.

55. Issuance of the requested injunction will not harm Commerce or the public because it will merely order that Commerce provide Ohio Releaf with the Chapter 119 hearing to which Ohio Releaf is clearly entitled under Ohio law.

56. Indeed, issuance of the requested injunction will serve the public interest by ensuring that Commerce is fully compliant with its obligations under Chapter 119, and specifically Ohio Revised Code §119.06, which expressly requires that Ohio Releaf's Chapter 119 hearing be scheduled and conducted in a timely fashion.

57. As a direct and proximate result of the aforementioned conduct of Commerce, Ohio Releaf is entitled to injunctive relief directing Commerce to immediately contact Ohio Releaf to schedule the hearing to which Ohio Releaf is undeniably entitled under Chapter 119 of the Ohio Revised Code.

WHEREFORE, Ohio Releaf prays for the following from this Court:

- A. A preemptory and/or alternative writ of mandamus compelling Commerce to immediately produce the public records requested by Ohio Releaf;
- B. An award of Ohio Releaf's costs, expenses, and reasonable attorneys' fees incurred in this action;
- C. An award to Ohio Releaf of all statutory damages available under Ohio Revised Code § 149.43(C);
- D. A declaration that Commerce must immediately schedule the Chapter 119 hearing requested by Ohio Releaf and identify the assigned hearing examiner;
- E. A mandatory injunction ordering Commerce to immediately schedule the Chapter 119 hearing requested by Ohio Releaf and identify the assigned hearing examiner; and
- F. Awarding such other and further relief as this Court deems appropriate.

Respectfully submitted,

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EXHIBIT A

Medical Marijuana Control Program

December 14, 2017



Introduction

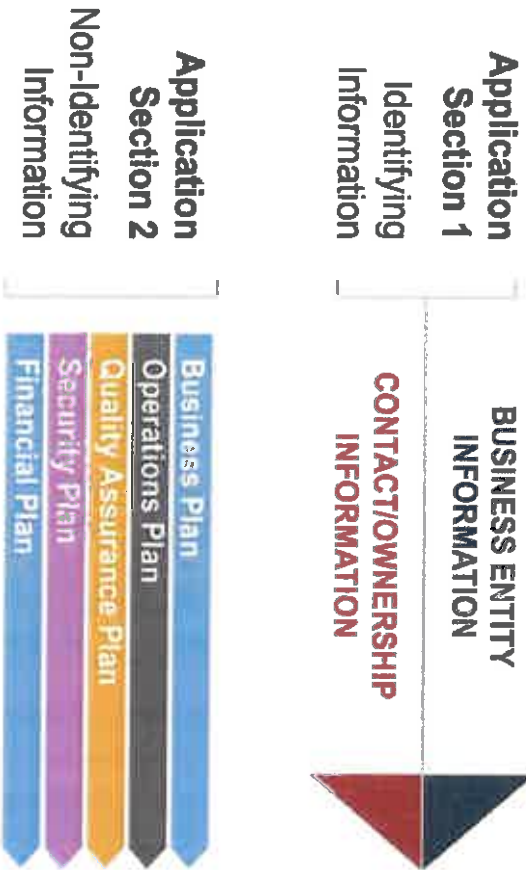
Ohio Department of Commerce Director Jacqueline T. Williams

- ▶ Process and Vision
- ▶ Research and Background
- ▶ Program Implementation
- ▶ Next Steps



Application Layout and Overview

Cultivator Application



- One unique team reviewed Section 1
- Applicant information verified by the team

- Four new unique teams of three separately reviewed each plan
- Each team reached a consensus score for its assigned plan



Cultivator Application Development Objectives

- ▶ **Subject Matter Expertise** - Legal challenges in other states and conversations with regulators in those states identified the need for reviewers knowledgeable in the subject matter.
 - ▶ In total, 25 individuals contributed to the cultivator application scoring process. Only 3 were non-state employees.
 - ▶ The consultants utilized during the scoring process were limited to the areas focusing on cultivation within the operations plan and quality assurance plan (cultivation layout, grow orientation, Standard Operating Procedures, etc.)
 - ▶ Consultants were placed on scoring teams led by a state employee.
- ▶ Medical marijuana is a new, emerging industry where there is a level of interconnectedness between operators in the various states, including regulatory and industry consultants.



Cultivator Application Development Objectives

- ▶ **Avoidance of Conflicts** - The Department was aware of the potential for conflicts, so the following controls were implemented:
 - ▶ The RFP process to secure the consultants required self-disclosure of existing relationships with individuals/businesses looking to apply in Ohio.
 - ▶ One consultant was removed entirely from the scoring process due to a potential conflict that was voluntarily disclosed by the consultant, per the agreement.
 - ▶ The Personal Services Agreement with every consultant included language that required the consultant to disclose conflicts to the Department, should they arise.
 - ▶ No other conflicts were disclosed to the Department related to the scoring process.
 - ▶ 22 of the 25 individuals involved in the scoring process were state employees with no involvement in the industry, removing the potential for a conflict.
 - ▶ The Department designed a blind, impartial review process that isolated identifiable information and precluded such information from the section of the application that received a score.
- ▶ The final score was tallied during a consensus call, making it very difficult for one person to unduly influence an applicant's score.



Cultivator Application Development Objectives

- ▶ **Provisional Licensee Verification and Compliance - A** provisional licensee award is not approval to begin cultivating medical marijuana.
- ▶ Licensees have up to nine months to perform the following:
 - ▶ Demonstrate compliance with all statute and rule requirements;
 - ▶ Execute the conditions in their application; and
 - ▶ Pass all necessary inspections, including the pre-operation inspection resulting in the issuance of a Certificate of Operation.
- ▶ Applicants not awarded a license are entitled to an administrative hearing under the 119 process to review and challenge the Department's findings in their application.



Cultivator Application Development Objectives

- ▶ **Provisional Licensee Verification and Compliance** - As this presentation will demonstrate, the Department is very confident in the process it used to hire subject-matter experts and score applications in a fair, neutral, and consistent manner.
- ▶ To further strengthen the process's integrity, the Department is working with the Attorney General to retain an independent, third-party expert to assist with the review of any additional, new information or allegations that come to light regarding the application process.
 - ▶ Issues or concerns with a particular applicant's application or the process will be handled during the applicant's administrative hearing.
 - ▶ Allegations or concerns by interested parties will be handled by the independent, third-party expert.
- ▶ The Department will retain authority to make final decisions with regard to the results of any findings from a third party.

7



Cultivator Application Overview

- ▶ Application review team
- ▶ Development of the application and the scoring documents
- ▶ Scoring process
- ▶ Post-award



Application Review Team

- ▶ Commerce issued RFI COM2017-ADM001 on March 10, 2017, to assess the market for subject-matter experts that could assist in the scoring process.
 - ▶ We received two responses to the RFI.
- ▶ In response, Commerce issued RFP COM2017-ADM003 to secure experts with experience in the medical marijuana industry.
 - ▶ The Department reviewed, awarded, and received Controlling Board authority to utilize 3 of the 4 responders to the RFP.
 - ▶ At that time, the Department was made aware of a potential conflict with one of the consultants and removed that consultant from the scoring process.
- ▶ Two of the three consultants approved at Controlling Board (3 individuals) did not disclose any conflicts at that time and were used during the cultivator scoring process.
- ▶ Other than the three individual consultants identified above, the composition of the application review teams were all state employees.



Cultivator Application Development

▶ Cultivator Application

- ▶ The MMCP team drafted and finalized the Level I and Level II cultivator applications, based on applications used in other states and conversations with those regulators.
- ▶ The MMCP team also received feedback from its consultants used during the rule writing process to make any changes necessary.
- ▶ The MMCP learned it was critical to separate the identifiable information from the non-identifiable information in the application.



Cultivator Application Development

- ▶ The cultivator application was divided into two sections to preserve the independence of reviewers:
 - ▶ Section 1: Identifiable information
 - ▶ Section 2: Non-identifiable information
- ▶ Full applications accessible only by a limited number of Commerce employees, none of whom scored Section 2.
- ▶ Section 2 reviewers were provided with the Section 2 plan they were responsible for reviewing via a portal using application #s to mask the identifiable information.



Scoring Documentation Development



▶ Scoring Documents

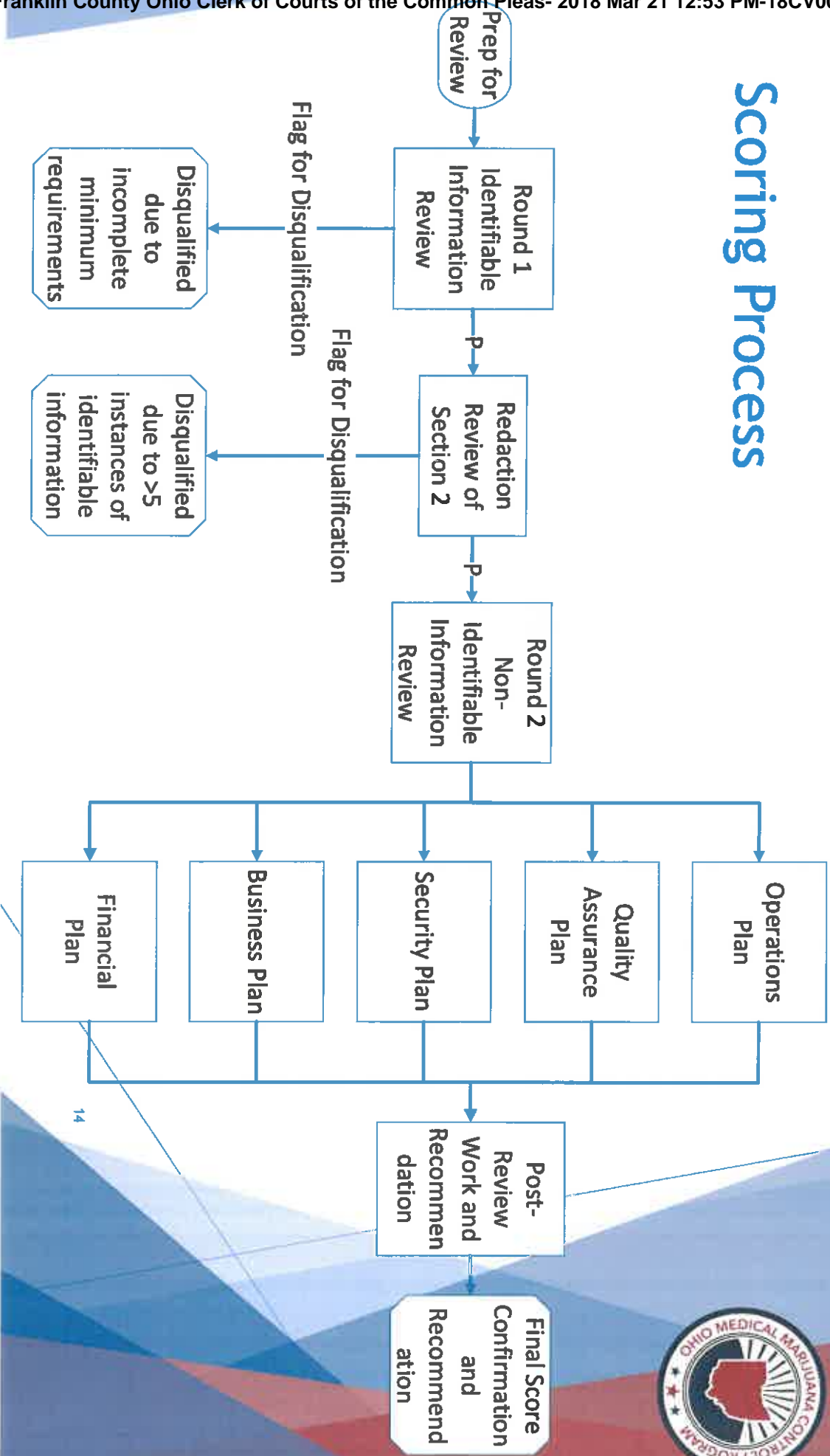
- ▶ The Department drafted the initial scoring documents based on the statute and rule requirements for each plan in Section 2.
- ▶ Consultant feedback provided additional recommendations to the Department, but the MMCP team made the final call on every item that was included.
 - ▶ June 2017
 - ▶ Initial development and feedback sessions began.
 - ▶ Process communicated to review and edit scoring documents.
 - ▶ Department received and considered feedback provided by subject matter experts.
 - ▶ July 2017
 - ▶ Department finalized all scoring documents and distributed to plan teams before any Section 2 plans were distributed to the evaluation teams.

Scoring Process Overview

- ▶ Preparation
- ▶ Section 1
- ▶ Redaction
- ▶ Section 2
- ▶ Final Review
- ▶ Announcement



Scoring Process



Scoring Process - Preparation

- ▶ Electronic copies of files were scanned for viruses and downloaded.
- ▶ Preparation team created individual accounts for all 20+ reviewers in a secure website portal.
 - ▶ Reviewers could only access the documents made available to them in the website file portal by the preparation team.
 - ▶ The preparation team separated Section 1 and Section 2, as well as the different plans under Section 2.



Scoring Process - Section 1

- ▶ Section 1 included forms and information which contained identifiable information (names, addresses, state and federal business ID numbers, zoning permit information, other business licenses, etc.).
- ▶ Three reviewers independently examined forms in Section 1 and flagged areas to be discussed during the final review.
 - ▶ 646 separate notes during Round 1 were identified.
 - ▶ 294 for Level II, 342 for Level I.
 - ▶ Flagged items ranged from clerical matters to potential statute/rule violations.
- ▶ To accomplish efficiency and fairness in process, all applications were scored.



Scoring Process - Redaction

- ▶ Team of six individuals reviewed Section 2 to ensure all identifiable information was either omitted or redacted, as requested in the instructions.
- ▶ Points deducted for specific categories of identifiable information listed in the instructions.
 - ▶ A maximum deduction of 10 points (5 instances) was permitted.
 - ▶ More than 5 instances = disqualification.
- ▶ Other redactions may have occurred that didn't receive a corresponding point deduction.



Scoring Process - Redaction

- ▶ If information was redacted, a final, redacted copy of Section 2 was uploaded to the Section 2 teams.
- ▶ Redaction team results:
 - ▶ Level II: 18 applications missed a total of 164 instances of identifiable information.
 - ▶ Highest on a single application was 80 items.
 - ▶ Seven applications exceeded minimum redaction limit; all had multiple issues.
 - ▶ Level I: 8 applications missed a total of 13 instances of identifiable information.
 - ▶ Highest on a single application was 3 instances.
 - ▶ No application exceeded the minimum redaction limit.



Scoring Process - Section 2

- ▶ Section 2 of the cultivator application included the following five plans:
 - ▶ Business Plan;
 - ▶ Operations Plan;
 - ▶ Quality Assurance Plan;
 - ▶ Security Plan; and
 - ▶ Financial Plan.
- ▶ Each Section 2 team consisted of three reviewers with necessary subject matter expertise, with one team reviewing the Business and Financial Plans.
- ▶ Reviewers received plans via a secure portal using application #s to mask the identifiable information.



Scoring Process - Section 2

- ▶ For every plan in every application, reviewers were instructed to do the following:
 - ▶ Utilize a scoring rubric developed by the Department, with feedback from the reviewers, to promote consistent grading;
 - ▶ Review an applicant's plan and make an independent determination as to which criteria were demonstrated;
 - ▶ Attend a consensus call with the plan team and reach consensus on all criteria in the applicant's plan, making it impossible for one person to unduly influence the resulting score; and
 - ▶ Upload a scoring breakdown for the applicant's plan via the secure portal.
- ▶ Scoring teams were instructed to review **ONLY** the information provided and **NOT** conduct outside research.



Scoring Process - Section 2

- ▶ The scores were calculated using a two-step process.
 - ▶ Step 1
 - ▶ An applicant must have achieved the minimum overall score of 60 points out of the 100 points available, AND
 - ▶ An applicant must have achieved the minimum score for each plan in Section 2.
 - ▶ Applicant needed 60% of the points available under each plan.
 - ▶ Step 2
 - ▶ A conversion factor was applied to the raw score in each plan to calculate the final weighted score.



Scoring Process - Section 2

Category	Minimum Score (Step 1)	Maximum Score (Step 1)	Conversion Factor	Final Weighted Score
Business Plan	6	10	1.46	14.6
Operations Plan	18	30	2.36	70.8
Quality Assurance Plan	18	30	1.64	49.2
Security Plan	12	20	2.00	40.0
Financial Plan	6	10	2.54	25.4
Total Possible Points		100		200



Scoring Process - Section 2

Scoring	Qualified	Qualification Rate	Disqualified	Disqualification Rate
Redaction Review	178	96%	7	4%
Operations Plan	102	55%	83	45%
QA Plan	106	57%	79	43%
Business Plan	139	75%	46	25%
Financial Plan	143	77%	42	23%
Security Plan	86	46%	99	54%
Minimum Points	101	55%	84	45%
OVERALL	54	29%	131	71%



Scoring Process - Final Review

- ▶ Once the overall scores were compiled and finalized, the Department verified numerous requirements under statute and rule for the top scoring applicants. These included:
 - ▶ Disqualifying offense;
 - ▶ Tax compliance;
 - ▶ Adherence to 500-foot rule;
 - ▶ Financial interest;
 - ▶ Financial responsibility; and
 - ▶ Economically disadvantaged group status.



