



GENIUS FUND

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November 15, 2018

Hon. Herb Wesson
President of the Los Angeles City Council
c/o Andrew Westall
District 10
City Hall Office
200 North Spring Street, Room 430
Los Angeles, CA 90012

Re: Proposed Amendment to Subsection (C) of Section 45.19.7.2 of Article 5.1, Chapter IV of the LAMC

To the Honorable Herb Wesson and Members of the City Council:

On behalf of Genius Fund I, Inc. ("Genius Fund"), a startup and new entrant into the cannabis industry, I write to you in opposition of, and asking you to vote against, the above-referenced proposed ordinance. This ordinance would retroactively preclude existing medical marijuana dispensary ("EMMD") owners from operating their businesses at a new location, subject to DCR approval, if they had not requested an amendment to their business tax registration certificate ("BTRC") by October 19, 2018 (the "Proposed Ordinance"). Such a retrospective cut-off date would cause irreparable injury to those lawful EMMD owners who have submitted applications to transfer EMMD locations under existing City regulations and at the direction of the DCR after October 19, 2018.

We appreciate and support the City Council's desire to preserve viable locations for Social Equity Program applicants. Los Angeles, perhaps more than any other city, draws strength from its diverse social fabric. Our city's nascent cannabis industry will become one for other cities to emulate if market entry is afforded to the many as opposed to the few. Thus, in the goal of preserving fertile ground for Social Equity Program applicants to flourish in the cannabis industry, you have our full backing. What we take strong issue with, however, is the irreparable injury the Proposed Ordinance retroactive relocation cut-off date would cause existing EMMD owners and the parties with whom they are doing business, such as Genius Fund.

The DCR's reasoning for the Proposed Ordinance is that "unauthorized cannabis activity in the City continues to proliferate, with the attendant crime and negative secondary impacts that pose a current and immediate threat to the public welfare" and "most unauthorized cannabis businesses cultivate, manufacture, and sell cannabis that has not been tested in accordance with State standards, which also creates a current and immediate threat to the public welfare." While we share this concern, the Proposed Ordinance would disproportionately punish lawful and compliant EMMD owners, as well as those with whom they are conducting business, who have followed the law and have relied on the DCR's representations.

There is just no rational basis for the City to apply a cut-off date of roughly 30 days retroactively. It would not only directly contradict the DCR's most recent recommendation of January 1, 2019, issued just one month ago, it would also interfere with EMMD owners' and their business associates' vested property rights and ability to operate a lawful business within the City.

The Proposed Ordinance entirely contradicts what DCR has published as guidance for EMMD owners to date. To wit: An October 15 letter from the DCR to the City Council's Rules, Elections, and Intergovernmental Relations Committee ("Committee") before its meeting later that week, requesting for the first time that the City Council "either instruct DCR to stop processing EMMD re-location requests or amend Sec. 45.19.7.2 of Article 5.1 of Chapter IV of the LAMC to prohibit EMMD re-locations as of January 1, 2019." And following the October 19 meeting, the Committee's recommendation to issue the same request to the City Attorney; that is, to "prohibit future EMMO re-locations before the issuance of an annual license, and instruct DCR to cease accepting and approving new re-location requests while this ordinance is under consideration by City Council."

Importantly, since the October 19 meeting, neither the DCR nor the Committee has issued any public statements or recommendations, much less a warning, that at some future date the City Council may be asked to approve an ordinance that would render any relocation requests submitted during the previous month ineffective. Instead, the DCR continued to accept relocations requests, even up to as recently this past Friday, November 9—the same day the Proposed Ordinance was issued.

When asked whether the DCR is still accepting EMMD relocation applications, the fine and always courteous people at the DCR office have consistently responded in the affirmative. This coupled with the DCR's October 15 letter recommending a January 1, 2019, cut-off date clearly signaled to EMMD owners, their business partners, investors, and legal representatives that DCR would continue to process relocation requests until they announced otherwise, either effective immediately or at a future specified date (i.e., January 1, 2019). To be clear, at no time did the DCR lead reasonable minds to believe that, after recommending a future cut-off date of January 1, 2019, and continuing to accept locations changes over the following month, it would reverse course by recommending an ordinance that would effectively quash those submissions.

If approved, the Proposed Ordinance's retroactive relocation cut-off date of October 19, 2018, will cause significant adverse financial consequences to the many parties involved in transactions involving a relocated EMMD. For many EMMD owners and investors such as Genius Fund, new properties have been purchased, new leases have been signed, new business plans have been created, new architectural designs have been finalized, and new construction and redesigns have been commenced. For many parties, these significant expenditures were justified by a location change. While such measures may be considered bold, expediency in this rapidly growing market is the norm, not the exception, and the parties acted based on the belief they could rely on the best and most specific information issued by the DCR and in compliance with City law.

