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8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SAN DIEGO

10 CITY OF SAN DIEGO, a municipal
corporation,

11 Plaintiff,

12 v.

13 STONECREST PLAZA, LLC, a Limited
14 Liability Company;
SALAM RAZUKI, an individual; and
15 DOES 1 through 50, inclusive,

16 Defendants.

Case No. **37-2014-00009664-CU-MC-CTL**

UNLIMITED JURISDICTION

COMPLAINT FOR INJUNCTION,
CIVIL PENALTIES, AND OTHER
EQUITABLE RELIEF

17
18 Plaintiff City of San Diego, appearing through its attorneys, Jan I. Goldsmith, City
19 Attorney, and Nicole Pedone, Deputy City Attorney, alleges the following, based on information
20 and belief:

21 **JURISDICTION AND VENUE**

22 1. Plaintiff City of San Diego, by this action and pursuant to San Diego Municipal Code
23 (SDMC) sections 12.0202 and 121.0311, and California Code of Civil Procedure section 526,
24 seeks to enjoin Defendants from using or maintaining a property in violation of the SDMC as
25 alleged in this Complaint, and seeks a preliminary injunction and permanent injunction
26 prohibiting Defendants from operating or maintaining a marijuana dispensary, cooperative, or
27 collective, or other distribution or sales business; and also seeks to obtain civil penalties, costs
28 and other equitable relief for the Defendants' violations of law.

1 2. The omission or commission of acts and violations of law by Defendants as alleged in
2 this Complaint occurred within the City of San Diego, State of California. Each Defendant at all
3 times mentioned in this Complaint has transacted business within the City of San Diego, State of
4 California, or is a resident of San Diego County, within the State of California, or both.

5 3. The property where the business acts and practices described in this Complaint were
6 performed is located in the City of San Diego.

7 **THE PARTIES**

8 4. At all times mentioned in this Complaint, Plaintiff City of San Diego, is a municipal
9 corporation and a chartered city, organized and existing under the laws of the State of California.

10 5. Defendant STONECREST PLAZA, LLC, a Limited Liability Company
11 (STONECREST), was and is the owner of the property located at 4284 Market Street, San Diego,
12 California, 92102 (PROPERTY) where a marijuana dispensary is conducting business.

13 6. Defendant SALAM RAZUKI (RAZUKI), is an individual and resident of the County
14 of San Diego, State of California and at all times relevant to this action, was and is a member of,
15 and is the agent for service for, Stonecrest Plaza, LLC, the owner of the PROPERTY where a
16 marijuana dispensary is conducting business.

17 7. As owners of the PROPERTY, Defendant STONECREST and RAZUKI, are each a
18 “Responsible Person”¹ within the meaning of SDMC section 11.0210 as they are maintaining
19 violations of the SDMC at the PROPERTY. As property owner, STONECREST is also strictly
20 liable for all code violations occurring at the PROPERTY per SDMC section 121.0311.

21 8. Defendants DOES 1 through 50, inclusive, are sued as fictitious names, under the
22 provisions of California Code of Civil Procedure section 474, their true names and capacities
23 being unknown to Plaintiff. The City is informed and believes that each of Defendants DOES 1
24 through 50 is in some manner responsible for conducting, maintaining or directly or indirectly
25 permitting the unlawful activity alleged in this Complaint. Plaintiff will ask leave of the court to
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27
28 ¹ SDMC section 11.0210 defines “Responsible Person” as “[a] person who a Director determines
is responsible for causing or maintaining a public nuisance or a violation of the Municipal Code or
applicable state codes. The term “Responsible Person” includes but is not limited to a property owner,
tenant, person with a Legal Interest in real property or person in possession of real property.”
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1 amend this Complaint and to insert in lieu of such fictitious names the true names and capacities
2 of DOES 1 through 50 when ascertained.

3 9. At all relevant times mentioned in this Complaint, all Defendants were and are agents,
4 principals, servants, lessors, lessees, employees, partners, associates and/or joint venturers of each
5 other Defendant and at all times were acting within the course, purpose and scope of said
6 relationship and with the authorization or consent of each of their co-defendants.

7 **PROPERTY**

8 10. The PROPERTY where the marijuana dispensary is operating is located at 4284
9 Market Street, San Diego, California, 92102, also identified as Assessor's Parcel Number 547-
10 013-17-00 and 547-013-19-00, according to San Diego County Recorder's Trustee's Deed Upon
11 Sale, document No. 2014-0071939, recorded February 21, 2014.

