

Ventura's medical marijuana moratorium expires

Nonprofit seeks dispensary business license, readies to take it to court, if necessary

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The City of Ventura's 2009 medical marijuana moratorium expires Sept. 2. With the City Council on break until Sept. 19, a nonprofit organization called Ventura County Community Patient Association saw a window of opportunity to file paperwork for a medical marijuana dispensary business license.

Without a moratorium in place, and backed by the 2004 California state law asserting that medical marijuana is a matter for state right, the organization should be granted a license to operate its business like any other NPO, according to its attorney, James Devine.

But the city is not so high on the idea.

to screw them?" said Devine. "It's not a business they can shut down through nuisance abatement because they haven't started any business. They know the conduct isn't criminal under the California Health and Safety Code. So they're doing their best to come up with a reason why it shouldn't be approved."

Every city in the county has moratoriums preventing dispensaries from conducting business within city limits, resulting in patients who seek medical marijuana having to travel to neighboring counties that do allow dispensaries. Santa Barbara, Los Angeles and Orange counties have dispensaries; and county residents, said Devine, are spending their money in these other counties to receive

According to Devine, the application was already denied due to zoning restrictions. But Devine was contacted by the city attorney's office to "reapply so that they could re-deny the application because of a procedural hiccup," said Devine.

City Attorney Ariel Colonne said the current and formal application, received Aug. 24, is being reviewed for zoning compliance. "We will see if zoning is allowed for marijuana dispensaries," said Colonne. "We don't think it does, but there is a code interpretations process that needs to follow."

A dispensary, for example, is not listed as a "permitted use" in the city code, explained Community Development Director Jeff Lambert, and it would be considered prohibited. A code interpretation process would follow to see if there is something similar already listed for permitted use. If there is, the code would allow the dispensary to set up shop.

Lambert, who heads the interpretation process, said he had not yet taken a look at Devine's client's application.

"The city is playing the game of 'what's the excuse we can come up with to deny the application? What can we find in our San Buenaventura municipal code

their medical prescriptions.

"Your choice of living here shouldn't impact your ability to get meds," said Devine. "This isn't about legalizing drug dealing. It's about Venturans having safe and reasonable access to make their lives better. It's better than trying to sneak around, which fosters criminal activity, and putting officers in danger. We're not trying to turn this into Amsterdam. We need to dispel this reefer madness."

Should the city deny the application, as Devine expects, he would then have to appeal the decision to City Manager Rick Cole. If Cole upholds the city's decision, Devine would take the case to Superior Court, and further if needed.

"What is the underlying purpose of a city thinking it can infringe on rights that the state gives?" asked Devine. "It doesn't sit well in my gut. I love Ventura and I didn't choose to live here for litigation, but it's not its own nation, not its own state."

The Ventura County Community Patient Association was issued its nonprofit status on June 30, and consists entirely of patients, according to Devine. The organization's president, Bleu Garner, did not want to comment.

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— James Devine, attorney for Ventura County Community Patient Association