

Jeff Bond

From: Eugene Lee [eugene.lee@att.net]
Sent: Wednesday, December 15, 2010 8:29 PM
To: Jeff Bond; City General Email Box
Cc: 94706west@gmail.com; emilier@patch.com; Deanna Yan Lee
Subject: Concerned resident against Marijuana dispensary on Solano Ave

Importance: High

To Mr Bond and to City Council Members –

I am writing to express my strong opposition to a Marijuana dispensary on Solano Avenue. I live on 806 Jackson and my children go to school at Ocean View Elementary School which means that they would walk past this dispensary EVERY DAY. I cannot comprehend how this even is under serious consideration by the city – this neighborhood is a densely populated RESIDENTIAL neighborhood filled with families and children. I have read and understand that the proposed dispensary would include functions other than marijuana sales, let's be clear that the business itself would be a MAGNET for people seeking marijuana either by legitimate or illegitimate means. I think the risks and the negative impact to the neighborhood BY FAR outweighs any benefit to the very few people in Albany who would benefit from medical cannabis.

I think you will find that our West Albany neighborhood is quite angry that we have been targeted for this dispensary. Why not put this dispensary up in the "wealthier" parts of the city closer to the eastern border with Berkeley? This really is unacceptable and would cause significant upheaval if such a dispensary were every approved or even open. Our neighborhood already suffers from disorderly patrons leaving The Mallard bar (public urination, disorderly conduct, issues with public safety) and to put legalized ALCOHOL AND DRUGS within 2 blocks of my home would feel like the City Council had declared war on my home and my family.

I hope that you will seriously consider the strong objections of the entirety of the residents of the West Albany neighborhood in upholding the Planning commission's original permit denial. As elected representatives of the residents of Albany, we implore you and expect you to honor the wishes of the overwhelming majority of the residents and to resist the special interests of a vocal minority who want to pursue their cannabis agenda at the expense of our schools, our neighborhoods, and our children.

By copy to Emilie Raguso at Albany Patch, we ask that somebody from The Patch please attend the City Council meeting on January 10 (when this topic is likely to be discussed by the Council) and to make public and publish the votes of each of the City Council members on this matter.

Thank you,
Eugene and Deanna Lee
806 Jackson St
Albany, CA 94706
510-528-2441

Jeff Bond

From: Peter Day [thumos@mindspring.com]
Sent: Wednesday, December 15, 2010 1:26 PM
To: Jeff Bond
Subject: 1019 Solano drug dispensary

Sir, Please deny approval for marijuana clinic on throughfare used by children on way to school as well as the children using the YMCA on Kains Ave. In addition to exposing school kids to this scene, I believe it would be a magnet for crime. Sincerely, Peter Day 939 Cerrito Street

Jeff Bond

From: albanyresident@hush.com
Sent: Tuesday, December 28, 2010 4:49 PM
To: Jeff Bond
Subject: Dispensary

Dear Jeff Bond,

I am an Albany resident and medical marijuana patient. I have been following the issue of a dispensary in Albany with great interest, as having a dispensary within the city limits would be of enormous value to me. I am reluctant to identify myself, because I know that my communication with you is part of the public record, and I have noticed the animosity that this issue has created in those opposed to a dispensary in Albany. Also, I don't think it is fair to require the sick to publicly declare their ailments. I wonder how many others there are like me who have not written you out of the same concerns.

I am curious as to how the Planning and Zoning Commission came to their decision that the YMCA at 921 Kains Ave. is a youth facility.

I did a search on the California Department of Social Services - Community Care Licensing Division (CCLD) Website (https://secure.dss.cahwnet.gov/cclid/securenet/cclid_search/cclid_search.aspx - which is updated weekly) and found out that the facility at 921 Kains Ave. is not a licensed facility. Additionally, I was shocked to see that there are actually a very few licensed child care facilities in Albany (below you will find the complete list). Given the number of facilities offering child care in Albany, I would hope that someone was insuring that these facilities are properly licensed.

Thank you for your time.

Facility Type: Child Care Center
City: ALBANY
There are 6 facilities in your search results.
This information is updated weekly.

Facility No: 013420549 Capacity: 0100
License Status: Licensed
ALBANY CHILDREN'S CENTER
720 JACKSON STREET
ALBANY, CA 94706
(510) 559-6590
Contact: STEVENSON, SUSAN
DO: BAY AREA-CC OAKLAND (02)
DO Phone: (510) 622-2602

Facility No: 010209917 Capacity: 0024
License Status: Licensed
ALBANY PRESCHOOL
850 MASONIC AVENUE
ALBANY, CA 94706
(510) 527-2281
Contact: GRAY, TARA
DO: BAY AREA-CC OAKLAND (02)
DO Phone: (510) 622-2602

Facility No: 013412710 Capacity: 0030
License Status: Licensed
BAY AREA KINDER STUBE
842 KEY ROUTE BOULEVARD
ALBANY, CA 94706
(510) 525-3105
Contact: SYBILLE COHEN
DO: BAY AREA-CC OAKLAND (02)
DO Phone: (510) 622-2602

Facility No: 013418971 Capacity: 0036
License Status: Licensed
BRIGHT STAR MONTESSORI SCHOOL
1370 MARIN AVE.
ALBANY, CA 94706
(510) 558-2080
Contact: MATZ, SWARNA
DO: BAY AREA-CC OAKLAND (02)
DO Phone: (510) 622-2602

Facility No: 013418159 Capacity: 0020
License Status: Licensed
LITTLE VILLAGE PRESCHOOL
919 TALBOT AVENUE
ALBANY, CA 94706
(510) 528-4401
Contact: HUMPHREY, TAMI
DO: BAY AREA-CC OAKLAND (02)
DO Phone: (510) 622-2602

Facility No: 013420548 Capacity: 0050
License Status: Licensed
UCB - UNIVERSITY VILLAGE ECEP
1123 JACKSON ST
ALBANY, CA 94706
(510) 642-1827
Contact: KURNIK, JEAN
DO: BAY AREA-CC OAKLAND (02)
DO Phone: (510) 622-2602

Facility Type: Child Care Center - Mildly Ill
City: ALBANY
There is 1 facility in your search results.
This information is updated weekly.

Facility No: 013419410 Capacity: 0008
License Status: Licensed
WHEEZLES AND SNEEZLES
715 KINKEAD WAY, APT 103
ALBANY, CA 94706
(510) 526-7425
Contact: GAHAGAN, DOROTHY & FULLER,
DO: BAY AREA-CC OAKLAND (02)
DO Phone: (510) 622-2602

Your search:

Facility Type: Infant Center

City: ALBANY

There is 1 facility in your search results.

This information is updated weekly.

Facility No: 013420565 Capacity: 0014

License Status: Licensed

BERKELEY YMCA HEAD START-UNIVERSITY VILLAGE (UVA)

435 GOODING WAY #456

ALBANY, CA 94706

(510) 524-1915

Contact: WILLIAMS, LA'RUE (ROCHELLE

DO: BAY AREA-CC OAKLAND (02)

DO Phone: (510) 622-2602

Your search:

Facility Type: School Age Child Care Center

City: ALBANY

There are 2 facilities in your search results.

This information is updated weekly.

Facility No: 013420584 Capacity: 0040

License Status: Pending

CORNELL KIDS' CLUB-YMCA

920 TALBOT AVE BUNGALOW #28

ALBANY, CA 94706

(510) 867-5229

Contact: KAM, ERISA

DO: BAY AREA-CC OAKLAND (02)

DO Phone: (510) 622-2602

Facility No: 013411362 Capacity: 0060

License Status: Licensed/Pending Increase KIDS CLUB YMCA

1216 SOLANO AVENUE

ALBANY, CA 94706

(510) 524-9737

Contact: TAMIKA HARRIS

DO: BAY AREA-CC OAKLAND (02)

DO Phone: (510) 622-2602

December 30, 2010

CITY OF ALBANY

Jeff Bond
City of Albany Community Development
Planning Division
1000 San Pablo Avenue

DEC 30 2010

COMMUNITY DEVELOPMENT
DEPARTMENT

Dear Mr Bond:

I write this letter regarding a proposed conditional use permit for the sale of marijuana at 1019 Solano Avenue, Albany, California. In it, I express various legal opinions. However, the City of Albany is not my client. In expressing my opinion here and elsewhere I am not giving and will not give legal advice to the City of Albany.

First, it is my opinion that the proposed conditional use permit cannot be given because T G , a taekwondo school for children, has a location at 813 San Pablo which is less than 1000 feet from 1019 Solano Avenue.

I have been to T G at 813 San Pablo three times to watch my daughter perform taekwondo and advance from one taekwondo belt to another. In each instance many students were present and they were all children. I have talked to Master Min, who owns T G , and he tells me 813 San Pablo has been used as a youth facility at all times during 2010.

I have been told by the city that the fact that 813 San Pablo is not licensed as a day care facility may enter into the decision as to whether a conditional use permit will be granted for 1019 Solano Avenue. It is my legal opinion that such an interpretation of section Albany Ordinance 20.20 110 is incorrect. First, T.G. is a school. Second, subsection E 5. c prohibits dispensaries within 1,000 feet of "child daycare centers." Notably missing from this phrase is the word "licensed." The question is whether T.G. provides services in the nature of child care, not whether it is licensed as such. It does, and the section applies.

Third, subsection 20.20 110 E 6 b. unambiguously prohibits a conditional use permit to sell marijuana within 1,000 feet of

Any "youth-oriented establishment" characterized by either or both of the following: (1) the establishment advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors; or (2) the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

I have talked to Master Min regarding T G 's advertising. It consists primarily of schedules of activities. Those schedules show activities for youths. Thus (1) applies. In addition (2) applies. At T G , the individuals who "regularly patronize, congregate or assemble at the establishment are predominantly minors." These words are sweeping in scope, and their meaning is further broadened by the use of the disjunctive "or." As a normal matter of statutory

interpretation "regularly patronize," "congregate" and "assemble" all must be given separate meaning, and because "or" is used, each term must be considered separately. Here, each of the terms applies. T.G's patrons are youths, when people congregate they are generally mainly youths, and when people assemble, they are generally mainly youths.

Still another reason a conditional use permit cannot be granted to Vitalgen is that the applicant has "engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices" Subsection C. 6. f Those words track California Business and Professions Code 17200 As an advocate for consumer protection, I have spent many years litigating their meaning, including successfully in the California Supreme Court.

Here, VITALGEN COOPERATIVE, INC. was incorporated March 29, 2010.

Corporations Code section 12311 provides in relevant part:

(b) No person shall adopt or use the word "cooperative" or any abbreviation or derivation thereof, or any word similar thereto, as part of the name or designation under which it does business in this state, unless incorporated as provided in this part or unless incorporated as a nonprofit cooperative association under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, as a stock cooperative, as defined in Section 11003 2 of the Business and Professions Code, as a limited-equity housing cooperative, as defined in Section 33007 5 of the Health and Safety Code, as a credit union or organization owned for the mutual benefit of credit unions, or under some other law of this state enabling it to do so However, the foregoing prohibition shall be inapplicable to any credit union or organization owned for the mutual benefit of credit unions, any housing cooperative, the financing of which is insured, guaranteed, or provided, in whole or in part, by a public or statutorily chartered entity pursuant to a program created for housing cooperatives, a nonprofit corporation, a majority of whose membership is composed of cooperative corporations, or an academic institution that serves cooperative corporations

Vitalgen makes no claim to have complied with the law of cooperatives. Nonetheless, and despite the prohibition contained in Corporations Code section 12311, Vitalgen includes the word "cooperative" as part of its legal name By including that misleading and statutorily prohibited word, the van den Akkers and Vitalgen Cooperative, Inc engaged in an unlawful, fraudulent, unfair, or deceptive business act, and cannot receive a conditional use permit to sell marijuana.

Yet another reason Vitalgen and the van den Akkers cannot be granted a conditional use permit is that a permit must be denied if the applicant has "knowingly omitted one (1) or more material facts from the application" Subsection C. 6. f. Here, Vitalgen and the van den Akkers

have knowingly omitted a material fact by referring to the corporation as "Vitalgen" in communications with the planning commission, especially in light of the misleading nature of their true name "Vitalgen Cooperative Inc."

For the sake of brevity I shall discuss only one more reason the application for a conditional use permit must be denied. The van den Akkers plan a retail business selling marijuana, not a cooperative or a collective. On the evening of December 29, 2010, the van den Akkers discussed their plans at a public meeting at Round Table Pizza, Albany, California.