Scoring Process - Announcement



Post Award - Notifications of Hearing

- ▶ A Notice of Hearing (NOH) is sent to every applicant that was not awarded a provisional license notifying them of the result and the opportunity to request a hearing.
- ▶ The applicant has 30 days from the mailing of the NOH to send notice to the Department requesting a hearing.
- ▶ The Department will promptly establish the hearing date.
- ▶ Once the hearing is conducted, the Director will issue a final order based on the hearing officer's Report and Recommendation.
- ▶ If the order is adverse to the applicant, they have 15 days to appeal to the Court of Common Pleas.



EXHIBIT B



Dave Yost · Auditor of State

February 6, 2018

Director Jacqueline Williams
Ohio Department of Commerce
77 S. High St 23rd Floor
Columbus, OH 43215

Dear Director Williams:

During the past three weeks, a team from this office met with various representatives from the Medical Marijuana division of the Department of Commerce to gain an understanding of the policies and procedures that were in place during the review and grading of medical marijuana cultivator applications and the subsequent selection and award of provisional licenses. During these meetings, a control weakness was identified. Due to the significance of this weakness, it is necessary to bring this concern to your immediate attention in order to address the weakness and prevent potential issues during the future review and award of other license types.

Ohio Administrative Code Section 117-2 sets out requirements for public offices in establishing internal controls over processes. Specifically, 117-2-01(D)(4) states, in part, when designing the public office's system of internal control and the specific control activities, management should plan for adequate segregation of duties or compensating controls. Implementing internal controls is an important responsibility of management to ensure discipline, structure, and integrity is maintained throughout the entity. Having proper controls in place reduces and manages risk in an organization to ensure the reliability and accuracy of information and the integrity of process outcomes.

In the Medical Marijuana Division, two administrators had unlimited access to all Tumbleweed (Portal) accounts and folders assigned to individual reviewers throughout the entire grading process, while also having related responsibilities including: uploading segments of the application to the portal; maintaining a crosswalk spreadsheet tying individual applicant names to the application number used in the blind review process; and exporting and calculating the cumulative scores of each review team by manually entering these scores into an excel spreadsheet to track if the applicant(s) scored the minimum 60 points and minimum required points in each of the five graded sections. **In addition, we learned the administrators not only assigned and tracked the account usernames for each individual reviewer utilizing the portal but also created the password for each username. This weakness was compounded by the fact this password was not required to be changed by the individual assigned to the account; rather, any changes to the passwords were made by the administrator.**

Director Jacqueline Williams
February 6, 2018
Page 2 of 2

At a minimum, the maintenance of usernames and passwords should have been segregated from any person with operational input or supervisory control over the process. Users should have been prompted to change their password at first log-in.

This control weakness could allow an administrator access to manipulate documents, such as scoring, while logged in the portal as an account holder rather than their own administrative account. Because of this critical flaw in the procedure's design, neither this office, nor the public, can rely upon the cultivator application score results.

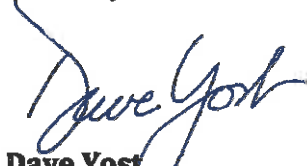
The Department of Administrative Services (DAS) implemented the State of Ohio Administrative Policy, which is a comprehensive manual of policies that have been adopted by many other State agencies across Ohio. The Information Technology policy included in the State of Ohio Administrative Policy, specifically section 2.11.3 of Use of Internet, E-mail and other IT Resources IT-04, prohibits personnel from accessing networks, files, systems, or accounts of other persons without proper authorization. In the evolving world we live in, a department or agency should constantly review policies in place to ensure they are both current and comprehensive.

For these reasons, I recommend the Department of Commerce immediately adopt and implement an information technology policy modeled after this example. If the Department of Commerce does have an IT policy in place similar to DAS' information technology policy, please provide a copy of that policy for my auditors' review. Further, I also recommend the Department of Commerce educate employees on proper internal control procedures to ensure the effectiveness of implemented policies and to enable personnel to properly identify control deficiencies.

Failure to implement these recommendations could compromise the Medical Marijuana evaluation and selection process. My staff and I stand ready to assist with additional recommendations as our process of evaluating the cultivators selection process continues to move forward.

This letter is an interim communication, necessitated by the critical nature of the procedures design flaw and the ongoing work on this project which is exposed by the weakness. This letter is not offered as a report under *Government Auditing Standards* but is provided under the authority of this office under Ohio Revised Code Chapter 117.

Sincerely,



Dave Yost
Ohio Auditor of State

EXHIBIT C

Joel E. Sechler

From: Jeffrey A. Lipps
Sent: Wednesday, December 13, 2017 10:09 AM
To: 'mmcp@com.state.oh.us'
Cc: Jeffrey A. Lipps; Joel E. Sechler
Subject: Public Records Request: Applications/Ohio Medical Marijuana Control Program (Cultivator I)
Attachments: SKM_C754e17121311030.pdf

Please see the attached public records request on behalf of Pharm Ohio LLC d/b/a Ohio Relief LLC.

Regards,

Jeff Lipps

CARPENTER LIPPS & LELAND LLP

TELEPHONE: (814) 365-4100

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SUITE 1000
WASHINGTON, DC 20036-5417
TELEPHONE (202) 385-2808

ATTORNEYS AT LAW

280 PLAZA, SUITE 1300
280 NORTH HIGH STREET
COLUMBUS, OHIO 43215

WWW.CARPENTERLIPPS.COM

WRITER'S DIRECT NUMBER:

(614) 365-4105
lipps@carpenterlipps.com

December 13, 2017

VIA ELECTRONIC MAIL

Public Records
Ohio Department of Commerce
mmcp@com.state.oh.us

Re: Applications/Ohio Medical Marijuana Control Program
Cultivator I
Public Records Request Pursuant to Ohio Rev. Code § 149.43

To Whom It May Concern:

We represent Pharm Ohio LLC d/b/a Ohio Relief LLC ("Ohio Relief"). Ohio Relief submitted a license application in response to the Request for Applications ("RFA") issued by the Ohio Department of Commerce Medical Marijuana Control Program (the Ohio Department of Commerce and the Medical Marijuana Control Program are collectively referred to herein as "MMCP") for Level 1 cultivator licenses, and which resulted in the announcement of an award of 12 Level I provisional cultivator licenses (the "Licenses"). Pursuant to Ohio Rev. Code § 149.43, Ohio Relief respectfully requests copies of the following public records in the possession of the MMCP:

- (1) Any and all documents, correspondence and/or communication of any kind, including, but not limited to, writings of any type, audio recordings, email and/or other electronically stored information and/or communications of any kind, that record, reflect, or relate in any way to:
 - (a) All applications submitted in response to the RFA;
 - (b) The evaluation and/or review of each and every application submitted in response to the RFA;
 - (c) The scoring, individually by reviewer and/or by the review panel(s), of each and every application submitted in response to the RFA;
 - (d) The members of the review panel(s) for the RFA;
 - (e) The selection of persons awarded the Licenses;
 - (f) Any notice, including, but not limited to, any notice pursuant to Chapter 119 of the Ohio Revised Code, issued to any person in connection with the RFA and/or the Licenses; and

Public Records
Ohio Department of Commerce
December 13, 2017
Page 2

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- (2) Any and all documents, communications, meetings and/or exchange of information with and/or regarding each and every member of MMCP's review panel(s) for the RFA;
- (3) Any and all documents, communications, meetings and/or exchange of information regarding how each and every member of MMCP's review panel(s) for the RFA were selected, including, but not limited to: (a) any and all Request for Proposals, Requests for Applications, Requests for Information or other document(s) issued by MMCP seeking persons to apply to be review panel members; (b) any and all responses MMCP received to any such Request for Proposals, Requests for Applications, Requests for Information or other document(s) from those persons seeking to be selected as review panel members; and (c) MMCP's evaluation and scoring of responses submitted to MMCP to any such Request for Proposals, Requests for Applications, Requests for Information or other document(s) from those persons seeking to be selected as review panel members;
- (4) Any and all documents, communications, meetings and/or exchange of information regarding the activities of each and every member of MMCP's review panel(s) for the RFA in connection with their service on the review panel(s);
- (5) Any and all documents, communications, meetings and/or exchange of information regarding the selection of those to be awarded the Licenses;
- (6) Any and all documents, communications, meetings and/or exchange of information regarding the RFA procurement process at all times before and after the RFA was issued;
- (7) Any and all documents, communications, meetings and/or exchange of information regarding the Licenses and/or to any discussions regarding the Licenses;
- (8) Any and all documents, communications, meetings and/or exchange of information regarding any involvement of any MMCP review panel member in the RFA process at all times before and after the RFA was issued;
- (9) Any and all documents, communications, meetings and/or exchange of information regarding any involvement of any MMCP review panel member in the review, evaluation, and/or scoring of each and every Application submitted in response to the RFA;
- (10) Any and all documents, communications, meetings and/or exchange of information regarding the involvement of any MMCP review panel member in the Licenses and/or in the selection of persons to be awarded the Licenses;
- (11) Any and all documents, communications, meetings and/or exchange of information regarding the involvement of any MMCP

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Ohio Department of Commerce
December 13, 2017
Page 3

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- review panel member in the decision to disqualify any application submitted in response to the RFA; and
- (12) Any and all documents, communications, meetings and/or exchange of information regarding any MMCP review panel member's receipt of compensation and/or any other thing of value from MMCP or any other source for serving on the MMCP review panel(s).

This request includes any documents, correspondence and/or communications between MMCP and any third party, and includes documents, correspondence and/or communications of any kind, including, but not limited to, audio recordings, email and/or electronically stored information and/or communications, by any MMCP employees, consultants, representative, agents, or any other person, whether affiliated directly or indirectly with the MMCP.

We look forward to receiving your prompt attention and response to this public records request. If you have any questions, please contact me.

Very Truly Yours,



Jeffrey A. Lipps

EXHIBIT D

Joel E. Sechler

From: MMCP@com.state.oh.us
Sent: Wednesday, December 13, 2017 11:00 AM
To: Jeffrey A. Lipps; MMCP@com.state.oh.us
Cc: Joel E. Sechler
Subject: RE: Public Records Request: Applications/Ohio Medical Marijuana Control Program (Cultivator I)

Good Morning Mr. Lipps.

The Department has received your public records request. I have forward this onto our legal team to assist with fulfilling your request. We will provide this to you within a reasonable time.

Thank you for contacting the Medical Marijuana Control Program.

Jessica Hitchcock



Medical Marijuana Control Program
MedicalMarijuana.ohio.gov

This message and any response to it may constitute a public record and thus may be publicly available to anyone who requests it.

From: Jeffrey A. Lipps [mailto:lipps@CarpenterLipps.com]
Sent: Wednesday, December 13, 2017 10:09 AM
To: MMCP <MMCP@com.state.oh.us>
Cc: Jeffrey A. Lipps <lipps@CarpenterLipps.com>; Joel E. Sechler <sechler@CarpenterLipps.com>
Subject: Public Records Request: Applications/Ohio Medical Marijuana Control Program (Cultivator I)

Please see the attached public records request on behalf of Pharm Ohio LLC d/b/a Ohio Relief LLC.

Regards,

Jeff Lipps

*
The information transmitted is intended solely for the individual or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of or taking action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you have received this email in error please contact the sender and delete the material from any computer.

*

*

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*

EXHIBIT E

Joel E. Sechler

From: Joel E. Sechler
Sent: Tuesday, December 26, 2017 9:45 AM
To: 'MMCP@com.state.oh.us'
Cc: Jeffrey A. Lipps; Joel E. Sechler
Subject: RE: Public Records Request: Applications/Ohio Medical Marijuana Control Program (Cultivator I)
Attachments: Ltr Wynkoop 12-26-17 (710897).PDF

Dear Ms. Wynkoop: Please see attached letter from Jeff Lipps.

From: MMCP@com.state.oh.us [mailto:MMCP@com.state.oh.us]
Sent: Wednesday, December 13, 2017 11:00 AM
To: Jeffrey A. Lipps; MMCP@com.state.oh.us
Cc: Joel E. Sechler
Subject: RE: Public Records Request: Applications/Ohio Medical Marijuana Control Program (Cultivator I)

Good Morning Mr. Lipps.

The Department has received your public records request. I have forward this onto our legal team to assist with fulfilling your request. We will provide this to you within a reasonable time.

Thank you for contacting the Medical Marijuana Control Program.

Jessica Hitchcock



Medical Marijuana Control Program
MedicalMarijuana.ohio.gov

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From: Jeffrey A. Lipps [mailto:lipps@CarpenterLipps.com]
Sent: Wednesday, December 13, 2017 10:09 AM
To: MMCP <MMCP@com.state.oh.us>
Cc: Jeffrey A. Lipps <lipps@CarpenterLipps.com>; Joel E. Sechler <sechler@CarpenterLipps.com>
Subject: Public Records Request: Applications/Ohio Medical Marijuana Control Program (Cultivator I)

Please see the attached public records request on behalf of Pharm Ohio LLC d/b/a Ohio Relief LLC.

Regards,

Jeff Lipps

*

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*

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*

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COLUMBUS, OHIO 43215

WWW.CARPENTERLIPPS.COM

WRITER'S DIRECT NUMBER:

(614) 365-4105

lipps@carpenterlipps.com

December 26, 2017

VIA ELECTRONIC MAIL

Public Records
Ohio Department of Commerce
Attention: Diana Wynkoop
mmcp@com.state.oh.us

Re: Applications/Ohio Medical Marijuana Control Program
Cultivator I
Public Records Request Pursuant to Ohio Rev. Code § 149.43

Dear Ms. Wynkoop:

As you know, our client, Pharm Ohio LLC d/b/a Ohio Relief LLC ("Ohio Relief") made the attached public records request to the Ohio Department of Commerce Medical Marijuana Control Program ("MMCP") on December 13, 2017. That same day, MMCP acknowledged receipt of Ohio Relief's public records request in writing, and also confirmed in writing that Ohio Relief's request would be fulfilled "within a reasonable time." To date, however, we have not received any of the requested records. The records requested should not be difficult to locate or produce (at one time or on a rolling basis). We understand that most if not all of the requested records have also been requested by others. A delay in producing the requested records is prejudicial to the rights of Ohio Relief, and Ohio Relief reserves the right to compel MMCP's prompt and full compliance with its public records request, including, but not limited to, through an action in mandamus, if the requested records are not immediately produced. Please confirm that the requested records will be produced by the end of this week.

If you have any questions, please contact me.

Very Truly Yours,



Jeffrey A. Lipps

GARPENTER LIPPS & LELAND LLP

TELEPHONE: (614) 365-4100

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SUITE 2108
CHICAGO, ILLINOIS 60601
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WRITER'S DIRECT NUMBER:

(614) 365-4105
lpps@carpenterlipps.com

December 13, 2017

VIA ELECTRONIC MAIL

Public Records
Ohio Department of Commerce
mmcp@com.state.oh.us

Re: Applications/Ohio Medical Marijuana Control Program
Cultivator I
Public Records Request Pursuant to Ohio Rev. Code § 149.43

To Whom It May Concern:

We represent Pharm Ohio LLC d/b/a Ohio Relief LLC ("Ohio Relief"). Ohio Relief submitted a license application in response to the Request for Applications ("RFA") issued by the Ohio Department of Commerce Medical Marijuana Control Program (the Ohio Department of Commerce and the Medical Marijuana Control Program are collectively referred to herein as "MMCP") for Level 1 cultivator licenses, and which resulted in the announcement of an award of 12 Level I provisional cultivator licenses (the "Licenses"). Pursuant to Ohio Rev. Code § 149.43, Ohio Relief respectfully requests copies of the following public records in the possession of the MMCP:

- (1) Any and all documents, correspondence and/or communication of any kind, including, but not limited to, writings of any type, audio recordings, email and/or other electronically stored information and/or communications of any kind, that record, reflect, or relate in any way to:
 - (a) All applications submitted in response to the RFA;
 - (b) The evaluation and/or review of each and every application submitted in response to the RFA;
 - (c) The scoring, individually by reviewer and/or by the review panel(s), of each and every application submitted in response to the RFA;
 - (d) The members of the review panel(s) for the RFA;
 - (e) The selection of persons awarded the Licenses;
 - (f) Any notice, including, but not limited to, any notice pursuant to Chapter 119 of the Ohio Revised Code, issued to any person in connection with the RFA and/or the Licenses; and

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Page 2

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- (2) Any and all documents, communications, meetings and/or exchange of information with and/or regarding each and every member of MMCP's review panel(s) for the RFA;
- (3) Any and all documents, communications, meetings and/or exchange of information regarding how each and every member of MMCP's review panel(s) for the RFA were selected, including, but not limited to: (a) any and all Request for Proposals, Requests for Applications, Requests for Information or other document(s) issued by MMCP seeking persons to apply to be review panel members; (b) any and all responses MMCP received to any such Request for Proposals, Requests for Applications, Requests for Information or other document(s) from those persons seeking to be selected as review panel members; and (c) MMCP's evaluation and scoring of responses submitted to MMCP to any such Request for Proposals, Requests for Applications, Requests for Information or other document(s) from those persons seeking to be selected as review panel members;
- (4) Any and all documents, communications, meetings and/or exchange of information regarding the activities of each and every member of MMCP's review panel(s) for the RFA in connection with their service on the review panel(s);
- (5) Any and all documents, communications, meetings and/or exchange of information regarding the selection of those to be awarded the Licenses;
- (6) Any and all documents, communications, meetings and/or exchange of information regarding the RFA procurement process at all times before and after the RFA was issued;
- (7) Any and all documents, communications, meetings and/or exchange of information regarding the Licenses and/or to any discussions regarding the Licenses;
- (8) Any and all documents, communications, meetings and/or exchange of information regarding any involvement of any MMCP review panel member in the RFA process at all times before and after the RFA was issued;
- (9) Any and all documents, communications, meetings and/or exchange of information regarding any involvement of any MMCP review panel member in the review, evaluation, and/or scoring of each and every Application submitted in response to the RFA;
- (10) Any and all documents, communications, meetings and/or exchange of information regarding the involvement of any MMCP review panel member in the Licenses and/or in the selection of persons to be awarded the Licenses;
- (11) Any and all documents, communications, meetings and/or exchange of information regarding the involvement of any MMCP

Public Records
Ohio Department of Commerce
December 13, 2017
Page 3

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- review panel member in the decision to disqualify any application submitted in response to the RFA; and
- (12) Any and all documents, communications, meetings and/or exchange of information regarding any MMCP review panel member's receipt of compensation and/or any other thing of value from MMCP or any other source for serving on the MMCP review panel(s).

