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CANNABIS REGULATION

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JOSIE TREVIZO
COMMISSION EXECUTIVE ASSISTANT
(213) 320-7815

City of Los Angeles

CALIFORNIA



ERIC GARCETTI
MAYOR

EXECUTIVE OFFICES

221 N. FIGUEROA STREET, SUITE 1245
LOS ANGELES, CA 90012
(213) 978-0738

CAT PACKER
EXECUTIVE DIRECTOR

MICHELLE GARAKIAN
ASSISTANT EXECUTIVE DIRECTOR

JASON KILLEEN
ASSISTANT EXECUTIVE DIRECTOR

<http://cannabis.lacity.org>

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November 16, 2021

The Honorable City Council
City of Los Angeles
City Hall, Room 395
Los Angeles, California 90012

[Council File No. 21-1083](#)

Attention: Planning and Land Use Committee; Immigrant Affairs, Civil Rights, and Equity Committee; and Budget and Finance Committee, Information, Technology, and General Services Committee

[DCR RESPONSE TO PLUM TRANSMITTAL FOR COUNCIL FILE NO. 21-1083](#)

Dear Honorable Members:

The Department of Cannabis Regulation (DCR or Department) herein provides further policy recommendations to the City Council based on the amendments, outlined below, proposed by the November 5, 2021 [Planning and Land Use Management Transmittal for C.F. No. 21-1083](#) (Transmittal). While these amendments, if enacted, are intended to be helpful to the administration of the City's retail cannabis licensing process, the Transmittal, in its current form, does not address the concerns and recommendations outlined in the [Department of Cannabis Regulation report](#) transmitted to the City Council on October 29, 2021 (DCR Report).

The DCR Report detailed several provisions within the original motion's draft proposal which, if adopted, would result in amendments to the Los Angeles Municipal Code that would gravely compromise the City's licensing and Social Equity Program (1) by eliminating important departmental oversight; (2) by establishing requirements that are inconsistent with state law; and (3) by creating loopholes for businesses to perpetually violate the City's ownership and related Social Equity Program requirements. These concerning provisions remain in the current proposal as amended by the Transmittal.

As a result, DCR remains strongly opposed to the current proposal as amended by the Transmittal. If the City decides to move forward, DCR recommends that City Council adopt the Motion *only* if it is further amended in accordance with the language attached as Attachment A. Attachment A includes minor non-substantive edits as well as proposed changes to the provisions that may have significant unintended consequences to Social Equity Applicants, the City's economic interests, and public health and safety. If the motion is not amended as recommended in Attachment A, DCR respectfully requests, and strongly advises, that City Council does **not** adopt the Motion.

A. DCR's Response to the Transmittal Amendments

1. Transmittal Language: *"a. Change the sentence in the sixth paragraph stating that the City was recently granted \$22 million from the State of California to expedite cannabis licensing, to state the following:*

i. First, the State of California has allocated \$100 million for municipalities to expedite license processing, and the City of Los Angeles should be eligible to receive approximately \$22 million of those funds for license processing for this budget year and the next two years."

DCR Reponse: DCR appreciates the Transmittal's acknowledgement that the Department to date has not received resources through the California Local Jurisdiction Assistance Grant Program. The City is eligible to receive up to \$22M.

2. Transmittal Language: *"b. Add the following sentence to the opening of the detailed language in the Motion's Attachment:*

i. Any timelines provided in this Motion will commence only after all correct and complete documents have been submitted."

DCR Reponse: DCR interprets this amendment to trigger DCR's time to process an application or modification only after an applicant submits correct and complete documents, thus avoiding the potential abandonment or denial of hundreds of applicants who may need multiple opportunities or additional time to cure deficiencies or provide supplemental documents. However, DCR will not be able to determine whether all of the required documents have been submitted in complete form until after the Department can review what has been submitted. As a result, this amendment is meaningless; by the time this "clock" starts on DCR's review, the review is already complete. The Department should retain discretion to provide additional time for applicants to supplement or correct documents and to determine processing timelines as currently described in the LAMC.

