



November 15, 2018

City Clerk  
Los Angeles, CA

**VIA EMAIL TRANSMITTAL**

Re: Council File: 14-0366-S5\_ord\_draf\_11-09-2018

To Whom It May Concern:

This document serves as notice regarding the above referenced council file, and should be included as part of the public administrative records.

We are writing out of great concern regarding Agenda Item No: 14- 0366-S5 which is part of the November 16, 2018 Special Meeting: Rules, Elections, Intergovernmental Relations Committee.

This agenda item seeks to address and make changes to Section 1. Subsection C as follows:

*"Section 1. Subsection (C) of Section 45.19.7.2 of Article 5.1, Chapter IV of the Los Angeles Municipal Code is amended to read as follows:*

*Priority of Proposition D Compliant Dispensaries. An existing medical marijuana dispensary ("EMMD") that is operating in compliance with the limited immunity provisions (Los Angeles Municipal Code Section 45.19.6.3) and tax provisions (Los Angeles Municipal Code Section 21.50) of Proposition D, may continue to operate within the City at the one location identified in its original or amended business tax registration certificate (BTRC) as of October 19, 2018, until such time that the EMMD applies for and receives a final response to its application for a City permit or license for commercial cannabis activity being conducted at that location. An EMMD that requested an amended BTRC prior to October 19, 2018, shall not be prohibited from operating at a new location approved by the Department of Cannabis Regulation. The City's designated licensing or permitting agency shall give priority in processing applications of EMMDs that can demonstrate to the City's designated licensing or permitting agency that the EMMD has operated in compliance with the limited immunity and tax provisions of Proposition D. To avail itself of the terms of this Section, including the priority processing, an EMMD must apply for a City permit or license within sixty calendar days of the first date that applications are made available for commercial cannabis activity. If the City issues the EMMD a license or permit for commercial cannabis activity, the EMMD shall continue to operate at its location within the City in accordance with the rules and regulations set forth by the City."*



It appears that the amended language aims to create a retroactive date of 10/19/2019 as a deadline of sorts for EMMDs to have given notice for a change of location. If this is in fact correct, we object to this amended language, as it will have a significant adverse financial effect on our cannabis retail business as well as our colleagues.

Our notice for a location change was given via email to the Department Of Cannabis Regulation on the evening of Tuesday November 13, 2018.

In our effort to research the purpose of this amended language we discovered that the intent is to potentially protect Social Equity Retail Applicants from being “zoned out” of possible locations to open a commercial cannabis operation. However, the current language is retroactive and can have a severe impact on EMMD stakeholders as well.

Instead, we propose the following ideas to inform amended language:

1. Amend the language so that notice of location changes are prospective rather than retroactive. For example, once an ordinance has been codified, the Department Of Cannabis regulation can give notice to EMMDs via email that they have 30 days to file a change of location request,
2. Create an electronic registry on the DCR website that shows the most current secured properties by eventual social equity applicants. This will allow EMMDs to have an easy to check repository of all lease activity. This would then inform the EMMD of where they can and cannot move.

Thank you,

Josh Pomerantz

Greenhouse Organics, Inc.

CC:

CD 11 - [John.Gregory@lacity.org](mailto:John.Gregory@lacity.org)

DCR - [Michelle.Garakian@lacity.org](mailto:Michelle.Garakian@lacity.org)

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Council file - [Richard.Williams@lacity.org](mailto:Richard.Williams@lacity.org)

Date: 11/16/18  
Submitted in Rules Committee  
Council File No: 14-0366-S5  
Item No.: 1

M||L

November 15, 2018

Honorable Herb J. Wesson, Jr., President  
Honorable Members of the Rules, Elections and Intergovernmental Relations  
("REIG") Committee  
Los Angeles City Council  
200 North Spring Street  
Los Angeles, CA 90012

**Re: Objection to Amendment Precluding the Re-Location of EMD's**  
11/16/18 - REIG Committee Meeting - Agenda Item No. 1 (Council File  
No. 14-0366-S5)

Dear Council President Wesson and Honorable Members of the REIG Committee:

This public comment is submitted on behalf of Hollywood Holistic Healers, Inc. ("Hollywood Holistic") and Sherman Oaks Collective Care ("SOCC"). Both Hollywood Holistic and SOCC have grave concerns with respect to the City's proposed amendment to Los Angeles Municipal Code ("LAMC") Section 45.19.7.2(C) (the "Proposed Amendment"), which retroactively precludes Existing Medical Marijuana Dispensaries ("EMMD") from re-locating after October 19, 2018, unless and until they receive their local annual licenses from the City. As will be borne out below, this retroactive cut-off date will cause significant and irreparable harm to Hollywood Holistic, SOCC and other lawful and compliant EMMD's who have been reasonably relying upon the prior representations and conduct of the Department of Cannabis Regulation ("DCR") leading up to November 9th.

Accordingly, we respectfully write today to object to the Proposed Amendment and strongly urge the Honorable Members of the REIG Committee to vote against it.

**A. The Public Has Received No Facts that Support the Purpose for the Proposed Amendment.**

According to its Urgency Clause, the Proposed Amendment is aimed to preserve the number of viable locations within the City for Phase 3 Social Equity Program ("SEP") applicants. While we applaud and fully support this goal, we still fail to see how exactly the re-location of EMMD's after October 19th would "reduce[] the number of viable locations for Social Equity Program applicants and therefore hinder[] the City's efforts to eliminate unauthorized cannabis activity and its attendant harm to the public welfare."

For example, if an EMMD were to re-locate from Chatsworth to Downtown

today, the number of viable retail locations within the City for SEP applicants would remain exactly the same as it was yesterday. In such a situation, there would arguably be one less potential retail location available for SEP applicants in Downtown, but there would also be one additional retail location available in Chatsworth, thus maintaining the status quo.

Since the DCR's October 15th letter to the REIG Committee, the City has provided the public with little to no facts to justify the rationale behind this sudden and unanticipated restraint on EMMD's. Also unexplained is why the cut-off date needs to be applied retroactively to October 19th in order to preserve the number of viable locations for SEP applicants during Phase 3. No evidence or data of any kind has been provided by the City to support such an argument. For instance, how many EMMD's actually submitted re-location requests after October 19th? How exactly does that number impact the number of viable locations for SEP applicants during Phase 3? And how many SEP applicants are actually out there that have already secured potential Phase 3 locations? All these questions remained unanswered.

In the absence of answers to the above, we cannot conceive of any rational basis for the City to retroactively apply a cut-off date to a date less than one month prior to November 9th. Based on the above, the Proposed Amendment as written appears arbitrary, capricious and unsupported by adequate factual basis such that it violates the important rights of EMMD's, including but not limited to, their vested property rights and their rights to due process.

**B. The Proposed Amendment Will Have a Devastating Effect on Lawful EMMD's Who Have Been Relying on the City's Representations and Conduct Prior to November 9th.**

The Proposed Amendment appears intended to prohibit a very specific situation wherein an EMMD's decision to relocate for expansion purposes forces a SEP applicant to abandon a potential Phase 3 retail location that the SEP applicant had already secured nearby. While we agree strongly with this rationale as it applies to that particular situation, we equally-strongly believe that the Proposed Amendment disproportionately impacts lawful EMMD's, such as Hollywood Holistic and SOCC, that have been reasonably relying in good faith upon the City's representations and conduct leading up to November 9th. To illustrate:

- January to October 2018: Consistent with LAMC Section 45.19.7.2(C), the DCR consistently informed EMMD's that they could submit re-location requests prior to their issuance of an annual license.
- October 15th: The DCR recommended, for the first time, that EMMD's be prohibited from re-locating as of January 1, 2019.
- October 19th: Following an REIG Committee hearing, the REIG Committee requested the City Attorney, with the assistance of the DCR, to prepare and present an ordinance by November 9th to amend LAMC Section 45.19.7.2(C) "to prohibit future [EMMD] re-locations prior to

the issuance of an annual license, and instruct the DCR to cease accepting and approving new re-location requests while the ordinance is under consideration by the City Council.”

- October 19th to November 9th: While the City Attorney drafted the Proposed Amendment, *with the assistance of the DCR*, the DCR continued to accept EMMD re-location requests. No public statements or warnings of any kind were published by the DCR indicating that the Proposed Amendment would possibly set a retroactive cut-off date of October 19th (as opposed to the DCR’s previously recommended cut-off date of January 1st). Given the Proposed Amendment, we now know that the DCR does not actually intend to approve any EMMD re-location requests submitted after October 19th.