This request includes any documents, correspondence and/or communications between MMCP and any third party, and includes documents, correspondence and/or communications of any kind, including, but not limited to, audio recordings, email and/or electronically stored information and/or communications, by any MMCP employees, consultants, representative, agents, or any other person, whether affiliated directly or indirectly with the MMCP.

We look forward to receiving your prompt attention and response to this public records request. If you have any questions, please contact me.

Very Truly Yours,



Jeffrey A. Lipps

EXHIBIT F

Joel E. Sechler

From: Jeffrey A. Lipps
Sent: Friday, January 19, 2018 4:53 PM
To: Stacey.Adams@com.state.oh.us; kelli.lister@com.state.oh.us
Cc: Jeffrey A. Lipps; Joel E. Sechler
Subject: RE: Ohio Department of Commerce MMCP Public Records Request Update Jeffrey Lipps
Attachments: image003.jpg; Updated Public Records Search Terms.docx

Kelli and Stacey:

As you know, last Friday, we had a call to discuss the outstanding public records request I served on behalf of Ohio Releaf. As a follow up to that conference I received the below e-mail. I write to confirm that I have not received any of the priority items that we discussed and that I understood were available or would be available shortly. Also, I did not receive the promised call from you to discuss status and further explore the records you referenced in the next to the last paragraph in the below e-mail. As I am sure you will recall, we are keenly interested in the development of the application and the scoring rubric. In that regard, as we discussed, Commerce disclosed in its Power Point presentation that it had conversations with regulators in other states, and reviewed their applications and legal challenges to their processes in connection with developing the Level I Cultivator application. I offered the view that those materials should be readily identifiable and should be able to be produced quickly. With respect to the selection process for review panelists and outside consultants, in addition to internal protocols-which against should be easily located-there were two related solicitations--the March 10, 2017 RFI (Com 2017-ADM001) and the Consultant RFP (Com 2017-ADM003)- for which materials related to them should likewise be readily available for early production. I would really like to move this process along and start receiving the public records we requested some time ago.

In our conversation, you acknowledged that, in addition to desk files for various relevant persons, there would be electronic sources containing responsive documents. Specifically, there is a live e-mail system and there was a shared drive for the MMCP. From reviewing the Commerce PowerPoint presentation, we know a web portal was set up to facilitate the review and scoring of Level I Cultivator applications.

The following is our proposal for searching e-mails and the shared drive for the MMCP. We believe a dates range for the search of January 1, 2017 to the present is appropriate.

In terms of custodians, the search should include:

1. the individuals involved in the evaluation and/or review of either Section 1 or Section 2 of the Cultivator I applications, which we understand to be approximately 25 people;
2. the individuals involved in development of the application and the scoring rubric;
3. the individuals involved in the selection process for the review panel members and consultants, including, but not limited to, those involved in the above referenced RFI/RFP process utilized to choose the consultants; and
4. the individuals involved in determining whether any consultant had a conflict of interest that would prevent or limit their ability to serve.

To date, we have not received sufficient information to identify all of the foregoing individuals by name. However, we understand the above would at a minimum include Jacqueline Williams, Justin Hunt, Melissa Craddock, John M. Finn, Patricia A. Johnson, Craig W. Kaiser, Edward Mark Nye, Keoki Wing, Jason Meade, Trevor Bozeman, Paul Schad, and Daniel Kenny.

We understand from our call last Friday that no search terms have been developed by Commerce to search these electronic sources of public records. You indicated you would entertain our suggestions. To that end, we have compiled the attached list of search terms related to Ohio Releaf's public records request to MMCP. As you can imagine we are not familiar with the materials collected in those sources or with the jargon utilized internally so we would welcome any comments and/or suggestions for search terms to use in searching the electronic records referenced above.

With regard to the MMCP shared drive and web portal, we need to know what documents and information are stored in these databases. We therefore ask that MMCP print and provide to us screen shots showing the names and contents of the folders and sub folders that comprise these databases. With that information, we can better assess how the shared drive and web portal interplay with our outstanding records request, including with the documents you have agreed to prioritize.

Lastly, will we need documentation confirming the "application code" assigned to each Level I Cultivator applicant so we can identify which scoring records and other documents relate to which applicant.

Regards,

Jeff

Jeffrey A. Lipps
Carpenter Lipps & Leland
280 Plaza, Suite 1300
280 North High Street
Columbus, OH 43215
Main Phone#:(614)365-4100
Direct Phone#(614)365-4105
Mobile Phone#(614)329-7922
Email:lipps@carpenterlipps.com

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From: Stacey.Adams@com.state.oh.us [Stacey.Adams@com.state.oh.us]
Sent: Friday, January 12, 2018 4:26 PM
To: Jeffrey A. Lipps
Subject: Ohio Department of Commerce MMCP Public Records Request Update Jeffrey Lipps

Good Afternoon:

To summarize the conference call that was held on Friday, January 12, 2018, the following items from your public records request have been prioritized:

- Scoring sheets, and review comments;
- All available level 1 and 2 cultivator applications; and
- Requests for 119 hearings and notices from Commerce regarding those hearings.

Per your agreement and direction, we will not be supplying any emails at this time. We will wait for you to provide a list of key terms and/or dates that will enable us to conduct a more focused search.

I will contact you next week to update you on the status of your request. I expect to have more detailed information concerning records documenting the development of the scoring rubric and the application, and the selection process for review panel members and/or outside consultants.

If I am in error as to any of the foregoing, please advise. I look forward to speaking next week.

Very truly yours,

Kelli Lister

[cid:image003.jpg@01D38BC2.0A9F1370]

Stacey Adams
Administrative Professional 4
Ohio Department of Commerce
Division of Unclaimed Funds
77 S. High Street, 20th Floor, Columbus, OH 43215
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OHIO RELEAF: PUBLIC RECORDS REQUEST SEARCH TERMS

NB: Universal root expanders will be used where indicated by asterisk. All search terms are not case-sensitive

"MMCP-C-201706-0184"
"conflict*" w/s "interest*"
"potential" w/s "conflict*"
"avoid*" w/s "conflict*"
"Personal service* agreement*"
"non-state employee*" or "non state employee*"
"state employee*"
"disqualify;"
"disqualified;"
"disqualification*"
"3796:2-1-02*"
"3976:2-1-02(B)*"
"02(B)"
"3796:2-1-03*"
"3796:2-1-03(B)*"
"03(B)"
"3796:2-2-03*"
"3796:2-2-03(B)*"
"3796:2-2-05*"
"2-05"
"3796:5-3-01*"
"3-01"
"5-3-01*"
"2-1-0*"
"security" w/s "polic*"
"security" w/s "procedure*"
"transportation" w/s "polic*"
"transportation" w/s "procedure*"
"51"
"51%"
"51 percent"
"physical security"
"prevent theft, loss, or diversion and protect facility personnel"
"operating expense*"
"inventory control"
"disposal and waste protocol*"
"unusable"
"rendered unusable"
"record" w/s "dispose"
"record" w/s "disposal"
"record" w/s "waste"
"waste" w/s "dispose"

"waste" w/s "disposal"
"nonmarijuana" OR "non-marijuana" w/s "waste"
"recall*"
"notification*"
"manner of waste"
"volume and weight"
"signature*" w/s "disposal"
"signature*" w/s "waste"
"batch number" w/s "strain"
"batch*" w/s "plant material"
"plant material"
"unique" w/s "plant"
"unique" w/s "identif*"
"storage" w/s "mother*" OR "clone*"
"register*" w/s "employee*"
"vehicle*" w/s "require*"
"dispose" w/s "recall*"
"disposal" w/s "recall*"
"protocol*" w/s "recall*"
"protocol*" w/s "recalled"
"recurring" w/s "recall*"
"seed to sale"
"batch*"
"inventory reconciliation"
"storage protocol*"
"require" w/s "element"
"zero" w/s "point"
"0" w/s "point"
"mandatory" w/s "criteria"
"shall" w/s "submit"
"build" w/s "facility"
"building the facility"
"breakdown" w/s "cost"
"identify"
"identifiable"
"non-identif*" OR "non identify*"
"Section*" w/s "1*" OR "2*"
"Section*" w/s "one" OR "two"
"instruction"
"instructions"
"instructions packet"
"flag"
"flagged"
"scoring"
"rubric"
"final" w/s "score*"
"consensus"
"Bozeman"

"Wing"
"Schad"
"Kenny"
"Security" w/s "BNR"
"Finn"
"Johnson"
"Kaiser"
"security plan*"
"quality assurance plan*"
"financial plan*"
"business plan*"
"operation* plan*"
"plan team*" OR "scor* team*"
"question*"
"draft*"
"Q&A"
"guide"
"guidance"
"consultant*"
"subject matter expert*"
"expert*"
"HVAC"
"HVAC" w/s "air filtration"
"personal protective equip*"
"water" w/s "supply"
"water" w/s "filt*"
"seed-to-sale"
"funding analysis"
"fund*" w/s "mechan*"
"fund* w/s "sourc*"
"risk*" w/s "analy*"
"contingenc*"
"key expens*"
"protocol" w/s "disrupt" w/s "production"
"product timeline*"
"production schedule*"
"marijuana cultivation area layout"
"layout" w/s "environment"
"sufficient compartmentalization"
"staffing and training"
"security training"
"safety and emergency policies"
"use" w/s "pesticides"
"storage" w/s "pesticides"
"clear lines of authority"
"business model"
"application" w/s "implemented"
"different aspects of cultivation"

"harvest" w/s "grows"
"Vedadi"
"AOW"
"Cottonwood"
"Steve White"
"Nature" w/s "med"
"0 to 5"
"scoring" w/s "range*"
"discretion"
" RFI*" OR "RFP*"
"winn*" w/s "applica*"
"com2017-ADM00*"
"com" w/s "2017-ADM00*"
"com" w/s "17-ADM00*"
"SFCOM-18-00-001"
"controlling board" w/s "authority" OR "respond*" OR "consultant*"
"pre-op*" w/s "inspect*"
"certificate of operation*"
"provisional licensee*"
"Buckeye Relief"
"Grow Ohio"
"OPC Cultivation" OR "OPC"
"Riviera Creek"
"Pure Ohio Wellness" OR "Pure Ohio"
"Columbia Care"
"Terradiol"
"Standard Wellness"
"AT-CPC" OR "AT CPC"
"Cresco Lab*"
"ICANN"
"B&B"
"B&B Growers"
"criminal"
"convict*"
"felony"
"Pennsylvania"

EXHIBIT G

Joel E. Sechler

From: Jeffrey A. Lipps
Sent: Tuesday, January 23, 2018 10:02 AM
To: 'Kelli.Lister@com.state.oh.us'
Cc: Joel E. Sechler; Stacey.Adams@com.state.oh.us; Jeffrey A. Lipps
Subject: RE: Ohio Department of Commerce MMCP Public Records Request Update Jeffrey Lipps

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Kelli:

While I did receive your email of January 12, you also said you would call me the week of January 15th with an update on the status of Ohio Releaf's public records request. I did not receive that promised call.

We need confirmation that MMCP will immediately run the search terms we provided and report back to us on the collection results generated by that search for both emails and for the MMCP shared drive. We also need the names of the custodians for which the search terms were applied. As you know, we also requested the "file tree" for the MMCP shared drive and web portal documenting all of the files, folders, and subfolders contained on those databases. Ohio Releaf needs access to these documents, information, and databases as soon as possible.

For the call tomorrow at 4:00, please be advised that I am in South Carolina preparing for a trial. I will need you to call my cell phone and also get my partner, Joel Sechler, on the line. My cell number is 614-329-7922. Mr. Sechler can be reached at his office direct dial of 614-365-4132.

We look forward to receiving a report from you tomorrow that MMCP's document production is forthcoming.

Jeff

-----Original Message-----

From: Kelli.Lister@com.state.oh.us [mailto:Kelli.Lister@com.state.oh.us]
Sent: Monday, January 22, 2018 10:07 AM
To: Jeffrey A. Lipps
Cc: Joel E. Sechler; Stacey.Adams@com.state.oh.us
Subject: RE: Ohio Department of Commerce MMCP Public Records Request Update Jeffrey Lipps

Good morning Jeff,

Thank you for your email. The additional search terms, recipient/sender information and time frame will enable a more productive and efficient email search to be conducted for records responsive to your request. I have asked the MMCP to identify by name what documents and information are available for production from the MMCP shared drive and web portal.

To be clear when we spoke on the afternoon of 1/12/2018, I advised you that I would prepare and send an email confirming the content of the initial production of public records we had discussed during our call. I have done so as evidenced by the email below. I also told you at that time I was not able to provide a date certain on which an initial or any subsequent production of public records would be made.

I will call you at 4 p.m. on Wednesday, January 24, 2018, to provide an update on the status of an initial production of public records. If you are not available at that time, I will send you an email to provide an update on the status of your request.

Kelli E. Lister
Division Counsel
Ohio Department of Commerce
Division of Unclaimed Funds
77 S. High Street, 20th Floor
Columbus, OH 43215
PH: (614) 466-1385 FAX: (614) 728-9769
www.com.ohio.gov

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-----Original Message-----

From: Jeffrey A. Lipps [mailto:lipps@CarpenterLipps.com]
Sent: Friday, January 19, 2018 4:53 PM
To: Adams, Stacey <Stacey.Adams@com.state.oh.us>; Lister, Kelli <Kelli.Lister@com.state.oh.us>
Cc: Jeffrey A. Lipps <lipps@CarpenterLipps.com>; Joel E. Sechler <sechler@CarpenterLipps.com>
Subject: RE: Ohio Department of Commerce MMCP Public Records Request Update Jeffrey Lipps

Kelli and Stacey:

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which materials related to them should likewise be readily available for early production. I would really like to move this process along and start receiving the public records we requested some time ago.

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To date, we have not received sufficient information to identify all of the foregoing individuals by name. However, we understand the above would at a minimum include Jacqueline Williams, Justin Hunt, Melissa Craddock, John M. Finn, Patricia A. Johnson, Craig W. Kaiser, Edward Mark Nye, Keoki Wing, Jason Meade, Trevor Bozeman, Paul Schad, and Daniel Kenny.

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Lastly, will we need documentation confirming the "application code" assigned to each Level I Cultivator applicant so we can identify which scoring records and other documents relate to which applicant.

Regards,

Jeff

Jeffrey A. Lipps
Carpenter Lipps & Leland
280 Plaza, Suite 1300
280 North High Street

Columbus, OH 43215
Main Phone#:(614)365-4100
Direct Phone#(614)365-4105
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From: Stacey.Adams@com.state.oh.us [Stacey.Adams@com.state.oh.us]
Sent: Friday, January 12, 2018 4:26 PM
To: Jeffrey A. Lipps
Subject: Ohio Department of Commerce MMCP Public Records Request Update Jeffrey Lipps

Good Afternoon:

To summarize the conference call that was held on Friday, January 12, 2018, the following items from your public records request have been prioritized:

- * Scoring sheets, and review comments;
- * All available level 1 and 2 cultivator applications; and
- * Requests for 119 hearings and notices from Commerce regarding those hearings.

Per your agreement and direction, we will not be supplying any emails at this time. We will wait for you to provide a list of key terms and/or dates that will enable us to conduct a more focused search.

I will contact you next week to update you on the status of your request. I expect to have more detailed information concerning records documenting the development of the scoring rubric and the application, and the selection process for review panel members and/or outside consultants.

If I am in error as to any of the foregoing, please advise. I look forward to speaking next week.

