

09-0964
Refer to CF 05-0872-81

APR 28 2009

PLANNING & LAND USE MANAGEMENT

MOTION

In 1996, California voters approved Proposition 215, (The Compassionate Use Act), which legalized the use of marijuana for medical purposes and allows persons to grow or possess marijuana based on the recommendation of a licensed physician. The State enacted supplemental medical marijuana legislation, Senate Bill 420, which was intended to clarify the application and scope of the Compassionate Use Act and enhance the access of qualified patients and primary caregivers to medical marijuana through collective, cooperative cultivation projects.

Unfortunately, the spirit and intent of Proposition 215 has been exploited and abused for both profit and recreational drug abuse by many of the medical marijuana dispensaries in the City of Los Angeles. In 2007, the Los Angeles City Council adopted an Interim Control Ordinance (Ordinance No. 179027) to stop the proliferation and overconcentration of dispensaries while the City developed and adopted reasonable guidelines. This ordinance, like most, but not all ICOs, contained a hardship exemption provision that allows a dispensary to pursue relief from the ICO. Most of the dispensaries in the City have filed for a hardship exemptions.

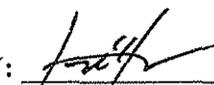
Despite the ICO, these dispensaries have flourished throughout the City. Many of our neighborhoods have been inundated with dispensaries. Any dispensary that did not register with the City Clerk's office by 5 p.m. on November 13, 2007 is operating in violation of the law. The Department of Building and Safety (LADBS) investigates all complaints received regarding dispensaries. If (and only if) the dispensary opened after November 13, 2007, LADBS finds that they are operating in violation of the ICO, and issues orders to comply.

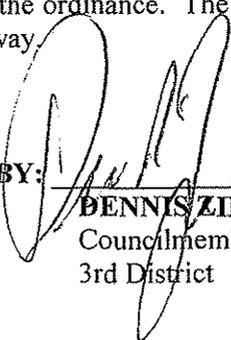
Typically, when a business does not comply with these orders, LADBS refers the case to the City Attorney for civil and/or criminal prosecution. The City Attorney's office, however, is not accepting and filing any cases where the dispensary has filed for a hardship exemption. The City Attorney's office has indicated that the court will reject these cases because 1) the applicant has sought relief via the hardship exemption provision and 2) it is incumbent upon the City (not the Court) to pass legislation that regulates these facilities.

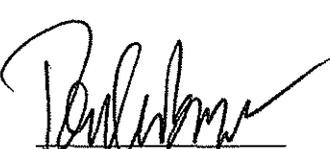
Currently there are an estimated 287 hardship exemptions pending before the City Council. The City Council is not required by law to act upon these hardship exemption applications, and, in fact, has not acted upon a single case. Inasmuch as the City Council seems focused on completing a new ordinance to regulate these facilities, rather than in hearing and granting hardship exemption cases, it would seem prudent to remove the hardship exemption provision from the Interim Control Ordinance.

Once the hardship exemption is removed, and the amended ordinance takes effect, the City would be able to enforce against dispensaries that open after that date. It would give teeth to an Interim Control Ordinance that currently has none. Amending the ordinance will have no effect against those dispensaries that registered prior to November 13, 2007, and will also have no effect upon those dispensaries that have filed for a hardship exemption. It will, however, allow us to prosecute dispensaries that open during the remainder of the ICO.

I THEREFORE MOVE that the City Attorney, with the assistance of the Planning Department, be requested to prepare an ordinance to amend the Medical Marijuana Dispensaries ICO (Ordinance 179027) to strike the hardship exemption provision from the ordinance. The amendment should not alter the expiration date of the ICO nor modify it in any other way.

PRESENTED BY: 
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SECONDED BY: 
BENNIS ZINE
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ORIGINAL