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Pot Shop Ordinance Could Pay Off for City of Los Angeles

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THE Los Angeles City Council should restrict, regulate and tax medical marijuana to increase public revenues, safeguard neighborhoods, comply with state law and humanely deliver medical marijuana to qualified patients. A carefully crafted city ordinance can accelerate closing hundreds of dispensaries that are merely storefront pot dealers and act in accordance with public sentiment, state legislation, court rulings, and legal interpretations by the California and United States' attorneys general.

The City Council should ignore pleas for a "crackdown" on all medical marijuana collectives. Such an overreaction would deplete Los Angeles Police Department and city attorney resources of time and money. An oppressive approach will financially backfire when the city is forced to defend the inevitable lawsuits filed by collectives that operate in compliance with state laws and guidelines.

The City Council's current draft ordinance on medical marijuana would require a Medical Marijuana Dispensary Permit with standard conditions regulating the hours of operation, requiring security, prohibiting collectives near schools and houses of worship, and limiting such in a geographic radius.

That draft ordinance can be significantly strengthened. Each collective's legal organizational documents should be in compliance with the attorney general's guidelines. A dispensary permit application can mandate a presentation to its community's neighborhood council. Neighborhood councils in Venice, Chatsworth and San Pedro may differ in philosophies, but each should inject their community's sentiment. A city-issued license should be required to be posted prominently in both the exterior and interior of the collective. The lack of a visible license would alert the community to notify their council office or the city

attorney to commence closure proceedings.

The draft ordinance's greatest shortcoming is a failure to generate revenue. The city's current \$400 million budget shortfall decreases the quality of life for every resident and business. This crippling deficit requires creatively tapping new revenue and medical marijuana can provide an immediate and ongoing source. Here are some:

- As the Superior Court ruled, this is a zoning issue and the city should receive Conditional Use Permit fees identical to those for analogous land uses such as nightclubs or adult entertainment.
- An annual license fee can be assessed. The city of Oakland receives \$30,000 annually from each of its four authorized collectives.
- A "sin sales tax" can be collected from an individual patient on every sale.
- A separate category in the city's business tax structure could collect a percentage of a collective's gross sales receipts. Oakland increased its medical marijuana gross sales tax to generate \$500,000 to \$1 million annually from its four approved collectives. L.A.'s financial windfall could be significant due to a population nearly eight times that of Oakland.

The city's Office of Finance presently audits business gross tax receipts and that office could ensure the proper manner and amount of tax payments.

Dangerous precedent

The draft ordinance overreaches when it denies a dispensary permit applicant the right to apply for a variance from the City Code for minor non-compliance, a right enjoyed by other businesses. The draft creates a dangerous precedent for privacy intrusions by mandating LAPD background investigations into hundreds of collective employees when such is only necessary for the

corporate officers. Angelinos want more police "on the street" and city attorneys in courtrooms, not diverted by investigating, maintaining and organizing records on insignificant employees.

We're now seeing the culmination of more than a decade of laws and guidelines authorizing medical marijuana. In 1996, California voters enacted Proposition 215, which exempted patients and their caregivers from prosecution for cultivation and possession of medical marijuana. In 2002, the California Senate enacted SB 420, the Medical Marijuana Program Act, which allowed local governments to adopt rules and regulations consistent with Proposition 215.

The state's Medical Board issued standards in 2004 for physicians when recommending medical marijuana, and in 2007, the state's Board of Equalization began requiring dispensaries to pay sales tax on transactions.

In August 2008, the California attorney general issued guidelines recommending that SB 420 be incorporated by cities and counties. Those guidelines permitted "sales" if such were a means to facilitate transactions between collective members in a "closed-circuit" loop. The U.S. Justice Department issued its own guidelines to U.S. attorneys, the FBI and the Drug Enforcement Agency that it would be a waste of federal time and resources to prosecute individuals that are in compliance with state medical marijuana laws.

I served as a deputy to two Los Angeles City Councilmen at a time when "medical marijuana" would have provoked more discussion than debate. Yet social mores evolve, medicinal uses change and fiscal realities dictate responses. The City Council should disregard pleas for a criminal "crackdown" on authorized collectives and adopt a medical marijuana ordinance that generates revenue during the worst fiscal crisis of our lifetimes, protects neighborhoods, and complies with California and federal guidelines and laws.

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