Very truly yours,

Kelli Lister

[cid:image003.jpg@01D38BC2.0A9F1370]

Stacey Adams
Administrative Professional 4
Ohio Department of Commerce
Division of Unclaimed Funds
77 S. High Street, 20th Floor, Columbus, OH 43215

614-995-7531

https://na01.safelinks.protection.outlook.com/?url=www.com.ohio.gov&data=02%7C01%7Ckelli.lister%40com.state.oh.us%7Cabab492d344040606bf408d55f870c1c%7C50f8fcc494d84f0784eb36ed57c7c8a2%7C0%7C0%7C636519956962218681&sdata=Hu2Ysw1Au4FyNuMkph3CLtjOQ0HN739C8oN345a%2FND8%3D&reserved=0<https://na01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.com.ohio.gov%2F&data=02%7C01%7Ckelli.lister%40com.state.oh.us%7Cabab492d344040606bf408d55f870c1c%7C50f8fcc494d84f0784eb36ed57c7c8a2%7C0%7C0%7C636519956962218681&sdata=Tc8GmB7CtgqssPNDkwTJP1bKNCVLtHEOXLNS8gy1AF4%3D&reserved=0>

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EXHIBIT H

Joel E. Sechler

From: Jeffrey A. Lipps
Sent: Wednesday, February 28, 2018 3:56 PM
To: 'Kelli.Lister@com.state.oh.us'; Stacey.Adams@com.state.oh.us
Cc: Joel E. Sechler; Jeffrey A. Lipps
Subject: FW: Ohio MMCP Public Records Update

Ms. Lister:

We have the production of records MMCP made at noon on Thursday, February 22nd. The "production" -- the first since January 29 -- included the RFPs and responses for those vendors interested in being consultants for the Cultivator I applications (COM2017-ADM003) or for the "processor and lab" applications (COM2017-ADM004).

Given the passage of time since our December 13, 2017 public records request, and the limited volume of public records provided so far, we have little choice but to conclude that MMCP is not taking Ohio Releaf's public records request seriously, and is most certainly not committed to producing the public records we have requested within the required "reasonable period of time." As you know, we attempted to cooperate with MMCP to ensure the efficient production of the requested records by prioritizing certain categories of those public records and by providing MMCP with specific and detailed "search terms." Our efforts have been to no avail. And, with Ohio Releaf's Chapter 119 hearing on the horizon, the prejudice is deepening.

So there is no misunderstanding, Ohio Releaf's outstanding public records request encompasses the following categories of public records that we have not received (or been provided a timetable for their production):

- Public records regarding how the Cultivator I consultants were vetted and selected, their Personal Services Agreements with MMCP, and the work they performed;
- Public records regarding how the "scoring rubric" was developed and implemented, and identifying the individuals (including, but not limited to, MMCP employees and consultants) involved in that development and implementation;
- Public records regarding how the application was developed and implemented, and identifying the individuals (including, but not limited to, MMCP employees and consultants) involved in that development and implementation;
- Public records regarding the identities and qualifications of those MMCP employees and consultants who evaluated and scored the Cultivator I applications and how they were selected;
- Public records regarding how the "scoring rubric" was applied by those MMCP employees and consultants who evaluated and scored the Cultivator I applications;
- Public records regarding the review, evaluation and scoring of the Cultivator I applications;
- Public records regarding Cultivator I Chapter 119 hearing requests and the corresponding scheduling of Chapter 119 hearings;
- Public records generated by the search terms Ohio Releaf provided by email to you on January 19th;
- Public records contained in the MMCP shared drive;
- Public records contained in the MMCP web portal;
- Public records regarding MMCP web portal log-in activity; and
- Public records MMCP has provided to Ohio Auditor Dave Yost (These public records include, but are not limited to: (1) "accounts and folders assigned to individual reviewers through the entire grading process;" (2) "a crosswalk spreadsheet tying individual applicant names to the applicant number used in the blind review process;" (3) public records related to "exporting and calculating the cumulative scores of each review team;" (4) "an excel spreadsheet to track if the applicant(s) scored the minimum 60 points and minimum required points in each of the five graded sections;" and (5) public records related to how the two administrators "assigned and tracked the account usernames for each individual reviewer utilizing the portal." We further understand that MMCP evaluators have been

meeting with the Auditor's office and presumably have been providing public records to the Auditor on conjunction with the meetings. Our request includes these public records as well).

I hereby request that we convene a call this week to discuss where you are in the collection, review and production of the public records we have requested, and to set a date certain by which they will be produced. Absent that, Ohio Releaf will have little choice but to proceed with a mandamus action to compel MMCP's compliance with its obligations under the Ohio Public Records Act. Time is of the essence and MMCP needs to produce the requested public records now.

Jeff Lipps

Jeffrey A. Lipps
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Email:lipps@carpenterlipps.com

From: Kelli.Lister@com.state.oh.us [Kelli.Lister@com.state.oh.us]
Sent: Tuesday, February 20, 2018 3:21 PM
To: Jeffrey A. Lipps; Stacey.Adams@com.state.oh.us
Cc: Joel E. Sechler
Subject: RE: Ohio MMCP Public Records Update

Attorney Lipps,

Thank you for your email below. The Department is committed to producing documents responsive to your request as quickly as is possible. I will email you when responsive documents are ready to be picked up.

Kelli E. Lister
Division Counsel
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-----Original Message-----

From: Jeffrey A. Lipps [mailto:lipps@CarpenterLipps.com]

Sent: Saturday, February 17, 2018 4:55 PM

To: Lister, Kelli <Kelli.Lister@com.state.oh.us>; Adams, Stacey <Stacey.Adams@com.state.oh.us>

Cc: Joel E. Sechler <sechler@CarpenterLipps.com>; Jeffrey A. Lipps <lipps@CarpenterLipps.com>

Subject: FW: Ohio MMCP Public Records Update

Ms. Lister:

Following on my email of February 15th, we have since reviewed a February 6, 2018 letter from State Auditor Dave Yost to Commerce Director Jacqueline Williams and her letter in response to Auditor Yost of February 15, 2018.

These two letters detail serious deficiencies in MMCP's internal control processes regarding the web portal (which Auditor Yost refers to as "Tumbleweed") utilized by MMCP throughout the Cultivator I application process. Specifically, Auditor Yost found that two MMCP administrators improperly had "unlimited access" to all folders on the web portal and to the accounts of all MMCP employees and consultants who accessed the web portal, and could have used this improper access to alter application scoring without authorization.

These letters further reveal that Auditor Yost's conclusions in this regard were reached in part by reviewing documents MMCP provided in response to "document requests" directed to MMCP by the State Auditor's Office. These documents include, but are not limited to: (1) "accounts and folders assigned to individual reviewers through the entire grading process;" (2) "a crosswalk spreadsheet tying individual applicant names to the applicant number used in the blind review process;" (3) documents related to "exporting and calculating the cumulative scores of each review team;" (4) "an excel spreadsheet to track if the applicant(s) scored the minimum 60 points and minimum required points in each of the five graded sections;" and (5) documents related to how the two administrators "assigned and tracked the account usernames for each individual reviewer utilizing the portal."

The documents MMCP has already produced to Auditor Yost are among the documents Ohio Releaf has been requesting from MMCP since December 13, 2017. These documents are encompassed by paragraphs 1(b), 1(c), 1(d), 1(e), 2, 4-6, and 8-11 of Ohio Releaf's December 13, 2017 public records request. Your assistant confirmed in her January 25, 2017 email below that MMCP understands Ohio Releaf's request includes these types of documents. I confirmed this position in my emails of February 5th and 15th below.

These documents exist, are public records, and have already been reviewed and produced by MMCP in response to Auditor Yost. The documents provided to Auditor Yost need to be produced to us by MMCP immediately as a partial response to Ohio Releaf's December 13, 2017 public records request. (By making this immediate production, the State is not relieved of its obligation to provide, nor is Ohio Releaf waiving, its continuing demand for, full production of the previously requested public records which we have been in discussion regarding for now more than 60 days with little to show for it.) If you refuse to make this production immediately, you will leave us no recourse but to consider a mandamus action. We look forward to prompt advice regarding the State's response to the forgoing.

Jeff Lipps

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-----Original Message-----

From: Jeffrey A. Lipps
Sent: Thursday, February 15, 2018 4:06 PM
To: 'Kelli.Lister@com.state.oh.us' <Kelli.Lister@com.state.oh.us>
Cc: Stacey.Adams@com.state.oh.us; Joel E. Sechler <sechler@CarpenterLipps.com>; Jeffrey A. Lipps <lipps@CarpenterLipps.com>
Subject: FW: Ohio MMCP Public Records Update

Ms. Lister:

Our decision to use "or" instead of "and" for certain search terms was done intentionally to ensure the terms would adequately capture the scope of documents Ohio Releaf has requested. The search terms using "or" instead of "and" comprise barely 5% of the total search terms. If MMCP is serious about working with us on search terms, we need to see the "hit list," or as you refer to it in your email, the "preliminary search results," MMCP has generated. We cannot effectively evaluate the search terms we provided if we remain completely blind to the results those terms have generated.

Regardless, the email search term issue is not an impediment to MMCP promptly providing non-email documents responsive to our requests, including in the following categories:

- Documents related to the development of the "scoring rubric" and application;
- Documents related to the RFI and RFP for consultants;
- Documents contained in any file, folder, and/or subfolder of the MMCP shared drive and/or web portal; and
- Applicant requests for 119 hearings and all notices scheduling the requested 119 hearings.

Please provide an update as to the timetable for the production of non-email documents from these categories. Particularly given that these documents have likely been requested by other Cultivator I license applicants, I trust the production will be forthcoming.

Regards,

Jeff Lipps

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Email:lipps@carpenterlipps.com

From: Kelli.Lister@com.state.oh.us
Sent: Tuesday, February 13, 2018 5:16 PM
To: Jeffrey A. Lipps
Cc: Stacey.Adams@com.state.oh.us
Subject: Ohio MMCP Public Records Update

Attorney Lipps,

An email search was initiated using the search terms you provided. Preliminary search results identified a voluminous number of records. Information technology staff estimate that additional records will be identified when the search is complete. The amount of time necessary to review the results and the costs associated with its compilation and production will be considerable.

In order to make the production of search results timely and meaningful, please consider revising the number and format of your search terms. Modifying your search request to include a smaller number of essential terms conjoined by "and" rather than "or" would help generate more meaningful and productive search results. I look forward to your response.

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6704f5a2e8c469df08408d576510eb7%7C50f8fcc494d84f0784eb36ed57c7c8a2%7C0%7C0%7C636545013007237265&s data=YbBOlykVdpoZ8D6XII3JYITtUZgvfPbVdEAYQPy2nKc%3D&reserved=0>

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From: Lister, Kelli
Sent: Tuesday, February 06, 2018 3:20 PM
To: 'Jeffrey A. Lipps' <lipps@CarpenterLipps.com>
Cc: Joel E. Sechler <sechler@CarpenterLipps.com>; Adams, Stacey <Stacey.Adams@com.state.oh.us>
Subject: Ohio MMCP Public Records Update

Attorney Lipps,

I have acted in good faith to be attentive to your requests for updates on the status of the public records request you have made on behalf of your client. It is certainly true you did not receive a phone call last week, but what is equally true is that you received email communications responsive to your own and which served to update you on the status of your request as promised.

In your most recent email you had requested an update with regard to:

1. Documents related to the development of the "scoring rubric" and application;

- 2) Records generated through the email search utilizing the search terms we provided you on January 19th;
 1. Documents related to the RFI and RFP for consultants;

 - 4) Documents relating to web portal access by MMCP employees and consultants;

1. The "file tree" of the files, folders, and subfolders of the MMCP shared drive and web portal; and

- 6) Applicant requests for 119 hearings and all notices scheduling the requested 119 hearings.

The information requested in Items One and Two necessarily require a detailed Outlook search and review of the results prior to production. At this time, it is not possible to provide a "clear timeline" other than to assure you production will be made within a reasonable period of time. Production of documents responsive to Item 3 is expected to be made within the next couple of weeks. Items 4 & 5 request public records which do not exist and, therefore, cannot be produced. Documents responsive to Item 6 are numerous and are being compiled. Production of the responsive documents will be made as soon as they are available.

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<<https://na01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.com.ohio.gov%2F&data=02%7C01%7Ckelli.lister%40com.state.oh.us%7Cf6704f5a2e8c469df08408d576510eb7%7C50f8fcc494d84f0784eb36ed57c7c8a2%7C0%7C0%7C636545013007237265&sdata=YbBOlykVdpoZ8D6XII3JYITtUZgvfPbVdEAYQPy2nKc%3D&reserved=0>>

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From: Jeffrey A. Lipps [mailto:lipps@CarpenterLipps.com]
Sent: Monday, February 05, 2018 3:49 PM
To: Lister, Kelli <Kelli.Lister@com.state.oh.us>[mailto:Kelli.Lister@com.state.oh.us]>>

Cc: Joel E. Sechler <sechler@CarpenterLipps.com<mailto:sechler@CarpenterLipps.com>>; Adams, Stacey <Stacey.Adams@com.state.oh.us<mailto:Stacey.Adams@com.state.oh.us>>; Jeffrey A. Lipps <lipps@CarpenterLipps.com<mailto:lipps@CarpenterLipps.com>>
Subject: RE: Ohio MMCP Public Records Update

Ms. Lister: I write as a follow-up regarding our January 24th telephone conversation and the email string below that followed. You indicated during that telephone conversation that you would be calling me last week with an update regarding Ohio Releaf's outstanding public records request. I did not receive that call.

Ohio Releaf served its public records request on December 13, 2017. Now, going on eight weeks later, the only documents we have received from MMCP are Cultivator I and II applications and related scoring sheets, which represent a small percentage of the total public records Ohio Releaf requested and that are in MMCP's possession. As you acknowledge in your email below, we have worked in good faith with you to clarify Ohio Releaf's requests to facilitate an efficient production of the remaining records by MMCP. Admonishing us in response that public records requests are "not discovery" while repeating the mantra that records will be produced "within a reasonable amount of time" is not acceptable. A "reasonable amount of time" since December 13, 2017 has already passed.

Particularly at this point, Ohio Releaf is entitled to a clear timeline on when the remaining requested records will be promptly produced, including the following:

- Documents related to the development of the "scoring rubric" and application;
- Records generated through the email search utilizing the search terms we provided you on January 19th;
- Documents related to the RFI and RFP for consultants;
- Documents relating to web portal access by MMCP employees and consultants;
- The "file tree" of the files, folders, and subfolders of the MMCP shared drive and web portal; and
- Applicant requests for 119 hearings and all notices scheduling the requested 119 hearings.

Ohio Releaf is entitled to these documents under the Ohio Public Records Act ("OPRA"), and further delay in their production will materially prejudice Ohio Releaf, including, but not limited to, its ability to meaningfully exercise its statutory rights under Chapter 119. We trust we will receive the requested timeline and accompanying prompt production of all remaining requested public records from you, and that Ohio Releaf will not have to resort to mandamus to compel MMCP's compliance with its OPRA obligations.

Regards,

Jeff Lipps

From: Kelli.Lister@com.state.oh.us<mailto:Kelli.Lister@com.state.oh.us> [mailto:Kelli.Lister@com.state.oh.us]
Sent: Wednesday, January 31, 2018 11:14 AM
To: Jeffrey A. Lipps
Cc: Joel E. Sechler; Stacey.Adams@com.state.oh.us<mailto:Stacey.Adams@com.state.oh.us>
Subject: Ohio MMCP Public Records Update

Attorney Lipps,

The Department is working to identify records responsive to your public records request. As such, referencing standard practices and procedures employed in the context of a litigation is misplaced. Additionally stating that you have decided to "renew your demand" for a "hit list" is improper. The Department of Commerce is responding to a Public Records Request not discovery. A public office has no duty to "seek out and retrieve those records which contain the information of interest to the requester." State ex rel. Fant v. Tober, 8th Dist. Cuyahoga No. 63737 (April 28, 1993), aff'd 68 Ohio St.3d 117, 623 N.E.2d 1202 (1993). See also, State ex rel. Thomas v. Ohio State Univ., 71 Ohio St.3d 245; 643 N.E. 2d 126 (1994). As stated in my earlier email, a "hit list" will not be forthcoming.

Additionally, you have requested the production of a file tree for the MMCP program and documents based upon which the cultivator scoring rubric was developed. A search will be conducted to locate documents responsive to your request. If documents are located, they will be produced for your review within a reasonable amount of time.

The Department is committed to produce the public records you have requested. Ongoing communication is helpful to that end and your clarification is appreciated.

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Kelli E. Lister

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3bdf04e2e29d008d56cd9d991%7Cdce5f053ae2b4fd682ac1a98b86789a5%7C0%7C0%7C636534605277897078&sdata=hfPdfSwLsyoqSxJkWz0lsjMh7p%2BloBnMyAMvge%2Bn9%2FQ%3D&reserved=0>

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From: Jeffrey A. Lipps [mailto:lipps@CarpenterLipps.com]
Sent: Monday, January 29, 2018 1:09 PM
To: Adams, Stacey <Stacey.Adams@com.state.oh.us<mailto:Stacey.Adams@com.state.oh.us>>; Lister, Kelli <Kelli.Lister@com.state.oh.us<mailto:Kelli.Lister@com.state.oh.us>>
Cc: Joel E. Sechler <sechler@CarpenterLipps.com<mailto:sechler@CarpenterLipps.com>>; Jeffrey A. Lipps <lipps@CarpenterLipps.com<mailto:lipps@CarpenterLipps.com>>
Subject: RE: Ohio MMCP Public Records Update

Stacey:

Your email below leaves out two additional items we discussed during our call on Wednesday, January 24th.

1. Ms. Lister indicated that the documents related to the development of the "scoring rubric" and application are in the process of being compiled, and will then need to go through legal review before production. She promised to update us on the status of these documents during the week of January 29th; and

1. Ms. Lister told us that she forwarded our request for production of the "file tree" of the files, folders, and subfolders of the shared drive and web portal on to the appropriate person at Commerce. Ms. Lister said that she had not yet received a response from that individual, but promised to pursue a response and report back to us once she heard from them.