At the meeting I showed a mock-up of a physician's statement recommending marijuana, and asked what would happen if I showed up at 1019 Solano and that recommendation was genuine. The van den Akkers described the procedures they would use, leading to me having the opportunity to purchase marijuana. However, proposition 215 defines a primary caregiver, who is "the individual designated by the person exempted under this act who has consistently assumed responsibility for the housing, health or safety of that person." The van den Akkers did not indicate a method of becoming a primary caregiver. What the van den Akkers described was a retail sale, not even my becoming part of a collective.

During the same meeting, in response to questions by another attendee, the van den Akkers explained they would obtain marijuana from larger organizations with farms, and resell at 1019 Solano Avenue. No law allows such purchases. What Proposition 215 describes is compassionate care, provided by a primary caregiver. What the van den Akkers propose is simply traditional retail. Buy wholesale, and resell in smaller quantities.

Finally, and most surprising, at the end of the December 29, 2010, meeting Erik van den Akker said Vitalgen would sell to a customer even if he suspected that the marijuana was for resale at Albany High School. As he said many times during the meeting, Vitalgen's responsibility for security will stop at 1019 Solano's door.

Surely we do not need Vitalgen in Albany

Very truly yours,



Donald P. Driscoll
P. O. Box 6596
Albany, California 94706
Attorney at Law



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San Jose: Another violent pot robbery stokes cops' fear of trend

By Sean Webby and Mark Gomez Mercury News
Posted: 12/29/2010 06:46:34 AM PST
Updated: 12/29/2010 09:36:31 PM PST

An armed invasion of a San Jose marijuana grow house dominoed into violent chaos Tuesday night near the Children's Discovery Museum, the latest in a string of crimes aimed at pot growers and dispensaries. It ended with a San Jose police officer blasting his gun at an onrushing vehicle, shattering the leg of a suspect who might not have been involved in the robbery at all.

By Wednesday, four people were in custody and a fifth was on the run. A victim and a suspect were hospitalized and officers armed with warrants were searching the little Locust Street home, where a crop of pot plants may have lured out-of-town robbers to start the whole thing.

Acting Police Chief Chris Moore said he was "concerned" about the growing crowd of criminals who have targeted private grow houses and medical cannabis clubs in the city.

"We have had suspects tell us that they came to San Jose to specifically target the marijuana and large amounts of cash they knew they would find here. They know we have so many of these places," Moore said. "Unless we get a handle on this problem, it will continue to get worse."

Police say single-family homes throughout the city are being converted into urban marijuana gardens capable of generating millions of dollars in profits. But they have also renovated themselves into lucrative targets for criminals like the men who burst into the San Jose home and robbed a terrified couple, grazing one man in the head with a fired bullet.

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As city officials debate regulation and even the basic legality of medicinal marijuana growth and distribution, the list of violent crimes associated with pot, which can sell at dispensaries for \$35 to \$70 for an eighth of an ounce, is growing. Cops have located marijuana gardens of at least 180 plants in about 20 homes this year, a large increase from previous years, said Capt. Larry Ryan.

Earlier this month, four San Jose dispensaries and a marijuana grower were targeted by criminals in a single week. In one case, a dispensary owner was knocked out of his wheelchair by a masked intruder who demanded: "Where is the bud and the money?"

But those within the growing medical marijuana movement evoked the prohibition on alcohol during the 1920s, saying city officials have created the danger by leaving the burgeoning industry virtually unregulated. Oakland, for example, has explored plans to allow a small number of large and highly taxed pot farms to supply the city's medical marijuana dispensaries.

Said Dave Hodges, who started one of San Jose's first medical marijuana dispensaries: "Marijuana is not a cause of crime; prohibition and lack of reasonable regulations are. This unfortunate situation could have been completely avoided if marijuana was fully legalized."

This week's bizarre and bloody night -- all contained in a half-mile radius -- began at 11:04 p.m. at a small home decorated with potted succulents on a residential cul-de-sac near Interstate 280. A dispatcher with the California Highway Patrol received a 911 cell call and overheard what sounded like a robbery in progress.

The CHP dispatcher transferred the call to San Jose police, which sent out officers. Four minutes later, they arrived to find the shaken victims but the suspects gone.

Moments later, two San Jose police officers working a DUI patrol spotted two men who matched the description of the robbery suspects near the House of Pizza on South Almaden Boulevard, Lopez said. As the officers approached the men, one of them tossed aside a handgun.

The two men arrested are James Kaufusi, 21, of East Palo Alto, and Lulnani Kailahi, 30, of San Francisco. Police say a third man wanted in the home invasion is Aminiasi Ofa, 22, of East Palo Alto.

Police declined to say whether the Locust Street home was an illegal marijuana grow house. Officers searched the home Wednesday. The owners, one of whom came back briefly to retrieve his dogs, declined to comment.

Tuesday, at 11:22 p.m., a few blocks away, two patrol officers spotted another man who matched the description of a suspect in the robbery standing next to a 1991 Acura Legend four-door sedan on West Reed Street, Lopez said.

As officers approached, the man leapt into the car driven by Zebry Mary Lou Martinez, 30, of San Jose. As Martinez started to speed away, she steered toward one of the officers, police said. A 43-year-old officer, identified early Wednesday night as Bryant Washington, opened fire.

Police policy prohibits officers from shooting at moving vehicles, unless the vehicle is causing an imminent and life-threatening danger to the officer or others. As is protocol, the officer was placed on administrative leave, pending an internal investigation.

"When you're dealing with violent suspects, guns being discarded and vehicles driving toward the police, you've got violent issues to deal with," Lopez said. "It's something that's very dynamic and it has to be controlled swiftly."

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The Acura fled south on South First Street, but it didn't get far.

A short time later, police received a call about a suspicious man hiding between vehicles on State Street, south of I-280. Officers found the man, who by then was in a gold GMC Yukon that picked him up, police said. The man had been shot in the leg and officers identified him as the suspect who fled in the Acura. His name is Anthony Silva, police said.

Police are still trying to determine whether Silva and Martinez were connected to the robbery or were "fleeing for some other reason." Silva had an active "no bail" narcotics warrant for his arrest.

Anyone with information about Ofa's whereabouts may contact the San Jose Police Department robbery unit at 408-277-4166. Anyone wishing to remain anonymous may contact Silicon Valley Crime Stoppers at 408-947-STOP (7867).

Contact Sean Webby at swebby@mercurynews.com or 408-920-5003.







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Jeff Bond

From: John Sladkus [john@nuws.com]
Sent: Thursday, December 30, 2010 4:15 PM
To: Jeff Bond
Subject: Fwd: More news from San Jose

Jeff,
Thank you for meeting with us yesterday. Please include this article about pot related crimes in San Jose in your report to the council. Thank you.

John Sladkus

http://www.insidebayarea.com/oaklandtribune/localnews/ci_16964909?source=rss

Jeff Bond

From: Arden R. Smith [erilaz@earthlink.net]
Sent: Saturday, January 01, 2011 5:19 PM
To: Jeff Bond
Subject: Marijuana dispensary

Dear Mr. Bond,

I'm writing to express my opposition to the plan to open a marijuana dispensary at 1019 Solano Ave. In addition to the various arguments against the plan that have already been brought forward (close to youth-oriented facilities, on a major route used by schoolchildren, etc.), I have a concern that affects me and my neighbors personally.

I live at 1015 Solano Ave., and the building that contains my apartment (as well as 1011, 1013, and 1017) is tucked away in back, off the street, and reached by a pathway through a courtyard with only a low fence and an unlocked gate in the front. This is the only yard-like space facing Solano in this block, and since it is both easily accessible and not completely visible from the street, I suspect that it would attract dispensary patrons as an ideal place to sit and

smoke. Whatever worries I have about walking through this space to get to my apartment after dark will be multiplied if it has the potential to become a stoner hangout.

This courtyard also offers any would-be thieves an accessible passage to the rear of 1019 Solano. The fences and staircases that separate this area from 1019 would be no deterrent to anyone who has plans to break into the dispensary from the back. This is naturally a cause for concern for myself and all the other residents whose homes face this courtyard and the adjacent parking area behind 1019.

Thank you for your consideration.

Sincerely,
Arden R. Smith
1015 Solano Ave.
(Albany resident since 1989)

