



RECORDED
OCT 29 2010

JERRY SANDERS
MAYOR

October 22, 2010

Honorable Kevin A. Enright
Presiding Judge
San Diego County Superior Court
Hall of Justice
330 West Broadway, Suite 477
San Diego, CA 92101-3830

Subject: 2009/2010 Grand Jury Report entitled "Medical Marijuana in San Diego"

Dear Judge Enright:

Pursuant to California Penal Code Section 933.05(a), (b) and (c), the City of San Diego provides the following responses to the findings and recommendations in the above entitled Grand Jury Report:

FINDINGS

Finding #04: The San Diego City Council is empowered by Government Code Section 65858 to enact a moratorium on the opening of additional medical marijuana dispensaries.

Partially Disagree. While the Council is empowered to enact a moratorium, a moratorium is not necessary under the present code. See response to Recommendation 10-114 below.

Finding #05: Adopting cost neutral zoning and land use ordinances is an effective method for the licensing, regulation and periodic inspection of cooperatives and collectives distributing medical marijuana in the unincorporated areas and eighteen cities of San Diego County.

Partially Disagree. While the adoption of such ordinances may be an obvious option to regulate medical marijuana cooperatives, there is no present evidence to prove that such ordinances are effective in regulating the distribution of medical marijuana.

Finding #11: The imposition of regulatory fees and associated costs could create a financial hardship for the smaller medical marijuana cooperatives and collectives.

Disagree. There are no public records which presently show the financial status of any of these dispensaries. Therefore we cannot determine if regulatory fees and costs would create any financial hardships regardless of the dispensary's size.

RECOMMENDATIONS

10-114: Enact an ordinance creating an immediate moratorium on the opening of additional medical marijuana dispensaries in the City of San Diego, pending the adoption by the council of guidelines regulating such establishments, as recommended by the Medical Marijuana Task Force with appropriate public input.

This recommendation will not be implemented. Medical marijuana dispensaries are not presently a permitted use in the City of San Diego's Land Development Code and may not operate legally within the City. Because these uses are not presently permitted and because we are taking enforcement action to close all of the existing shops, a moratorium would be redundant and unnecessary.

10-115: Enact an ordinance to establish a cost neutral program for the licensing, regulation and monitoring of medical marijuana collectives and cooperatives, and establish a limit on the number of such facilities.

The City Council is in the process of implementing this recommendation.

10-116: Adopt regulations which would allow for the closure of all unlicensed dispensaries.

This recommendation will not be implemented. Medical marijuana collectives are not presently permitted to operate in any zone within the city. San Diego Municipal Code §12.0102 provides the authority and powers necessary to gain compliance with violations of the municipal code and close the unpermitted dispensaries. The City is currently prosecuting approximately 125 cases involving medical marijuana dispensaries and is requiring all to shut down.

Please contact Kelly Broughton, Development Services Department Director at 619-321-3233 if you have any questions.

Sincerely,



JERRY SANDERS
Mayor

cc: San Diego County Grand Jury
Chief Operating Officer
City Clerk
Independent Budget Analyst
Development Services Department Director
Administration Department Director