With regard to the email search, it is our experience that a report of some kind is typically generated detailing the number of returns or "hits" for each search term. Your email does not deny that such a report will be generated, but only that it will not be "used and/or reviewed" or "relied upon" by Commerce. It is standard modern practice for such reports to be shared in litigation. We renew our demand that any such report be produced to us once the email search is completed.

Jeff

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From: Stacey.Adams@com.state.oh.us<mailto:Stacey.Adams@com.state.oh.us>
[mailto:Stacey.Adams@com.state.oh.us]
Sent: Thursday, January 25, 2018 2:12 PM
To: Jeffrey A. Lipps
Subject: Ohio MMCP Public Records Update

Attorney Lipps,

As a follow up to our phone call yesterday, I wish to summarize the following:

- 1) Production of all Level One and Level Two Cultivator Applications is expected to be made by the close of business on Monday, January 29;
- 2) Production of all Level One and Level Two Cultivator score sheets with reviewer comments is expected to be made by the close of business on Monday, January 29; and
- 3) Applicant requests for RC 119 hearing and Commerce's RC 119 hearing notices have been assembled, but are currently under review. The documents will produced for you within a reasonable amount of time.

An email search will be run utilizing the search term you provided for the time period you designated. You had requested the opportunity to review a "hit list" after the search is run. Such a document is not used and/or reviewed by the Department and not relied upon in its operations. No hit list will be provided you. The Department of Commerce will run the search as you have requested and provide you with the records responsive to your request.

With respect to the RFI documents and RFP documents we had discussed the documents are being assembled and will be produced within a reasonable period of time. Additionally, you had requested records documenting web portal access to the applications and score sheets. The matter is under review and, if documents responsive to your request are located, they will be produced within a reasonable period of time.

Thank you.

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Stacey Adams
Administrative Professional 4
Ohio Department of Commerce

Division of Unclaimed Funds

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<https://na01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.com.ohio.gov%2F&data=02%7C01%7Ckelli.lister%40com.state.oh.us%7C348d11f755b34f3eebe108d567435d8e%7C50f8fcc494d84f0784eb36ed57c7c8a2%7C0%7C0%7C636528461390217219&sdata=naV5TazDr%2Fwf2xtAXs%2FTtpI83cFya%2FmtbZz%2BuG6qP8%3D&reserved=0>

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EXHIBIT I

Joel E. Sechler

From: Jeffrey A. Lipps
Sent: Monday, March 12, 2018 4:12 PM
To: 'Kelli.Lister@com.state.oh.us'
Cc: Stacey.Adams@com.state.oh.us; Joel E. Sechler; Jeffrey A. Lipps
Subject: FW: 03/01/2018 Conference Call: MMCP PRR

Ms. Lister:

Your email of March 5th accurately sets forth the small number of public records (requested on December 13, 2017) that had been produced by Commerce as of our conversation. It also correctly notes the specific RFI/RFP-related records which were missing from Commerce's February 22nd production.

Your email also recites the public records you indicated during our March 1st call that "have been compiled and are currently under legal review." Although we did receive an additional production on Friday, that production did not include any of the records you indicated were "under legal review," nor did it contain the missing RFI/RFP-related records. Rather, the production consisted of: (1) a one-page spreadsheet identifying the Section 1 and Section 2 reviewers; (2) the redaction sheets for all Cultivator I applicants; (3) the Section 1 checklist forms for Cultivator I applicants; and (4) Cultivator I and II Chapter 119 hearing requests.

Unfortunately, your March 5th email does **not** accurately and completely set forth the additional public records Ohio Releaf has requested (since December 13) and which Commerce has not yet produced. To be clear, those public records are:

1. Public records regarding how the Level I Cultivator third-party consultants were vetted and selected (including, but not limited to, the consultants' Personal Services Agreements with Commerce);
2. Public records regarding how the Level I Cultivator evaluators who are Commerce employees were vetted and selected (including, but not limited to, their personnel files);
3. Public records regarding the development of the Level I Cultivator application and the scoring rubric (including, but not limited to, any accompanying training materials/guides provided to the evaluators);
4. Public records regarding the actual review, evaluation, and scoring of the Level I Cultivator applications (including, but not limited to, individual and consensus evaluator notes and scoring records);
5. Public records Commerce has provided to Auditor Dave Yost;
6. Public records on the Commerce web portal (including, but not limited to any user's manual or guide and training materials);
7. Public records regarding content, log-in access and web portal use of Commerce's web portal; and
8. Any additional public records (including emails and records located on e-mail server or the Commerce shared drive) collected using the search terms Ohio Releaf provided to Commerce on January 19th.

We reject any suggestion that the above public records requests are improper, vague, or ambiguous. They seek public records of how Commerce conducted the Cultivator I application process, and we have repeated explained those requests in telephone conferences and in correspondence and e-mails. Commerce clearly must know where these records are located, how they are maintained, and the identities of their custodians. We do not believe the unreasonable delay in Commerce producing public records in response to Ohio Releaf's December 13 public records request is due to deficiencies in the substance of Ohio Releaf's requests, but rather due to the fact that Commerce is trying to respond to all of the public records requests it has received on a single-track with a "one size fits all" approach. Ohio Releaf's requests are focused and unique and Ohio Releaf is entitled to the public records it has requested now not when they can be conveniently staged with other request responses. Please provide a concrete timetable on a tight schedule for their

production. Also, if Commerce is refusing to produce any of the public records requested on December 13, please advise me in writing immediately, as I requested you do during our March 1st call.

There are some additional matters we discussed on March 1st which are not reflected in your email:

1. Please confirm that Commerce is utilizing the exact search terms Ohio Releaf provided on January 19th to search emails and the shared drive. We understand that the use of Ohio Releaf's search terms for emails has been narrowed to the field of custodians involved in the Cultivator I application development and scoring process. During the call, you referenced in this regard that there were certain "teams" who worked on different aspects of the application development process. Please confirm this is accurate and please identify the custodians and/or "teams" whose emails are now being searched.
2. We also understand that Commerce has changed its original position and now will provide us with the "hit list" generated by application of Ohio Releaf's search terms to the narrower custodian field and shared drive. Please advise when Commerce will provide that "hit list" to us.
3. Please confirm whether there are additional public records sources being searched other than the emails, shared drive, and web portal we have been discussing and, if so, identify those sources and confirm that Commerce is reviewing those sources as part of responding to Ohio Releaf's public records request, including, but not limited to, through application of the search terms Ohio Releaf provided on January 19.

Jeffrey A. Lipps
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From: Kelli.Lister@com.state.oh.us [<mailto:Kelli.Lister@com.state.oh.us>]
Sent: Monday, March 05, 2018 4:53 PM
To: Jeffrey A. Lipps <lipps@CarpenterLipps.com>
Cc: Joel E. Sechler <sechler@CarpenterLipps.com>; Stacey.Adams@com.state.oh.us
Subject: 03/01/2018 Conference Call: MMCP PRR

Attorney Lipps,

During our phone conference on Thursday, March 1, 2018, we reviewed and discussed your email dated February 28, 2018. In it, you enumerated a number of items for discussion.

It was acknowledged that the following information has been produced as responsive, in part, to the public records requests submitted by Lipps, Carpenter Lipps & Leland LLP. The documents the Department of Commerce ("Commerce") has produced to date are as follows:

1. All Level 1 and Level 2 cultivator applications;
2. All Level 1 and Level 2 score sheets with review comments; and
3. All Consultant RFIs and RFPs (Item 6).

With respect to the RFIs and RFPs that were produced, you stated the production was incomplete. Specifically, you asserted the following:

1. ADM 001 is missing in its entirety;
2. ADM 002 does not include responses; and
3. ADM 003 does not include the Personal Service Agreement.

I will investigate the foregoing to identify and produce any information that was missing from the production responsive to your request.

During our call, we reviewed and discussed those requests that have been compiled and are currently under legal review. They are expected to be produced within a reasonable amount of time:

1. Training materials/guidance provided to Reviewers (Item 7, 8 & 13 to the extent access and use of MMCP web portal);
2. The 119 administrative hearing docket (Item 9);
3. Personal Service Agreements with MMCP (Item 2); and
4. Human resource files for reviewers (Item 6).

We also discussed the Department's search for and compilation of any documents it locates responsive to the following items, as referenced by number in your email:

- 1) Public records regarding how Cultivator I consultants were vetted and selected (Item 1);
- 2) Exclusive of emails, documents that were created and/or relied upon in the development of the cultivator application and scoring rubric (Items 4 & 5); and
- 3) Public records provided to Ohio Auditor Dave Yost (Item 14).

Your 02/28/2018 email enumerates "categories" of public records requests that remain outstanding. Please appreciate the Public Records Act applies only to "public records" kept by a public office. R.C. 149.43(A)(1). It is the responsibility of a public office to produce public records identified with reasonable clarity pursuant to a public records request. *State ex rel. Glasgow v. Jones*, 119 Ohio St.3d,391, 2008-Ohio-4788, π 17. It does not obligate a state agency do produce "categories" of public records; rather a state agency is to produce only those public records identified with sufficient clarity that the public agency is not forced to guess at what is being requested. The request made in Item 3 is improper. It is an informational request that is both vague and ambiguous. Additionally, public records requests which require the duplication of all the records of a state agency on a particular topic area are improper. See *State ex rel. Zidonis v. Columbus State Community College*, 133 Ohio St.3d 122 (2012), 2012-Ohio-4228. For that reason, Items 11 and 12 are denied as overbroad, ambiguous and/or vague.

Finally, we discussed the search terms used by Office of Information Technology to identify responsive email communications are too numerous, broad and all-encompassing. The Department is working diligently to narrow the field in an effort to timely identify responsive email records. The Department will provide you with a list of the search terms used to generate any responsive production. (Item 10)

If I am in error as to any of the foregoing, please advise. Thank you.

Very Truly,



Kelli E. Lister
Division Counsel
Ohio Department of Commerce
Division of Unclaimed Funds
77 S. High Street, 20th Floor
Columbus, OH 43215

PH: (614) 466-1385 FAX: (614) 728-9769
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EXHIBIT J



December 14, 2017

VIA CERTIFIED MAIL NO.
70161370000174428252

Dickinson Wright PLLC
150 E. Gay Street
Columbus, OH 43215

Re: Ohio Releaf, LLC; MMCP-C-201706-0184

Dear Sir or Madam:

Enclosed please find a Notice of Intent to Deny and Notice of Opportunity to request a hearing as to whether your application for a Medical Marijuana Cultivator Level I provisional license should be denied.

If you wish to request a hearing, your written request must be received by the Division within thirty (30) days from the date of mailing of this Notice. If no hearing is requested, a final Order denying your application for a Medical Marijuana Cultivator Level I provisional license may be issued after thirty days.

If you have any questions, please contact the undersigned at phone number 614-387-5479.

Sincerely,



Diana Wynkoop

Enclosure

STATE OF OHIO
DEPARTMENT OF COMMERCE
MEDICAL MARIJUANA CONTROL PROGRAM
COLUMBUS, OHIO 43215

IN THE MATTER OF APPLICANT: Ohio Releaf, LLC; MMCP-C-201706-0184

**NOTICE OF INTENT TO DENY APPLICATION FOR MEDICAL MARIJUANA
CULTIVATOR PROVISIONAL LICENSE
AND
NOTICE OF OPPORTUNITY FOR HEARING**

The Department of Commerce alleges the following:

1. Applicant applied for a Medical Marijuana Cultivator Level I provisional license.
2. Applicant scored **thirteen (13)** for the Quality Assurance plan, which did **not** meet the minimum required score of eighteen (18). *See Exhibit B pages 11-15.*
3. Applicant scored **three (3)** for the Financial plan, which did **not** meet the minimum required score of six (6). *See Exhibit B pages 11-15.*
4. Applicant scored **eight (8)** for the Security plan, which did **not** meet the minimum required score of twelve (12). *See Exhibit B pages 11-15.*
5. Ohio Administrative Code 3796:2-1-01 provides, “the director of the department of commerce or the director's designee may issue up to twelve level I and twelve level II cultivator provisional licenses, in consideration of the ranking of the applicants in accordance with the criteria listed in section 3796.09 of the Revised Code and this chapter.” *See Exhibit A.*
6. Ohio Administrative Code 3796:2-1-04(A) provides, “A provisional license shall be issued to the level I and level II qualified applicants receiving at least the minimum required score in each category and the highest total score overall as compared to the other applicants.”
7. Ohio Administrative Code 3796:5-6-01(A)(7) permits the Department, when necessary for the program's administration or implementation to “refuse to issue a provisional license.”
8. Ohio Administrative Code 3796:2-1-02(B)(7) provides that an applicant “shall submit, in accordance with the application instructions...information requested in the application instructions that the department deems necessary to evaluate and determine the applicant's suitability to operate as a cultivator.”

Based on Paragraphs (1) through (8) above, the Department of Commerce alleges that Applicant did not qualify for a Medical Marijuana Cultivator Level I provisional license.

Pursuant to Revised Code 119.07, the Department of Commerce hereby provides notice that the applicant is entitled to a hearing if a request for hearing is received by the Department of Commerce within **thirty (30) days** from the date of mailing of this Notice. The hearing request must be submitted to:

Ohio Department of Commerce
Medical Marijuana Control Program
77 S. High Street
23rd Floor
Columbus, OH 43215

The applicant is hereby notified that if the Department of Commerce does not receive delivery of a request for hearing within thirty (30) days from the date of the mailing of this Notice, the Department of Commerce, intends to issue an Order to DENY the application for a Medical Marijuana Cultivator Level I provisional license. See Ohio Administrative Code 3796:5-6-01 and Ohio Revised Code 3796.09.

The Applicant is further advised that at such hearing the Applicant and the Department may appear in person, by their attorneys, or together with their attorneys, or they may present their position, arguments, or contentions in writing, and that at the hearing they may present evidence and examine witnesses appearing for or against them. Applicant is further notified that Applicant must be represented by an attorney at the hearing if the Applicant is a corporation, a limited liability company, or other "legal entity" as defined by Ohio Revised Code 1705.01(D), and Applicant wishes to make legal arguments, examine witnesses, or undertake any tasks that can only be performed by an Ohio licensed attorney. If Applicant wishes to be represented by an attorney not licensed in Ohio, that attorney must be admitted pro hac vice pursuant to rules established by the Supreme Court of Ohio prior to the hearing date. See Gov.Bar R. XII.

State of Ohio
Department of Commerce

By: *Jacqueline T. Wilkins/MC*
Title: *Director*
Date: *12/12/17*

Certified Mail Tracking Number - *7016 1370 0001 7442 8252*
cc: Angela Sullivan, Principal Assistant Attorney General; Trista Turley Assistant Attorney General

Exhibit A – Relevant Statutes and Code Reference

3796.09 License to cultivate, process or test medical marijuana.

(A) An entity that seeks to cultivate or process medical marijuana or to conduct laboratory testing of medical marijuana shall file an application for licensure with the department of commerce. The entity shall file an application for each location from which it seeks to operate. Each application shall be submitted in accordance with rules adopted under section 3796.03 of the Revised Code.

(B) The department shall issue a license to an applicant if all of the following conditions are met:
(1) The report of the criminal records check conducted pursuant to section 3796.12 of the Revised Code with respect to the application demonstrates the following:

(a) Subject to division (B)(1)(b) of this section that the person subject to the criminal records check requirement has not been convicted of or pleaded guilty to any of the disqualifying offenses specified in rules adopted under division (B)(2)(b) of section 3796.03 of the Revised Code:

(b) That the disqualifying offense the person was convicted of or pleaded guilty to is one of the offenses specified in rules adopted under division (B)(2)(c) of section 3796.03 of the Revised Code and the person was convicted of or pleaded guilty to the offense more than five years before the date the application for licensure is filed.

(2) The applicant demonstrates that it does not have an ownership or investment interest in or compensation arrangement with any of the following:

(a) A laboratory licensed under this chapter:

(b) An applicant for a license to conduct laboratory testing.

(3) The applicant demonstrates that it does not share any corporate officers or employees with any of the following:

(a) A laboratory licensed under this chapter:

(b) An applicant for a license to conduct laboratory testing.

(4) The applicant demonstrates that it will not be located within five hundred feet of a school, church, public library, public playground, or public park.

(5) The information provided to the department pursuant to section 3796.11 of the Revised Code demonstrates that the applicant is in compliance with the applicable tax laws of this state.

(6) The applicant meets all other licensure eligibility conditions established in rules adopted under section 3796.03 of the Revised Code.

(C) The department shall issue not less than fifteen per cent of cultivator, processor, or laboratory licenses to entities that are owned and controlled by United States citizens who are residents of this state and are members of one of the following economically disadvantaged groups: Blacks or African Americans. American Indians. Hispanics or Latinos, and Asians. If no applications or an insufficient number of applications are submitted by such entities that meet the conditions set forth in division (B) of this section, the licenses shall be issued according to usual procedures.

As used in this division, "owned and controlled" means that at least fifty-one per cent of the business, including corporate stock if a corporation, is owned by persons who belong to one or more of the groups set forth in this division, and that those owners have control over the management and day-to-day operations of the business and an interest in the capital, assets, and profits and losses of the business proportionate to their percentage of ownership.

(D) A license expires according to the renewal schedule established in rules adopted under section 3796.03 of the Revised Code and may be renewed in accordance with the procedures established in those rules.

3796.14 Authority of department of commerce.

(A)(1) The department of commerce may do any of the following for any reason specified in rules adopted under section 3796.03 of the Revised Code:

(a) Suspend, suspend without prior hearing, revoke, or refuse to renew a license it issued under this chapter;

(b) Refuse to issue a license;

(c) Impose on a license holder a civil penalty in an amount to be determined by the department.