3. Transmittal Language: *“c. Add an amendment consistent with the DCR report dated October 29, 2021, attached to the Council file, relative to allowing a Standalone Social Equity Applicant Entity Verification process, as detailed on Page 28 of said DCR report, to allow the DCR to conduct an Equity Share review before a Temporary Approval Application is submitted; and, add a timeline of 30 additional days to allow the Standalone Social Equity Applicant Entity Verification process. With this additional timeline, the pre-application and temporary approval process will total 190 days, or over 6 months.”*

DCR Response: In order to complete the Equity Share review process, DCR must review all information submitted as part of the applicant’s Temporary Approval Application, often including dozens of documents related to the City’s Social Equity Program Equity Share requirements including, but not limited to, entity formation documents, operating agreements, and management contracts. In order to ensure that DCR is afforded a reasonable amount of time to properly review these detail intensive documents and agreements, DCR requests and recommends a 45-day review period rather than a 30-day review period as proposed in the Transmittal. This modest increase of time provides the Department with sufficient time to conduct the necessary due diligence. As is the case with the other eleven application processing timelines that are proposed by the Transmittal, DCR’s ability to meet proposed application processing timelines are dependent on the allocation of additional resources necessary to fulfill any mandated timelines. As such, DCR continues to respectfully request that, if City Council adopts amendments mandating DCR to meet certain application processing timelines, an exemption provision is added in the event of potential future challenges outside DCR’s control, such as when (1) DCR’s vacancy rate is 10% or more; (2) a fiscal or other emergency is declared; (3) DCR is subject to a managed hiring process; (4) DCR is subject to furloughs; and/or (5) the Department is not fully funded to meet the adopted timelines.

Recommended Amendment:

“c. Add an amendment consistent with the DCR report dated October 29, 2021, attached to the Council file, relative to allowing a Standalone Social Equity Applicant Entity Verification process, as detailed on Page 28 of said DCR report, to allow the DCR to conduct an Equity Share review before a Temporary Approval Application is submitted; and, add a timeline of ~~30~~ 45 additional days to allow the Standalone Social Equity Applicant Entity Verification process. With this additional timeline, the pre-application and Temporary Approval process will total 190 days, or over 6 months.”

4. Transmittal Language: *“h. The DCR shall report to the PLUM Committee on the additional resources that will be needed to effectuate the aforementioned changes, and on the possible revenue sources, including anticipated State funding, the DCR’s internal funding from Fiscal Year 2021-22, and other recommended City funding sources.”*

DCR Reponse: DCR looks forward to reporting back in further detail on additional resources needed to meet the amendments outlined in the Motion. DCR will itemize various requests related to personnel and services needed to administer and improve processes related

to licensing, enforcement and compliance, the Social Equity Program and customer service and outreach. In November 2021, DCR will submit its FY 22-23 Budget proposal and the California Local Jurisdiction Assistance Grant (CLJAG) Application. As part of both proposals, DCR requests 21 position authorities to (1) expand its licensing section; (2) create a compliance and enforcement section; (3) provide increased access to information and assistance to, and engagement with, Social Equity Applicants; and (4) provide administrative support across the department to improve DCR's day-to-day operations. These resources will be divided across three DCR divisions: Licensing and Regulation, Compliance and Enforcement, and Social Equity and administrative support.

DCR is committed to meeting the City Council's expectations regarding the licensing process and the Social Equity Program, and is fully supportive of being held accountable for established application processing timelines. However, DCR must first have sufficient resources to administer the proposed changes and other mandated responsibilities, or the proposed amendments will not result in a faster or more efficient process. DCR is finalizing its analysis of the resources needed to administer the proposed changes and other mandated responsibilities, and looks forward to working with City Council and the Mayor through the City's budget process to ensure DCR is appropriately resourced. As mentioned above, if City Council adopts mandated timelines, DCR requests a provision suspending those timelines in the event DCR is not fully funded, or there are future furloughs or fiscal crises.

B. Policy Recommendations Not Addressed in the Transmittal

Although the Department appreciates the PLUM Committee's consideration of [CF 21-1083](#), and certain amendments made by the Transmittal as detailed above, DCR remains opposed to the Motion because the current proposal is not aligned with the goals and priorities of the City's licensing process and Social Equity Program.

[DCR's Report](#) outlines many of the unintended consequences of the Motion, and the potential for abuses of the licensing and modification process if the Motion is adopted as written. The proposed amendments in the [Transmittal](#) **do not** address the primary concerns detailed in the DCR Report, nor do they address eight of the nine recommendations offered by DCR related to the current impediments experienced by Social Equity Applicants and the local cannabis industry at large, including:

- Implementing Expedited Services on specified timelines (detailed in section VI(A), page 21 of the DCR Report);
- Amending the definitions of "Owner" and "Primary Personnel" (section VI(B), page 22);
- Creating a refiling process to allow Applicants with applications deemed abandoned to submit a new Application within one year of abandonment under certain conditions (section VI(C), page 23);

