

city el cajon / medical marij



CITY OF EL CAJON

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CITY MANAGER

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SEP 02 2010

SAN DIEGO
COUNTY GRAND JURY

August 31, 2010

San Diego County Grand Jury

Hall Of Justice

330 W. Broadway, Suite 477

San Diego, CA 92101-3830

Response to Medical Marijuana Grand Jury Report:

Thank you for the opportunity to review and respond to the Grand Jury Report; Medical Marijuana in San Diego. The City of El Cajon has reviewed the report and offers the following responses:

Findings: 01 – The City agrees that the District Attorney's office has not published guidelines for the operation of legal medical marijuana cooperatives and collectives in San Diego County; however, the City disagrees that such guidelines would address the concerns of operators of those programs who are trying to comply with State law.

02 – The City agrees.

03 - There have been guidelines prepared by the District Attorney's office that the El Cajon Police Department has incorporated onto a training bulletin being used in this City. This Training Bulletin is attached.

04 – The City agrees; however, that action does not apply to the City of El Cajon.

05 -- The City disagrees. The implementation and ongoing enforcement of zoning and land use ordinances to license, regulate and periodically inspect cooperatives and collectives distributing medical marijuana in the City of El Cajon creates an additional unnecessary burden on local government. The City of El Cajon is 14.1 square miles in area; we have two Zoning Compliance Officers. We do not have the personnel or other resources to provide such services. Further, there is no indication of how many of such businesses would locate in our jurisdiction. It is difficult enough for the city to keep up with the number of tobacco retailers within the City. An additional work program would seriously over burden our staff.

06 – The City disagrees. The City of San Diego's Medical Marijuana Task Force is specifically related to the City of San Diego, and its political decisions in allowing such businesses within its jurisdiction. There is no effective "model," which would address the concerns of the City of El Cajon.

07 – The City agrees.

08 – The City disagrees. The City of El Cajon has no knowledge of whether the cities of Escondido, San Marcos and Vista have adopted such "bans." Further, the City denies that the lack of permitted medical marijuana collectives in any jurisdiction "deprives some qualified medical marijuana patients" of access to marijuana in any community. The Compassionate Use Act allows any qualified medical marijuana patients in any jurisdiction to cultivate their own medical marijuana. Additionally, the Compassionate Use Act does not require local jurisdictions to allow the establishment of medical marijuana dispensaries or collectives within its jurisdiction. (See, *City of Claremont v. Kruse* (2009) 177 Cal.App.4th, specifically recognizing that cities may prohibit the establishment of medical marijuana dispensaries if applicable zoning ordinances do not permit them as an "allowable" use.)

09 – The City disagrees. The City of El Cajon denies that the lack of permitted medical marijuana collectives in any jurisdiction "deprives some qualified medical marijuana patients" of access to marijuana in any community. The Compassionate Use Act allows any qualified medical marijuana patients in any jurisdiction to cultivate their own medical marijuana; further, the Compassionate Use Act does not require local jurisdictions to allow the establishment of medical marijuana dispensaries or collectives within its jurisdiction. (See, *City of Claremont v. Kruse* (2009) 177 Cal.App.4th, specifically recognizing that cities may prohibit the establishment of medical marijuana dispensaries if applicable zoning ordinances do not permit them as an "allowable" use.)

10 - The City of El Cajon denies that the lack of permitted medical marijuana collectives in any jurisdiction "deprives some qualified medical marijuana patients" of access to marijuana in any community. The Compassionate Use Act allows any qualified medical marijuana patients in any jurisdiction to cultivate their own medical marijuana; further, the Compassionate Use Act does not require local jurisdictions to allow the establishment of medical marijuana dispensaries or collectives within its jurisdiction. (See, *City of Claremont v. Kruse* (2009) 177 Cal.App.4th, specifically recognizing that cities may prohibit the establishment of medical marijuana dispensaries if applicable zoning ordinances do not permit them as an "allowable" use.)

11 – The City disagrees. This Finding is in conflict with Finding # 05, in which the Grand Jury found that adoption of "cost neutral zoning and land use ordinances" is appropriate in the regulation of cooperatives and collectives. Without the ability to impose regulatory fees and associated costs, to make such ordinances "cost neutral," local jurisdictions such as the City of El Cajon will not be able to effectively regulate such businesses.

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Recommendations as they relate to the City of El Cajon:

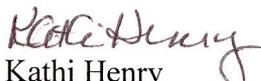
10-123 The City will not implement this recommendation as it is not warranted. There is no law requiring the City of El Cajon to allow medical marijuana collectives and dispensaries to be located within the city. (See, City of Claremont v. Kruse (2009) 177 Cal.App.4th, specifically recognizing that cities may prohibit the establishment of medical marijuana dispensaries if applicable zoning ordinances do not permit them as an "allowable" use.)

Further, this recommendation is not reasonable. To adopt zoning and land use ordinances allowing such businesses or uses in the City of El Cajon will have a detrimental affect on the surrounding businesses, leading to higher crime, traffic congestion, and related adverse circumstances, and will place a strain on the City's limited law enforcement resources. Such businesses are not compatible with the City's existing commercial uses and its family oriented atmosphere.

10-124 - Disagree that it is warranted. Sufficient regulatory enforcement tools allow for the closure of any dispensary; since the City of El Cajon disagrees with Recommendation 10-123, this Recommendation is not warranted.

Again, thank you for the opportunity to review and respond on this matter.

Sincerely,


Kathi Henry
City Manager

KH:tb

c: City Clerk