The department's actions under this division shall be taken in accordance with Chapter 119. of the Revised Code.

3796.18 Cultivator license.

(A) Notwithstanding any conflicting provision of the Revised Code and except as provided in division (B) of this section, the holder of a current, valid cultivator license issued under this chapter may do either of the following:

(1) Cultivate medical marijuana;

(2) Deliver or sell medical marijuana to one or more licensed processors.

(B) A cultivator license holder shall not cultivate medical marijuana for personal, family, or household use or on any public land, including a state park as defined in section 154.01 of the Revised Code.

Ohio Administrative Code 3796:2-1-01

(A) Until September 8, 2018, the director of the department of commerce or the director's designee may issue up to twelve level I and twelve level II cultivator provisional licenses, in consideration of the ranking of the applicants in accordance with the criteria listed in section 3796.09 of the Revised Code and this chapter.

(B) Beginning September 9, 2018, and in accordance with section 3796.05 of the Revised Code, the director or the director's designee may issue additional cultivator provisional licenses, if the population of this state and the number of patients seeking to use medical marijuana support additional licenses, at the discretion of the director.

(C) In the event additional cultivator provisional licenses are deemed necessary, the department will follow the application procedures outlined in rule 3796:2-1-02 of the Administrative Code and this chapter.

3796:2-1-02 Cultivator provisional license application.

(A) The department shall provide advance notice to the public indicating the commencement date and time period for accepting applications. The director shall have the right to amend the notice prior to the deadline for submitting an application. The director shall publish such amended notice in the same manner as the original notice. The director shall also have the right to cancel a notice of open application prior to the award of a cultivator provisional license.

(B) The provisional license application shall be submitted in accordance with Chapter 3796. of the Revised Code and this chapter. The application will include instructions for completion and submission. An applicant for a level I cultivator provisional license shall be prohibited from applying for a level II cultivator provisional license, and an applicant for a level II cultivator provisional license shall be prohibited from applying for a level I cultivator provisional license. An applicant for a level I or level II cultivator provisional license shall submit, in accordance with the application instructions, the following:

- (1) A non-refundable application fee as set forth in rule 3796:5-1-01 of the Administrative Code;
- (2) A business plan, which, at a minimum, shall include:
 - (a) The legal name of the applicant;
 - (b) The type of business organization of the applicant, such as an individual, corporation, partnership, limited liability company, association or cooperative, joint venture, or any other business organization;
 - (c) Confirmation that the applicant is registered with the secretary of state as the type of business submitted pursuant to paragraph (B)(2)(b) of this rule, a certificate of good standing issued by the secretary of state, and a copy of the applicable business documents governing the operations and administration of the business;
 - (d) The proposed physical address of the applicant's facility;
 - (e) An organizational chart of the company, including name, address, and date of birth of each principal officer, board member and any other individual associated with the cultivator, provided that all those individuals shall be at least twenty-one years of age;
 - (f) All persons subject to the criminal records checks shall submit both an Ohio bureau of criminal identification and investigation criminal records check and a federal bureau of criminal investigation criminal records check pursuant to division (B) of section 3796.12 of the Revised Code;
 - (g) Any instance in which a business that any person associated with the applicant had managed or served on the board of the business and was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding;
 - (h) Evidence that the applicant owns the property on which the proposed cultivator will be located, has executed a lease for the property that does not contain any use restrictions that would otherwise prevent the cultivator from operating pursuant to Chapter 3796. of the Revised Code and in accordance with the rules promulgated pursuant to Chapter 3796. of the Revised Code, or has secured the ability to purchase or lease the property that does not contain any use restrictions that would otherwise prevent the cultivator from operating pursuant to Chapter 3796. of the Revised Code and in accordance with the rules promulgated pursuant to Chapter 3796. of the Revised Code;
 - (i) A location area map of the area surrounding the proposed cultivator that establishes the facility is at least five hundred feet from the boundaries of a parcel of real estate having situated on it a prohibited facility, as measured under rule 3796:5-5-01 of the Administrative Code;
 - (j) For any instance in which an applicant or any person associated with the applicant is currently or was previously licensed or authorized in another state or jurisdiction to cultivate, produce, test, dispense, or otherwise deal in the distribution of marijuana in any form, the following:
 - (i) A copy of each such licensing or authorizing document verifying licensure in that state or jurisdiction;
 - (ii) A statement granting permission to contact the regulatory agency that granted the license, accompanied by the contact information, to confirm the information contained in the application; and
 - (iii) If the license, authorization or application was ever warned, fined, denied, suspended, revoked or otherwise sanctioned, a copy of documentation so indicating, or a statement that the applicant was so licensed and was never sanctioned; and
 - (k) Documentation that the applicant is in compliance with applicable building, fire, safety, and zoning statutes, local ordinances, and rules and regulations adopted by the locality in which the applicant's proposed property is located, which are in effect at the time of the application, including but not limited to building department approval demonstrating compliance with rules adopted by

the board of building standards pursuant to Chapters 3781. and 3791. of the Revised Code and any applicable zoning considerations.

(3) An operations plan that establishes policies and procedures that the applicant will implement for the secure, safe, sustainable, and proper cultivation of medical marijuana, which, at a minimum, shall include:

- (a) Agricultural cultivation techniques;
- (b) Experience with the cultivation of medical marijuana or agricultural or horticultural products, operation of an agriculturally related business, or operation of a horticultural business;
- (c) A list of medical marijuana varieties proposed to be grown with estimated cannabinoid profiles, if known, including varieties with high cannabidiol content;
- (d) Facility specifications, including the cultivation environment, layout of the marijuana cultivation area (i.e. grow tables, tiered or stacked orientation, etc.) evidencing that the applicant will comply with the requirements of Chapter 3796. of the Revised Code and will operate in accordance with the rules promulgated pursuant to Chapter 3796. of the Revised Code;
- (e) The implementation of standards and guidelines for cultivating, propagating, vegetating, flowering, and harvesting medical marijuana, including safety protocols and equipment; and
- (f) Facility staffing and employment matters, including employee training and employee compliance with Chapter 3796. of the Revised Code and in accordance with the rules promulgated pursuant to Chapter 3796. of the Revised Code.

(4) A quality assurance plan that establishes policies and procedures for a safe, consistent supply of medical marijuana, which, at a minimum, shall include:

- (a) Intended use of pesticides, fertilizers, and other agricultural products or production control factors in the cultivation of medical marijuana;
- (b) Best practices for the packaging and labeling of medical marijuana;
- (c) Implementation and compliance with the inventory tracking system;
- (d) An inventory control plan;
- (e) Standards for the disposal of medical marijuana waste and other wastes; and
- (f) Recall policies and procedures in the event of contamination, expiration or other circumstances that render the medical marijuana unsafe or unfit for consumption, including, at a minimum, identification of the products involved, notification to the dispensary or others to whom the product was sold or otherwise distributed, and how the products will be disposed of if returned to or retrieved by the applicant;

(5) A security plan that establishes policies and procedures to prevent theft, loss or diversion from a cultivator and protect facility personnel, which, at a minimum, shall include:

- (a) Record keeping policies and procedures that will ensure the facility complies with rule 3796:2-2-08 of the Administrative Code;
- (b) A security plan in accordance with rule 3796:2-2-05 of the Administrative Code;
- (c) Transportation policies in accordance with rule 3796:5-3-01 of the Administrative Code; and
- (d) A plot plan of the cultivation facility drawn to a reasonable scale that designates the different areas of operation, including the marijuana cultivation area, with the mandatory access restrictions.
 - (i) If the building is in existence at the time of the application, the applicant shall submit plans and specifications drawn to scale for the interior of the building.
 - (ii) If the building is not in existence at the time of application, the applicant shall submit a plot plan and a detailed drawing to scale of the interior and the architect's drawing of the building to be constructed.

(6) A financial plan, which, at a minimum, shall include:

- (a) The identity and ownership interest of every person, association, partnership, other entity, or corporation having a financial interest, direct or indirect, in the cultivator with respect to which licensure is sought;
- (b) A cost breakdown of the applicant's anticipated costs in building the facility and implementing the policies and procedures submitted as part of the application and the source of funding for the associated costs;
- (c) Documentation acceptable to the department that the individual or entity filing the application has at least five hundred thousand dollars in liquid assets for a level I cultivator provisional license and fifty thousand dollars in liquid assets for a level II cultivator provisional license, which are unencumbered and can be converted within thirty days after a request to liquidate such assets;
 - (i) Documentation acceptable to the department shall include, as evidence of compliance, a signed statement from an Ohio licensed certified public accountant attesting to proof of the required amount of liquid assets under the control of an owner or the entity applying, if such a statement is available at the time of application.
 - (ii) The documentation must be dated within thirty calendar days before the date that the application was submitted.
- (d) Information verifying that the applicant will be able to conform to the financial responsibility requirements under rule 3796:2-1-05 of the Administrative Code; and
- (e) A record of tax payments in the form of tax summary pages for individuals and businesses at the state and federal level and in all jurisdictions in which an applicant has operated as a business and for every person with a financial interest of one per cent or greater in the applicant for the three years before the filing of the application, unless the department determines that documentation should be submitted for all individuals and entities.
- (7) Any other information requested in the application instructions that the department deems necessary to evaluate and determine the applicant's suitability to operate as a cultivator.

3796:2-1-03 Cultivator application review.

- (A) The department, an independent contractor selected by the department, or a combination of the two shall review the submitted applications as described in this chapter and the application instructions. In order to receive consideration under paragraph (B) of this rule, an applicant shall:
- (1) Demonstrate sufficient liquid capital pursuant to rule 3796:2-1-02 of the Administrative Code and an ability to meet the financial responsibility requirements under rule 3796:2-1-05 of the Administrative Code;
 - (2) Certify in writing at the time of application that an owner or prospective owner, officer or prospective officer, board member or prospective board member, administrator or prospective administrator, employee or prospective employee, agent, or other person has not been:
 - (a) Convicted of a disqualifying offense, as defined in rule 3796:1-1-01 of the Administrative Code; or
 - (b) Issued a certificate to recommend or applied for certification under section 4731.30 of the Revised Code;
 - (3) Verify that the proposed facility is not located within five hundred feet of a prohibited facility, which shall be measured in accordance with rule 3796:5-5-01 of the Administrative Code;
 - (4) Certify that the local jurisdiction where the facility is proposed has not passed a moratorium or taken other action that would prohibit the applicant from operating as a medical marijuana cultivator;

(5) Certify that an owner or prospective owner, officer or prospective officer, board member or prospective board member, administrator or prospective administrator, employee or prospective employee, agent, or other person who may significantly influence or control the activities of the cultivator does not have an ownership or investment interest, or compensation agreement with, or share any corporate officers or employees with any of the following:

(a) A laboratory licensed under Chapter 3796. of the Revised Code; or

(b) An applicant for a license to conduct laboratory testing under Chapter 3796. of the Revised Code;

(6) Provide documentation sufficient to establish that the applicant is in compliance with the applicable tax laws of this state and any jurisdiction where the applicant operates and conducts business; and

(7) Submit an application with the applicable fee under rule 3796:5-1-01 of the Administrative Code that does not contain information that misleads the department, misrepresents a material fact, or is received after the established application submission period established under paragraph (A) of rule 3796:2-1-02 of the Administrative Code.

(B) The applicants shall be ranked using an impartial and numerical process taking into account the criteria identified in rule 3796:2-1-02 of the Administrative Code, as developed by the department, an independent contractor selected by the department, or a combination of the two. The applicants will be ranked based on the following criteria, at a minimum:

(1) A business plan, which, at a minimum, shall include:

(a) A proposed business model demonstrating a likelihood of success, a sufficient business ability, and experience on the part of the applicant;

(b) An organizational chart of the company, including name, address, and date of birth of each principal officer and board member of the cultivator, provided that all those individuals shall be at least twenty-one years of age;

(c) Experience, which includes information on business licenses held by any person affiliated with the applicant, regardless if said license is active, revoked, suspended, or expired. If expired, applicant shall provide the grounds behind the expiration. The information provided on business licenses shall include the type of license, the licensing agency, the date the license was obtained, and a summary of any negative actions taken against each license;

(d) Evidence that the applicant owns the property on which the proposed cultivator will be located, has executed a lease for the property that does not contain any use restrictions that would otherwise prevent the cultivator from operating pursuant to Chapter 3796. of the Revised Code and the rules promulgated in accordance with Chapter 3796. of the Revised Code, or has secured the ability to purchase or lease the property that does not contain any use restrictions that would otherwise prevent the cultivator from operating pursuant to Chapter 3796. of the Revised Code and the rules promulgated in accordance with Chapter 3796. of the Revised Code; and

(e) Documentation that the applicant is in compliance with any local ordinances, rules, or regulations adopted by the locality in which the applicant's property is located, which are in effect at the time of the application. Such documentation may include, but is not limited to, local building department approval demonstrating compliance with rules adopted by the board of building standards pursuant to Chapters 3781. and 3791. of the Revised Code to construct the proposed facility, local approval to operate as a medical marijuana cultivation facility, and evidence that the applicant's proposed location is in compliance with local ordinances, rules, or regulations adopted by the locality in which the applicant's property is located, which are in effect at the time of application.

(2) An operations plan, which shall include, but not be limited to, the following:

(a) Documentation of cultivation methods and standards that will provide a steady, uninterrupted supply of medical marijuana;

(b) Experience with the cultivation of medical marijuana, or agricultural or horticultural products, operation of an agriculturally related business, or operation of a horticultural business;

(c) A list of medical marijuana varieties proposed to be grown with estimated cannabinoid profiles, if known, including varieties with high cannabidiol content;

(d) Facility specifications, including the cultivation environment, layout of the marijuana cultivation area (i.e. grow tables, tiered or stacked orientation, et cetera.), evidencing that the applicant will comply with the requirements of Chapter 3796. of the Revised Code and will operate in accordance with the rules promulgated pursuant to Chapter 3796. of the Revised Code; and

(e) Staffing and training guidelines.

(3) A quality assurance plan, which shall include, but not be limited to, the following:

(a) Intended use of pesticides, fertilizers, and other agricultural products or production control factors in the cultivation of medical marijuana;

(b) Best practices for the packaging and labeling of medical marijuana;

(c) Implementation and compliance with the inventory tracking system;

(d) An inventory control plan;

(e) Standards for the destruction of medical marijuana and disposal of waste; and

(f) Recall policies and procedures in the event of contamination, expiration, or other circumstances that render the medical marijuana unsafe or unfit for consumption, including at a minimum, identification of the products involved, notification to the dispensary or others to whom the product was sold or otherwise distributed, and how the products will be disposed of if returned to or retrieved by the applicant;

(4) A security plan, which shall include, but not be limited to, the following:

(a) Policies and procedures to ensure a secure, safe facility to prevent theft, loss, or diversion and protect facility personnel;

(b) Physical equipment used to monitor the facility and meet the security requirements under Chapter 3796. of the Revised Code and the rules promulgated in accordance with Chapter 3796. of the Revised Code;

(c) Emergency notification procedures with the department, law enforcement, and emergency response professionals;

(d) A plot plan of the cultivation facility drawn to a reasonable scale that designates the different areas of operation, including the marijuana cultivation area, with the mandatory access restrictions; and

(e) Transportation policies and procedures, which includes the transportation of medical marijuana from a cultivator to a processor or dispensary and from a cultivator to a testing laboratory in the state of Ohio, in accordance rule 3796:5-3-01 of the Administrative Code.

(5) A financial plan, which, at a minimum, shall include the following:

(a) The identity and ownership interest of every person, association, partnership, other entity, or corporation having a financial interest, direct or indirect, in the cultivator with respect to which licensure is sought;

(b) A cost breakdown of the applicant's anticipated costs in building the facility and implementing the policies and procedures submitted as part of the application and the source of funding for the associated costs;

- (c) Documentation acceptable to the department that the individual or entity filing the application has secured at least five hundred thousand dollars in liquid assets for a level I cultivator provisional license and fifty thousand dollars in liquid assets for a level II cultivator provisional license, which are unencumbered and can be converted within thirty days after a request to liquidate such assets;
- (i) Documentation acceptable to the department shall include, as evidence of compliance, a signed statement from an Ohio licensed certified public accountant attesting to proof of the required amount of liquid assets under the control of an owner or the entity applying, if such a statement is available at the time of application.
- (ii) The documentation must be dated within thirty calendar days before the date the application was submitted.
- (d) Information verifying that the applicant will be able to conform to the financial responsibility requirements under rule 3796:2-1-05 of the Administrative Code; and
- (e) A record of tax payments in the form of tax summary pages for individuals and businesses at the state and federal level and in all jurisdictions in which an applicant has operated as a business, and for every person with a financial interest of one per cent or greater in the applicant for the three years before the filing of the application, unless the department determines that documentation should be submitted for all individuals and entities.
- (6) Any other information that the department deems necessary to evaluate and determine the applicant's suitability to operate as a cultivator.
- (C) In addition to the criteria established in paragraph (B) of this rule, the department may also consider the following when awarding a provisional license:
 - (1) Principal place of business;
 - (a) The applicant must provide documentation establishing that its principal place of business is headquartered in Ohio. The applicant may also provide names, addresses, and verification of any persons associated with the applicant that have established residency in Ohio.
 - (b) The applicant may also provide a plan for generating Ohio-based jobs and economic development.
 - (2) Environmental plan;
 - (a) The applicant must demonstrate an environmental plan of action to minimize the carbon footprint, energy usage, environmental impact, and resource needs for the production of medical marijuana.
 - (b) The applicant may also describe any plans for the construction or use of a greenhouse cultivation facility, energy efficient lighting, use of alternative energy, the treatment of waste water and runoff, and scrubbing or treatment of exchanged air.
 - (3) Employment practices, which the applicant must demonstrate a plan of action to inform, hire, and educate minorities, women, veterans, disabled persons, and Ohio residents;
 - (4) Verification of economically disadvantaged groups; and
 - (a) The applicant must demonstrate the following:
 - (i) It is owned and controlled by a United States citizen who is a resident of this state and is a member of one of the economically disadvantaged groups set forth in division (C) of section 3796.09 of the Revised Code. As used in that section, "owned and controlled" means that at least fifty-one per cent of the business, including corporate stock if a corporation, is owned by persons who belong to one or more of the groups set forth in this rule, and that those owners have control over the management and day-to-day operations of the business and an interest in the capital, assets, and profits and losses of the business proportionate to their percentage of ownership; or

(ii) It is owned and controlled as a woman-owned business by a United States citizen who is a resident of this state. For purposes of this paragraph, "owned and controlled" has the same ownership and control requirements as listed in paragraph (C)(4)(a)(i) of this rule.