- Specifying that all applicants have one calendar year to submit a Temporary Approval Application (section VI(D), page 25);
- Allowing a second review of Phase 3 Retail Round 1 Applications deemed ineligible due to a sensitive use so that those applicants may benefit from the amendments to LAMC 105 *et seq.* enacted in July 2021 (section VI(E), page 26);
- Allowing the relocation of Business Premises outside of the original Community Plan Area to address the challenges Applicants face finding compliant locations and/or negotiating with landlords who often have the upperhand given the limited number of compliant locations (section VI(F), page 27);
- Amending the definition of “Undue Concentration” to consolidate the existing exemptions into one provision and maintain the City’s existing capacity for retail businesses (section VI(G), page 27);
- Establishing a Standalone Social Equity Applicant Entity Verification process to occur earlier in the licensing process to allow Applicants to make business arrangements with added certainty (section VI(H), page 28); and
- Allowing Social Equity Individual Applicants to aggregate their ownership shares to meet a combined total of 51% interest in the licensed business, thereby providing greater flexibility and expanding the number of Social Equity Individual Applicants who may participate in the Social Equity Program (section VI(I), page 29).

These recommendations incorporate stakeholder feedback, including responses to issues raised directly by stakeholders regarding the Licensing and Social Equity Program.

In conclusion, many provisions in the Motion, as well as the November 5, 2021 Transmittal, will, individually and collectively, cause more harm than good. The proposed amendments gravely compromise the City’s licensing and Social Equity Program (1) by eliminating important departmental oversight; (2) by establishing requirements that are inconsistent with state law; and (3) by creating loopholes for businesses to perpetually violate the City’s ownership and related Social Equity Program requirements. The Motion as amended would also have an impact on legal business’ employees and labor, as these new loopholes could potentially risk jobs, endanger labor organizing, and create new risks to public health and safety by impeding or delaying the collection of ownership information. It should also be noted that if certain provisions in the Motion are not altered (via the changes DCR has proposed in [Attachment A](#)), there will be significant impacts on the \$157.7 million in expected cannabis tax revenue from the City’s legal cannabis industry this fiscal year. Finally, by establishing a duty for DCR to act within certain prescribed timelines without sufficiently staffing or funding the Department, the City is establishing a law that may give rise to litigation for both applicants and the City alike.

For the reasons outlined above, DCR strongly opposes the current proposal as amended by the Transmittal and, if the City decides to move forward, recommends that City Council adopt the Motion *only* if it is further amended in accordance with the language attached as Attachment A. Attachment A includes both redline edits to the Motion language that address DCR’s concerns

and minor grammatical changes. If the motion is not amended as recommended in [Attachment A](#), DCR respectfully requests, and strongly advises, that City Council **not** to adopt the Motion.

The Department of Cannabis Regulation looks forward to the opportunity to discuss these important matters further as critical decisions are made regarding the City's Licensing and Social Equity Program.

Sincerely,



Cat Packer
Executive Director
City of Los Angeles Department of Cannabis Regulation

- c: Honorable Nury Martinez, City Council President
Honorable Marqueece Harris-Dawson, Chair, PLUM Committee
Honorable Paul Krekorian, Chair, Budget and Finance Committee
Honorable Kevin De León, Chair, Immigrant Affairs, Civil Rights and Equity Committee
Honorable Nithya Raman, Chair, Information, Technology and General Services Committee
Richard H. Llewellyn, Chief of Staff, Office of the Mayor
Andre Herndon, Deputy Chief of Staff, Office of the Mayor
Kevin Keller, Deputy Mayor of Economic Development, Office of the Mayor
Ron L. Frierson, Director of Economic Policy, Office of the Mayor
Margaret Wynne, Director of Legislative Affairs, Office of the Mayor
Matt Szabo, City Administrative Officer
Sharon Tso, Chief Legislative Analyst

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A. Amend Sections 104.03 and 104.06 as necessary to provide that DCR shall process all new license and Temporary Approval applications pursuant to the following timelines and procedures. The timelines in these sections shall be suspended under the following conditions: (1) the Department's vacancy rate is 10% or more; (2) a fiscal or other emergency is declared; (3) the Department is subject to a managed hiring process; (4) the Department is subject to furloughs; and/or (5) the Department is not fully funded to meet the adopted timelines.

(1) Within 10 days of submission of a pre-application review record, DCR shall issue the applicant a pre-application review fee invoice ~~within 10 days of the applicant's submission of a pre-application~~.

(2) Within 30 days of the filing of a pre-application review record, DCR shall determine whether the applicant's proposed business premises complies with Article 5 of Chapter X of the LAMC and notify the applicant in writing of DCR's determination. ~~Upon receipt of written confirmation of land use compliance, the applicant shall be permitted to submit a state license application at its proposed business premises location under its intended business entity name and, upon request from the state, DCR shall confirm that the applicant's local application status is Local Compliance Underway.~~

(3) Upon DCR's determination that an applicant's business premises complies with Article 5 of Chapter X of the LAMC, DCR shall immediately allow the applicant to submit a Temporary Approval Application.