12 11. The legal description of the PROPERTY is:

13 LOTS 22-24 INCLUSIVE, BLOCK 12 OF MORRISON'S
14 MARSCENE PARK, IN THE CITY OF SAN DIEGO, COUNTY OF
15 SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP
16 THEREOF NO. 1844, FILED IN THE OFFICE OF THE COUNTY
17 RECORDER OF SAN DIEGO COUNTY, JULY 10, 1925.

18 12. The deed lists the owner of the PROPERTY as "Stonecrest Plaza, LLC, a California
19 Limited Liability Company."

20 13. The PROPERTY is located in the Mount Hope Planned District Subdistrict II zone in
21 the City of San Diego.

22 **FACTUAL ALLEGATIONS**

23 14. SDMC section 1519.0306, lists what are the permitted uses in Subdistrict II zone
24 where the PROPERTY is located. The operation or maintenance of a marijuana dispensary,
25 collective, or cooperative is not one of the enumerated permitted uses.

26 15. The operation or maintenance of a marijuana dispensary is not a permitted use in any
27 zone designation under the SDMC.

28 16. On or about February 25, 2013, Land Development Investigator Leslie M. Sennett
(SENNETT) and Building Inspector Robert Cervantes (CERVANTES), with the City of San
Diego's Development Services Department, Code Enforcement Section (CES), went to the

1 PROPERTY to investigate a complaint of a marijuana dispensary operating at the PROPERTY.
2 They observed a sign on the door of the building that read "United Wellness Center" with a phone
3 number, address, and a picture of a blue circle with a blue and green marijuana leaf. Upon
4 entering the business, SENNETT and CERVANTES could smell marijuana.

5 17. SENNETT and CERVANTES also observed a male who appeared to be a security
6 guard sitting in between the front door and the interior door in the lobby that led to the back of the
7 marijuana dispensary. Both inspectors observed several individuals inside the marijuana
8 dispensary including those that appeared to be juveniles. One such juvenile, who appeared to be
9 13 years old, left the marijuana dispensary concealing a small paper bag. SENNETT and
10 CERVANTES spoke with an employee who admitted that the business was in fact a marijuana
11 dispensary.

12 18. SENNETT informed the employee that a marijuana dispensary was not an allowed
13 use in any zone within the City of San Diego.

14 19. On or about March 10, 2014, CES issued Defendants a Notice of Violation (NOV)
15 which outlined the code violations observed at the PROPERTY. The NOV required Defendants
16 to immediately cease operating or maintaining the marijuana dispensary in violation of zoning
17 laws.

18 20. The operation and maintenance of a marijuana dispensary at the PROPERTY is an
19 unpermitted use under the present SDMC and will continue to be an unpermitted use and
20 unlawful at the PROPERTY under the recent amendments to the City's Land Development Code
21 to add Medical Marijuana Consumer Cooperatives (MMCC).

22 21. On or about April 2, 2014, City Attorney Investigator Constance Johnson
23 (JOHNSON) confirmed that the marijuana dispensary is in fact still operating. JOHNSON also
24 confirmed that the marijuana dispensary is still advertising their business on the internet including
25 listing their menu items for display.

26 22. Plaintiff is informed and believes that Defendants are blatantly and willfully in
27 violation of the SDMC and will continue to maintain the unlawful code violations in the future
28 unless the Court enjoins and prohibits such conduct. Absent the relief requested by Plaintiff, the

1 City is unable to enforce its zoning laws and therefore unable to ensure the compatibility between
2 land uses for its residents. The land use scheme and regulations under the Municipal Code
3 become meaningless and the public is left unprotected from the direct and indirect negative
4 effects associated with unpermitted and incompatible uses in their neighborhoods. Absent
5 injunctive relief, the City will be irreparably harmed and the ongoing violations will continue to
6 harm the public health safety and welfare.

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8 **I**

9 **FIRST AND ONLY CAUSE OF ACTION**

10 **VIOLATIONS OF THE SAN DIEGO MUNICIPAL CODE ALLEGED
BY PLAINTIFF CITY OF SAN DIEGO AGAINST ALL DEFENDANTS**

11 23. Plaintiff City of San Diego incorporates by reference all allegations in paragraphs 1
12 through 22 of this Complaint as though fully set forth here in their entirety.

13 24. SDMC section 121.0302(a) states, "It is unlawful for any person to maintain or use
14 any premises in violation of any of the provisions of the Land Development Code², without a
15 required permit, contrary to permit conditions, or without a required variance."

