Communication from Public

Name:

Date Submitted: 06/18/2020 12:16 PM

Council File No: 20-0446-S1

Comments for Public Posting: To the City Council members concerned, I am a social equity applicant with an approved lisence that has been paying rent for my location with no business running. As you can understand especially during these covid times, rent is starting to become difficult as we continue to remain closed. Please. Please process the first 100 applicants. I do not wish to lose my location! I've faught hard and have been waiting patiently. Please do what you can to get my shop up and running to do what I do best and run my business. Much appreciated,

Communication from Public

Name:	Lani
Date Submitted:	06/18/2020 12:22 PM
Council File No:	20-0446-S1
Comments for Public Posting:	To the City Council members concerned, I am a social equity applicant with an approved lisence that has been paying rent for my location with no business running. As you can understand especially during these covid times, rent is starting to become difficult as we continue to remain closed. Please. Please process the first 100 applicants. I do not wish to lose my location! I've faught hard and have been waiting patiently. Please do what you can to get my shop up and running to do what I do best and run my business. Much appreciated, Sama

Communication from Public

Name:

Date Submitted: 06/18/2020 12:30 PM

Council File No: 20-0446-S1

Comments for Public Posting: Council members! I have been waiting to be processed as I am an applicant that wants to participate in owning my cannabis business! I pay so much rent and I'm frustrated with not being able to be open and am afraid to not be able to further pay rent. At the very least process us first 100 so we can move forward with business. Please and thank you! I just don't know how much more I can take.. I really can't lose my spot. We aren't asking at this point we are wanting you to work with us!

Communication from Public

Name:

Date Submitted: 06/18/2020 12:46 PM

Council File No: 20-0446-S1

Comments for Public Posting: To my City Council members, I am here today as applicant of social equity on the verge of losing everything but cloths on my back. These times have not been one anyone can prepare with that said the time is now. We are getting the letters we have tapped every penny we can up till now. As we try and wait for you I must say we can no longer wait. No one is waiting for us you have lost over 300 applications due to everyone can't pay for everything. Forever until you have made everyone happy I'm sorry it time to throw everything out and start over and give everyone the one the money they have spent on this program back every cent. So start processing applications you have lost almost half Of the applications and just like me they couldn't keep paying for a building that was never going to get a license even tho we have done everything asked of us in timely fashion. So I ask as an Angelenos Please start the process let's get this going I've paid for everything with my life now. You have Giving us a second chance Now can we be giving the chance to show that it's in your hands 800 peoples lives and livelihoods are in your hands. The time is now.

Communication from Public

Name:	Mike Sargsyan
Date Submitted:	06/18/2020 05:10 AM
Council File No:	20-0446-S1
Comments for Public Posting:	Please we are bagging all city Council members to process Phase 3 round 1 applicants ,we already waiting months ,audit is finished.Please process ASAP,because we are paying very high rent and we are running out of money.Thank you

M||L

June 11, 2020

***To*: City of Los Angeles**
Attn: Department of Cannabis Regulation, Executive Team & Licensing Team
Cannabis Regulation Commission
Honorable Members of the Rules, Elections and Intergovernmental Relations Committee
City Attorney's Office
Mayor Eric Garcetti's Office
Department of City Planning

Re: Cannabis Policy and Land Use Issues
(City Council File No. 14-0366-S5 and City Planning Case No. CPC-2019-6203-CA)

Dear Esteemed Representatives of the City of Los Angeles:

Thank you for your leadership on cannabis issues in the City and for your consideration of the contents of this public comment letter. As you may be aware and by way of background, the Phase III, Round 1 Audit was completed in late March, 2020 the results of which were released to the public. By and large, the audit concluded the process was "fair and unbiased." Thereafter, on or around March 27, 2020, the City Administrative Officer ("CAO") recommended that the DCR be instructed to *"complete the processing of Phase III Round 1 license applications and commence the necessary work to conduct the Phase III Round 2 licensing process later this year.*" Shortly thereafter, on April 10, 2020, DCR submitted a list of recommendations to the REIG Committee (collectively, the "DCR Recommendations") containing "legislative changes" well beyond the scope of the CAO's recommendations which, if adopted, would cause further delay and undue harm.

