



AGENDA REPORT

City Attorney's Office

DATE:	December 20, 2022
TO:	Mayor Butt and Members of the City Council
FROM:	Dave Aleshire, City Attorney James Atencio, Senior Assistant City Attorney Lina Velasco, Director of Community Development
Subject:	Council Direction on Requested Changes to Cannabis License Ordinance
FINANCIAL IMPACT:	None at this time
PREVIOUS COUNCIL ACTION:	Click or tap here to enter text.
STATEMENT OF THE ISSUE:	City staff is seeking City Council direction on a former cannabis dispensary license holder's request to amend the Cannabis Ordinance to allow for issuance of an additional cannabis retailers license within the City of Richmond.
RECOMMENDED ACTION:	PROVIDE direction to City staff on whether amendments to the Cannabis Ordinance should be prepared increasing the number of cannabis retailer licenses – City Attorney's Office (Dave Aleshire 510-620-6509). This item was continued from the November 22, 2022, meeting.

DISCUSSION:

Background

Richmond's medical marijuana Ordinance No. 28-10 NS ("Ordinance"), adopted on September 21, 2010, permitted and regulated medical marijuana collectives. The Ordinance was amended on November 16, 2010, to permit marijuana collectives to operate in Regional Commercial (C-3) Zoning Districts at certain minimum distances from schools and other specified facilities. In order to operate a marijuana dispensary in compliance with the Ordinance, collectives were required to obtain approval for a location from the City Council. Richmond Patient's Group ("RPG"), Holistic Healing Collective, Inc. ("HHC") and 7 Stars Holistic Foundation, Inc. ("7 Stars") were the only three permitted dispensaries operating in the City of Richmond since the Ordinance was passed.

In December 2011, Richmond Compassionate Care Collective ("RCCC") was approved to establish a medical marijuana dispensary in Richmond, at 2920 Hilltop Mall Road.

In March 2012, the Ordinance was amended to allow collectives to transfer their permits to another location and increasing the number of allowed dispensaries to six. Around the same time RCCC decided not to open a dispensary at 2920 Hilltop Mall Road because of concerns regarding federal law enforcement and it therefore terminated its lease for that location. RCCC intended on transferring its permit to a new location and resumed a search for a new location to open its dispensary.

In December 2014, the Ordinance was amended to reduce the number of cannabis retailer permits from six to three. It was further amended to state that if a permitted dispensary (here, only RCCC) did not open within six months after issuance of the permit, the permit would expire and become void. This amendment went into effect in early January 2015.

In 2015, RCCC leased property at 3190 Klose Way and applied to transfer its permit, but the request was denied by the City on May 19. RCCC also pursued other properties but was ultimately unable to obtain a location before its permit expired. On November 3, 2015, RCCC sought an extension of time to find a location to commence operations, but the City Council did not approve the application.

RCCC sued RPG, HHC, and 7 Stars (collectively referred to as "defendants") and others alleging various claims relating to interfering with RCCC's ability to obtain a permit. RCCC's lawsuit alleged that the defendants' actions constitute an unlawful group boycott in violation of California's Cartwright Act, causing RCCC to suffer millions of dollars in damages. When the case ultimately went to trial in August 2021, the only remaining defendants were three RPG owners and directors. On September 23, 2021, the jury returned a verdict in RCCC's favor, awarding damages of \$5,000,000 which were automatically trebled to \$15,000,000.

RCCC is now requesting that, given RCCC's successful litigation against RPG, the City Council consider amending the City's Cannabis Ordinance to increase the number of allowed cannabis retailer permits to at least four so they can get their retailer permit reinstated.

However, amending the Ordinance would not in of itself guarantee that RCCC would successfully obtain a retailer permit. The current Ordinance provides for a competitive process to be followed in the event the City were to allow additional retailer permits.

The City Council previously directed City staff to return with a Cannabis Equity Program (“CEP”) that would prioritize the issuance of any new retailer licenses (either storefront or non-storefront) to equity candidates. Per the City Ordinance a Retail Facility is defined as “a facility where cannabis, cannabis products, edible cannabis products, or devices for the use of cannabis or cannabis products are offered for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale.” The City’s Ordinance also includes a Non-Storefront Retail Facility use defined as a facility that is closed to the public where cannabis, cannabis products, edible cannabis products, or devices for the use of cannabis or cannabis products are offered for retail sale exclusively by delivery, in accordance with State Law.

The City applied for and received state grant funding to create a CEP for Richmond. Once developed, the CEP will support local equity applicants impacted by prior criminalization of cannabis with starting and/or growing their cannabis business. The initial approach that the Council desired was to prioritize the issuance of any new retailer licenses (either storefront or non-storefront) to equity candidates.

As part of the CEP development, the City Council will need to decide the maximum numbers of retailer licenses it will allow in the City. Staff will research and present the City Council with options on establishing a new maximum number of retailers licenses based on best practices as part of the ordinance amendments proposed to implement the CEP. As part of these anticipated CEP Ordinance amendments, the City Council could also direct staff to draft an amendment that would make allowances for operators who previously had their retailer permit expire and who wish to be reinstated.

City Staff is seeking City Council direction on whether City Council would like staff to return with a draft amendment to the Ordinance to increase the number of allowed retailer permits and any other related amendments to address RCCC’s request.

DOCUMENT ATTACHED:

Attachment 1 – RCCC Letter