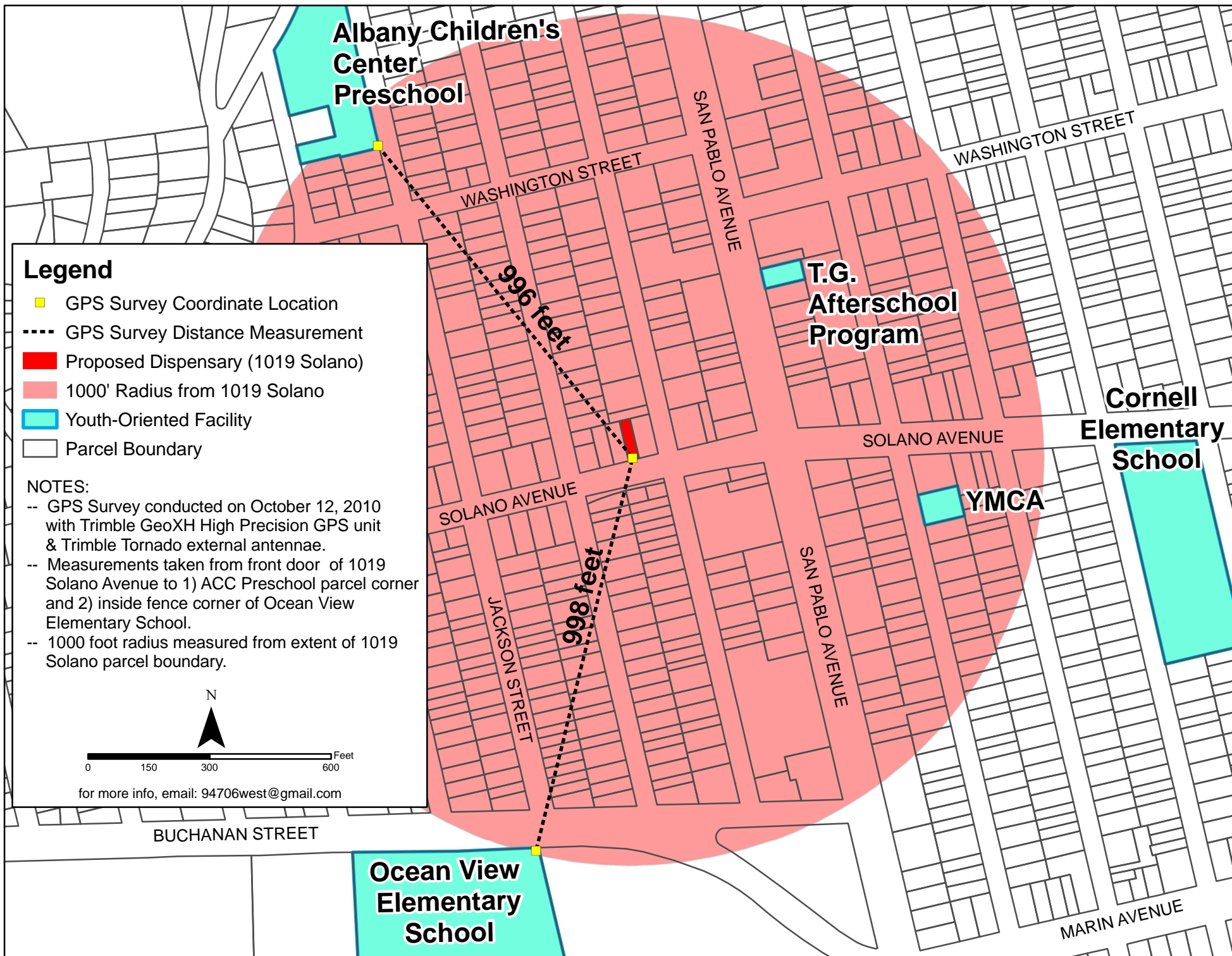


FIGURE 1

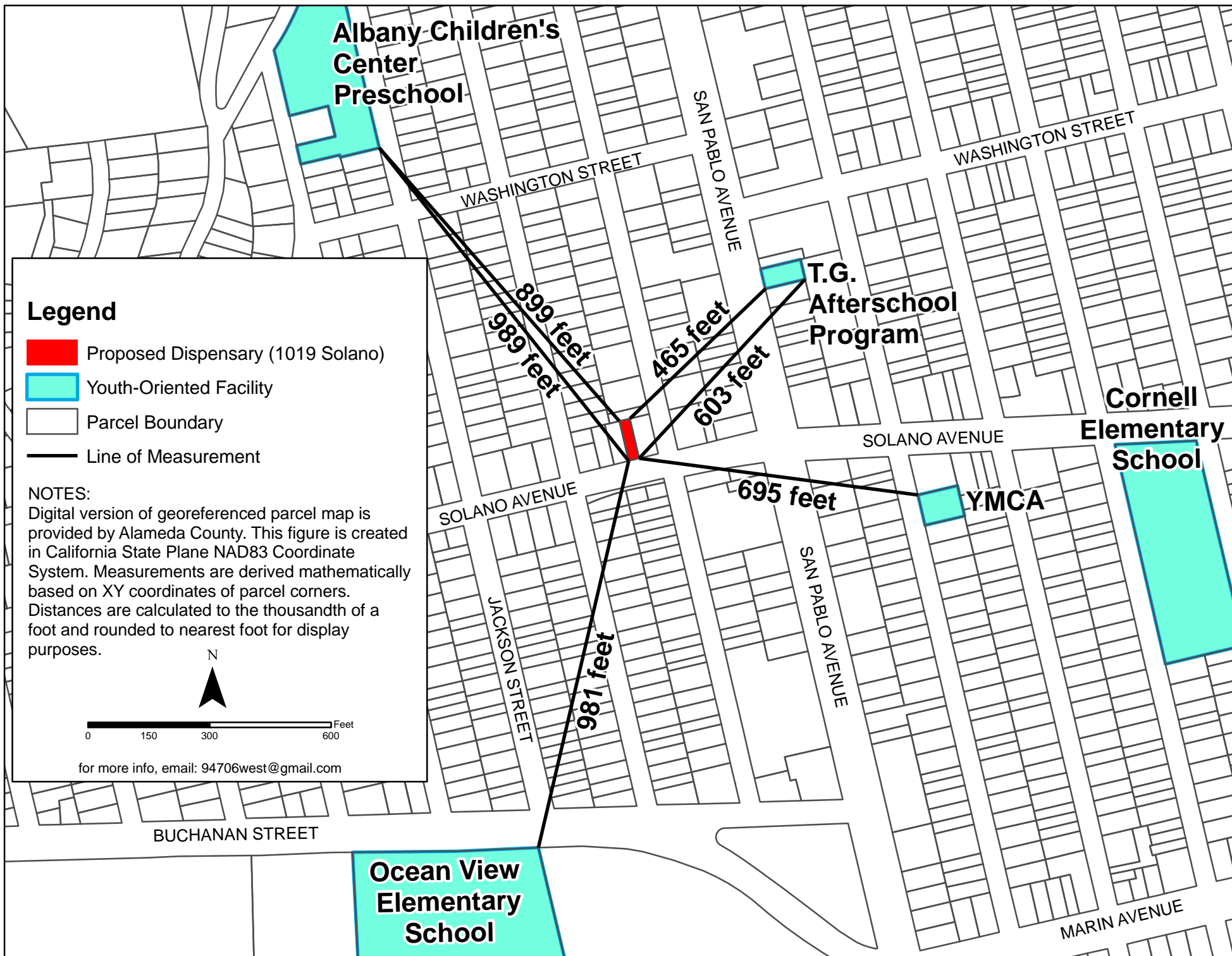


FIGURE 2

Jeff Bond

From: Eileen Harrington
Sent: Monday, January 03, 2011 9:20 AM
To: Jeff Bond; Beth Pollard; J Bucholz; rjz7@aol.com; Councilmember Joanne Wile (jwile46@gmail.com); fjavandel@ci.berkeley.ca.us; lieber.home@yahoo.com; marge.atkinson@mac.com; peggy.thomsen@gmail.com; peggy_thomsen@heald.edu
Subject: FW: To Marge Atkinson/Joanne Wile/Farid Javandel -- 1019 Solano Public Input
Attachments: Figure1.pdf; Figure2.pdf

From: alene pearson [<mailto:aleneemp@gmail.com>]
Sent: Sunday, January 02, 2011 11:14 PM
To: City General Email Box
Cc: liebtaub@sbcglobal.net
Subject: To Marge Atkinson/Joanne Wile/Farid Javandel -- 1019 Solano Public Input

Mr. Bond and City Council Members,

I am writing to say that I strongly oppose the proposed marijuana dispensary at 1019 Solano Avenue. According to the Albany City Ordinance, a medical marijuana dispensary cannot be located within 1000 feet of a youth-oriented facility, but the proposed location is within 1000 feet of Ocean View Elementary School, Albany Children's Center Preschool, the YMCA and T.G. Afterschool Program. I state this with confidence, as I am a Certified Geographic Information Systems Professional (GISP No. 001664) and I have conducted two separate surveys (measurements on attached figures) to confirm these facts.

My first set of measurements (Figure 1) was taken on October 12, 2010, when I conducted a GPS field survey in order to measure the distance from the front door of 1019 Solano Avenue to the parcel corners of Ocean View Elementary School and Albany Children's Center Preschool. I used a high accuracy Trimble GeoXH GPS unit coupled with a Trimble Tornado Antennae, ESRI ArcPAD, Trimble GPSCorrect, and Trimble Pathfinder Office for data post processing. This configuration allows data collection with sub-foot accuracy. As you can see, both parcels fall within 1000 feet of 1019 Solano Avenue's front door.

My second set of measurements (Figure 2) was done as a QA/QC of the GPS survey. Distances are calculated in a Geographic Information System (GIS) computer mapping program using a digital parcel map provided by Alameda County. The 1000 foot radius is calculated from the 1019 Solano parcel boundary in all directions and distances between parcels are measured from corner to corner (instead of parcel corner to front door). Again, you can see that all four youth-oriented parcels fall within 1000 feet of the 1019 Solano parcel.

VitalGen said in the P&Z meeting that they measured distances from Ocean View Elementary School and Albany Children's Center to their proposed location using Google Earth and a cheap GPS unit. Their methodology and configuration is only accurate to within 30 feet. My methodology and configuration is accurate to within one foot and is based on industry-accepted standards. Please take a look at the attached figures, recognize that the proposed location does not comply with Albany's ordinance and uphold P&Z's decision to not grant VitalGen a business license at 1019 Solano Avenue.

Yours Truly,

Alene Pearson
840 Madison Street

Andrew Hoffman
833 Madison St.
Albany, CA 94706

Dear Mr. Bond and City Council-

I'm writing in opposition to the proposed marijuana dispensary at 1019 Solano Ave. My family and I live just around the corner from the proposed site. My four children pass by the proposed site regularly as it is our main throughway to the shops on Solano, the YMCA and my office.

I'm in opposition for the following reasons:

- 1) The ordinance states that any dispensary shall not be within 1000 feet of a school or child daycare. Properly measured, the site is within 1000 feet of Ocean View School and Albany Children's Center.
- 2) The ordinance states that any dispensary shall not be located within 1000 feet of any "youth-oriented establishment." The YMCA, who's first three goals are "strengthening the family, empowering teens and fostering healthy development of the child," is well within 1000 feet of the proposed site. My 13 year old son benefits from the special membership rate the YMCA gives to teenagers and he walks past 1019 Solano on his regular visits.
- 3) The proposed dispensary would also be within 1000 feet of the T.G. Afterschool Program, another business clearly catering to youth and established prior to the initial permit request by VitalGen.

The existence of just one of the above conditions would be grounds enough to deny VitalGen the permit. In addition to these three, however, there are serious issues that the ordinance doesn't even address because, in my view, the matter has not been adequately thought out. It was for this reason that I voted against the ordinance to begin with. I want to see truly ill people receiving the care they need, including the relief brought by marijuana, but when a highly sought after drug is deemed illegal in the mainstream and then you create small islands where it can be purchased by a select few (using only cash), you have created a volatile mix that requires layers of bullet proof glass, armed guards and a special red phone to the police department. How easy is it really to ensure that the ad hoc system of ID cards won't be abused by those with nefarious purposes? How motivated will VitalGen be to hold the line on county issued ID cards when the cash is right in front of them? What will happen when bullets start flying (as they have in numerous places) and the lone security guard is suddenly in over his or her head? What happens when clients decide to medicate in their cars

(as happened at the Round Table meeting with VitalGen on Dec. 30th), and then drive through our kid-filled neighborhood? In my opinion, if you are going to experiment with this volatile mix, you'd better have thought it through carefully. At least, don't put it in the middle of a residential area inhabited by young families. Don't put it along the one artery that connects the West Albany children to schools, shops and services. Don't put it in a location that will jeopardize the hard fought "Kid Town" reputation that scores of Albanians have worked so hard to achieve and that drew many of us to this place.

Lastly, some people, I can imagine, may be envisioning this dispensary as a means to push a larger pro-marijuana position. I respect the right of anyone to support the legalization of marijuana. I agree with many of the arguments for it. And we are working that issue out as a society. But this dispensary, in this place, is the wrong way to further the cause. The current "intermediate state," where marijuana is mostly illegal except in a few highly coveted, highly charged havens called "dispensaries," creates a volatility that would otherwise not be there. It is dangerous. We don't want our children to grow up in the middle of it. The ordinance upheld by the Planning and Zoning Commission is meant to protect children against it. Please follow their lead. Please don't permit the dispensary at 1019 Solano or close to any children, whether they be at home, in school, at the YMCA or at an after school program. Please deny this appeal.

Sincerely,
Andrew Hoffman
833 Madison St.
Albany, CA 94706

Jeff Bond

From: Eileen Harrington
Sent: Monday, January 03, 2011 9:20 AM
To: Jeff Bond; Beth Pollard; J Bucholz; rjz7@aol.com; Councilmember Joanne Wile (jwile46@gmail.com); fjavandel@ci.berkeley.ca.us; lieber.home@yahoo.com; marge.atkinson@mac.com; peggy.thomsen@gmail.com; peggy_thomsen@heald.edu
Subject: FW: Marijuana dispensary

-----Original Message-----

From: Arden R. Smith [<mailto:erilaz@earthlink.net>]
Sent: Saturday, January 01, 2011 5:20 PM
To: City General Email Box
Subject: Marijuana dispensary

Dear members of the Albany City Council,

I'm writing to express my opposition to the plan to open a marijuana dispensary at 1019 Solano Ave. In addition to the various arguments against the plan that have already been brought forward (close to youth-oriented facilities, on a major route used by schoolchildren, etc.), I have a concern that affects me and my neighbors personally. I live at 1015 Solano Ave., and the building that contains my apartment (as well as 1011, 1013, and 1017) is tucked away in back, off the street, and reached by a pathway through a courtyard with only a low fence and an unlocked gate in the front. This is the only yard-like space facing Solano in this block, and since it is both easily accessible and not completely visible from the street, I suspect that it would attract dispensary patrons as an ideal place to sit and smoke. Whatever worries I have about walking through this space to get to my apartment after dark will be multiplied if it has the potential to become a stoner hangout.

This courtyard also offers any would-be thieves an accessible passage to the rear of 1019 Solano. The fences and staircases that separate this area from 1019 would be no deterrent to anyone who has plans to break into the dispensary from the back. This is naturally a cause for concern for myself and all the other residents whose homes face this courtyard and the adjacent parking area behind 1019.

Thank you for your consideration.

Sincerely,
Arden R. Smith
1015 Solano Ave.
(Albany resident since 1989)

Attn: Jeff Bond, for distribution to members of the Albany City Council
From: Brooks Weitzman 918 Madison Street, Albany

Subject: No proposed Marijuana Dispensary at 1019 Solano Avenue.

Dear City Council Members,

I am strongly opposed to the proposed marijuana dispensary at 1019 Solano Ave.

Not only will the proposed site serve to devalue my property which I have invested 18 years of my life into but it will change the makeup of our neighborhood and reverse the many years all my neighbors and I have put into creating a loving and close neighborhood that at this very moment is thriving. We have 2 block parties a year, movie night whenever we can and my kids now can safely run between homes up and down our block watched by our loosely knit association. This will change when you invite people from all over the county to park in our neighborhood and smoke marijuana or drive blindly through it to get to the freeway after getting their "prescription". Furthermore my wife daily walks many children including our two girls to and from school directly by the proposed site and ultimately will be letting them get themselves to school on their own, where else can you boast this daily activity, and why else do people move to Albany?

Albany has become a community of families, attracted by great schools and the small town feel not far from the big city.