(5) Research plan, which the applicant must provide the department with a detailed proposal to conduct or facilitate a scientific study or studies related to the medicinal use of marijuana.

(D) The department may request additional information as part of the application review process from an applicant that otherwise meets all of the requirements under paragraph (A) of this rule. The applicant shall have thirty calendar days from the date the applicant receives the department's request to provide the information. If the applicant fails to provide the requested information within thirty calendar days, it will result in an abandoned application. An abandoned application shall not receive further consideration.

(E) An applicant forfeits all fees associated with an abandoned application. The department shall not be required to act on an abandoned application and the application may be destroyed by the department. An abandoned application will not prevent an applicant from applying for a provisional license in the future if the department issues additional provisional licenses pursuant to paragraph (B) of rule 3796:2-1-01 of the Administrative Code.

3796:2-1-04 Cultivator provisional license award.

(A) A provisional license shall be issued to the level I and level II qualified applicants receiving at least the minimum required score in each category and the highest total score overall as compared to the other applicants.

(B) In the event that two or more qualified applicants for a cultivator provisional license received the same total score, and awarding a provisional license to all tied applicants would violate paragraph (A) of rule 3796:2-1-01 of the Administrative Code, the department shall select the applicant that received the highest score in the operations plan category. In the event that the same applicants received the same score in the operations plan category, the department shall select the applicant that received the highest score in the security plan category. If a tie score still remains, the tied applicants will be interviewed by an unbiased panel selected by the department.

(C) If no qualified applicants are found during the process described in rule 3796:2-1-03 of the Administrative Code, a provisional licensee fails to fulfill the conditions in the application, or a certificate of operation is revoked, the department may, at the discretion of the director, announce another period to submit applications in accordance with rule 3796:2-1-02 of the Administrative Code. If the department announces another application period, a qualified applicant that submitted an application during the previous application period, but was not issued a provisional license, may re-submit an application and the application fee under rule 3796:5-1-01 of the Administrative Code shall be waived.

(D) No person shall hold or be granted more than one cultivator provisional license or cultivator certificate of operation at any time. No person shall hold a financial interest in or be an owner, partner, officer, director, shareholder, member, or other person who may significantly influence or control the activities of more than one cultivator. No corporation, partnership, limited liability partnership, limited liability company, or other entity or subsidiary thereof shall hold a financial interest in or be an owner, principal officer, partner, shareholder, member, or other person who may significantly influence or control the activities of more than one cultivator.

Exhibit B-Application Instructions



Ohio Department of Commerce



Medical Marijuana Control Program (MMCP)

Cultivator Application – Request for Applications (RFA) / Instructions Packet (MMCP-C-1000)

The Ohio Department of Commerce is requesting applications from parties interested in operating as a cultivator under Ohio's Medical Marijuana Control Program (MMCP). The following application instructions are provided for the two sections of the application, Cultivator Application – Filing Packet Section 1 (MMCP-C-1001A) and Cultivator Application – Filing Packet Section 2 (MMCP-C-1001B). Both sections of the application are required and must be submitted along with the respective fee during the application acceptance period.

- I. Overview**
 - a. Number of Cultivator Licenses
 - b. Application Acceptance Period
 - c. Appointments
 - d. Application Submission Instructions
 - e. Application Fee
- II. Disclosure of Application Information**
 - a. Information Subject to Disclosure
 - b. Confidential Information
- III. Preparing and Submitting your Application**
 - a. Financial Interest
 - b. Identifiable Information
 - c. Important Notices and Disclaimers
 - d. Elements of the Application Package – Section 1
 - e. Elements of the Application Package – Section 2
- IV. Application Review and Scoring Methodology**
 - a. Review Process
 - b. Mandatory Qualification Criteria
 - c. Evaluation Criteria



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Medical Marijuana Control Program (MMCP)

I. Overview

Number of Cultivator Licenses

In accordance with rule 3796:2-1-01 of the Administrative Code, the Department may issue up to 12 Level I and 12 Level II cultivator provisional licenses before September 9, 2018.

Application Acceptance Periods

The application acceptance period will vary depending on the level of cultivator license. The acceptance periods for the cultivator license applications will be as follows:

Level II Cultivator Applications: June 5, 2017 – June 16, 2017

Level I Cultivator Applications: June 19, 2017 – June 30, 2017

Applications shall be submitted only on weekdays during the hours of 9:00am EST and 5:00pm EST. Any applications or related documents delivered after 5:00pm EST on the last date of the applicable application acceptance period will not be accepted or considered.

Application Submission Instructions

The Department anticipates high volume traffic as applicants submit their applications towards the end of the applicable application acceptance periods. To help reduce this anticipated heavy traffic, applicants may schedule a time with the Department to deliver the application and fee. This will help ensure adequate team availability to process and receive the applications in a timely manner and prevent any long wait periods. Appointments for both application acceptance periods can be scheduled by calling (614) 387-5479 beginning on Monday, May 22, 2017, and ending at 5:00pm on Friday, June 2, 2017. Appointments will not be scheduled on the last two days of the Level II acceptance period or the Level I acceptance period.

Applications along with accompanying fees must be hand-delivered (in person or by a representative) directly to the Ohio Department of Commerce's Medical Marijuana Control Program before the expiration of the applicable application acceptance period. MMCP is located at:

Ohio Department of Commerce
Vern Riffe Center
77 S. High St, 23rd Floor
Columbus, OH 43215



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Please note that visitors must leave adequate time to check in with security. A valid photo ID is required to obtain a visitor's badge at the security desks on the 1st or 3rd floors of the building. Be aware that backpacks are not allowed in the building. All bags are subject to search.

It is recommended that all parties interested in applying for a cultivator license become familiar with Chapter 3796. of the Revised Code and the rules promulgated in accordance with Chapter 3796. of the Revised Code. The burden of proving an Applicant's qualifications to operate as a cultivator rests solely on the Applicant.

The application, excluding the application instructions, consists of two sections. Section 1 and Section 2 of the application are made available on the MMCP website. Both sections must be completed in full based on the instructions in this packet. Each section of the application must be completed per instructions or marked N/A, if appropriate. All pages should be included in the submitted application. Attachments should be included following the respective cover pages. The application shall consist of the following:

- **One copy of applicant's application must be submitted on paper (standard copy paper, 8.5x11, white),**
- **Two standard CD-R or DVD-R (read-only and no read-write), each of which must contain as separate files a digital copy of Section 1 and a digital copy of Section 2 of the application in PDF format, and**
- **The applicable application fee.**

The information submitted on the paper copy must be identical to the information submitted on the digital copies. The following requirements are to be followed in the preparation of and submission of the application:

- **Binders, tabs, and other types of packaging are not required and must be kept to a minimum.**
- **All attached documents must be 12-point font and margins must be no less than ¼ inch on all borders.**

Application Fee

A certified check or money order for the entire application fee must be payable to: "Treasurer, State of Ohio." The fee for Level I applicants is \$20,000 and the fee for Level II applicants is \$2,000. These fees are non-refundable and will not be returned to an applicant regardless of



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whether the applicant receives a provisional license. If the check is returned by a bank for any reason, the application will be disqualified.

II. Disclosure of Application Information

Information Subject to Disclosure

Applications that are submitted may or may not be public records and subject to disclosure under the Ohio Sunshine Laws. (O.R.C. 149.43) While there are exceptions to production in Ohio statutes, federal law, and common law privileges, MMCP cannot guarantee that any or all data in the application will remain confidential at all times. Further, MMCP may use or disclose information contained in the application submission to the extent provided by law. Applicants are strongly encouraged to review the applicable law prior to submitting an application as MMCP is unable to provide legal advice as to the absolute confidentiality of the data received.

Applicants that assert that some or all of the application are trade secrets, as defined in R.C. 1333.61, or who wish to submit an express statement to comply with R.C. 149.333(C) and that do not want such information used or disclosed other than for the evaluation of this proposal shall:

- A. Clearly mark every page of trade secret materials in the application submission at the time the proposal is submitted with the words "TRADE SECRET" and/or "INFRASTRUCTURE RECORD," as appropriate, in capitalized, underlined, and bold type of at least 20 pt.;
- B. Acknowledge that the State of Ohio does not assume liability for the use or disclosure of unmarked or unclearly marked trade secret information;
- C. Fill out the "Trade Secret and Infrastructure Record Notification Form" in Section 1, specifying the pages of the application submission that are to be restricted and justifying the trade secret designation or infrastructure designation for each item. If no material is designated as trade secret information or as an infrastructure records, a statement of "None" should be listed on the form; and
- D. Satisfy the burden established by statute and legal precedent.

MMCP may reject a claim that any particular information in an application submission is trade secret information if it determines that the applicant has not met the burden of establishing the content to be trade secret information under any circumstance. Use of generic trade secret language encompassing substantial portions of the application submission or simple assertions of trade secret interest without substantive explanation of the basis therefore will not be sufficient to create



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a trade secret designation. Applicants should understand that the MMCP will err on the side of disclosure of information to comply with R.C. 149.43.

The Applicant must defend any action seeking release of the materials that it believes to be trade secret information, and indemnify and hold harmless the State, its agents, and employees, from any judgments against the State in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the State's award of a license. In submitting an application, the applicant agrees that this indemnification survives as long as the trade secret information is in the possession of the MMCP.

III. Preparing and Submitting your Application

Financial Interest

Paragraph (D) of rule 3796:2-1-04 of the Administrative Code prohibits a person from being granted more than one cultivator provisional license or certificate of operation OR from holding a financial interest in or being an owner, partner, officer, director, shareholder, member or other person who may significantly influence or control the activities of more than one cultivator. Financial interest is defined in rule 3796:1-1-01 to include any actual or future right to ownership, investment, or compensation arrangement with another person. For clarification, the Department offers the following.

- An applicant is permitted to submit separate applications *with identical ownership structures and financial interest allocations*, each accompanied by the corresponding fee, for a cultivator provisional license at different locations. However, the submission of multiple applications is subject to the restrictions in paragraph (D) of rule 3796:2-1-04. In the event both applications score high enough to be awarded a provisional license, the applicant will have 10 days to choose which location will be awarded the provisional license, otherwise the Department will make that determination. The application for the other location will be deemed abandoned, and the application fee will be forfeited.
 - If an applicant submits multiple applications that *do not have identical ownership structures and financial interest allocations* and both applications score high enough to be awarded a provisional license, both applications will be denied and both application fees will be forfeited.
- If separate applicants submit applications that list the same person, entity or person affiliated with the entity in the owners and officers roster form as having a financial interest in the applicants and both applications score high enough to be awarded a provisional



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license, both applicants will be denied a provisional license, and the application fees will be forfeited.

- o A “compensation arrangement,” as used in the definition of financial interest found in rule 3796:1-1-01 of the Administrative Code, does not include employer-employee compensation structures or payments to vendors for supplies and/or work performed on an ongoing basis that is necessary to operate in the normal course of business. The term “compensation arrangement” does include royalty payments and other reoccurring payments made to another person or entity where supplies or services are not being provided on an ongoing basis, such that the royalty or reoccurring payment was made in lieu of an equity interest in an attempt to circumvent the restrictions in rule 3796:2-1-04 of the Administrative Code.

Identifiable Information

An applicant for a cultivator license is prohibited from including identifiable information in Section 2 of the application. To assist with the exclusion of this information, the Department has provided Form 1I Owners and Officers Roster and Form 1P Entity Identifier Legend to designate non-identifiable reference terms that will maintain the anonymity of the applicant. The scope of information that is deemed identifiable is not limited to the information provided on Form 1I and Form 1P.

The following categories of information will be treated as identifiable information for which points will be deducted if included in Section 2 of the application:

- Individual, entity, or university names;
- Personal addresses, business addresses, or individual components of an address, which includes numbers, cities, counties, municipalities, etc.;
- Personal or entity identification numbers;
- Contact information;
- Company logos, trademarks, or other identifying marks;
- Location references that would make it possible for a reviewer to identify where the proposed facility will be located; and
- References to involvement in Ohio’s marijuana legalization efforts.

An applicant that includes identifiable information listed above in Section 2 of the application will have two points deducted from the total raw score for every instance that identifiable information is used and requires redaction from the original application submission. A maximum of 10 points



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will be deducted from an applicant's total raw score for the inclusion of identifiable information in Section 2 of the application. An applicant that exceeds five instances where identifiable information is included in Section 2 of the application will be denied, and the application fee will be forfeited.

The Department may require additional redactions in Section 2 of the application if the Department believes other information not listed above could reveal the identity of the applicant or any individual associated with the applicant. If such a redaction occurs, points will not be deducted from the application.

Important Notices/Disclaimers

The application may not be altered or changed in any fashion, except to fill-in the areas provided with the information that is required. Should any alteration or revision occur, the Department reserves the right to deny the application in its entirety, or may choose to attribute no points to the response. By submitting an application, an applicant understands and consents to the following:

- An application that contains misstatements, omissions, misrepresentations, or false information may be deemed abandoned by the Department.
- An applicant for a Level I cultivator license is prohibited from applying for a Level II cultivator license, regardless of the affiliation (i.e., financial interest, compensation arrangement, employee, etc.). Similarly, an applicant for a Level II cultivator license is prohibited from applying for a Level I cultivator license, regardless of the affiliation. If the Department discovers that an applicant is in violation of this rule restriction, the Department will deny both applications.
- An applicant is permitted to submit multiple, separate applications, each accompanied by the corresponding fee, for a cultivator provisional license at more than one location, subject to the financial interest restrictions in paragraph (D) of rule 3796:2-1-04, as further explained in these instructions.
- An applicant must not include any identifying information in Section 2 of the application. An Identifier Legend and Entity Identifier Legend have been provided on Form 1I and Form 1P for applicants to designate an identifier that will be used in Section 2 in place of the name of an individual or entity, if needed.
- The issuance of a cultivator provisional license does not permit the licensee to cultivate medical marijuana, or otherwise operate as a cultivator, until the licensee passes a pre-operation inspection and has been issued a certificate of operation by the Department and submits the applicable license fee under rule 3796:5-1-01 of the Administration Code.



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- All application submissions become the property of the Department and will not be returned.

Elements of the Application Package – Section 1:

Notarized Cover Sheet – Sheet should be completed and notarized. The purpose of this form is to certify understanding that the applicant and the owners and officers associated with the applicant will be held responsible for the representations on the form.

Checklist – For use as a guide for the applicant.

1A Business Entity and Contact Information Form – Form must be completed appropriately. This form includes the key information that will be used for filing and tracking purposes.

1B Liquid Assets Form – Form must be completed appropriately and notarized.

1C Financial Responsibility - Insurance – Form must be completed appropriately. In the event insurance products are not available at the time the form is being prepared, applicant should check the first box to indicate willingness and intent to purchase when those products eventually become available. If coverage is available, applicant should check the second box and attach documentation.

1D Financial Responsibility – Escrow/ Surety – Form must be completed appropriately. Either an escrow or surety bond must be obtained by the time the applicant is ready to receive approval for a certificate of operations license. The form is to certify the ability to obtain one of these financial securities.

1E Property Owner Approval for Use Form – Form must be completed appropriately. The purpose of this form is to ensure that the applicant is either the owner of the proposed facility property, has a lease or agreement with the property owner that recognizes and permits the proposed use of the property as a cultivator facility, or has the ability to secure a lease or agreement with the property owner that recognizes and permits the proposed use of the property as a cultivator facility.

1F 500 Foot Compliance Cover Page – Compliance with this cover page includes providing an attachment of a map which identifies the surrounding area around a facility and ensures that the neighboring structures or property are not on the list of prohibited facilities, or if they are on the list, the proposed facility is more than 500 feet away. Different types of maps (i.e., satellite images,



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street maps, etc.) are permissible, but the map must be clearly labeled and legible to be acceptable for the purposes of this requirement.

1G Notice of Proper Zoning Form – Form must be completed appropriately. The purpose of this form is to ensure that the applicant has reviewed local zoning issues and actively communicated with local zoning officials on any relevant codes imposed by the local jurisdiction. A permit is desirable but not required at application due to the length of time for processing a zoning permit. The form should be signed by a local zoning representative or it should be indicated on the form that no local zoning is in place.