(4) Within 60 days of submission of a Temporary Approval application, DCR shall determine whether the applicant has submitted all required information, forms, and documents to obtain Temporary Approval. If DCR determines there are **any** deficiencies in the Temporary Approval application, it shall notify the applicant in writing of the specific documents, forms, and information required by DCR. ~~DCR shall not impose any requirements for Temporary Approval that are not specifically listed in Section 104.06. Within 30 days of an~~ Upon the applicant's submission of the requested additional information, forms, or documents, DCR shall complete its follow up review ~~within 30 days~~.

(5) Within 45 days of a request for a Temporary Approval inspection by an applicant, DCR shall schedule and conduct the requested inspection ~~a Temporary Approval inspection within 45 days of a request from an applicant for such inspection~~.

(6) Within 15 days of an applicant passing its DCR initial inspection or DCR determining all Temporary Approval documents, forms, and information have been submitted and are determined complete, whichever occurs last, DCR shall issue the applicant Temporary Approval.

B. Amend Section 104.03(e) as necessary to establish the following specific application and license modification timelines and procedures. The timelines in these sections shall be suspended under the following conditions: (1) the Department's vacancy rate is 10% or more;

(2) a fiscal or other emergency is declared; (3) the Department is subject to a managed hiring process; (4) the Department is subject to furloughs; and/or (5) the Department is not fully funded to meet the adopted timelines.

(1) Relocation Requests:

(a) Within 15 days of submission of a relocation request, DCR shall issue the applicant/licensee an invoice.

~~(a) Within 14 days of the effective date of any ownership structure change, the applicant/licensee shall request to file an ownership modification request with DCR. Once DCR enables the licensee or applicant to upload ownership modification documents to their licensing portal, the applicant or licensee shall submit to DCR a revised ownership disclosure form, ownership attestations, if applicable, and revised business organization documents, if any.~~

(b) Within 60 days of the filing of all required and completed forms and documents, DCR shall update its licensing records to reflect the new ownership structure.

(c) If DCR determines that the new ownership structure violates any provisions of Article 4 of Chapter X of the LAMC, upon notice from DCR, the applicant/licensee shall be permitted to further amend its ownership structure as necessary to correct any non-compliance subject to the restrictions on removing or replacing the individual Owner who is the Social Equity Individual Applicant, as specified in Section 104.03(e)(2).

(d) An applicant/licensee shall be permitted to continue to operate pending an ownership modification if at least one existing Owner remains as an Owner in any capacity that meets the definition of Owner ~~under applicable state law.~~

(4) Change of Business Entity on Application/License. Within 30 days of submission of a complete request to change a business entity on an application, Temporary Approval, or license, including all required documents, forms or information, DCR shall review and either approve or deny ~~the request; a request to change the business entity on an application, Temporary Approval, or license within 30 days of submission. DCR may require organizational documents and ownership disclosures for the new business entity; (ii) a new rental lease agreement and landowner authorization in the name of the new business entity; and (iii) indemnification of the City of Los Angeles for any claims arising from the change of entity. An applicant with Temporary Approval or licensee may continue operating under the old business entity until such time that the State of California issues a new state license or licenses to the applicant or licensee under the new business entity. If DCR approves the request, upon request from the state, DCR shall confirm that the applicant's/licensee's local application status is Local Compliance Underway.~~

~~(5) Modification Request Documentation: For each type of modification included in section 104.03(e), DGR shall not require any information or documents from an applicant/licensee not specifically described or referenced in this motion. To the extent any provisions in section 104.03(e) as currently codified require additional documentation not specifically referenced herein, such provisions shall be amended to make them consistent with the document requirements of this motion.~~

~~(6) Modification submission: A modification shall be deemed submitted and filed once an applicant/licensee has filed a modification request through DGR's licensing portal and a modification record number is generated. DGR shall not employ any other method of determining when a modification is deemed submitted and filed. DGR shall enable licensees to submit modification requests through its licensing software within 7 days of a licensee's request to file a modification. DGR shall not suspend submission of modification~~

~~must be enumerated, and include an estimated dollar value of those services. The plan must specify the ownership model in compliance with Section 104.20 to read as follows:~~

b. On or before March 1 of each year, ~~a licensee the Non-Equity owner~~ shall submit to the Director an annual report covering the prior calendar year, signed by all Owners both the Equity Owner, and the Non-Equity Owners, and Management Companies, if applicable, describing the services provided ~~by the Non-Equity owner~~ and signing an affidavit confirming compliance with all ownership interest requirements set forth in Section 104.20, including those prohibiting supermajority voting requirements, and acknowledging all requirements to disclose agreements about the management, control or direction of the entity, profits, and/or loans. This affidavit must be signed under penalty of perjury by all Owners and Management Companies.