Solano Avenue west of San Pablo is the main route for anyone going east by foot, this would deliver anyone who cared to walk up Solano Ave. directly by the proposed marijuana dispensary. It is my belief that the only place that this dispensary should be allowed to be put into our city if at all is the CMX.

I would also draw your attention to the vote of the planning and zoning committee which unanimously voted down this proposed site based on it's proximity of under 1000' to the YMCA as a child oriented facility and in reality if you look closely you will find that Oceanview school as well as a Martial Arts after school program located on San Pablo are both within 1000' of the dispensary.

Please do not make a decision now that will affect us for years to come long after you have left office and destroy the wonderful makeup and closeness we have achieved in our wonderful neighborhood. I ask you as a father to two beautiful and wonderful daughters to ask yourself if you would want this dispensary 7 doors from your home? Or if you would entrust the safety of your neighborhood to a cash only business run by two inept beginners? Or if you think this business really cares about the surrounding neighborhood?

I am not anti medical marijuana. I have friends and relatives who would suffer without it. Oddly enough none of them feel comfortable getting their marijuana at a dispensary because "of the unsavory people that hang out in them or outside of them"

Brooks Weitzman (Brenda, Jade and Avani)
918 Madison Street
Albany, CA.

1/3/11

From: [Candice Tahimic, PhD](#)
To: [Jeff Bond](#)
Subject: 1019 and 1021 Solano share a common indoor garage
Date: Monday, January 03, 2011 12:38:14 AM

Dear Mr. Bond,

I am a resident of the apartment complex next to 1019 Solano, the proposed site of VitalGen's marijuana dispensary. I oppose a dispensary at 1019 Solano, and my opposition is backed by the very ordinance that you have promised to uphold as our city official.

I wish to make you aware that the special design and floor plan of the 1019 and 1021 properties leaves VitalGen non-compliant to the following sections in our city ordinance.

"Section 20.20.110.H Findings Required for Use Permit. In granting a use permit for a medical marijuana dispensary, the Planning and Zoning Commission shall make all of the following findings:
...5. The site design and floor plan will minimize the potential for crime."

"Section 20.100.030.D Required Findings for Approving Use Permits ...A major use permit may be approved by the Planning and Zoning Commission only if all of the following findings can be made:...

2. Adverse Impacts. That such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or physically injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:

a. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The violations: The 1021 apartment complex and the 1019 property share the same covered parking garage structure. The entry /exit of this garage faces Adams St. The second floor of 1019 is accessible by stairs within the shared garage and apartment units within 1021 can also be reached from this garage via a door that is left open at all times. Hence, in the event that a permit is granted to VitalGen to operate in 1019 Solano, they will be given a remote garage gate opener, just as any resident of 1021. VitalGen employees will enter and leave through our parking garage gate. After they park their cars in their space, they walk up the steps to their second floor offices.

There have been times when our garage door was accidentally left open and a bicycle was stolen. With the presence of marijuana and significant amounts of cash, any reasonable person will see that this property design and floor plan will increase the potential for theft,

robberies and violent crime. No amount of security in the front entrance of the dispensary can ward off crime if it has a compromised side entrance. This is neither an exaggeration nor a doomsday prediction. If you check the records of police complaints for the past year, you will find that the corner of Adams and Solano is already a hotspot for unruly characters. The windows of my bedroom, kitchen and dining area all face Adams St. I have called Albany police at least twice to report public disturbances caused by threatening and intoxicated people who congregate in front of the shared garage. It is reasonable to say that adding a marijuana dispensary in this area will only worsen these problems.

I understand that there will be an influx of emails regarding this dispensary so I will cite just one more of the many other ordinance violations that I have found in VitalGen's proposal.

"Section 20.100.030.D. ...A major use permit may be approved by the Planning and Zoning Commission only if all of the following findings can be made:

1. Necessity, Desirability, Compatibility. That the size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community;

The violation: If you consider the intent of the ordinance, it is clear that the establishment of desirability must take into account the input from the neighborhood. The residents near 1019, whose lives and activities will be most impacted by this proposal, have clearly expressed their opposition to a marijuana dispensary that is too close to a residential area, and lies on a major thoroughfare for children who walk to their schools and after-school activities. This proposal is not desirable and not compatible with the neighborhood and therefore cannot satisfy Section 20.100.030.D.

The Planning and Zoning Commission upheld our ordinance. I trust that you will continue to stand by this decision. Please do not allow entities to make a mockery of our city ordinance.

Sincerely,
Candice Tahimic
1021 Solano Avenue

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Attn: Jeff Bond, for Distribution to Members of the Albany City Council
From: Chris Beynon, 920 Madison Street, Albany

Subject: NO Proposed Marijuana Dispensary at 1019 Solano Avenue

Dear City Councilmembers,

I am writing you to express my **strong opposition to the proposed marijuana dispensary** at 1019 Solano Avenue.

While there are many reasons to oppose this facility, I will outline five primary reasons why the dispensary is inappropriate for this location.

1. The proposed dispensary **does not comply with the zoning ordinance.** Oceanview Elementary School, the Albany Childrens Center, and YMCA are all within a 1000-foot radius of the proposed site. This fact alone clearly disqualifies this site from consideration, and the Planning & Zoning Commission ruling confirmed this by a unanimous vote.
2. The proposed dispensary **is an incompatible land use.** The location is **in the middle of a residential neighborhood** and the facility would be detrimental to the neighborhood's sense of place, character and safety, just as the site is inappropriate for uses such as a liquor store or gun shop. *(See the next page to see how truly close the site is to residences).*

At the Planning & Zoning Commission meeting in October, the applicants stated that one potential site they considered was on upper Solano but that "it obviously wouldn't be prudent to locate smack dab on Solano Avenue." But somehow it is prudent to put the dispensary "smack dab" in the middle of a residential neighborhood?

Berkeley's dispensaries are located on San Pablo Avenue and Telegraph Avenue – major roadways and commercial districts, not intimate streets like Solano in the middle of a residential neighborhood. Oakland and other cities' facilities are similarly located. We cannot afford to undertake such an experiment in a residential neighborhood anywhere in Albany.

In the Middle of a Residential Neighborhood

Apartments

Single Family Home

Single Family Home

**Proposed
Dispensary
Location**

Single Family Home

Apartments



3. The proposed dispensary **is along the main thoroughfare of travel for children and families in West Albany.** Residents of the entire area use Solano to safely and conveniently travel back and forth across San Pablo Avenue. The other crossings of San Pablo are not nearly as safe or direct and therefore the corridor is a “funnel” for travel for people strolling to our city’s great commercial districts, walking to the bus, or riding their bikes.

Importantly, many children walk back and forth to Cornell and Oceanview schools (oftentimes on their own – how many communities can boast that?) at all times of day – before school, after school, YMCA groups, afternoon activity classes, kindergarten let out. **Why does the ordinance draw radii around youth-oriented facilities? Because the citizens of Albany want to protect their school-aged children. The paths of travel for children are just as important as their destinations.** As the father of three young children, I know that I – and many many others – would not let them walk to school unattended with a dispensary at 1019 Solano. It would be shameful for our community to let this unique Albany characteristic die by putting in this inappropriately located facility.

How many communities have the small town walkability and safety for children of Albany, where unattended youth can walk, bike, or sit on a bench? This won't be happening in the neighborhood if the proposal for 1019 Solano is approved.



4. The proposed dispensary **has the potential to bring serious crime to the neighborhood.** The City's own staff report and research for the Planning & Zoning Commission meeting state as such. Despite proponents' claims of maintaining or even increasing neighborhood safety, there is no data to support this notion. In fact, increasingly reports illustrate the opposite. No amount of security will keep the neighborhood safe from robbers who strong-arm through the front door and put guns to customers' or employees' heads (like just last month with an Uzi(!) in San Francisco). News reports from Santa Cruz, Los Angeles, Richmond, and many more cities in recent months have profiled armed robberies that increasingly target these cash-only environments.

Are we really going to conduct an experiment with our neighborhood's safety?

As one of the dispensary's supporters said at the recent community meeting at Round Table, "Cannabis doesn't kill people, it's the people, the greedy people who want the money who kill." I couldn't have said it better myself.

5. The proposed dispensary **has not been analyzed under the California Environmental Quality Act (CEQA).** Impacts from traffic generation, noise and other CEQA-related areas have not been analyzed for the proposed land use in the General Plan or any other City document, and particularly not in the proposed location. The nature and type of this use is totally new to the City and unaccounted for as a distinct commercial use impact, and therefore the dispensary would not be compliant with CEQA. The City of Albany does not need to open itself up to CEQA litigation, which is costly and can drag on for years. We need to focus on the things that build a strong community.

Proponents claim that opposing a dispensary at 1019 Solano amounts to prohibition-style tactics and callousness toward medicinal marijuana users who are truly in need – this couldn't be further from the truth. **I am not opposed to the use of marijuana for legitimate medicinal purposes. Both my father and my brother (at age 28) passed away from cancer, and both benefited from the use of such substances to manage their intense pain.** I am therefore quite compassionate to the need in legitimate health-related circumstances.

However, 1019 Solano Avenue is an absolutely inappropriate location for a marijuana dispensary. Please do not repeal the Planning & Zoning Commission's ruling.

Thank you.

Chris Beynon
1/4/11

Jeff Bond

From: Chris Fure [cfure@wonderanimation.com]
Sent: Monday, January 03, 2011 8:53 PM
To: Jeff Bond
Cc: City General Email Box
Subject: Albany - Medical Marijuana Dispensary (Poor Location)

Dear Mr. Bond,

While I am all in favor of the use of medicinal marijuana, I am not in favor of its location at 1019 Solano, which is surrounded by residence. This vital institution can better serve its patients on San Pablo.

Thanks,

Chris Fure

911 Madison Street
Albany CA 94706

Jeff Bond

From: devorah petty [devpetty@gmail.com]
Sent: Monday, January 03, 2011 8:28 PM
To: City General Email Box; Jeff Bond
Subject: Proposed Location for Marijuana Dispensary

Greetings,

I wanted to comment on the current proposed location for the marijuana dispensary at 1019 Solano. I understand you are again considering this and want to encourage you to not allow the dispensary there. The proximity of that location to the Y along with the frequent foot traffic of children and families makes this entirely inappropriate and potentially dangerous. There are other locations along San Pablo which would not be so close to residential areas and not be so in contrast with the nature and spirit of the neighborhood. From a purely economic point of view, I can tell you as a consumer and frequenter of that neighborhood (although not a resident), I will go out of my way to avoid that area if a dispensary is located there and others who will do so as well. In these tough economic times, the city of Albany needs any and all retail encouragement and preservation of healthy shopping districts such as this.

I did vote for this legislation and I believe there is a place for it in Albany, but this is not the right spot.

Devorah Petty

Jeff Bond

From: Diane Delany [stripeylizard@comcast.net]
Sent: Monday, January 03, 2011 1:19 PM
To: Jeff Bond; City General Email Box
Subject: 1019 Solano

Hello Jeff Bond and Albany City Council Members,

I am a resident of Albany, homeowner (900 block of Cerrito), and parent of two kids in the Albany USD.

I am against the opening of a marijuana dispensary at 1019 Solano. I wrote an email (copied below) to you before the public meeting in October and spoke at that meeting. I plan to be at the upcoming meeting this month.

While I am completely against a pot dispensary anywhere in Albany with the exception of the Commercial Zone directly adjacent to the freeway, I am concerned about the needs some Albany residents may have for easy access to medical marijuana. I believe there are other ways for Albany as a community to take care of those among us who might need the medical support that marijuana gives without opening a local dispensary. I would be willing to help organize a group of citizen volunteers to support Albany residents with delivery (if that is possible) or rides to pick up marijuana medications they have been prescribed. I am sure the number of residents who would need this service is not large. Supporting those among us who need this medical intervention could be a community-building venture as opposed to the community-destroying venture the 1019 Solano dispensary will be.

Thanks much,
Diane Delany

Email of 10/12/2010:

Good morning Mr. Bond,

I am writing to register my disapprove of a pot dispensary on Solano Ave between Adams and Madison.