After carefully reviewing the DCR Recommendations and discussing them with our stakeholder clients (which include many Phase III Round 1 Invoiced Applicants, Phase III Round 1 Applicants that were not invoiced, Potential Pilot Delivery Program Applicants, and Potential Phase III, Round 2 Applicants), we respectfully request this honorable Committee to make a Motion and City Council adopt the following:

1. **The DCR Recommendations Should ONLY be Applicable to Round 2;**
2. **DCR Should Issue Local Authorization Immediately to Round 1 Invoiced Applicants;**
3. **DCR Should Issue Temporary Approval to Invoiced Round 1 Applicants after Standard Safety and Inspection Requirements are Met;**
4. **Allow Phase I, Phase II, and Phase III Round 1 Applicants the Ability to Relocate;**
5. **Allow Invoiced Round 1 Applicants the Ability to Sell or Transfer their Ownership Interests to a Social Equity Applicant of the Same Tier; and**
6. **Grant Priority or Allow Further Processing of Phase III Round 1 Applicants That Did Not Receive Invoices.**

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As is borne out in full detail below, it is in the best interests of both the City and Phase III Round 1 Invoiced Applicants to receive Temporary Approval and become operational as soon as possible. Moreover, due to the current crises and the "essential" nature of cannabis businesses, we ask the City Council to adopt an amendment removing undue barriers and regulations for cannabis businesses' access to licensure, their ability to move locations and their ability to have liquidity rights. We appreciate your taking the time to read the full contents of this letter and to implement the necessary legislative changes we are requesting herein.

1. The DCR Recommendations Should ONLY be Applicable to Round 2.

Under LAMC 104.06, Phase III Round 1 Applicants were required to be verified for the Social Equity Program, meet a series of nine (9) specific application requirements to qualify, and then score in the top 100 timestamps. Moreover, the definition and requirements for Social Equity Applicants were discussed at length between DCR, stakeholders, and the City Council before they were enacted over a year ago. If the DCR Recommendations are accepted, they would cause undue delay and harm to Phase III Round 1 Invoiced Applicants and prevent the City from earning much needed tax revenue this year. Although the DCR's Recommendations make clear that the department feels they made errors in drafting the governing legislation for Phase III Round 1, those that made it through this rigorous process should not be penalized for the department's shortcomings.

Specifically, DCR proposed certain unspecified amendments to the definition of "Equity Share" governing Social Equity Applications for both Round 1 and Round 2 of Phase III. Therein, DCR has requested that City Council apply these amendments "retroactively" to the successful Phase III Round 1 Invoiced Applicants. If adopted, Phase III Round 1 Invoiced Applicants would not receive temporary approval for operation unless and until 1) DCR legislatively redefines "Equity Share"[1]; 2) Phase III Round 1 Invoiced Applicants renegotiate, redraft, and resubmit their corporate documentation in compliance with that new definition; and 3) DCR and the City Attorney review, process, and approve this new documentation. These new requirements would undoubtedly add a minimum six (6) months to the Phase III Round 1 process, which is already nine (9) months behind due to the audit, thus threatening most Phase III Round 1 Invoiced Applicants with bankruptcy by a program that had promised them economic opportunity.

To add insult to injury, in addition to having to comply with a new undefined proposed legislative "Equity Share" requirement, DCR has proposed another new requirement for Temporary Approval which would require Phase III Round 1 applicants to draft and submit an "Equity Plan". Similar to "Equity Share", the proposed "Equity Plan" has not yet been defined by DCR and would require 1) DCR to create guidelines for such; 2) Phase III Round 1 Invoiced Applicantsto prepare supplemental documentation that provides for an Equity Plan; and 3) the DCR to review, process and approve such documentation.

[1] To legislatively redefine "Equity Share", DCR would have to conduct stakeholder outreach, the City Attorney would have to draft language for the proposed set of legislative amendments to City Council, City Council will have to schedule and hold a vote to approve the amendments.

