

Fwd: URGENT: Public Comment on Item 14-0366-S5; REIC recommendations

Anna Martinez <anna.martinez@lacity.org>

Fri, Mar 8, 2019 at 8:50 AM

To: Clerk Council and Public Services <Clerk.CPS@lacity.org>

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From: Janve Praise <janvepraise@gmail.com>

Date: Fri, Mar 8, 2019 at 8:49 AM

Subject: URGENT: Public Comment on Item 14-0366-S5; REIC recommendations

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Cc: Cat Packer <cat.packer@lacity.org>, Michelle Garakian <michelle.garakian@lacity.org>

To: Honorable Members of the Los Angeles City Council; Cat Packer, Department of Cannabis Regulation

The following are my comments and recommendations, as a Tier 1 Social Equity Applicant. **Please add this to the council file for Item 14-0366-S5.**

Honorable City Council Members, all eyes are on LA. Los Angeles City Council MUST SET A STANDARD of efficacy, transparency and integrity for the State and for the rest of the Nation in its implementation of the Social Equity Program.

(1) City Council Members, you MUST vote NO on Item 14-0366-S5.

Honorable City Council Members, my mother suffers from severe migraines that affect her memory and motor function, cannabis is the only treatment that relieves her symptoms. She brought me home after college to pursue a cannabis business, after dedicating her life to serving her City's foster and probation youth and advocating for their rights. She simply wanted to start a business, retire and provide her children and grandchildren with financial security. My mother invested her life's savings and our inherited family home, staking her family history, for an opportunity to provide Myself, my disabled brothers and sister a future working hard, free of fear and struggle, and without the need and reliance on public benefits. This business is her legacy, my and my siblings' inheritance, my niece and nephew's future. My grandmother, great-grandmother, uncles in prison and homeless on the streets, and cousins destroyed by the War on Drugs, something to be proud of.

Yet the REIC has recommended a modification to the language of the regulations that would guarantee non-Social Equity ownership interests the right of first refusal for ANY transfer of the Social Equity Applicant's ownership shares following the mandated 3 year contract term. This means that if we accept investment, partnerships, or funding in exchange for ownership equity, the City regulations would predetermine the terms of our private agreement with these entities. The City would require Social Equity Applicants wanting to transfer ownership shares to first give their investors or partners the right to buy those shares at market value. **The City would, therefore, stand in the way of my mother's right to pass down a legacy to her children, her principal reason for pursuing a cannabis business license. This violates the spirit of Social Equity and the wishes of your voters**
City Council MUST vote NO.

This is not the first time the REIC recommended a modification to the "right of first refusal" clause. In fact, during the 2/5/19 REIC meeting there was absolutely no mention of their intention to recommend a MAJOR change disempowering SEA's in its regulations, nor did they hear public comment pertaining to their recommendation, yet proceeded to adopt it. City Council then adopted the first version of the "right of first refusal" clause on 2/26/19, again without hearing public comment on a MAJOR change to the regulations. Moreover, nowhere in DCR's recent reports do they recommend this action to the Council, nor has any member of the public suggested in commentary a recommendation of this nature. The REIC had, and has no precedence, nor adequate contractual or legal grounds, or meaningful support for a change of this scope and significance, nor was there any explanation of it, anywhere in this process and at any point.

I returned home from college a 21 year old entrepreneur. I saw an opportunity for my mom to improve her health with wealth, retire with her grandchildren, and continue to serve the City's youth in systems. I also returned to build a family business around a plant that had saved her life, and my brother's life. He has yet to complete his high school diploma, although he is highly gifted, because he was disenfranchised from educational opportunity twice: First as a result of his disability and traumatic brain injury, and again, when he was only one semester away from graduating, and his school chose to call the police to arrest him for smelling like cannabis. I have started a cannabis business, and sought a Social Equity License to not only honor the plant that saved my brother's life, but to use this plant to save his future. He has fought side by side with us, and built-out our property from foundation to shingles, with his own hands. **This recommendation prevents me from**

transferring well-earned ownership equity to my brother, who has no other pathway to a financially stable future. If the REIC had heard comment, they would have heard strong opposition from others like my family, who believed that this opportunity meant wealth for their families. **This violates the spirit of Social Equity and the wishes of your voters. City Council MUST vote NO.**

The "right of first refusal" clause is unprecedented government oversight that fundamentally undermines the spirit of the law: to provide an opportunity for ownership and generational wealth building for those disproportionately impacted by the unjust War on Drugs. Municipal governments cannot mandate, regulate, or predetermine the terms of contracts between private citizens. Individuals, Equity Licensees included, have a right to dictate the terms of their contract agreements independent of government influence. **The government cannot and should not require individuals, as a requisite of their participation in the Social Equity Program and therefore the cannabis industry itself, to include any specific terms in a contract agreement with any and all future investors or partners. This violates the spirit of Social Equity and the wishes of your voters. City Council MUST vote NO.**

This provision would make of the Social Equity Program in Los Angeles a plantation for the wealthy, instead of a level playing field for those who desperately need it. This undermines the value of my company, requires a concession of my economic rights, and predetermines the nature of any future relationships, before I even sit down at the negotiating table. An investor or partner with resources would have the incentive to pressure or manipulate me to sell following our agreement term. Some Equity Applicants are already in partnerships and other relationships. Would they then have to change the terms of their existing agreements to comport with the regulations? **The "right of first refusal" recommendation makes future licensees vulnerable to predatory entities** who are only attracted to the Social Equity Program by the incentive of right of first refusal, as opposed to the incentive of corporate responsibility and community reinvestment, **opening the door for legally dubious and exploitative relationships between equity licensees and funders or partners. This is violates the spirit of Social Equity. City Council MUST vote NO.**

