



Ketegaunseebee Medzin Society

Acknowledging and adopting the historical governance structures and policies of our ancestors in regards to cannabis and other medicines.



January 10, 2020

To: Chief Andy Rickard, and Councillors Brandi Nolan, Caroline Barry, Chester Langille, Cindy Belleau-Jones, Craig J. Sayers, Janine Zack, Karen Bell, Leslie Zack-Caraballo, Morley Pine, Richard A. Pine, Chris Solomon (Sr)

Re: Concerning the violation of our Constitutionally Protected Aboriginal Rights

Dear Chief and Council,

We are writing on behalf of the Ketegaunseebee Medzin Society (KMS), an organization of Ojibwe people who are involved in the growing, consumption, and sale of cannabis products in Ketegaunseebee/Garden River territory.

We are writing because we are concerned that the Elected Band Council of Garden River First Nation (GRFN) – an entity deriving its authority through Canada’s Indian Act – is acting outside of its jurisdiction on matters relating to the cannabis industry in Ketegaunseebee. As a result of your actions, you are infringing on our Constitutionally-protected Section 25 and Section 35 rights, violating the [Indians’ Protection Bill of 1850](#), and the [1854 Rowan Proclamation](#), as well as failing to uphold your fiduciary responsibility to us as agents of the Crown.

Because you are in violation of our Constitutionally-protected Aboriginal rights, you are also in violation of your own Chief and Council Guidelines (approved Jan 30, 2018) in which you have sworn to conduct yourselves in an “ethical, businesslike, and lawful manner, including proper use of authority.”

We would also like to take this moment to point out the special conflict of interest that Council Member Sergeant Karen Bell occupies as a member of council sworn to uphold our rights as a people, who continues to be employed as a police officer (including as acting Police Chief in the summer of 2019) under the command of the Anishinabek Police Services, an entity funded by the Provincial and Federal Government that has raided multiple Indigenous cannabis dispensaries in violation of our Constitutionally-protected Aboriginal rights.

On September 18th, 2018, GRFN passed a BCR putting in place a moratorium on cannabis and announced that it would develop a “Cannabis Law and Policies and Procedures” for the territory on the basis of community consultation. On November 27th, the Anishinabek Police Services raided the dispensary of Michael Nolan, arrested him and another man, and stole his products and money. Shortly thereafter, on December 4th, 2019, Chief and Council



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reaffirmed the “interim moratorium” because GRFN has “no legal framework” for cannabis sales or production and indicated that they would continue working with Bimaadzwin Inc. in a process of “community consultation.” Throughout this whole process, Chief and Council has avoided meeting with the community members who have long sustained themselves by growing and selling cannabis, and has failed to represent the fiduciary interests of the people of Ketegaunseebee. Instead, they have passed off the responsibility of consultation to a non-Indigenous owned consulting firm, Bimaadzwin Inc. which has proposed an approach which violates our rights, compromises our financial interests, and undermines our sovereignty.

Consequently, our position is the following:

1. The Chief and Council of Garden River First Nation does not have jurisdiction to develop a Cannabis Law to be imposed on its members. Chief and Council operates according to the Indian Act, and as a construct of the Federal Government, Chief and Council simply does not have the authority to make bylaws which overrule the Federal Cannabis Act, or which undermine the Constitutionally protected Aboriginal rights of the people of Ketegaunseebee.
2. Jurisdiction concerning cannabis on the unceded lands of Ketegaunseebee belongs with the people, who as Ojibwe protected by the Great Peace of 1701, the Royal Proclamation of 1763, the Indians Protection Bill of 1850, the Rowan Proclamation of 1854, and Sections 25 and 35 of the 1982 Canadian Constitution, have the right to grow, consume and benefit from all the plants in “the Creator’s Garden.” The right to benefit from Creation and plant based medicines has always belonged to us as Ojibwe people, and has never been surrendered to the Crown or any of its Federal, Provincial, or Indian Act representatives. The name of “Garden River First Nation” comes from our people’s historic and ongoing cultivation and sale of plants to non-indigenous people. As long as we are not harming others, we as Ojibwe people, living on our unceded lands, have every right to sustain ourselves and our families from cannabis, or any other part of Creation. As Del Riley, the National Leader of the National Indian Brotherhood, and the main Indigenous writer and negotiator involved in the 1982 Constitution making process put it, “Aboriginal Rights are what First Nations define them as. Their rights are what they were before European contact, and remain the same after European contact”. As a people who were never conquered by the Crown, but who made peace and friendship treaties to allow the Crown on our lands, we have every right to grow and sell cannabis – and any other plant – on our lands.