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For Phase III Round 1 Invoiced Applicants, after securing real estate and incurring significant expense to timely comply with all of these requirements, we believe it would be a severe miscarriage of justice and surely delay the process further to change the rules now and make them retroactively applicable. Moreover, this would surely invite further litigation from the Social Equity community. Accordingly, we strongly encourage the City to make the prudent decision to apply all changes, if any, prospectively to future rounds of licensure and not retroactively to Round 1.

While we understand the policy goals behind the proposed legislative changes (namely that there are Social Equity Applicants that reportedly have been the victim of predatory agreements and/or investors have created loopholes within the system), there are a large number of Round 1 Invoiced Applicants that have complied with both the spirt and letter of hte law and should not be further disadvantaged by the delays. Accordingly, we would encourage the DCR to review and vet all agreements for Phase III and make sure they comply with both the spirit and the letter of the law <u>but only as part of the annual licensing process, not as part of the temporary approval process.</u>

2. **In Accordance with CAO's Recommendation for DCR to "Complete the Processing of Phase III Round 1 License Applications"**, **City Council Should Instruct DCR to <u>Issue Local Authorization Immediately to Round 1 Invoiced Applicants.</u>**

Currently, the Ordinance does not provide a mechanism for Phase III Round 1 Invoiced Applicants to receive Temporary Approval. Moreover, DCR believes that the law does not provide a mechanism for local authorization the way it did for Phase II. (See, LAMC § 104.06.) Since DCR is taking the position that Council must instruct them to do either of the foregoing, we hereby request that Council amend the ordinance forthwith to allow for the process to move forward for Phase III Round 1 Invoiced Applicants as recommended by CAO and the auditors.

We strongly believe it is in the best interests of the City to issue Local Authorization immediately to Phase III Round 1 Invoiced Applicants, which is non-operational in nature, just as it was for Phase II Non-Retailers. Moreover, DCR's granting of local authorization to Phase III Round 1 Invoiced Applicants would actually carry out the Social Equity policies declared by City Council and carry them into effect. For instance, LAMC Section 104.00 specifically provides that the purposes of the Social Equity Program are:

- "to promot[e] equitable ownership ….opportunities in the Cannabis industry;"
- "to decrease disparities in life outcomes for marginalized communities and to address disproportionate impacts of Cannabis prohibition in adversely-impacted and lower income communities;"
- "to issue licenses in an orderly and transparent manner to eligible applicants;" and
- "to mitigate the negative impacts brought by unregulated Cannabis businesses."

(LAMC § 104.00.)

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To be clear, local authorization would not vest Phase III Round 1 Invoiced Applicants with the right to operate at their Business Premises while their license is under review -- Invoiced Phase III Round 1 Applicants would merely be allowed to apply for a state provisional license from the California Bureau of Cannabis Control (the "***BCC***"). This would significantly lessen the downtime for Invoiced Round 1 Applicants to become operational.[2] Because the grant of Local Authorization to Invoiced Phase III Round 1 Applicants would further all of the above declared policies and get them closer to operational, the City would benefit from the much needed tax revenue much earlier.

3. **We Hereby Request City Council to Approve Amendments to the Ordinance to Instruct DCR to <u>Issue Temporary Approval to Invoiced Round 1 Applicants after the Standard Safety and Inspection Requirements are Met.</u>**

Given the fact that the Ordinance was previously amended in November 2018 to give DCR the ability to issue Temporary Approval to Phase 2 Non-Retailers (the majority of which were not even Tier 1 or Tier 2 Social Equity Applicants), it would defy logic and reason to deny this same relief to Invoiced Phase III Round 1 Applicants. Indeed, the goals of the Social Equity Program would hardly be advanced if the City drove low-income Invoiced Phase III Round 1 Applicants into further debt by retroactively applying these proposed legislative changes while they continue holding property (without the ability to operate) throughout the entire duration. (For reference purposes as to timing, Phase 1 opened nearly two and a half years ago in January 2018 for Existing Medical Marijuana Dispensaries (EMMD) and DCR has still yet to issue a single annual license to an EMMD. Similarly, Phase 2 opened nearly two years ago and many of those non-retailers are just now getting temporary approval without these added requirements.)