I live in the 900 block of Cerrito between Solano and Buchanan. I have 2 kids, one in high school and one in 3rd grade at Cornell. They walk every day back and forth from school up Solano Ave. On Saturdays they walk up Solano to the Community Center for dance classes and the library. Whenever they walk to friends' houses, the route is Solano Ave for all east/west travel. I am an active supporter of the Walk-to-School program that the city is running in conjunction with AUSD. We are trying to get people out of their cars, to decrease the traffic congestion at the schools, and to get kids walking for their health. On any given morning there are dozen of kids walking up Solano by themselves and in groups to the high school, the middle school, and to Cornell and Oceanview. elementary schools. A pot dispensary on Solano Ave. will be a big punch in the stomach to the Walk-to-School program. Many parents will opt out and drive their kids to school rather than allow them to walk by a pot dispensary.

Solano is a whole lot of what makes Albany what it is. It gives us the small town feel and intimacy that communities to the north and south of us do not have. I think of Solano as the humane lifeline of Albany. The part of Solano Ave west of San Pablo is also Solano and the heart of the neighborhoods here. Please do not cut us off from the rest of our town!

There are other locations in Albany more suitable for such an establishment (San Pablo Ave or near Target).

Sincerely,
Diane Delany
938 Cerrito St.
528-1166

**Public Comments on Vitalgen Appeal Regarding
Conditional Use Permit for Marijuana Dispensary at 1019 Solano
Ebba de la Rosa, 800 block of Washington Ave.**

I am writing to you regarding the proposed conditional use permit for a marijuana dispensary at 1019 Solano Avenue. I ask you to uphold the Planning and Zoning Commission vote to deny a permit at this location. I strongly believe that a dispensary in this location does not comply with Albany ordinances and would negatively impact our neighborhood and community for the following reasons:

Solano at San Pablo is a major pedestrian intersection:

For those of us living West of San Pablo and North of Buchanan, Solano Avenue is the primary intersection to cross San Pablo. There are many, many children/families, mine included, walking past 1019 Solano throughout the day -- there are kids on both sides of San Pablo that attend Ocean View, Cornell, AMS, and AHS, as well as children going to the YMCA and Albany Preschool.

Because of staggered bell schedules at all the Albany schools, there are surges of kids walking past 1019 Solano at various times of day. The elementary schools have an 8:15 or 11:30 am start for kindergartners and 8:30 or 9:30 am start for the other elementary grades. MacGregor, AMS, and AHS have different start and end times. Albany Preschool has two different programs, one starting at 9am and one at 12:30pm. After the middle and high schools get out, you see many kids going to Solano to hang out, buy a snack and then those that live in West Albany, including UC Village, ultimately funnel down Solano past 1019 Solano to go home. Early December I drove past 1019 Solano at 2pm I and counted over 20 teens walking home from school on that one block alone.

1019 Solano is less than 1,000 feet from youth oriented establishments and schools:

- Ocean View Elementary School
- YMCA on Kains
- Albany Children's Center

Vitalgen has misrepresented their intentions to the community:

Vitalgen's interactions with the community have consistently been misleading.

- Albany does not need a marijuana dispensary to serve its community. There are numerous dispensaries in the surrounding area to serve card-holding Albany patients. Proponents have argued that there may be people too ill to go that far, but there are several Bay Area dispensaries that offer delivery. Albany does not allow a marijuana deliver service from operating in Albany but our zoning does not cover deliveries originating from other cities. Also, caregivers can obtain a medical marijuana card to obtain cannabis for people in their care.
- Vitalgen failed to inform neighbors of the dispensary before the Planning & Zoning permitting meeting. They distributed a flyer announcing a wellness center featuring yoga, meditation, acupuncture, chiropractor, and 6 other services with no mention of storefront marijuana sales. The flyer did not mention an address for the "wellness center", it just said "on Solano Avenue". Their website talks about a wellness center, showing stock photos of people in white lab coats and of people receiving chiropractic work, massage and acupuncture. Yet the only service they plan to offer is the sale of marijuana in a small store front with bullet proof glass, surveillance cameras, and a security guard on a main pedestrian thoroughfare in a residential neighborhood.

- Brett van der Akker recorded Vitalgen with the Secretary of State under the name Vitalgen Cooperative, Inc. Cooperatives are defined by law as being “democratically controlled and are not organized to make a profit for themselves, as such, or for their members, as such, but primarily for their members as patrons.” I have not been able to find any evidence that they are indeed a legitimate cooperative with the required non-profit status and that anyone other than the van der Akker brothers stands to profit from this dispensary. I went to find Suite 531 at the street address Vitalgen gave to the Secretary of State and also lists on their website to inquire about this, but found out that “Suite 531” is a mail box at the UPS store in El Cerrito Plaza. It is my understanding that a business cannot use a PO Box when filing articles of incorporation with the Secretary of State, so would a mail box at a UPS store be legal?
- In the van der Akkers’ Oct 18 letter to the editor on the Patch online newspaper, they talk about “our neighbors,” “our community” and “our Albany.” However, neither brother lives or works in Albany. This was directly asked about at the Round Table public meeting on 12/29 and Erik said Bret had lived in Albany 13 years. When we asked Bret where he had lived all that time he said he’d lived in Albany for parts of 3 years. This flippant attitude is entirely inappropriate given serious community opposition combined with the requirements for a marijuana dispensary to maintain accurate records of transactions for the city to verify compliance with conditions of use.

The dispensary will endanger the neighborhood and negatively impact our quality of life:

- The security information the van der Akkers provided at the October Planning and Zoning meeting addressed how they would keep their product, money and employees safe from armed robberies by having everything behind bullet proof glass, an unarmed guard at the door, and security cameras on the street. They stated that this would deter people from robbing the dispensary, yet reality these measures do not stop armed robbery attempts at other business with similar security measurements such as banks. Mechanics Bank around the corner was held up at least once in the last several years, and in 2003 a 15 year-old boy walking home from school was hit by a stray bullet during an attempted robbery at the Wild West Gunshop in El Cerrito. The measures they propose do nothing to address safety for the rest of us living on the other side of the bulletproof glass. This was reiterated at the Round Table Pizza meeting where they stated that security stops at their door.
- Dispensaries have been the target of armed robbery attempts because of the value of their product and the amount of money moving in and out. The 10/12 city staff report for the Planning & Zoning Commission states dispensaries bring “potential public nuisance activities” and “Regardless of the quality of operation, dispensaries have been targets for serious crimes”. How is the unarmed guard going to ensure patrons are not concealing weapons?
- There will be loitering (as we’ve observed at other dispensaries in neighboring cities) and most likely consumption occurring in the area. How would the dispensary monitor people consuming marijuana outside of their facility, be it smoking or eating it in the form of a cookie or lollipop? At the P&Z meeting Vitalgen said they would tell collective members that their cards would be revoked if they were found loitering outside of 1019 Solano. Will the one security guard they have monitoring the door to prevent robberies also be patrolling

the streets, asking loiters for their membership cards? What about patrons parking on residential side streets because there is insufficient parking on Solano?

- Research has shown that marijuana impairs the multitasking necessary for activities like safe driving. Given there is no way to prevent a patron from consuming his/her purchase before driving off, it is asking for trouble to put this business in a residential neighborhood with a high volume of pedestrians, notably school children often unaccompanied by an adult, and cyclists
- According to realtors we have consulted dispensaries bring down property values.
- At the 12/29 public meeting Vitalgen stated that the dedicated parking spaces for 1019 Solano would be for employees only after a resident of the apartments next door pointed out to them that her garage door opener provided unrestricted access to the rear entrance to 1019 Solano. There is insufficient parking in the area to accommodate this business. Traffic in the area could increase significantly. After Marin was reduced to 1 lane in each direction West Albany has seen traffic increase on streets parallel to Buchanan. During commute times traffic is often backed up on Solano on either side of Jackson St.

I implore City Staff and City Council members to spend some time outside the marijuana dispensaries neighboring Albany and to do some simple research on dispensaries as a target for crime. A residential neighborhood is simple not the appropriate location for this business. Please do what is best for Albany and for our neighborhood and uphold the Planning & Zoning Commission's 3-0 vote denying a conditional use permit for 1019 Solano.

Comments Opposing a Permit for a Marijuana Dispensary at 1019 Solano

Francis Chapman, 800 block of Washington

I am writing to ask you to uphold the Planning & Zoning Commissions 3-0 vote denying a conditional use permit for a medical marijuana dispensary at 1019 Solano Avenue. A medical marijuana dispensary at 1019 Solano Avenue would be a conflicting land use that threatens safety, general welfare, property values, and quality of life for residents and others in the area.

I support a dispensary in Albany that provides medical cannabis to Albany patients with the least overhead so medicine is affordable. The best location is in a commercial-industrial zone along Eastshore Frontage Road or Cleveland/Jacuzzi Ave where no residences are allowed.

- 1019 Solano is too close to youth-oriented establishments
- It is too close to Ocean View Elementary and Albany Childrens Center pre-school
- It is not wanted by the neighborhood
- It conflicts with required findings for a conditional use permit
- It is not necessary or desirable for the neighborhood or community
- Professional realtors say a dispensary reduces property values
- Neighbors were misled by Vitalgen, and not adequately notified
- A dispensary at 1019 Solano is not a harmonious land use
- There would be no off-street customer parking
- Vitalgen has offered one or more landlords twice the asking rent
- A dispensary could restrict other potential development
- The neighborhood already hosts a concentration of bars and off-sale liquor outlets
- A dispensary at 1019 Solano may create additional traffic and added driving trips
- Any dispensary in Albany should recognize only state issued cards
- Wellness center services must come before marijuana sales
- Price of marijuana sold can only reflect costs of production
- The salary for managing a non-profit collective should be restricted
- Recent letter from Alameda County District Attorney to Oakland Mayor-elect points out potential conflicts with state law in the Vitalgen business plan
- Pedestrian and bike paths to provide access to Eastshore CMX zone

ISSUES AND CONFLICTS WITH SITING A DISPENSARY AT 1019 SOLANO

1019 SOLANO IS TOO CLOSE TO YOUTH-ORIENTED ESTABLISHMENTS

According to the Albany zoning ordinance, if the YMCA "*advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors*" it is defined as a "*youth-oriented establishment.*" section 20.20.110.E.6.b(1).

Albany YMCA's website Youth and Family Programs page states:

"The YMCA, since its inception, has been all about the personal growth, character development and recreation of young people. Children and their families continue to be at the center of our work."

about us • online registration • donate • news • volunteer • jobs • site map • contact

Albany search

Albany YMCA

Albany Downtown Irvin Deutscher South Early Childhood Services

join search programs health & wellness youth & family teens day camp community facility news

Home >> Albany >> Youth & Family

Youth & Family

The YMCA, since its inception, has been all about the personal growth, character development and recreation of young people. Children and their families continue to be at the center of our work.



Schedules & Forms

- [Birthday Party Application](#)
- [Birthday Party Flyer](#)
- [Birthday Party FAQ's](#)
- [Kids' Club Fee Schedule 2009-2010](#)
- [Winter Break Holiday Camp Flyer](#)

Questions?

Director, Childcare Program
Alicia Butler
Email: abutler@ymca-cba.org
Phone: 510.525.1130

Youth, Teen & Family Director
Jackie Murillo
Email: jmurillo@ymca-cba.org
Phone: 510.525.1130

news & events

Kids' Night Out
Go out for the evening and bring your children to the Albany YMCA for some themed games, crafts, popcorn and a movie! Dinner served. Pre-registration required by noon on December 10th.

In addition the YMCA at 921 Kains Avenue hosts a youth sports program, with enrollment limited to minors, is conducted Monday-Friday at 921 Kains. Here is the fall/winter program.

Home >> Albany >> Youth & Family >> Youth Sports

search youth & family programs...

Youth Sports

Program	Age / Level	Date / Time	Location	Instructor	Fees	Registration / More Info
Beginning Volleyball	Grades 5th-8th	T/TH 4:50-5:50pm	921 Kains Ave	Veronica C.	\$125 (\$25 annual youth membership required)	Register Online
Girls Basketball	Grades 3rd-5th	Fridays, 3:20-4:10pm	921 Kains Ave	Jackie M.	\$72 (\$25 annual youth membership required)	Register Online
K-1 Rookies Basketball League	Grades K-1	Tuesdays, 3:45-4:30pm	921 Kains Ave	Jackie M.	\$72 (\$25 annual youth membership required)	Register Online
Little Hoopsters Basketball	Ages 3.5-5 years - Preschool age only	Fridays, 4:15-4:45pm	921 Kains Ave	Jackie M.	\$72 (\$25 annual youth membership required)	Register Online
Tumbling	Ages 4-7 years	Mondays, 3:00-3:50pm		TBD	\$72 (\$25 annual youth membership required)	Register Online

A schedule of classes with enrollment limited to Youth and Teens is posted online:

Albany YMCA Youth & Teen Classes

12-week session dates: September 13-December 18

No classes on Sept 27-28; Oct 27-29; Nov 22-26.