We ask that the City Council reject the October 19 cutoff date in the Proposed Ordinance and, instead, choose a cut-off no earlier than November 19, 2018. Such a date would be considerably more consistent with the DCR's conduct leading up to the Proposed Ordinance issued on November 9, and it would undoubtedly preserve a significant number of viable locations for Social Equity Program applicants

without sacrificing the considerable time, money and energy invested by EMMD owners and their business partners in the process.

Very truly yours,

GENIUS FUND I, INC.

A handwritten signature in black ink, appearing to read 'BK', with a long horizontal line extending to the right.

Benjamin D. Kingston
General Counsel



November 15, 2018

The Honorable Marqueece Harris-Dawson
The Honorable Members of the Rules Committee
Ms. Cat Packer
Los Angeles City Council Rules Committee
200 N. Spring Street
Los Angeles, CA 90012

Re: Request for Amendments to the Proposed Ordinance Prohibiting Relocation of
EMMD's - Council File No. 14-0366-S5

Dear Councilman Harris-Dawson, Honorable Members of the Rules Committee and Ms.
Packer:

Our organizations have been strong supporters of the Los Angeles Social Equity Program from its inception. We are writing to respectfully suggest that amendments be made to the proposed ordinance referenced above. These amendments would strengthen the rights of social equity candidates while ensuring that the pioneers of the dispensary movement in Los Angeles, and their legitimate successors-in-interest, can relocate without damaging social equity program applicants.

We are deeply concerned about the ability of social equity candidates to assert their rights. It is our understanding that recently a social equity stakeholder who had entered into a lease was unseated by an EMMD.

Ms. Packer has very wisely listed on the Department of Cannabis Regulation (the DCR) website, the address of each licensed EMMD, so that those who were looking for locations would not violate the use radius of a licensed shop.

There is currently no way to tell where social equity candidates have leases, because their licensing has not commenced. Thus, they are not on the DCR list and EMMD's have no way to determine that they are infringing on a social equity candidate's space.

It is of the utmost urgency, that social equity leaseholds be protected. It can take up to a year to find a compliant location which is affordable. Most landlords won't even consider renting to a cannabis retailer. A social equity candidate has no choice but to try and secure a location in advance of licensing.



If the City does not find a way to earmark social equity locations, temporarily freezing EMMD's in place will not solve the problem. Down the road, other social equity candidates as well as Phase III/General Public Licensees can be just as problematic for the social equity candidates who have signed a lease but have not yet obtained licensure.

The DCR will be vetting all those who claim Tier I and Tier II Social Equity eligibility to ensure that all those applying are truly eligible. Once they are approved for Tier I or Tier II, if a social equity candidate has a leasehold, it seems only reasonable that their location be listed on the DCR website, so that other social equity candidates, Phase III Applicants as well as EMMD's know that they cannot violate the use radius for that location.

This would stop ALL potential licensees, not just the EMMD's, from moving too close to a social equity location.

EMMDs who have been existent for over a decade but would now not be able to move may suffer terribly. Acts of God (such as the current fires), city redistricting, refinancing, the sale of the building by the landlord, or other events may force existing businesses to move unexpectedly and before they have achieved annual licensing.

In 2023 all existing EMMDs must comply with the new sensitive use rules, which are so broad they have foreclosed a great many locations, including the current sites of many EMMD businesses. Experienced operators know that they must begin looking now, or risk having no place at all to move to. We believe the changes proposed below will preserve the rights of social equity candidates while still allowing EMMDs to move.

The amendments that we believe would be helpful are:

- Allow social equity retail candidates who have been designated as such by the DCR to have their lease addresses listed on the DCR website. Once listed, the location may not be violated by infringement on the sensitive use radius by an EMMDs or any other retail licensees.
- EMMDs would be allowed to move, but if they wish to relocate in areas where the war on drugs has been particularly impactful, (as demonstrated by the Amerc/Wheeler/Foster Social Equity Report), they must receive approval from both the DCR and the Council District in which the business will be located before receiving a license, in addition to meeting all other licensing criteria.



We respectfully request that the Rules Committee consider the amendments proposed above, and we are hopeful that if these recommendations do not find favor, that the City will find a way to preserve the rights and remedies of social equity candidates, while still allowing EMMDs to move.

Sincerely,
Adam Spiker
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(714) 654-1930

Sarah Armstrong
Director of Industry Affairs
Americans for Safe Access
(805) 279-8229

Cc: Andrew Westall
Michelle Garakian
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