November 22, 2017

Mr. John Gallogly
859 North Ave 67
Los Angeles, CA 90042
323-252-7030

Ms. Cat Packer
Executive Director
Department of Cannabis Regulation

RE: Proposed Cannabis Procedures Ordinance - 14-0366-s5

Dear Ms. Packer,

As a concerned resident of Los Angeles, I would like to bring to your attention a matter that I believe warrants your consideration with regard to the provisions relating to "Undue Concentration" in the proposed Article 4 of the LAMC entitled "Cannabis Procedures" (14-0366-s5).

I think there is a very real likelihood that the provisions of the Cannabis Procedures Ordinance concerning "Undue Concentration" will have severe unintended consequences for many of the Community Plan Areas in the city. As written, the Undue Consequence definition contained in Sec. 104.01(25) of the CP Ordinance applies to retailers (except an EMMD eligible for Prop M Priority), microbusinesses, cultivation, distribution and manufacturing.

It restricts the number and/or size of those businesses within Community Plan Areas based on the population of the respective Areas. Once the ratio of a cannabis license category to the Area's population reaches a certain level (e.g., a ratio of 1 sq ft of canopy/resident for cultivation), then a subsequent applicant for that license category must obtain City Council approval that the license "would serve a public convenience or necessity." (Sec. 104.6(a)(2), 104.6(b) and 104.06 (c)(2) of CP Ordinance).

That provision works against the goals of the proposed "Commercial Cannabis Location Restriction Ordinance" (CPC-2017-2260-CA) (CCLR Ordinance) which was drafted to "…stem the negative impacts and secondary effects associated with cannabis activities in the City…"
(Sec. 105.00 – Purpose and Intent). To accomplish that purpose, the CCLR proposes establishing a system of zoning restrictions for each category of cannabis activity which were
based on the recommendations of the City's Planning Department.

RE: Proposed Cannabis Procedures Ordinance 14-0366-s5

In particular, the CCLR Ordinance restricts cultivation, distribution and manufacture to industrial zones and prohibits their location in residential or commercial zones. That is entirely reasonable and is consistent with the City's desire to keep those activities away from residential and commercial areas as much as possible. However, when applied to cultivation, distribution and manufacturing, the "Undue Concentration" provisions work counter to that goal and will push those activities into the relatively small number of industrial zones in highly populated Community Plan Areas of the city.

For example, in the 14th Council District represented by Councilmember Jose Huizar, the **Central City Community Plan Area** has a low population of 34,721 residents precisely because about half of it is zoned industrial. But under the "Undue Concentration" standard, despite its low population density and relatively large industrial area, it could only support a cultivation canopy of 34,721 square feet without a finding of public convenience and necessity by the City Council for each additional square foot of canopy.

In contrast, the **Northeast Los Angeles Community Plan Area,** which is also within Councilmember Huizar's 14th Council District, has a population of 237,207 residents. Nearly all of that area is devoted to residential and commercial zones. It has less than 7% industrial zones but under the "Undue Concentration" provisions, the Northeast Los Angeles Community Plan Area would support a cultivation canopy of 237,207 square feet, which is **nearly seven times as much** cultivation square footage as would be permitted in the Central City Plan Area, which has a large, contiguous tract of industrial zoned land ideal for cultivation, distribution and manufacturing activity.

Although the Undue Concentration provisions are intended to limit the exposure of residents to cannabis cultivation, distribution and manufacturing businesses, they will actually have the opposite effect and cause those businesses to be located in highly populated Community Plan Areas rather than those Areas with low population and large swaths of industrially zoned land.

I would respectfully suggest that the "Undue Concentration" provisions be deleted from the proposed Cannabis Procedures Ordinance as they relate to cultivation, distribution and manufacturing.

Thank you for your consideration of this matter.

Sincerely,

John Gallogly

John Gallogly

cc: Council President Herb J. Wesson, Councilmember Jose Huizar
and Councilmember Marqueece Harris-Dawson

November 22, 2017

Los Angeles City Council
Attn: Council President
200 N Spring Street
Los Angeles, California 90012

RE: Draft Cannabis Procedures Ordinance (CF 14-0366-S5)

Dear Council President Wesson,

On November 17, 2017, the City released two draft Ordinances, titled Cannabis Procedures and Rules and Regulations for Cannabis Procedures ("Ordinances"). The undersigned organization hereby respectfully submit the following comments and concerns on the Ordinances.

I. Cannabis Procedures

1. Definitions – Section 104.01

Section 104.01 (a)(12) defines an "EMMD" as an existing medical marijuana dispensary "either possessing a 2017 L050 BTRC and current with all City-owned business taxes, or received a BTRC in 2007, registered with the City Clerk by November 13, 2007, received a L050 BTRC in 2015 and each year thereafter, and is current with all City-owed business taxes." Although this definition contains the word "either" the second part still requires an existing medical marijuana dispensary to possess a 2017 BTRC. We believe this language contradicts Council's intent to afford priority processing to individuals who received a BTRC in 2007, registered under the ICO, and were in possession of a BTRC in 2015. This sentence should be revised as follows:

> "either possessing a 2017 L050 BTRC and current with all City-owned business taxes, or received a BTRC in 2007, registered with the City Clerk by November 13, 2007, **renewed** a L050 BTRC in 2015 and each year thereafter, and is current with all City-owed business taxes."

