

LARA WEISIGER

From: Mark Hersman <mark.hersman@portmanent.com>
Sent: Wednesday, March 27, 2019 3:05 PM
To: Marilyn Ezzy Ashcraft; John Knox White; Malia Vella; Jim Oddie; Eric Levitt; Michael Roush; John Le; LARA WEISIGER; Lois Butler; DEBBIE POTTER
Cc: Carrie Tillman; Nick Portolese; ryan@b2bsignsandprints.com; johnngu85@gmail.com
Subject: Public Comment: Cannabis Ordinances
Attachments: Council Letter March 27, 2019.pdf

Dear Mayor Ashcraft and City Leaders,

Please find attached a joint statement from the two Alameda based prospective cannabis dispensary applicants regarding the path forward on our cannabis ordinances. We at Portman Enterprises are pleased to have the support of Ryan Agabao and John Ngu of Alameda Patients Group regarding this proposed solution.

As both prospective business owners, and Alameda residents, we share your desire to get these ordinances right such that we lay the framework for a successful cannabis business presence that does not disrupt the social fabric of the community. We have faith in you, our city leaders, to arrive at a workable solution that moves this process forward.

Thank you again for your dedicated service to our community.

Sincerely,

Mark Hersman
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To: Mayor Marilyn Ezzy Ashcraft
Vice Mayor John Knox White
Councilmember Malia Vella
Councilmember Jim Oddie
City Manager Eric Levitt
Acting City Attorney Michael Roush
City Attorney John Le
City Clerk Laura Weisiger
Economic Development Manager Lois Butler
Community Development Director Debbie Potter

From: Mark Hersman Carrie Tillman Nick Portolese
Ryan Agabao John Ngu

Date: March 27, 2019

Topic: Cannabis Business Ordinances

Dear City Leaders,

As you are well aware, the Open Government Commission, in response to a complaint filed by Alameda resident Ms. Serena Chen, ruled that the cannabis ordinances 3227 and 3228 passed on November 7, 2018 are null and void due to improper notice of pending Council action in the agenda for said meeting. We respectfully request that you employ the remedy suggested in the Alameda Code of Ordinances Article VIII - Sunshine Ordinance Section 2-93.3 Cure and Correction which states:

“Nothing in this article shall prevent a body from curing or correcting an action. A body shall cure and correct an action by placing the challenged action on a subsequent meeting agenda for separate determinations of whether to cure and correct the challenged action and, if so, whether to affirm or supersede the challenged action after first taking any new public testimony. The time limits of the Brown Act shall not be tolled pending any action to cure an alleged violation of the Sunshine Ordinance.”

While we understand that City Attorney guidance suggests that the Open Government Commission does not have the authority to nullify a city ordinance, and thus the aforementioned ordinances remain in force, we are concerned that the ambiguity presents significant risk of a legal challenge. Rather than wasting city resources on a lengthy court battle and jeopardizing the launch of the

cannabis industry in Alameda (supported by 65% of residents who responded to the 2018 Quality of Life Survey), we believe this is an opportunity to follow Mayor Ashcraft's commitment to work in a more collaborative and respectful manner than previous iterations of the Council.

It is in this spirit of collegiality that we request the city take the following actions:

- Honor the findings of the Open Government Commission and rescind and re-notice the cannabis ordinances referenced above.
- After receiving public comment, honor the two years of research and work conducted by the previous Council and pass the ordinances without amendment as quickly as is proper.
- Begin the Letter of Intent and Request for Proposal process for all three remaining dispensary licenses without delay
- Appoint a sub-committee consisting of members of both City Council and the Open Government Commission to work in conjunction with the City Attorney's office to review and amend the Sunshine Ordinance Enforcement Provisions such that it is consistent with both the City Charter and the Constitution of the State of California.

We understand that there is concern among the council that launching all four dispensaries simultaneously may be disruptive to the city. We agree that this is a valid concern, but it should be noted that we and other prospective dispensary owners also have planning and operational challenges and need the certainty that comes with an award letter at the conclusion of the RFP process. We believe that a better way to create the cadence of dispensaries coming online can better be achieved by providing guidance to the Planning Commission to create some reasonable space between Conditional Use Permit hearings. By staggering the process downstream the city can achieve their objective of phasing in the dispensaries while still providing transparency and certainty to the operators.

We thank you for your continued service to our community and your commitment to getting cannabis in Alameda right.

Sincerely,

Mark Hersman
CEO Portman Enterprises

Ryan Agabao
Executive Director Alameda Patients Group

Nick Portolese
COO Portman Enterprises

John Ngu
Executive Director Alameda Patients Group

Carrie Tillman
CHO Portman Enterprises