Moreover, current regulations on this issue must not remain as they are. They state that a Social Equity licensee "May only transfer control or ownership to Persons who meet the same social equity ownership and local requirements as when the License was issued and only upon the prior written approval of DCR". Private citizens have a fundamental right to do as they wish with their property. Elected officials **cannot dictate to whom a social equity licensee transfers their control or ownership, they may only require record keeping, reporting, and compliance with regulatory standards. This violates the spirit of Social Equity. City Council MUST modify this language.**

Social Equity Licensees are entitled to the right to transfer ownership or sell their ownership shares with whom they please, including family and future heirs. Therefore, **the City must provide technical assistance in the form of free legal clinics and pro-bono legal representation for Social Equity Program applicants and licensees**, in order to afford licensees the resources they need to craft contract terms and make educated decisions that reflect their best interests. **The City has not met its mandate to provide a Social Equity Program.**

City Council MUST fund DCR budget request to the Commission and fund the budget presented for the Social Equity Program.

The cornerstone and spirit of the law written for Social Equity is to provide "equitable ownership opportunity" to those disproportionately impacted. **To dictate what a licensee does with their ownership, is to deny them the right of true ownership.** No other class of licensee is disallowed the right to negotiate their own contracts, or transfer and sell their ownership as they please. **Both the current regulations and the recommendations made by REIC therefore violate the intent and spirit of the Social Equity Program.**

All eyes are on LA. City Council MUST vote NO. City Council MUST fund DCR and the Social Equity Program to protect its applicants and licensees.

(2) City Council Members, Phase 3 SEA's must have clarity, funding and protection. Time is of the essence. There are SEA's and their legitimate supporters who have waited to open and others who are barely holding on still waiting for support, technical assistance and protection from these very type of actions. Resolution of these issues, before moving forward, is imperative to the fidelity of the Program:

First, **ADA policy and procedures MUST be implemented and enforced with fidelity according to federal guidelines.** An ADA Coordinator **MUST** be assigned to DCR immediately, so that unrepresented applicants with disabilities may request ADA accommodations and modifications in time to develop and maintain an accessible licensing process. **City Council MUST NOT move forward without ADA.**

Second, **City Council MUST fund the Social Equity Program and the Department of Cannabis Regulation, immediately, and before** any additional licensing and program implementation. Additionally, Cat Packer mentioned the Department's intent to apply for the State's Equity Program Grant. DCR must have the resources and information necessary to apply. Funding would provide support and technical assistance for existing Phase 3 applicants targeted by predatory entities, and for those expending resources to maintain property; in this way, a bifurcated licensing scheme is made unnecessary.

City Council MUST NOT move forward without a fully funded and implemented Social Equity Program.

Third, the regulations and recommendations, have become a conundrum of confusion with inconsistent amendments inconsistent with stakeholder letters and public commentary, this confusion has caused a lack consistency and clarity, further disenfranchising the SEA's. The city **MUST CLARIFY** and reconcile the available license type with descriptions, and reconcile its descriptions with that of the state. The LAMC defers to the State Code for definitions of license types. **The state defines a retailer as "for the retail sale and delivery of cannabis or cannabis products to customers." Does this mean that Type 10 licensees, as defined by the state, may also deliver?**

Furthermore, **City Council MUST CLARIFY whether undue concentration applies to Type 9 license holders or micro-businesses with only Type 9 retail onsite.** REIC recommends: "MODIFY language to Section 104.01(28) to include language that applicants subject to the provisions of Section 104.08 are not subject to a finding under this section." This language only refers to Phase 2 chain of supply.

Additionally, recent recommendations make no mention of Micro-Business Type 12. **THERE MUST BE CLARITY regarding the licensing process for Social Equity Applicants seeking micro-business Type 12 with retail given that the current regulations state:** "Tier 1 and Tier 2 Social Equity Applicants shall receive priority processing for Retailer Commercial Cannabis Activity Licenses (Types 9 and 10) **and** for Microbusiness Commercial Cannabis Activity Licenses that include retail (Type 12) on a 2:1 ratio with all non-Social Equity Applicants (including Applicants issued Licenses pursuant to Section 104.07)."

City Council MUST NOT move forward without necessary clarity.

Finally, the Cannabis Commission's meetings are routinely cancelled and rescheduled, disempowering them as a body directly representative of industry stakeholders. **The Cannabis Commission must have regular meetings and those meetings MUST REFLECT commentary provided by SEA's and licensees. The number of Commission meetings held and its communication thus far do not allow for adequate public hearing and stakeholder contribution, reflection and support.**

City Council MUST NOT move forward without hearing from the Public.

City Council, all eyes are on LA. We want the opportunity to build a legacy described by the Spirit of the Law!

BEFORE MOVING FORWARD with Phase 3 licensing, City Council MUST (1) reconsider current regulations, (2) vote NO on REIC's recommendations, (3) fund the Social Equity Program and DCR, (4) schedule regular and non-tentative commission meetings and, (5) implement ADA policy and procedures.

Regards,
Janve Sobers
Business Partner and Daughter of Social Equity Applicant,
Michelle McKinney