1H Zoning Permit Cover Page – Compliance with this cover page includes providing an attached copy of any approved zoning permit, if the applicant was able to obtain one at the time of application. If this was not obtained, the applicant will not be penalized but should complete the form stating that it was not yet obtained.

1I Owners and Officers Roster Form – Form must be completed appropriately. This form must list all owners and officers and anyone associated with the proposed facility that has a financial interest in the operation. For each name on this list, the application must include a corresponding copy of Form 1K. An additional blank list page is included as a convenience for the applicant but is not required in the packet if not used.

1J Organizational Chart Cover Page – Compliance with this cover page includes providing an attached organizational chart. The chart should indicate positions of any officers identified in 1I and 1K.

1K Individual Background Information Form – Form must be completed appropriately for each person listed on 1I above. Additional forms are available on the website.

1L Business in Other Jurisdictions Form - Form must be completed appropriately. The purpose of this page is to obtain information on the applicant's history of business in Ohio's various jurisdictions as well as information on business conducted in other states. Applicant will certify that no owner or officer has received a revocation or suspension from another jurisdiction for the conduct of business. Additional copies of this form should be added if necessary to provide the appropriate information.

1M Copies of Licenses from Business in Other Jurisdictions Cover Page – Compliance with this cover page includes attaching the respective license for any business identified on 1L.



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1N Tax Payment Records Cover Page – Compliance with this cover page includes tax summaries for the past three years for any business or any person with a financial interest of 1% or greater.

1O Disadvantaged Group Applicant - Form must be completed appropriately. This certifies whether the applicant is a member of a Disadvantaged Group, as defined in Chapter 3796 of the Revised Code, and meets the requirements set forth in Chapter 3796 of the Revised Code.

1P Entity Identifier Legend – Form completed to assign a non-identifiable term to an otherwise identifiable entity in Section 2 of the application. The applicant must use the designated terms in this legend when referring to the entities in Section 2.

1Q Trade Secret and Infrastructure Record Notification – Form completed to specify the pages of the application submission that are to be restricted and justifying the trade secret designation or infrastructure designation for each item. If no material is designated as trade secret information or as an infrastructure records, a statement of “None” should be listed on the form.

Elements of the Application Package – Section 2:

Each of the sections is a cover page that describes the expected application subject to be addressed in a narrative provided by the applicant. Because this section will be evaluated and scored *without identifiable information* from the applicant, all narratives **MUST BE ANSWERED WITHOUT** the use of or any reference to identifying information, as set forth in these instructions, or any other type of information that could reveal the identity of the applicant or any individual associated with the applicant.

2A Business Plan – The purpose of this section is to seek information on the applicant’s experience in any type of business environment, establish the business model for the proposed cultivation facility, and demonstrate the ability to operate the proposed facility, which includes steps taken with the local authorities. Applicant will provide this information in a **NON-IDENTIFYING** narrative.

2B Operations Plan – The purpose of this section is to seek information from the applicant in the following areas: experience in agriculture/cultivation, proposed cultivation methods and techniques, product timeline and production schedule, marijuana cultivation area layout and environment, proposed strains of marijuana to be cultivated, and standard operating procedures and staffing models. Every subsection noted in 2B must be addressed by the applicant. Applicant will provide this information in a **NON-IDENTIFYING** narrative.



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2C Quality Assurance Plan – The purpose of this section is to establish a plan for packaging and labeling that will comply with Division 3796 of the Administrative Code, propose the use of approved pesticides, fertilizers and/or other production control factors, submit an inventory control plan, establish disposal and destruction procedures for medical marijuana waste and non-marijuana waste, prepare for the handling of adverse events and recall procedures, and develop a plan for recordkeeping regulatory compliance. Applicant will provide this information in a NON-IDENTIFYING narrative.

2D Security Plan – The purpose of this section is to establish the methods that will be used for security across the proposed facility and during operations, including surveillance technology, security measures around the physical structure, plot plan and map of the entire facility that includes points of ingress and egress and other restricted access areas, emergency notification procedures and transportation guidelines and policies. Applicant will provide this information in a NON-IDENTIFYING narrative.

2E Financial Plan – The purpose of this section is to establish the applicant’s ability to meet the financial responsibility requirements and to provide a cost breakdown that has been performed as part of a financial plan. The breakdown must be clear and well-presented but is not required to be in a particular format. The level of detail will be considered as part of the evaluation. Applicant will provide this information in a NON-IDENTIFYING narrative.

IV. Application Review and Scoring Methodology

Review Process

The Department will conduct a comprehensive, fair, and impartial evaluation of all applications received in response to this RFA. This review will involve a two-step process.

Round 1: Every application will be assessed to determine whether it meets the mandatory qualification criteria set forth in rule 3796:2-1-03 of the Administrative Code. An applicant who fails to provide information or who fails to submit one of the attachments that establishes they meet the mandatory qualification criteria set forth in rule 3796:2-1-03 of the Administrative Code will be disqualified prior to the scoring process.

Round 2: Once it is determined that an application meets the mandatory qualification criteria, it will be reviewed and scored by a separate panel of reviewers based on the information in the non-identifiable information section. Scores will be based on the quality of the responses to the



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requirements set out in the RFA. The identity of the applicant and the individuals associated with the applicant will not be known to the panel conducting this round of the evaluation.

The Department may conduct interviews, contact references, conduct background checks, contact state regulators in any other states(s) where the applicant, applicant's backers or others associated with the applicant have engaged in, or sought to be engaged in, the state's medical marijuana program and visit the location of the proposed production facility or of other marijuana related businesses associated with the applicant or the applicant's backers or key personnel.

Mandatory Qualification Criteria

The Department will only review and score applications that:

- Are submitted during the designated submission period with the application fee;
- Fully respond to all mandatory items in Section 1 of the RFA;
- Do not contain significant inconsistencies or inaccuracies;
- Do not contain more than five instances where identifiable information had to be redacted from Section 2 of the application;
- Include the appropriate number of copies; and
- Contain all required signatures.

The Department reserves the right to waive minor irregularities or to request clarifications, modifications or amendments to an application if the Department believes doing so does not result in an unfair advantage to the applicant, providing such application substantially complies with the RFA.

Evaluation Criteria

Every application that meets the mandatory criteria established in rule 3796:2-1-03 of the Administrative Code will be evaluated and scored by the Department. A maximum raw score of 100 points is possible. An applicant must achieve the minimum raw score in every plan submitted in Section 2 of the application, as outlined below in Table 1, AND achieve an overall minimum raw score of 60 overall points, after any applicable point deductions are made for redacted information in Section 2 of the application, to be considered for a provisional license. If an applicant scores below 60 overall points or fails to meet the minimum score for every plan submitted in Section 2, the application will be denied.



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After the raw scores are calculated and the number of points that will be deducted are tallied (if applicable), the Department will apply the conversion factors listed in Table 2 and record the weighted scores on the applicant's score sheet. The Department will calculate the total weighted score and rank each applicant according to its total weighted score. Upon selecting the successful applications, the Department shall notify all applicants of their status in writing.

If an insufficient number of applications obtain a raw score of at least 60 points and satisfy the minimum score requirements for each plan in Section 2 to award all of the licenses the Department deems appropriate, the Department may request modifications from those applicants whose scores are closest to 60 raw points, so as to render the applications acceptable. Alternately, if the Department determines that sufficient modifications cannot be made to raise enough applications to an acceptable level, the Department may re-issue the RFA or proceed with the number of licenses awarded.

The number of points after each heading is the maximum number of raw points that may be awarded for each of the corresponding components of the RFA. For each category, the applicant's raw score will be based on the totality of the response to the corresponding RFA section.

Table 1

Section	Description	P/F	Minimum Raw Score	Total Raw Score
Application Cover Sheet				
	Acknowledgement and Notarized Signature	✓		
Section 1: Identifiable Information				
1A	Business Entity and Contact Information Form	✓		
1B	Liquid Assets Form	✓		
1C	Financial Responsibility – Insurance	✓		
1D	Financial Responsibility – Escrow/ Surety	✓		
1E	Property Owner Approval for Use Form	✓		
1F	500 Foot Compliance Cover Page	✓		
1G	Notice of Proper Zoning Form	✓		
1H	Zoning Permit Cover Page	✓		
1I	Owners and Officers Roster Form	✓		
1J	Organizational Chart Cover Page	✓		
1K	Individual Background Information Form (Include copy for each person listed on Attachment 1I)	✓		
1L	Business in Other Jurisdictions Form	✓		



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1M	Copies of Licenses from Business in Other Jurisdictions Cover Page	✓		
1N	Tax Payment Records Cover Page	✓		
1O	Disadvantaged Group Applicant	✓		
1P	Entity Identifier Legend	✓		
1Q	Trade Secret and Infrastructure Record Notification	✓		
Section 2: Non-Identifiable Information				
2A	Business Plan (maximum of 15 pages)		6 points	10 points
	Experience in Business			
	Business Model			
2B	Operations Plan (maximum of 30 pages)		18 points	30 points
	Experience in Agriculture/Cultivation			
	Cultivation Methods and Proposed Strains			
	Product Timeline and Production Schedule			
	Marijuana Cultivation Area Layout and Environment			
	Standard Operations Procedures			
	Staffing and Training			
2C	Quality Assurance Plan (maximum of 30 pages)		18 points	30 points
	Packaging and Labeling			
	Production Control			
	Inventory Control			
	Disposal and Waste Removal			
	Adverse Events and Recall Procedures			
	Record Keeping and Regulatory Compliance			
2D	Security Plan (maximum of 30 pages)		12 points	20 points
	Surveillance Technology and Physical Security			
	Transportation			
	Facility Plot Plan and Specifications			
	Emergency Notification Procedures			
2E	Financial Plan (maximum of 10 pages)		6 points	10 points
	Funding Analyses			
	Operating Expense Breakdown			



Ohio Department of Commerce



Medical Marijuana Control Program (MMCP)

Table 2

Category	Raw Score	Conversion Factor	Weighted Score	Percentage of Total Available Points
Business Plan	10.00	1.46	14.6	7.3%
Operations Plan	30.00	2.36	70.8	35.4%
Quality Assurance Plan	30.00	1.64	49.2	24.6%
Security Plan	20.00	2.00	40.0	20.0%
Financial Plan	10.00	2.54	25.4	12.7%
(Redaction Deduction, if applicable)	<i>(up to -10.00)</i>	2.00	<i>(up to -20.00)</i>	<i>(up to -10%)</i>
Total Possible Points	100		200	100%

EXHIBIT K

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WRITER'S DIRECT NUMBER:

(614) 365-4105
lipps@carpenterlipps.com

January 11, 2018

VIA HAND-DELIVERY AND FEDERAL EXPRESS

Ohio Department of Commerce
Medical Marijuana Control Program
77 South High Street, 23rd Floor
Columbus, Ohio 43215-6131

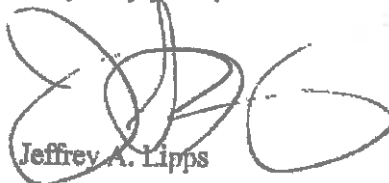
Re: Ohio Releaf, LLC; MMCP-C_201706-0184
Request for Hearing Pursuant to Revised Code 119.07

To Whom It May Concern:

On December 18, 2017, Ohio Releaf, LLC ("Ohio Releaf") received from the Ohio Department of Commerce Medical Marijuana Control Program ("MMCP") a "Notice of Intent to Deny and Notice of Opportunity to request a hearing" (the "Notice") related to the above referenced Cultivator I License Application submitted by Ohio Releaf to MMCP. It appears that MMCP mailed the Notice to Ohio Releaf on December 14, 2017. Pursuant to that Notice, Ohio Releaf is hereby timely requesting a hearing on this matter pursuant to Ohio Revised Code Chapter 119 to contest MMCP's notice of intent to deny Ohio Releaf's Application for a Cultivator I License. At the hearing, Ohio Releaf will present evidence showing that its Cultivator I License Application was improperly denied, and reserves the right to raise any and all other issues concerning its own Application and the development and implementation of the Cultivator I Request for Applications process, including, but not limited to, the evaluation and scoring of such applications as conducted and/or supervised by MMCP and/or its consultants.

Please confirm receipt of this hearing request immediately by email to me and contact me regarding the scheduling of the hearing.

Very truly yours,



Jeffrey A. Lipps

EXHIBIT L



January 17, 2018

Ohio Releaf
Attn: Scott Pickett
88 East Broad Street Suite 1740
Columbus, OH 43215

In the matter of Hearing: MMCP-C-201706-0184; Ohio Releaf
PROPOSED LICENSE DENIAL

Dear Sir or Madam:

Your request for hearing was received on January 11, 2018. Pursuant to R.C. 119.07, the hearing is scheduled for January 24, 2018 at 10:00 A.M. at the Department of Commerce, 77 S. High Street, 23rd Floor, Columbus, Ohio. In order to more efficiently conduct its business, the Medical Marijuana Control Program continued the hearing on its own motion and will be in contact with you to reschedule the hearing for a later date.

The administrative hearing will be conducted in accordance with Ohio Revised Code 119. You may be represented by an attorney licensed to practice law in Ohio, if desired, and at your expense. However, if your business is a corporation or a limited liability company, it must be represented by an Ohio licensed attorney at the hearing.

If you have any question regarding this matter, feel free to contact Angela Sullivan, Assistant Attorney General at (614) 644-9023.

Sincerely,

A handwritten signature in blue ink that appears to read "Diana Wynkoop".

Diana Wynkoop
Administrative Professional
Medical Marijuana Control Program

cc: Carpenter Lipps & Leland LLP, Attorney for Applicant
Angela Sullivan, Principal Assistant Attorney General

Certified Mail No. 70161370000174423349
Return Receipt Requested

EXHIBIT M

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WRITER'S DIRECT NUMBER:

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February 28, 2018

VIA ELECTRONIC MAIL (angela.sullivan@ohioattorneygeneral.gov)

Angela Sullivan
Assistant Ohio Attorney General
Executive Agencies Section
30 East Broad Street, 26th Floor
Columbus, Ohio 43215

Re: Ohio Releaf, LLC; MMCP-C-201706-0184
Hearing Pursuant to Revised Code 119

Dear Ms. Sullivan:

As you know, our Firm represents Ohio Releaf, LLC ("Ohio Releaf"). On January 11, 2018, Ohio Releaf timely requested a Chapter 119 hearing regarding the proposed denial of its application to obtain a Cultivator I provisional license from the Ohio Department of Commerce Medical Marijuana Control Program ("MMCP"). A Chapter 119 hearing was scheduled for January 24, 2018 and, in the same notice, was, without any consultation with Ohio Releaf, continued to an unknown date.

Despite the passage of more than a month, no alternative date has been set. The delay in scheduling Ohio Releaf's Chapter 119 hearing is materially prejudicial to Ohio Releaf. Ohio Releaf is entitled under Ohio law to have its hearing held "promptly and without unreasonable delay." MMCP unilaterally continuing Ohio Releaf's hearing indefinitely without providing a new date certain for that hearing does not comply with Ohio law.

In addition, earlier this month at the February 8th Medical Marijuana Advisory Committee meeting, MMCP's Chief Operating Officer, Justin Hunt, announced that MMCP had hired all the hearing examiners needed to conduct the Chapter 119 hearings. Ohio Releaf has not been advised of the hearing examiner assigned to its Chapter 119 hearing either. This deficiency is prejudicial inasmuch as Ohio Releaf needs the hearing examiner to issue document subpoenas necessary for the hearing.

During your most recent telephone conversation with my partner, Joel Sechler, you indicated that Cultivator I Chapter 119 hearings previously scheduled for February and into March had been continued. This raises concerns that Ohio Releaf's Chapter 119 hearing will be further delayed as a result.

Angela Sullivan
Assistant Ohio Attorney General
February 28, 2018
Page 2

CARPENTER LIPPS & LELAND LLP

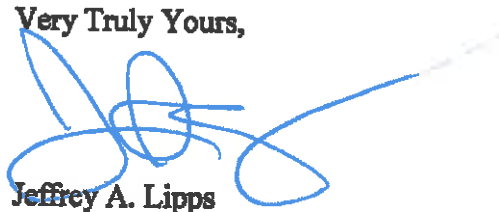
MMCP is taking the position in pending lawsuits that Ohio courts have no jurisdiction over the claims of unsuccessful Cultivator I applicants until their Chapter 119 hearing process is completed. MMCP cannot take that position and contemporaneously leave Ohio Releaf without a date certain for its Chapter 119 hearing. To this end, Franklin County Common Pleas Judge Mark Serrott made clear at oral argument in a case before him that, given MMCP's position regarding the appropriateness of Court proceedings now, MMCP must proceed with the Chapter 119 hearings, they must be robust, and the applicants must be allowed to present all of their issues.

To that end, a Chapter 119 hearing date for Ohio Releaf needs to be set and the hearing examiner identified. I am readily available to discuss dates for the hearing. Please contact me immediately.

Ohio Releaf expressly reserves the right to pursue all available legal avenues if it is not provided a Chapter 119 hearing that allows it to meaningfully exercise its rights and obtain all available remedies under Ohio law. To date, Ohio Releaf has not been afforded a remedy and, absent MMCP's immediate compliance with the above requests, it appears none is available.

We look forward to your prompt response in this regard.

Very Truly Yours,



Jeffrey A. Lipps