Accordingly, we respectfully request that LAMC Section 104.06(a) be amended to allow for local authorization and temporary approval as indicated in red italics below:

> **Storefront Retailer Commercial Cannabis Activity.** With respect to an application for a License for Storefront Retailer Commercial Cannabis Activity or for Microbusiness Commercial Cannabis Activity that includes Storefront Retailer Commercial Cannabis Activity, DCR shall either deny the issuance of the License with no hearing at any time during application processing or, within 60 days of the date DCR deems the application and pre-licensing inspection complete, make a recommendation to the Commission to issue the License. *If DCR determines that an Applicant is eligible for further processing in Phase III Round 1 under Section 104.06.1(c), DCR shall provide the Applicant with local authorization to apply for a provisional license from the Bureau of Cannabis Control. This local authorization shall provide a limited immunity to operate pending review of its license application to engage in commercial cannabis activities unless DCR grants the Applicant a Temporary Approval. Prior to determining that an Applicant is eligible for processing under this section, DCR, at its discretion, may provide an Applicant with local authorization to apply for a temporary license from the Bureau of Cannabis Control. This local authorization shall not permit an Applicant to engage in commercial cannabis activities unless DCR grants the Applicant a Temporary Approval.*

[2] By issuing local authorization, we estimate that Invoiced Round 1 Applicants would be relieved of approximately 3 to 4 months of unnecessary downtime. This estimate is based upon our experience with the BCC licensing process. Recently, the average processing time for BCC provisional applications has been approximately 3 to 4 months.

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An Applicant who applies for a *License under this subsection (a) and who is eligible for further processing in Round 1 as determined by DCR under Section 104.06.1(c) shall receive a Temporary Approval to engage in Storefront Retailer Commercial Cannabis Activity at its Business Premises pending the review of its License Application.* ~~If DCR recommends issuance of a License, DCR, at its discretion, may issue the Applicant a Temporary Approval to engage in Storefront Retailer Commercial Cannabis Activity at its Business Premises.~~ *DCR shall revoke the Temporary Approval if the DCR denies the issuance of the License or if the Commission denies issuance of a License.*

Although the DCR has issued invoices to Invoiced Phase III Round 1 Applicants, and these invoices were understood to be the first major step towards receiving a dispensary license, the invoiced Applicants have been unable to make any progress towards opening their stores for nearly nine (9) months, as they waited for an audit of the licensing process to be authorized by the City and then completed. Now that the audit is complete, CAO specifically recommended DCR move forward with processing these applications, without any mention of amending the ordinance to retroactively be applied to Invoiced Round 1 Applicants. Accordingly, on behalf of our stakeholder clients we must strongly encourage City Council to instruct DCR to issue Temporary Approval in accordance with the standards previously set for Phase 2 to avoid undue delay, harm and potentially litigation.

4. **Amend the Ordinance to Allow Phase 1, Phase 2, and Phase 3, Round 1 Applicants the Ability to Relocate.**

Under LA Municipal Code, there are no other types of businesses restricted in the manner which cannabis businesses are currently restricted. At this point, this is untenable, especially considering the "essential" nature of cannabis businesses. Currently, regardless of the hardship they endure, cannabis businesses cannot relocate. Regardless of retail or non-retail operations, this presents significant challenges and stunts the growth of businesses. Moreover, it creates a scenario where businesses are beholden to their landlords which can often create conflict and challenges to a business's ability to operate at its full potential. Moreover, specifically for Phase III Round 1 applicants that have been paying rent on empty storefronts for nine (9) months now, many have either lost their lease due to inability to continue paying rent or will imminently suffer irreparable harm.

Since the only "real" hurdle here seems to be the issue of undue concentration, we strongly endorse this Committee putting forward a Motion and City Council adopting an amendment to the ordinance allowing Phase I, Phase II, and Phase III approved or invoiced businesses to relocate and, those that are subject to undue concentration limits, can only relocate within their same community plan so long as the applicant complies with other the sensitive use restrictions iterated in Article 5, Chapter X of the Los Angeles Municipal Code.