Classes are held at 921 Kains Ave (unless otherwise noted)

(510) 525-1130 www.baymca.org/albany

Wee Dance

Ages 2-3 F 10-10:30am; Fee: \$80/session
(Location: 1216 Solano Avenue)
Toddlers and parents will enjoy moving together! Participants will create and experience movement with rhythms, and explore free dance to music. Wear comfy clothes.

Babygym

Ages 9 months-2 years; T Th 9:45-10:30am
Members \$5/Non-members \$7
Small children explore a variety of equipment designed to crawl in and swing on. Class ends with a circle and singing time. Drop-in class.

Kindergym

Ages: 2-4½ years; T Th 10:45-11:30am
See Babygym for description.

Parent/Child Arts and Crafts

Ages 2-5 years; M 10-10:40am
(Location: 1216 Solano Avenue)
Members: \$24/month
Non-members: \$32/month
Don't worry about the mess—we set up and clean up different projects every week. All you need to do is show up with your child and watch his or her creativity flow. Class is based on monthly registration. First class is September 13.

Financial Assistance is available for programs. Please ask for an application at the front desk.

Tumbling

Ages 4-7; Fee: \$72/session
M 3-3:50pm
Boys and girls will learn basic tumbling skills in this class designed to develop strength, coordination, flexibility, and self-esteem in a safe environment where children progress at their own pace.

Let's Dance

Ages 4-6; Fee: \$90/session
M 4:05-4:50pm
Incorporating traditional dance forms and creative movement, young children learn and experience rhythmic dance, allowing opportunities for self-expression.

Hip Hop Dance

Grades 2-4: W 3:20-4:05;
Fee: \$105/session
Grades 5-8: W 4:10-4:55;
Fee: \$105/session
Students will learn a variety of hip hop moves and routines, choreographed to the latest funk, jazz, & hip hop music.

Karate Classes

Ages 7-18; Fee: \$170/session
M W 5-6pm
Our program teaches a traditional form of Japanese Karate-Do- the way of Peace and Harmony. Basic techniques include guarding, punching, and kicking. We combine many different exercises, plus stretching and strengthening work to develop balance, focus, self-discipline and confidence. All levels welcome.

Note that at the top of the schedule it reads: "Classes are held at 921 Kains Ave (unless otherwise noted)". The fall/winter 2010 schedule had 6 classes and 9 sessions held Monday-Thursday at 921 Kains.

Members can also leave their kids, aged from 8 weeks to 10 years, in the YMCA child-watch program any day of the week while the parents work out, and also offers regular Kids Night Out events where parents leave kids to be entertained by staff while parents enjoy a night out.

The YMCA also hosts birthday parties at 921 Kains on Saturdays and Sundays, 12:30 to 2:30 or 3:30 to 5:30. The Y often has waiting lists for birthday parties so you are encouraged to book up to 3 months ahead. http://www.baymca.org/files/Downloads/Albany/BP_info.pdf

Lastly the Y hosts special events for kids at 921 Kains, including the Halloween Carnival.

Asserting that the YMCA is not a youth-oriented establishment betrays unfamiliarity with our community and an unwillingness to visit either the facility or their web site to find out more.

IT IS TOO CLOSE TO OCEAN VIEW ELEMENTARY and ALBANY CHILDRENS CENTER

When measured using standard parcel to parcel method ACC pre-school is about 900 feet away, and Ocean View is about 985 feet away. The parcel to parcel method is generally applied for other zoning issues involving minimum distance standards, examples I found include recusal of City Council or commission members, siting of liquor stores, gun shops, and adult entertainment establishments, and limiting a sexual offender's place of residence.

IT IS NOT WANTED BY THE NEIGHBORHOOD

Approximately 35 speakers and 100 written comments were submitted in opposition to a Vitalgen permit at 1019 Solano for the 10/12/10 P&Z meeting. The City Council will receive more written comments and will hear many speakers oppose this site on 1/10/11.

IT CONFLICTS WITH REQUIRED FINDINGS FOR A CONDITIONAL USE PERMIT

20.100.030.D.2 Adverse Impacts. That such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity

The 10/12/10 city staff report to Planning & Zoning stated two areas of greatest concern:

“Regardless of the quality of operation, dispensaries have been targets for serious crimes”

“The potential public nuisance activities associated with patients smoking marijuana in public areas immediately after leaving the dispensary”

Armed robberies of dispensaries have occurred in Los Angeles, San Jose, San Diego, Denver, San Francisco, Santa Cruz, Santa Rosa, and Anaheim amongst other cities, with multiple fatalities and injuries. Customers have also been mugged after leaving dispensaries, and personnel making deliveries of medical marijuana have been assaulted and robbed.

1019 Solano is close to multiple freeway on ramps. If approximately \$100,000 worth of pot and cash were present with 1 unarmed guard we fear it would present a very attractive target.

Vitalgen stated at the 12/29 public meeting that they would be as secure as a bank and banks do not get robbed because they are secure. The Mechanics Bank around the corner has been robbed at least once while I've lived in Albany, I believe it may have been more than once.

Crime risks create threats to residents safety, both those who live nearby and those who walk along this block, as well as to those who work in the vicinity.

Many kids walk this block to get to and from school (we counted 70 kids passing the site in the span of one single morning on 10/12/10, and my wife counted 20 teens in the vicinity at one single time around 2pm on a recent school day).

1019 Solano sits on the safest, most convenient route for pedestrians crossing San Pablo. Most residents on the south and west side of Albany Hill living north of Solano or closer than a half-block south of Solano wanting to access Cornell Elementary, the YMCA, Albany Theater, coffee shops, the library and community center, upper Solano, and other popular destinations would naturally be funneled past the 1019 Solano Avenue site. This funneling effect creates a conflict for residents that outweighs any demonstrated need to site the facility at 1019 Solano. It would be a significant hardship to detour around this block either to the north or south.

NOT NECESSARY OR DESIRABLE FOR NEIGHBORHOOD OR COMMUNITY PER SE

Every potential Albany patient already has access to medical marijuana and associated holistic health services. No Albany resident is more than 2 miles from an existing dispensary, and there is regular bus service to both of the nearby dispensaries. One can not establish *necessity* for a dispensary given the proximity of alternatives and the option of home delivery.

- The Berkeley Patients Group marijuana dispensary is located at 2747 San Pablo Avenue in Berkeley and it currently offers all of the services Vitalgen intends to offer.
- The 7 Stars Holistic Healing Center is located in the Ranch 99 Market complex, and it currently offers all of the services Vitalgen intends to offer.
- At least 4 Bay Area medical marijuana dispensaries currently offer home delivery services to Albany. See for example www.islandofhealth.com, www.hprc-delivers.org, www.topshelfdeliveries.com, and www.tandc.org. The websites for these dispensaries state delivery is either free or provided for a small fee.

PROFESSIONAL REALTORS SAY A DISPENSARY REDUCES PROPERTY VALUES

3 professional realtors living in Albany have stated that a dispensary at 1019 Solano would reduce residential property values. This directly conflicts with 20.04.030.E "*Purposes of the Zoning Ordinance - To protect and enhance real property values within the City.*"

NEIGHBORS WERE MISLED BY VITALGEN, AND NOT ADEQUATELY NOTIFIED

VitalGen mailed a flyer describing a "Wellness Center" on Solano Avenue to residents within 300 feet of the proposed facility just days before the Oct. 12 P&Z vote. The flyer provided no site address and made no mention of storefront marijuana sales.

The flyer listed 10 services Vitalgen would offer including yoga, massage, acupuncture and the like. However, in their P&Z application they said they wanted to open a storefront marijuana dispensary and has since confirmed to the public at the 12/29 Round Table meeting they would not offer any one of the 10 listed services at 1019 Solano. This is deceptive and misleading.

If this site had been proposed as a liquor store the applicants would have been required to mount a large poster in the front window of the establishment informing neighbors of the

intended use. Why does a dispensary not have a similar requirement?

The city staff report that provided vital information was not available until the afternoon of Friday, Oct. 8, and it was provided as a set of scanned images in a PDF. This PDF format cannot be searched, so it is like getting a set of 89 photos that you have to read end to end rather than a block of text that you can search and cross reference. This format and late availability creates a hardship and is a hindrance to public participation.

A DISPENSARY AT 1019 SOLANO IS NOT A HARMONIOUS LAND USE

A dispensary should be sited with minimal residential abutments. The proposed site shares a garage with 12 residential apartments, backs onto residences, has residences directly across the street, and would be in the middle of R-3 (high- density) and R-2 (medium-density) multifamily residential zones.

We would oppose a liquor store or a gun shop at 1019 Solano for many of the same reasons as a dispensary, they are not harmonious land uses for that site.

THERE WOULD BE NO OFF-STREET CUSTOMER PARKING AT 1019 SOLANO

At the 12/29 public meeting Vitalgen said all off street parking would be for employees only, customers would all park on the street. A dispensary should have dedicated off street parking which both enhances security for the facility and for nearby residents.

VITALGEN HAS OFFERED ONE OR MORE LANDLORDS TWICE THE ASKING RENT

One of our neighbors met with the landlord at 1021 Solano and he has twice confirmed to her that Vitalgen offered double the asking rental price for that space. We have heard second hand that other landlords have also received above market offers.

I believe if Vitalgen is granted a permit at 1019 Solano the large potential revenues that dispensaries can accrue (\$21.5 Million revenue for 3 dispensaries in Berkeley in 2010, over \$20 Million in revenues at Harborside Health dispensary in Oakland in 2010) could allow them to quickly expand laterally into adjoining spaces. This threatens to drive up rents for established businesses in adjoining locations, or limit their opportunities to renew leases since a landlord might want to get above market rent from Vitalgen instead.

A DISPENSARY AT 1019 SOLANO RESTRICTS OTHER POTENTIAL DEVELOPMENT

A dispensary would limit the potential for other types of development since many businesses (for example youth-oriented facilities) may not want to locate next to or close to a dispensary. This is an adverse impact that conflicts with a required finding for a conditional use permit under 20.100.030.D.2

NEIGHBORHOOD ALREADY HOSTS MANY BARS AND OFF-SALE LIQUOR OUTLETS

The Alcoholic Beverage Commission will not allow another off-sale liquor store (where you can carry packaged alcohol out of the store, including hard liquor) in Albany by the regular permit method because we are already saturated. A majority of the existing packaged liquor

stores are located on San Pablo Avenue, with 3 outlets within 800 feet of 1019 Solano. The Club Mallard and Ivy Room bars are also within 800 feet of the proposed site. The Club Mallard has created localized conflicts with the neighborhood, primarily because it only has 5 off-street parking spots with a capacity of I believe 150 patrons.