An EMMD’s misfortune in relying upon the above becomes even more tragic when the EMMD re-locates not for business expansion purposes, but due to circumstances beyond its control. For example, our client Hollywood Holistic was forced to after having lost its previous location due to the City’s 9+ month delay in processing its EMMD application. After *several months* of numerous unanswered calls and emails to the DCR office regarding its application status, Hollywood Holistic had no choice but to secure another location because it could no longer afford to cover the exorbitant rent to “hold” its previous location and its lease was conditioned upon Hollywood Holistic obtaining local Temporary Approval within a certain allotted time. After making significant expenditures to secure a new lease, Hollywood Holistic submitted a relocation request to DCR on October 24th.

Also due to recent circumstances beyond its control, our client SOCC will soon be forced to re-locate. Since SOCC obtained its Temporary Approval, various issues with its landlord -- completely unrelated to its commercial cannabis use of the property -- have transpired. Extensive efforts have been diligently undertaken to resolve SOCC’s landlord issue, including several months of mediation and negotiations, all to no avail. SOCC is now part of a full-blown civil lawsuit with its landlord. As a result of the landlord’s bad faith and frivolous actions, SOCC’s business has been obstructed so severely that SOCC is unable to continue any operations at its current location. Now, SOCC has no other option and is forced to find another location for its business.

If passed as written, the Proposed Amendment would prove financially devastating to EMMD’s who have been earnestly complying with the City’s laws since Day One, all while the black market continues to flourish around them. Indeed, for EMMD’s such as Hollywood Holistic and SOCC, their survival now depends on the REIG Committee voting against the Proposed Amendment.



**C. Procedurally, the Proposed Amendment Appears to Violate the California Government Code.**

Respectfully, we also highlight that the manner in which the City is seeking to amend Section 45.19.7.2(C) appears to violate California Government Code Section 65858, in that the Proposed Amendment lacks legislative findings sufficient to show that the relocation of an EMDM poses a *current* or *immediate* threat to the public health, safety, or welfare of the City, and that the City's approval of an EMDM's re-location request would result in that threat to public health, safety or welfare. Section 65858 states in relevant part as follows:

“(a) Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body of a county, city, including a charter city, or city and county, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time.

...

(c) The legislative body shall not adopt or extend any interim ordinance pursuant to this section unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare.”

For reasons already discussed above, the Proposed Amendment fails to adequately show how the relocation of EMDM's “reduces the number of viable locations for Social Equity Program applicants and therefore hinders the City's efforts to eliminate unauthorized cannabis activity and its attendant harm to the public welfare.” Accordingly, we object to the characterization of the Proposed Amendment as an interim “urgency” ordinance as described in Section 65858. The Proposed Amendment concerns the *permanent* business location of an EMDM and is therefore not just an interim matter. Indeed, for EMDM's such as Hollywood Holistic and SOCC, the Proposed Amendment actually has the same force and effect as a permanent ordinance. The City's failure to follow the mandatory procedural requirements of Section 65858 thus renders the Proposed Amendment invalid.

**D. Recommendations.**

Given all of the above, we strongly urge the Honorable Members of the REIG Committee to vote against the Proposed Amendment and delete it in its entirety to provide sufficient time for the City and stakeholders to find a mutually agreeable solution.

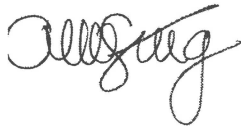
In the absence of a complete deletion, we recommend that the City adopt the DCR's October 15th recommendation that the City set January 1, 2019 as the cut-off date for EMMD's to submit relocation requests. Such a date would: (1) be consistent with DCR's conduct leading up to November 9th; (2) allow lawful EMMD's, such as Hollywood Holistic and SOCC, at least a minimal opportunity to find and secure a new location; and (3) surely preserve the number of viable locations within the City for SEP applicants during Phase 3.

Thank you for taking the time to consider this public comment. We look forward to working with the City on this issue and ensuring the success of *all* lawful cannabis operators here in Los Angeles.