5. **Amend the Ordinance to Allow Invoiced Round 1 Applicants the Ability to Sell or Transfer their Ownership Interests to a Social Equity Applicant of the Same Tier.**

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Under LAMC §104.06.1 (g), an applicant in Phase III Round 1 "shall not be permitted to amend its application to remove or replace the individual Owner who is the Tier 1 or Tier 2 Social Equity Applicant, if applicable, or to change the location of its Business Premises during the application process. Similar to the prohibition on relocation, we are unable to find any other businesses where the sale or transfer of an ownership interest is completely prohibited under LAMC. As has been discussed throughout this letter, Invoiced Phase III Round 1 Applicants have suffered undue harm and hardship due to the delays in the licensing process. Accordingly, the best option for many of them is to sell their interest at this time so that they may provide for their families during this time of crisis. Moreover, the City's restrictions against this sale may be tortious interference and an unconstitutional violation of due process and every American's right to life, liberty and the pursuit of happiness. In recognition of the City's social equity program and goals, it would make sense to, at minimum, create a legislative amendment whereby an Invoiced Phase III Round 1 Applicant may sell or transfer its ownership interests to a social equity applicant of the same tier.

6. **Amend the Ordinance to Grant Priority or Allow Further Processing of Round 1 Applicants That Did Not Receive Invoices.**

DCR's recommendations request that City Council amend the Ordinance to grant priority for commercial cannabis activities not subject to undue concentration to those that applied in Round 1 but were not invoiced. Although the audit generally came back in support of the Phase III Round 1 process, it was undoubtedly chaotic, disorganized and caused a lot of hardship for hundreds of people. In light of the months-long outcry heard by stakeholders, we encourage City Council as a matter of policy and fairness to amend the Ordinance to provide some sort of relief for these applicants. Moreover, in this time of economic crisis, it seems it is equally beneficial for the City to create more licensing opportunities in order to collect added tax revenue.

As a matter of background, this year the City has collected $60m thus far and is slated to collect a total of $100m in tax revenue from currently permitted commercial cannabis businesses in the city for the entire year. To highlight the value of these businesses, the majority of this revenue was collected from the approximately 190 permitted retail businesses. Once the City authorizes operations for Phase III Round 1 Invoiced applicants, this number will theoretically increase by one third. If the City were to move forward with providing the remaining Phase III Round 1 Applicants with the ability to qualify for retail operations in the short term, the revenues would increase exponentially.

We recognize there is a very real policy challenge here as it relates to undue concentration. In addition to revising and removing the undue concentration policy, we would recommend that retail priority be afforded by way of PCN application to those Applicants that were not invoiced that have real estate in a community plan that has reached undue concentration. For those that are not in a community plan that has reached undue concentration, we would encourage the City to allow them some sort of priority during Round 2 and/or adopt the recommendations from DCR that they be afforded priority for non-retail activities not subject to undue concentration.

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CONCLUSION

It would be no exaggeration to say that the entire Social Equity Program is currently at stake. The City should not continue to victimize the Invoiced Round 1 Applicants who have met every standard set by DCR and are not responsible in any way for the flaws in the City's application process. Accordingly, in consideration of the fact that these are Social Equity applicants that will be left without proper remedy if this process is delayed any further, **we urge City Council to make it a priority to promulgate the necessary Amendments to issue local authorization and Temporary Approval to the Invoiced Round 1 Applicants. Moreover, we hereby request the Council adopt amendments to all for relocation and liquidity.** Alternatively, Invoiced Round 1 Applicants and other cannabis businesses will be left without proper remedy and will suffer irreparable harm.

As set forth above, it is in the best interests of both the City and Phase III Round 1 Invoiced Applicants to receive Temporary Approval and become operational as soon as possible. Moreover, due to the current crisis and the "essential" nature of cannabis businesses, we ask the City Council to adopt an amendment removing undue barriers and regulations for cannabis businesses' access to licensure, their ability to move locations and their ability to have liquidity rights. We appreciate your taking the time to read the full contents of this letter and to implement the necessary legislative changes we are requesting herein.

We appreciate the Mayor's Office, City Council, the Commission, DCR and City Attorney's swift attention to this matter.

Very Truly Yours,

Meital Manzuri, Esq.
Managing Partner

Alexa Steinberg, Esq.
Partner

Michelle Mabugat, Esq.
Partner

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