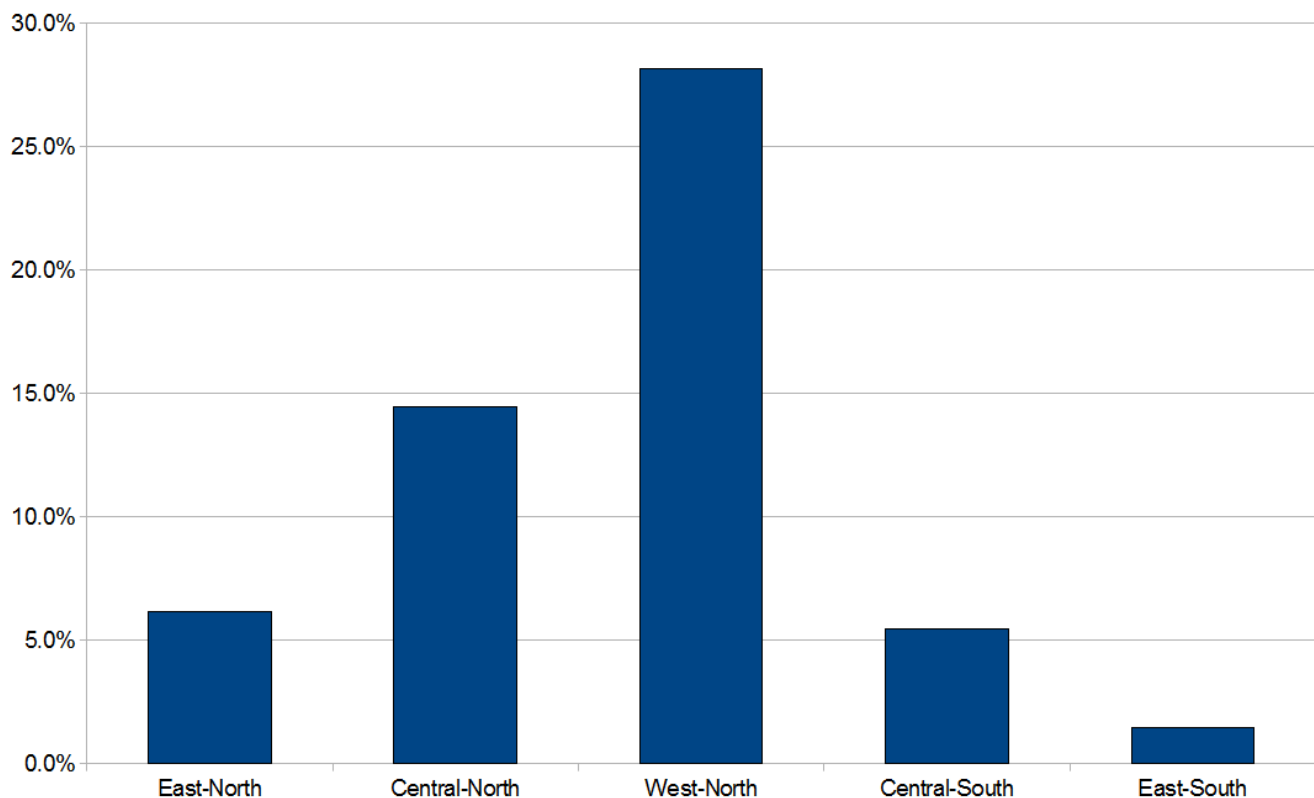
Excluding University Village where all residents are students renting from UCB, 1019 Solano sits in the census tract (4203, labeled as West-North) with the lowest income and the highest proportion of non-white residents of any tract in Albany.

Our census tract contributes the largest gross revenue in both property and parcel taxes of any tract in Albany. We contribute twice as much in parcel taxes to AUSD on a per student basis as tracts in East Albany, and 30% to 40% more than Central Albany tracts. The San Pablo Commercial District that runs along the street dividing us from the rest of Albany contributes very significant amounts of sales, UUT, business license and other revenues to our city budget. It sometimes makes us feel like we are Albany's golden goose.

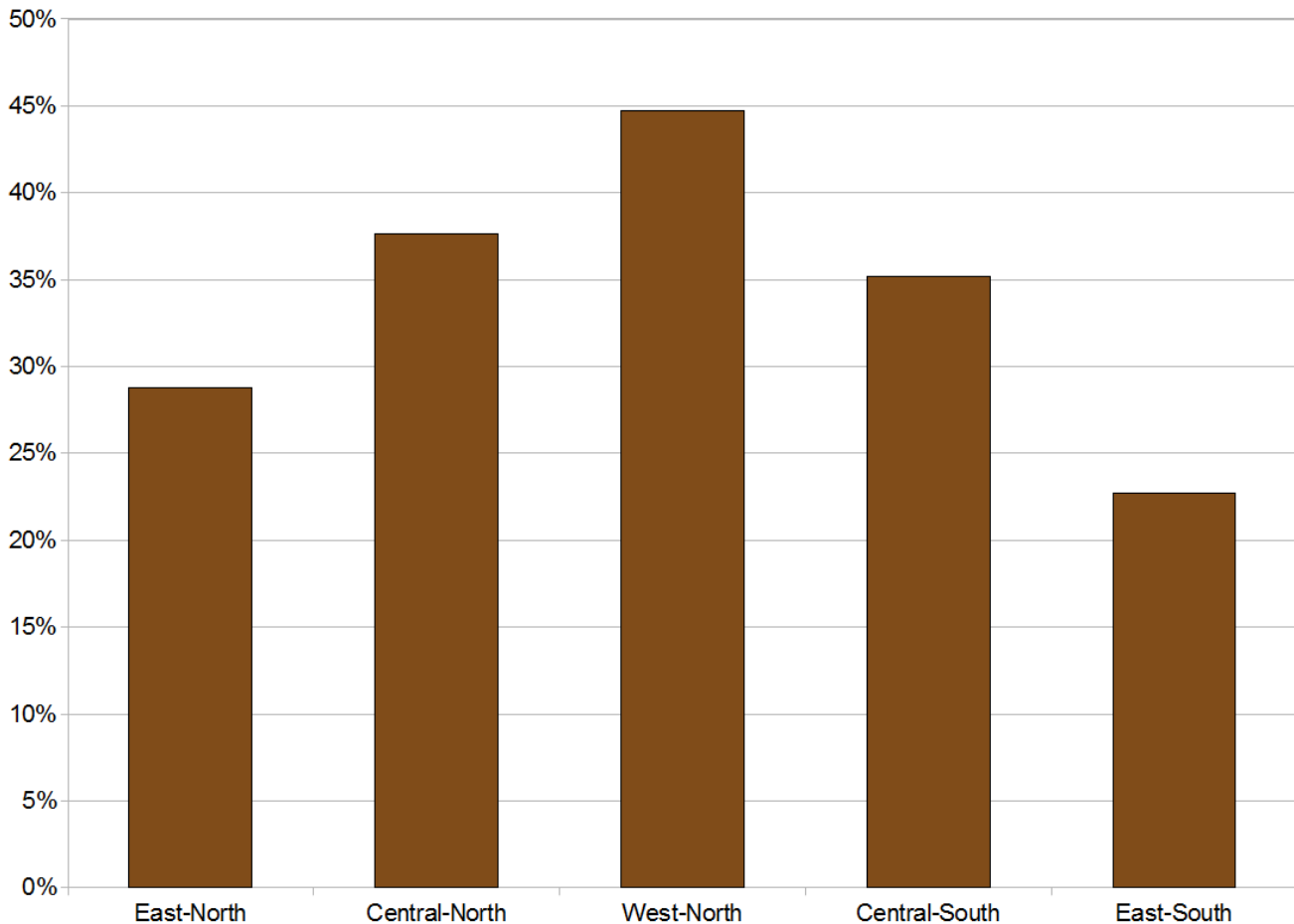
Given that we contribute so much to city and school budgets, why should we have to host a dispensary when bars and liquor stores are already concentrated in our neighborhood?

Distribution of Albany's Population Who Live Below Poverty Level

277 Families Total - Sorted by Census Tract using 2000 Census Data



Percent Non-White Population by Census Tract
2000 Census Data, excludes University Village



IT MAY CREATE ADDITIONAL TRAFFIC AND ADDED DRIVING TRIPS

On the morning of 10/12/10 I personally observed many kids walking to Ocean View Elementary school in small groups without adult supervision. Given that many parents will not want their kids walking past the dispensary there is a distinct potential for added car trips to be generated by parents driving their kids to school rather than allowing them to walk. There may be other instances of families, parents with children, or individuals choosing to drive rather than walk to avoid having to encounter the security guard and cameras that will be part of the proposed facility up close while on foot.

General Issues to Address in Siting and Managing a Dispensary in Albany

ANY DISPENSARY IN ALBANY SHOULD RECOGNIZE ONLY STATE ISSUED CARDS

When it was pointed out at the 12/29 public meeting that there currently may be around 15 to 20 valid state issued cards in Albany which would severely restrict who they could sell to

Vitalgen's first answer was "that's not the language of the law". I believe if they get a permit they would likely later sue the city with the aim of lowering the standard so they could rely on any doctor recommendation to make a sale.

WELLNESS CENTER SERVICES MUST COME BEFORE MARIJUANA SALES

Any medical marijuana dispensary use permit should establish what minimum period of health care (or housing or safety related care) must be provided to a collective member before cannabis sales to that member are legal. As the Alameda County DA has pointed out, the CA Supreme and Appellate Courts have both recently ruled that selling marijuana in a storefront dispensary without an "established, existing relationship" is illegal.

PRICE OF MARIJUANA SOLD CAN ONLY REFLECT COSTS OF PRODUCTION

By state law the costs of marijuana sold to members of a collective can only reflect the direct costs of production and reasonable expenses incurred to provide the medicine to the patient. Albany should set conditions in any future conditional use permit to ensure Albany patients are getting the best value on medical marijuana, and there is no potential for excess cost recovery by a dispensary operator.

SALARY FOR MANAGING A NON-PROFIT COLLECTIVE SHOULD BE APPROPRIATE

The city should ask for a legal opinion what level of salary is permissible for management of a non-profit collective dispensary. A high salary may constitute profiting from the sale of medical marijuana, which is illegal under state law, and would add excess overhead.

A RECENT LETTER FROM OUR ALAMEDA COUNTY DISTRICT ATTORNEY POINTS OUT POTENTIAL CONFLICTS WITH STATE LAW IN VITALGENS BUSINESS PLAN

The Alameda County District Attorney wrote a letter to Oakland's mayor-elect on Dec. 8th, 2010 which raised significant legal issues relevant to Vitalgen's permit application. The letter can be read online at <http://goo.gl/PhNQH> (Google shortened URL points to KQED website).

- Under California laws 'primary caregivers' must have "*consistently assumed responsibility for the housing, health or safety*" of patients in the collective
- under Prop 215 and SB 420 "*operators of medical marijuana dispensary were not 'primary caregivers' exempted from liability for certain narcotics offenses*"
- if "*there was no evidence of an established, existing relationship providing for the housing, health, or safety independent of the administration of medical marijuana, the dispensary operators do not qualify as 'caregivers' under the legal definition set forth in the law.*" Cases cited were CA Court of Appeals, People vs. Hochanadel (2010), and CA Supreme Court, People vs. Mentch (2008)
- "*It remains an open question whether public officers or public employees who aid and abet or conspire to violate state or federal laws in furtherance of a city ordinance, are exempt from criminal liability*"

Vitalgen has demonstrated no existing housing, health or safety relationships with patients in a collective.

They stated on 12/29 at the public meeting at Round Table that they would not offer any health services at their facility because they only had 860 square feet of space. They said they might subsidize massages, acupuncture and other services delivered by nearby independent businesses. This does not appear to meet the standard of “consistently assuming responsibility for housing, health or safety” of the patients.

Their business plan says they want to encourage patients to visit only once a month by offering incentive pricing for purchases of monthly dose amounts. How can they “consistently assume responsibility for housing, health or safety” if they only see a patient once a month? They plan to offer no services besides marijuana sales at their storefront.

If they end up seeing patients more frequently this will create traffic and parking issues in the neighborhood. Prior uses of this and adjoining storefronts have always been low-traffic, and low-impact.

There have been two specialty markets in the storefront 2 doors west of 1019 Solano, most lately the Saffron Market. That storefront marks the western end of Solano Commercial District. Both of these markets had a limited clientele and carried primarily Middle Eastern specialty items, they did not provide daily necessities for most residents and so did not generate much traffic or require much parking. The homemade hummus and baba ghanoush combined with the lavash and other specialty breads the market before Saffron used to carry were fantastic, I still miss those.

PEDESTRIAN AND BIKE PATHS TO PROVIDE ACCESS TO EASTSHORE CMX ZONE

Pedestrian and bicycle improvements being planned for Albany include a walking path connecting the 1000 block of San Pablo to the Eastshore commercial district via University Village, and a bicycling path along Buchanan connecting to Eastshore, both of which will provide Albany residents with convenient non-motorized access to suitable locations for a dispensary in the Eastshore CMX zone.

CONCLUSION

Vitalgen's business plan included in the 10/12/10 staff report said they wanted to:

- *protect the safety, tranquility, and cleanliness of our immediate neighborhood;*
- *honor the trust provided by our fellow citizens by conforming and enforcing all applicable laws of the progressive, visionary City of Albany, and the Great State of California;*

As Albany residents we ask the City Council to enforce all applicable laws and protect the safety, tranquility and cleanliness of our neighborhood by not opening a facility where it is not wanted, not needed, and fails to conform to our zoning code.

Jeff Bond

From: Garth Schultz [garth_schultz@yahoo.com]
Sent: Monday, January 03, 2011 12:03 PM
To: Jeff Bond; City General Email Box
Cc: 94706west@gmail.com; garth_schultz@yahoo.com
Subject: 1019 Solano - Public Comment on Appeal

Dear Jeff Bond and Albany City Council,

Thank you for taking my public comment regarding next Monday's Council item regarding the appeal of the Planning and Zoning Commission's October 12, 2010 decision to deny a permit to operate a medical marijuana dispensary at 1019 Solano Avenue. I'm sure you are (or will be) receiving many public comments on this topic, so I'll keep my comments brief.

