



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Norberto L. Dueñas
Richard Doyle

SUBJECT: SEE BELOW

DATE: February 22, 2016

INFORMATION

SUBJECT: MEDICAL MARIJUANA COLLECTIVES REGISTERED WITH THE CITY AND ENFORCEMENT AGAINST NON-COMPLIANT ESTABLISHMENTS

When the City Council approved the ordinances implementing the City's Medical Marijuana Program (Program) in June 2014, approximately eighty (80) medical marijuana establishments were operating illegally in the City of San José. As of December 18, 2015, sixteen (16) of those medical marijuana establishments (hereafter, "collectives") have received a Notice of Completed Registration from the City Manager and are now allowed to operate in the City, provided they do so in full compliance with the City's Program requirements. Please see "Attachment A" to this memorandum for a list of the 16 registered collectives. All other medical marijuana establishments, including collectives, cooperatives, delivery services, dispensaries, cultivators and manufacturers, are operating in violation of the City's Program and the City is or will be pursuing enforcement action against them.

UPDATE

Despite limited resources, to date, the City has been successful in getting 67 medical marijuana establishments operating in violation of the City's Program to close, either voluntarily or following compliance actions taken by the City.

In addition, the City is currently involved in litigation that is pending against medical marijuana establishments listed in the table below:

Business Name & Address	Case Status
<p>San Jose Organics 88 Tully Road</p>	<p>Closed after the Superior Court granted the City’s request for a Preliminary Injunction requiring the establishment to cease all operations related to medical marijuana. San José Organics then sought a Writ in the 6th District Court of Appeal to overturn the Preliminary Injunction and the Court of Appeal denied the request. On January 22, 2016, San José Organics stipulated to a Permanent Injunction prohibiting the establishment and its agents from operating in the City. In addition, criminal charges have been filed by the District Attorney’s Office against the operators of San Jose Organics.</p>
<p>Platinum Society 1174 Lincoln Avenue</p>	<p>Closed after the Superior Court granted the City’s request for an Injunction requiring the establishment to cease all operations related to medical marijuana. The parties then entered into a Stipulated Preliminary Injunction prohibiting Platinum Society from distributing medical marijuana or medical marijuana products. The parties are currently in negotiations to settle all remaining issues.</p>
<p>DABS 334 Commercial Street</p>	<p>Closed after being disqualified from the City’s registration process. DABS subsequently filed a lawsuit in Superior Court challenging the City’s Program. The matter is pending in Superior Court.</p>
<p>Firehouse 1629 Almaden Road</p>	<p>Closed after being disqualified from the City’s registration process. Firehouse subsequently filed a lawsuit in Superior Court challenging the City’s disqualification of Firehouse and seeking injunctive relief to prevent the City from enforcing the provisions of its Program. The Court denied Firehouse’s request and the matter is pending in Superior Court.</p>
<p>SV Care 1711 Hamilton Avenue and 2591 S. Bascom Avenue</p>	<p>Closed after receiving an administrative order from the City directing SV Care to cease all operations related to medical marijuana. SV Care subsequently appealed the administrative order in Superior Court and the Superior Court denied its appeal. SV Care then filed an appeal in the 6th District Court of Appeal. This appeal is pending in the Court of Appeal.</p>

Business Name & Address	Case Status
<p>All-American Cannabis Club (A2C2) 3131 S. Bascom Avenue</p>	<p>After being warned by the City to cease operations, A2C2 continued operating. The City then filed a lawsuit against A2C2 in Superior Court seeking injunctive relief to prohibit the establishment's continued operations. On October 19, 2015, the Court issued an Order Granting the City of San José's request for a Preliminary Injunction. The parties are now in the process of settlement negotiations.</p>
<p>Amsterdam's Gardens 2142 The Alameda</p>	<p>After being warned by the City to cease operations, Amsterdam's Gardens continued to operate. The City then filed a lawsuit against Amsterdam's Garden in Superior Court seeking injunctive relief to prohibit the establishment's continued operations. On October 5, 2015, the Court issued an Order Granting the City of San José's request for a Preliminary Injunction. Amsterdam's Garden appealed the decision to the 6th District Court of Appeal. This appeal is pending in the Court of Appeal.</p>
<p>Blue Sky Care Center 3039 Monterey Road</p>	<p>After being warned by the City to cease operations, Blue Sky Care Center continued to operate. The City then cited the property owner and the property owner filed a lawsuit challenging the City's citation. The City responded to the lawsuit and is filing an action for injunctive relief against Blue Sky Care Center.</p>
<p>Fortune Wellness Center 2231 Fortune Drive</p>	<p>After being warned by the City to cease operations, Fortune Wellness closed its doors for business. However, the collective subsequently reopened and the City filed a complaint seeking injunctive relief against the establishment. The case is pending in Superior Court.</p>
<p>LeafLab, Inc. 738 Commercial Street</p>	<p>The City disqualified LeafLab from the City's registration process and LeafLab continued to operate. The City has since filed a complaint in Superior Court seeking injunctive relief against the establishment and the case is pending in Superior Court.</p>