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3. The rights of our people to grow and sell cannabis and other plants on the territory is further affirmed by the [Indians' Protection Bill of 1850](#) and the [1854 Rowan Proclamation](#), which has the force of a Royal Proclamation and has never been repealed. The Rowan Proclamation outlines unceded Indian lands – including Ketegaunseebee – and reaffirms the application of Section X of the Indians' Protection Bill which explicitly protects treaty annuities, presents and Indian wealth expended and invested in “the encouragement of agriculture and other civilizing pursuits” i.e. in growing and selling produce and wares from within our own economy from “seizure, distress or sale, under or by virtue of any process whatsoever.” The cannabis moratorium that you passed on September 18, 2018 and that you renewed on December 4th 2019, and the APS raid on November 27, 2019 are all in direct conflict with this Royal Proclamation, and are thereby constitutionally invalid.
4. In keeping with the people's desire – reflected in Chief and Council's own Governance Guidelines – to “acknowledge and adopt our historical governance structure and policies of our ancestors” we have created the Ketegaunseebee Medzin Society, which uses a consensus-based decision making system reflective of our “historical governance structures” that brings together the cannabis growers, consumers, and retailers of our territory with our elders and medicine people to self-regulate the cannabis industry and to ensure that it operates in accordance with our people's customs and conventions. In our [correspondence of December 18th, 2019](#), we shared with you the KMS's [constitution and bylaws](#). We are having the first meeting of this association on January 18th, 2020. It is our position that any regulation of cannabis on the territory should be decided through the KMS – which is open to all members of GRFN to participate within and makes its decisions by consensus. We invite you to come to our meeting and to participate alongside the people in determining the rules and regulations we need for this industry. Once this framework has been identified and accepted by the people, it would then be appropriate for Chief and Council to inform the Canadian governments of the decisions made by the people on our unceded territories.
5. Instead of returning to our traditional ways, or learning from and supporting our own people who have long sustained themselves through sales of cannabis, Chief and Council has chosen to spend tens of thousands of dollars of our money to hire Bimaadzwin Inc., a non-indigenous owned company that has been handsomely paid by the Federal Government to promote and encourage the adoption of Federal rules on cannabis on Indigenous territories. We have provided a [5000 word analysis](#) of the deeply problematic approach being



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proposed by Bimaadzwin Inc. We eagerly await your response to the concerns that we have raised, and insist that you address them before continuing to move forward in spending more of our money with Bimaadzwin Inc.

As a result of our positions on the matters discussed above, we have a series of specific requests to make of Chief and Council which are as follows.

1. We request that Councilor and APS Sergeant Karen Bell recuse herself from any discussions concerning cannabis in the community due to a conflict of interest stemming from her employment as an APS officer, and the involvement of the APS in violating our Constitutionally-protected rights in raids on our communities.

2. We request that you immediately rescind the cannabis “moratorium” Chief and Council passed on September 18th, 2018 and re-affirmed on December 4th, 2019.

3. We request that you leave the regulation of cannabis on the territory to the Ketegaunseebee Medzin Society, and that to the extent that you wish to be involved in the regulation of cannabis on our territory, that you work with the KMS and within its structures “to acknowledge and adopt our historical governance structure and policies of our ancestors” in regards to cannabis.

4. We request that you immediately cease spending our community’s funds on consulting with Bimaadzwin Inc., a non-Indigenous owned consultancy with extensive ties to the Federal Government, which we believe does not have the best interests of our people at heart, and which is developing a framework to sell out our sovereignty to the Federal and Provincial governments.

4. We ask that you send a letter to the Anishinabek Police Services to inform them that their services are not required in any matters relating to cannabis-enforcement in the territory.

If you continue to violate our Constitutionally-protected rights and continue to harm our fiduciary interests, we regret to inform you that we will be forced to use all available legal resources to address these issues, including the filing of a civil suit seeking damages as a result of your (in)actions.

In the spirit of Chief Shinwauk,

[signed]
The Ketegaunseebee Medzin Society.