16 25. The PROPERTY is located in the Mount Hope Planned District Subdivision II zone.
17 SDMC section 1515.0306, governs the uses allowed in this zone. SDMC section 1515.0306
18 states: "No building, structure or improvement, or portion thereof, shall be erected, constructed,
19 converted, established, altered or enlarged, nor shall any lot or premises be used except for one or
20 more of the following purposes: . . .", listing various uses allowed in this zone. SDMC section
21 1515.0306 does not list a marijuana dispensary, cooperative, or collective as a permitted use.

22 26. Beginning on an exact date unknown to Plaintiff, but since at least February 25, 2014,
23 and continuing to the present, Defendants have maintained and used the PROPERTY for a
24 purpose or activity not listed in SDMC section 1515.0306, in direct violation of SDMC sections
25 1515.0306 and 121.0302(a).

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² SDMC §111.0101 (a) Chapters 11, 12, 13, and 14 of the City of San Diego Municipal Code shall
be known collectively, and may be referred to, as the Land Development Code.
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1 27. Plaintiff has no adequate remedy at law other than this action. Defendants' use of the
2 PROPERTY in this manner cannot be remedied merely by the payment of monetary damages. As
3 owner of the PROPERTY, Defendants STONECREST and RAZUKI have the ability, power, and
4 duty to compel their tenant to cease operating the business, yet refuses to do so. Instead, each of
5 these Defendants continue to allow a marijuana dispensary to operate at the PROPERTY despite
6 knowing the use is unlawful.

7 28. Absent the relief requested by Plaintiff, the City is unable to enforce its zoning laws
8 and therefore unable to ensure the compatibility between land uses. Irreparable harm will be
9 suffered by Plaintiff in that the City's land use scheme and regulations under the Municipal Code
10 become meaningless and the public is left unprotected from the direct and indirect negative
11 effects associated with unpermitted and incompatible uses in their neighborhoods.

12 **PRAYER**

13 **WHEREFORE**, Plaintiff prays for judgment against Defendants, and each of them, as
14 follows:

15 1. That the PROPERTY be declared in violation of:

16 **San Diego Municipal Code sections**

17 1515.0306 and 121.0302(a)

18 2. That pursuant to SDMC sections 12.0202, and 121.0311, Code of Civil Procedure
19 section 526, and the Court's inherent equity powers, the Court grant a preliminary injunction and
20 permanent injunction enjoining and restraining Defendants and their agents, servants, employees,
21 partners, associates, officers, representatives and all persons acting under or in concert with or for
22 Defendants, from engaging in any of the following acts:

23 a. Maintaining, operating, or allowing at the PROPERTY any commercial, retail,
24 collective, cooperative, or group establishment for the growth, storage, sale, or distribution of
25 marijuana, including but not limited to any marijuana dispensary, collective, or cooperative
26 organized pursuant to the California Health and Safety Code;
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28

1 b. Maintaining, operating, or allowing the operation of any unpermitted use at the
2 PROPERTY;

3 c. Maintaining, operating, or allowing the operation of any unpermitted use
4 anywhere within the City of San Diego;

5 d. Advertising in any manner, including on the Internet, the existence of any
6 commercial, retail, collective, cooperative, or group establishment for the growth, storage, sale, or
7 distribution of marijuana, including but not limited to any marijuana dispensary, collective, or
8 cooperative organized pursuant to the Health and Safety Code at the PROPERTY;

9 3. Violating any provisions of the SDMC at the PROPERTY or anywhere else within the
10 City of San Diego;

11 4. That immediately from the date of entry of judgment, Defendants cease the operation
12 of the marijuana dispensary at the PROPERTY and remove all signs advertising the business.

13 5. That Defendants allow personnel from the City of San Diego access to the
14 PROPERTY to inspect and monitor for compliance upon 24-hour verbal or written notice.
15 Inspections shall occur between the hours of 8:00 a.m. and 5:00 p.m.

16 6. That Plaintiff City of San Diego, recover all costs incurred by Plaintiff, including the
17 costs of investigation, as appropriate.

18 7. That pursuant to SDMC section 12.0202(b), Defendants are assessed a civil penalty of
19 \$2,500 per day for each and every SDMC violation maintained at the PROPERTY.

20 8. That Plaintiff be granted such other and further relief as the nature of the case may
21 require and the Court deems appropriate.

22 9. That Plaintiff be granted such other and further relief as the nature of the case may
23 require and the Court deems appropriate.

24 Dated: April 3, 2014

JAN I. GOLDSMITH, City Attorney

25
26 By 

Nicole Pedone

Deputy City Attorney

Attorneys for Plaintiff
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