Very Truly Yours,



Meital Manzuri, Esq.  
Managing Partner



Alexa Steinberg, Esq.  
Attorney at Law



Michelle Mabugat, Esq.  
Attorney at Law

cc: Cat Packer, Executive Director, Los Angeles Department of Cannabis Regulation  
Alexander Freedman, Deputy City Attorney, Los Angeles City Attorney's Office  
Richard Williams, Legislative Assistant, Los Angeles City Clerk's Office



Date: 11/16/18  
Submitted in Rules Committee  
Council File No: 14-0366-SS  
Item No.: 1

~~Communication~~ Communication from the Public



*item 1*

November 16, 2018

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

**RE:** Proposed Changes to LAMC 45.19.7.2(C)

Dear Council President Wesson,

UCBA represents licensed cannabis businesses in the City of Los Angeles that strive to provide the highest quality products to their customers and to raise awareness about the cannabis industry and its benefits. UCBA opposes the proposed ordinance amending Subsection (C) of Section 45.19.7.2 of Article 5.1 of Chapter IV of the Los Angeles Municipal Code ("LAMC") in its current form. That proposed ordinance seeks to restrict the relocation of existing medical marijuana dispensaries ("EMMD") unless the EMMD requested an amended BTRC prior to October 19, 2018 ("Request Deadline"). This retroactive Request Deadline will not only cause significant financial damage to EMMDs that already submitted requests to amend their BTRCs after the Request Deadline, but will likewise leave all EMMDs at the mercy of their landlords in the event of expiration of the lease term and with no recourse: (i) in the event an EMMD's premises is destroyed or damaged; (ii) in the event of death or incapacity of an owner; and (iii) in the event of financial hardship or other commercially reasonable basis for relocation.

The City states that the proposed ordinance is required for the "immediate protection of the public peace, health and safety" because "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." However, the City fails to explain how a licensed EMMD's address change has any bearing on proliferation of illegal activity. The City further declares that "the success of Social Equity Program depends in part on the existence of viable locations for applicants to start their businesses," yet ignores the fact that an EMMD's former location after a relocation may create a vacancy usable by social equity applicants.

We support the City's efforts to develop a Social Equity Program that provides applicants equitable access to the licensed cannabis marketplace in the City and agree that viable locations are an important function of the program's success. However, we also want to make sure that the



proposed amendment does not unreasonably restrict the operations of existing cannabis businesses or those that follow. An absolute prohibition on relocation after the Request Deadline amounts to an unreasonable restriction on business operations because it fails to account for both reasonably foreseeable and potentially unforeseen circumstances that may leave an EMMD with no alternative but relocation. We believe that these objectives can be achieved by giving the Department of Cannabis Control (“DCR”) the discretion to evaluate and approve relocation requests submitted after the Request Deadline to determine whether a financial hardship, lease expiration or other valid and commercially reasonable basis warrants approval of the request.

As recently as May 8, 2018, DCR included the following language in its email response to relocation request:

“The DCR will not accept a relocation request from an applicant with temporary approval *after the applicant has submitted an application for an annual license.*”  
(Emphasis added)

Even DCR’s Request for Amendments to the City’s Cannabis Procedures dated October 15, 2018, suggested that EMMD relocations would be prohibited as of January 1, 2019. At no point in time did DCR suggest a retroactive deadline or a complete ban on relocation. A number of EMMD’s relied on the above statement in making a decision to relocate and expended significant financial resources to secure a new lease, pay a security deposit, and hire architects, contractors, and consultants. If the proposed ordinance is approved in its current form, those EMMDs that have relied on DCR’s written representations, but did not submit their request before the Request Deadline will suffer severe financial damages and other hardships associated with commencing relocation to different premises.

To avoid placing unreasonable restrictions and undue hardship on existing business operations retroactively and without notice, we hereby ask that DCR be vested with the power to review relocation requests that are submitted after the Request Deadline and the discretion to grant said requests in the event of hardship or other commercially reasonable circumstances warranting relocation. We believe that the Request Deadline coupled with DCR’s discretionary right to approve future relocation requests strikes a balance between future social equity applicants and EMMDs.

Respectfully Submitted,

UCBA Trade Association

Ruben Honig, Executive Director