Business Name & Address	Case Status
<p>MediMarts 1851 Little Orchard Street</p>	<p>The City disqualified MediMarts from the City’s registration process for failure to pay the City’s Marijuana Business Tax, but MediMarts continued to operate. The City then filed a lawsuit against MediMarts for the collection of the City’s Marijuana Business Tax and a separate lawsuit seeking to enjoin its continued operation. MediMarts applied for a preliminary injunction to prohibit the City from taking action against the establishment. On June 9, 2015, the Court denied MediMarts’ application for injunctive relief and MediMarts appealed the denial to the 6th District Court of Appeal. The appeal is pending in the Court of Appeal.</p>
<p>San José Medicinal Group 52 S. 1st Street</p>	<p>Closed following the City’s issuance of an administrative order requiring the establishment to cease operations. The establishment subsequently reopened and filed a lawsuit in Superior Court against the City challenging the City’s administrative order. That case is pending. In response to the establishment continuing to operate, the City filed a separate complaint in Superior Court against the establishment seeking injunctive relief. The Superior Court granted the City’s request and issued a Preliminary Injunction which takes effect on February 22, 2016.</p>

The City is also taking enforcement action against the following operators:

Business Name & Address	Case Status
<p>710’s 1082 Stockton Avenue</p>	<p>This establishment opened for a brief period of time and then closed following a warning by the City. The establishment has since reopened and the City will pursue enforcement action against the establishment.</p>
<p>1820 Club 1820 Stone Avenue</p>	<p>This establishment recently began operating and the City will pursue enforcement action against the establishment.</p>

February 22, 2016

Subject: Registered Medical Marijuana Collectives & Enforcement Update

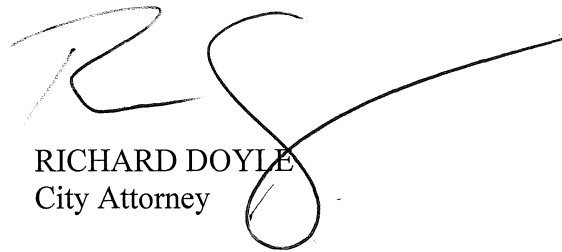
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Business Name & Address	Case Status
O.N.A.C. for South Bay 265 Meridian Avenue, #9	On January 8, 2016, the City issued this establishment a pre-cite letter warning the establishment to cease operations or risk enforcement action by the City. The establishment continued to operate and on January 25 th and January 26 th , the City issued an administration citation to both the operator of the establishment and the property owner for \$10,000 each. The City will continue to pursue enforcement action against the establishment.
Delta 9 Association 1948 Alum Rock Avenue	On January 5, 2016, the City issued a pre-cite letter to the property owner. The establishment continued to operate and the City will pursue enforcement action against the establishment.

In addition to the above, a number of medical marijuana establishments are illegally operating as delivery services in violation of the City's Program. The City will be taking appropriate enforcement action against those businesses, which may include legal action in Superior Court, the imposition of fines ranging from \$10,000 for the first violation, \$25,000 for the second violation, and \$50,000 for the third and each subsequent violation; and, referral to the District Attorney.



NORBERTO L. DUEÑAS
City Manager



RICHARD DOYLE
City Attorney

For questions regarding this memorandum or to report a non-compliant medical marijuana establishment or operator, please contact either Angelique Gaeta, Assistant to the City Manager, at (408) 535-8253 or Michelle McGurk, Senior Executive Analyst, at (408) 535-8254.

"Attachment A"

#	Registered Collective Name	Address	Registration Issued
1	Viktoriya's Medical Supply (dba, "Buddy's Cannabis Patient Collective")	1075 N 10th	12/14/15
2	South Bay Healing Center (dba, "Airfield Supply Company")	1190 Coleman Ave.	12/15/15
3	GWS Health	2943 Daylight Way	12/16/15
4	NC3 Systems (dba, "Caliva")	1695 S 7th	12/16/15
5	JBHA (dba, "Natural Herbal Pain Relief")	2121 S 10th	12/16/15
6	Therapeutic Holistic Center (dba, "Herbs")	543 Parrott Street	12/17/15
7	Coastal Americare, Inc. (dba, "Elemental Wellness Center")	985 Timothy Drive	12/17/15
8	VMK, Inc. (dba, "Purple Lotus Patient Center")	752 Commercial	12/17/15
9	Canna Culture	3591 Charter Park Drive	12/17/15
10	White Fire, Inc.	111 Old Tully Road	12/17/15
11	Haze, Inc.	1731 Smith Ave & 1761 Smith Ave.	12/18/15
12	Santa Cruz Genetics, Inc.	92 Pullman Way	12/18/15
13	CA Systematize (dba, "CA Collective")	210 Phelan Ave.	12/18/15
14	Theraleaf Relief, Inc.	1014 Timothy Drive	12/18/15
15	San Jose Wellness (dba, "Harborside Health Center")	1365 N 10th	12/18/15
16	American Redstone (dba, "Little Orchard")	1859 Little Orchard	12/18/15