2. Proposition M Priority Processing – Section 104.07

Section 104.07 (a) states as follows:

> "…Applicant may apply for a maximum of one Microbusiness License (Type 12), or a maximum combination of One Retailer License (Type 10), one Delivery for Retailer License (Type 10), one Distributor License (Type 11), one Manufacturer License (Type 6 only), and one Cultivation, indoor (Type 2A or 3A)…"

The word "Applicant" is defined in Section 104.01(a)(1) as "Owner applying for a City License pursuant to this article." The use of the word Applicant unnecessarily restricts Owners who are applying under Proposition M Priority to only one license in each category. Other than testing laboratory license, the

State doesn't impose any limit to the number or type of licenses that may be held by an applicant. The City's regulations should comport with the State and the word "Applicant" should be changed to "EMMD" so that the sentence reads as follows:

> "…**EMMD** may apply for a maximum of one Microbusiness License (Type 12), or a maximum combination of One Retailer License (Type 10), one Delivery for Retailer License (Type 10), one Distributor License (Type 11), one Manufacturer License (Type 6 only), and one Cultivation, indoor (Type 2A or 3A)…"

This change would limit each EMMD to one license type, but wouldn't unduly restrict the Owners from obtaining additional licenses and participating in the City's social equity program.

Pursuant to Section 104.07(d) an EMMD eligible for Prop M Priority Processing will not be denied a Temporary Approval or License by the Commission **solely** based upon the EMMD's location in a geographical area of Undue Concertation. The word "solely" should be removed from this sentence as the Rules, Elections and Intergovernmental Relations recommendations dated October 31, 2017 specifically stated that "Proposition D compliant dispensaries that are deemed eligible for Proposition M Priority processing are exempt from the PCN process." This section should be revised to reflect REIR's recommendations.

3. Non-Retail Commercial Cannabis Activity – Section 104.08

Section 104.08(a) sets forth eligibility criteria for Temporary Approval and limited immunity for non-retail applicants. One such criteria is that "the applicant is not engaged in Retailer Commercial Cannabis Activity in the City" (#9). Engaging in Retailer Commercial Cannabis Activity at a different location in the City has no bearing on the Applicant's eligibility for non-retail limited immunity and should not be used as a means to disqualify otherwise eligible non-retail businesses. This criteria should be revised as follows:

> "the Applicant is not engaged in Retailer Commercial Cannabis Activity on the Business Premises"

4. License Appeal Procedure – Section 104.09

Section 104.09(a) requires an applicant to file an appeal within 15 days of the date of the mailing a written decision by the DCR or the Commission, but fails to account for the time of mailing. California Code of Civil Procedure Section 1013 provides a five (5) calendar day extension for service by mail of any document. This Section should be revised to include the five (5) calendar day extension.

5. Mandatory Requirements – Section 104.10

The heading of Section 104.10(a) should be changed to "Restrictions on Transfer." The current heading implies that a license is not transferable, however, ownership of the license can be transferred with written approval by the DCR.

II. Rules and Regulations for Cannabis Procedures

1. Regulation 2

Regulation 2 states that the BTRC information provided on an application will be final and changes after the application has been filed will not be considered. This language contradicts Regulation 10(A)(15)

which allows changes to a license with written approval from DCR. Regulation 2 should be revised to make changes to the BTRC be subject to written approval from DCR.

2. **Regulation 3**

Regulation 3(A)(6) requires the applicant to attest to providing proof of "product liability insurance as required by the State of California and the DCR." The State only requires general liability insurance for certain license type and does not have a product liability insurance requirement. The City's insurance requirements should comport with the State and this provision should be revised as follows:

> "The Applicant shall attest to providing proof of a bond and/or insurance as required by the State of California and the DCR, within 15 days of receiving a License."

3. **Regulation 10**

Regulation 10(A)(3) defines a change to the Licensee's organization structure or ownership. This section should expressly state that conversion from a non-profit entity to a for-profit entity will not be considered a change in organizational structure.

Regulation 10(A) No.'s 5 and 7 should be revised to comport with the State regulations.

Regulation 10A(11) states that a Licensee is not required to have cannabis goods tested or follow labeling provisions until 120 days after City licensure or April 1, 2018, whichever is sooner. The State regulations contain a Transitional Period from January 1, 2018 through July 1, 2018. The City should extend the April 1, 2018 date to July 1, 2018 so that its regulations mirror the state and to avoid inconsistency in enforcement.

Regulation 10(D)(4) sets forth the hours of operation for Retailer Commercial Cannabis Activity from 6am to 9pm. This regulation should be revised to mirror the increased hours of operation as permitted by the State from 6am to 10pm.

Regulation 10(D)(5) requirements with respect to display and storage should be revised in accordance with the newly released State regulations.

III. Conclusion

We respectfully request that the City consider our comments and recommended changes to the Draft Ordinance and thank the City for its continued efforts to implement a regulatory framework for Commercial Cannabis Activity.

For more information, please contact:
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Cc: City Clerk
Los Angeles City Attorney