

08-0923-517

MAY 09 2012

PLANNING & LAND USE MANAGEMENT

MOTION

The City is in the process of complying with various court rulings controlling its regulation of medical marijuana. On January 26, 2012 the City Planning Commission discussed the matter and moved forward in recommending a "gentle ban" to the City Council until such time as the California Supreme Court issues clearer guidance to cities.

The City has strived for more than seven years to strike a balance between carefully regulating medical marijuana facilities and assuring patient access to medication. The "gentle ban" would eliminate all medical marijuana dispensaries while still providing for distribution by licensed health care facilities and for home-based cultivation by patients and care-givers. This approach may result in a hardship for seriously ill patients who cannot cultivate at home and who lack access to a licensed health care provider or a care-giver who will cultivate for them.

A second more reasonable approach to compliance could include a limited immunity approach whereby the City proceeds forward with a ban on dispensaries but uses its prosecutorial discretion to abstain from any enforcement action against the limited number of dispensaries that do not violate a set of City Council imposed restrictions. This approach would protect neighborhoods while still assuring limited safe access for patients within the confines of ever evolving case law.

I THEREFORE MOVE that the City Attorney report to the Council regarding the gentle ban with limited immunity approach and that an ordinance implementing that approach be presented to the Council as an alternate to the ban approved by the City Planning Commission.

ORIGINAL

PRESENTED BY



PAUL KORETZ
Councilmember, 5th District


MAY 9 2012

SECONDED BY