Like many of my neighbors, I'd like to request that you uphold the Planning and Zoning Commission's decision, and reject the appeal. By this time you must be aware of the concerns surrounding locating a dispensary at this address, i.e. the potential for public nuisance and target for crime as well as the location along a well trafficked pedestrian school route. I agree that these are serious concerns, and feel that it is not possible to entirely address them at the 1019 Solano location.

Furthermore, it appears as though this location is not acceptable as per Albany Municipal Code 20.20.110 (Medical Marijuana Dispensaries) Sections E.5 and E.6. Though the staff report to the Planning and Zoning Commission for the October 12 agenda item did address the distance to Ocean View Elementary School, it did not consider other youth oriented facilities that are located within the 1,000 foot minimum distance requirement, including the Albany YMCA (921 Kains Avenue) and Jewish Family and Children's Services (828 San Pablo Ave. #104).

Thank you very much for considering these comments,

Sincerely,

Garth D. Schultz
garth_schultz@yahoo.com
510.292.0853
956 Madison St.
Albany, CA

Jeff Bond

From: Jon Givner [jgivner@yahoo.com]
Sent: Monday, January 03, 2011 10:21 PM
To: Jeff Bond; City General Email Box
Subject: 1019 Solano dispensary

I live on the 900 block of Madison, and I write to oppose the siting of the proposed dispensary at 1019 Solano. I voted for Proposition 215 and support the legalization of marijuana, but I believe 1019 Solano is the wrong location for this facility. Although 1019 Solano is only a few blocks from a major intersection, they are meaningful blocks. The dispensary would be in the middle of a residential neighborhood -- a neighborhood overflowing with children. Part of what makes West Albany such a great place to live is that it is full of kids of all ages. And the block where the dispensary would be sited is a main pedestrian path for those kids. I have a three year old son, and we walk past the building almost every day. Not long from now, he will be walking past the building on his way to and from school, and a few years down the road, I expect that he'll frequently be walking down the block alone or with friends. And my son is one of many; the streets of this neighborhood are teeming with children.

It simply doesn't make sense to open a facility in the middle of this neighborhood that requires armed security all day every day of the week.

I understand that one of the issues in this appeal is whether the nearby YMCA is a youth-oriented facility. I have been a member of the YMCA for several years, and my wife, son and I have been frequent participants in the Y's programs for young children. You only have to step inside the facility in the middle of almost any day to see how much it caters to kids. I pass the 1000 block of Solano every time I walk to the YMCA.

Thank you.
Jon Givner

Jeff Bond

From: Julianne Sterling [a-jsterling@comcast.net]
Sent: Monday, January 03, 2011 1:16 PM
To: Jeff Bond; City General Email Box
Subject: Not at 1019 Solano!

Dear Albany City Council Members,

I urge you not to allow a marijuana dispensary at 1019 Solano Ave. I'm an Albany resident and parent. I teach art classes at Ocean View Elementary and I'm concerned about having a dispensary so close. I have a child at Cornell Elementary and my kids also use the facilities at the YMCA on Kains. Dispensaries have been targets for serious crimes in other cities. This location is just too close to facilities that serve our children.

Please, NOT at 1019 Solano Avenue!

Thanks,

Julianne Wallace Sterling
1026 Masonic Ave.
Albany, CA
www.jsterlingart.com

I believe a medical marijuana dispensary at 1019 Solano Avenue in Albany violates multiple Albany zoning and planning ordinances.

- 1) 20.04.030.E *“Purposes of the Zoning Ordinance - To protect and enhance real property values within the City*
- 2) *Section 20.100.030.D Required Findings for Approving Use Permits ... That such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or physically injurious to property, improvements or potential development in the vicinity,...*
- 3) *Section 20.100.030.D. ... That the size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.*

ITEM 1

As a 10 year licensed Realtor I can say without hesitation that the pot dispensary will bring down property values and thus conflicts with item #1. It is the legal responsibility of any seller or agent to disclose any known issues in a neighborhood, such as a pot dispensary. Buyers will not want to buy a house near a pot dispensary. In addition, as outlined below from a variety of sources all across California, the resulting crime will most certainly bring down property values.

ITEMS 2 AND 3

The pot club will have a detrimental impact on the health, safety and welfare of our residents and is not desirable or compatible with the neighborhood. The website of the California Police Chiefs Association has compiled a 49 page report on Medical Marijuana Dispensaries and their adverse impact on California communities. Police chiefs and other officials were asked about pot dispensaries in their communities and their answers compiled. Go to http://www.californiapolicechiefs.org/nav_files/marijuana_files/files/medical_marijuana_secondary_effects.pdf for the full report.

Here are some highlights from the report with bold emphasis added.

SAN LEANDRO

San Leandro, CA Sept 29, 2005 -- A woman was carjacked and robbed Monday afternoon after she left The Health Center (THC) marijuana club. **Alameda County Sheriff's Department spokesman Lt. Dale Amaral.** **“When you have this kind of drug distribution center it's an absolute magnet for every thug in the nine Bay Area counties. We're running from call to call.”** Crimes including burglaries and robberies at many of the dispensaries have caused widespread community concern.**It's a target rich environment,**” says Amaral. **“The sheriff's department is devoting a tremendous amount of resources to these clubs. Though the clubs may not be selling directly to students, the county's School Resource Officers report a 36-percent increase in arrests on nearby school campuses for minors possessing marijuana, possibly due to increased supply in the area.**

(Source http://www.hempevolution.org/thc/dispensary_robbed040514.htm)

DAVIS

(Excerpts from Staff Report to Davis City Council: Medical Marijuana June 13, 2005)

In summary, the experiences of other cities that already have dispensaries are bad. Dispensaries have experienced robberies themselves; legitimate patients have been robbed of their marijuana as they leave the facility; **people purchasing marijuana at the dispensaries have been caught reselling the marijuana nearby; street level dealers have begun selling marijuana and other drugs nearby in an effort to undersell the dispensary;** some dispensaries have doctors present in their facility who will recommend marijuana as a course of treatment for just about any patient complaint; and many dispensaries do not take serious steps to ensure they are selling only to legitimate patients or their caregivers. **When asked, many of the police departments that already have facilities in their cities said that if Davis did not already have a dispensary, we should take steps to prohibit one from opening in the city.**

LOS ANGELES

From an LAPD overview of Medical Marijuana.

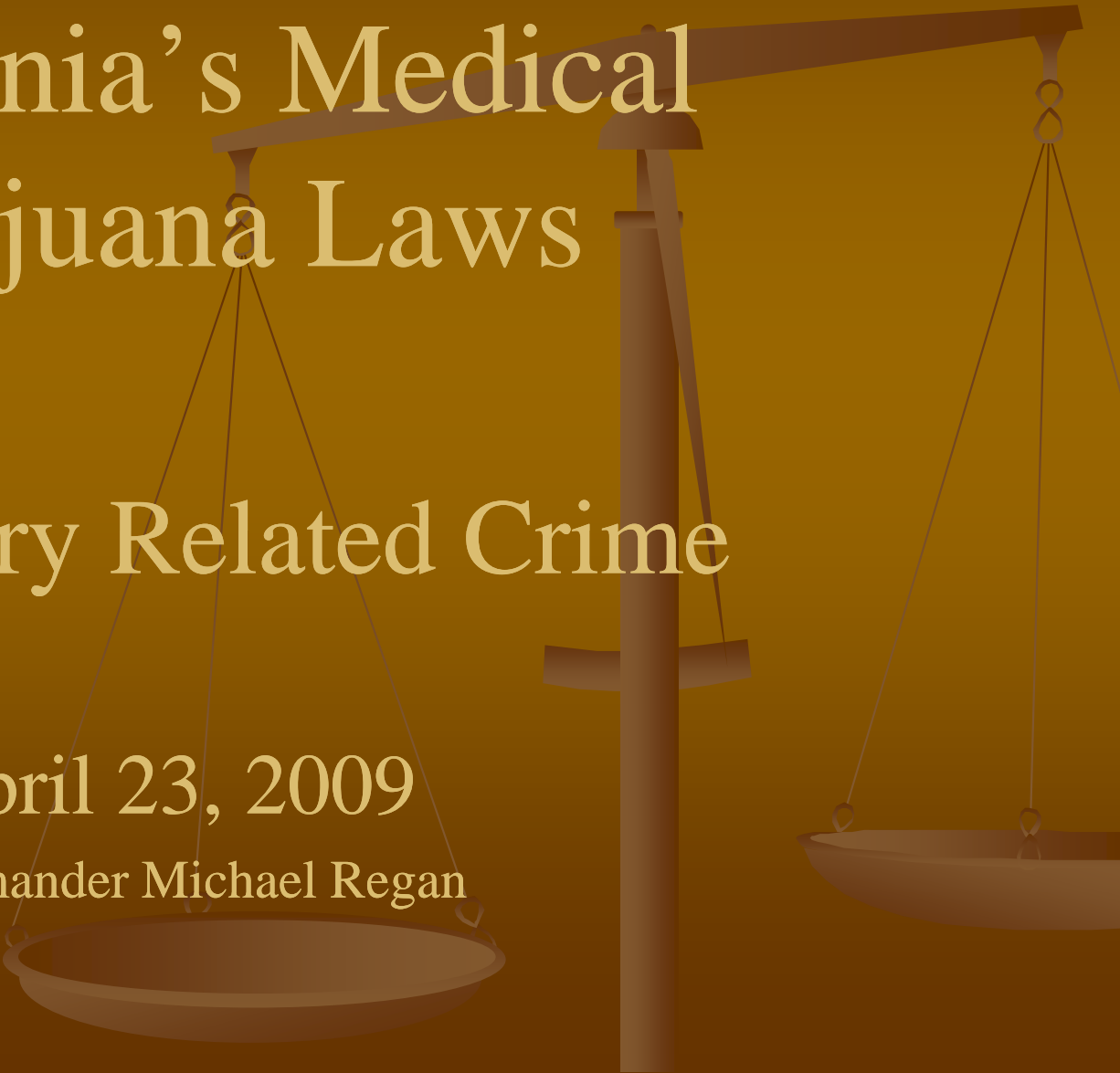
The Los Angeles County Ordinance called for a security system and guards for each dispensary. **Medical Marijuana providers have had more extensive security systems than Sav-On, Ritz or Walgreen drug stores, and yet they still have been robbed and assaults have occurred because they keep exorbitant amounts of cash and marijuana on hand.** **In addition, the security systems and guards do nothing for the surrounding businesses or area.** Many of the providers in LA County employ street gang members with extensive criminal histories as security guards. Despite the guards, the Department has seen a significant increase in Part I and Part II crime wherever providers have appeared. **Surrounding merchants and residences have had to deal with intimidation, second-hand smoke, and vandalism to personal property and buildings, urinating and defecating in public, thefts from vehicles and businesses and the loss of business.** On August 28, 2006 between midnight and 3 a.m., unknown suspects tunneled through an adjoining business (workout gym) into a Medical Marijuana dispensary and stole the marijuana inside. Lastly, several unincorporated areas within the County of Los Angeles border the City of Los Angeles and are causing problems for both cities. In San Francisco, a Medical Marijuana dispensary just lost its bid to open up a shop near Fisherman's Wharf. The City's Planning Commission meeting was packed by citizens who opposed the cannabis dispensary complaining that **customers did not purchase pot for health problems, but to resell it on the street, and that the outlets are a magnet for general drug use and increases in overall crime, traffic and noise.**

CALIFORNIA NARCOTICS OFFICER ASSOCIATION

In all of these communities, law enforcement leaders were concerned with the impacts to the public health, safety and welfare by the commercial marijuana dispensing enterprise. All wished that they did not exist in their community. The trouble seems to occur when a large number of marijuana users, legal (under State law) and illegal gather at one location making them easy targets for illegal drug dealers; those freelance illegal drug dealers who are trying to recruit individuals with a doctors recommendation to legitimize (under State law) their sales and possession; and those who wish to prey upon the ill to steal their

marijuana. This is compounded by the vast amounts of cash and little or no oversight of the processes of prescription, procurement and sales of Medical Marijuana. All of these impacts are avoidable if the commercial marijuana dispensing business were not allowed to locate in our community.

Kathleen Wilson
848 Madison Street, Albany
18 year resident
Realtor, Better Homes and Gardens
DRE #: r01343881



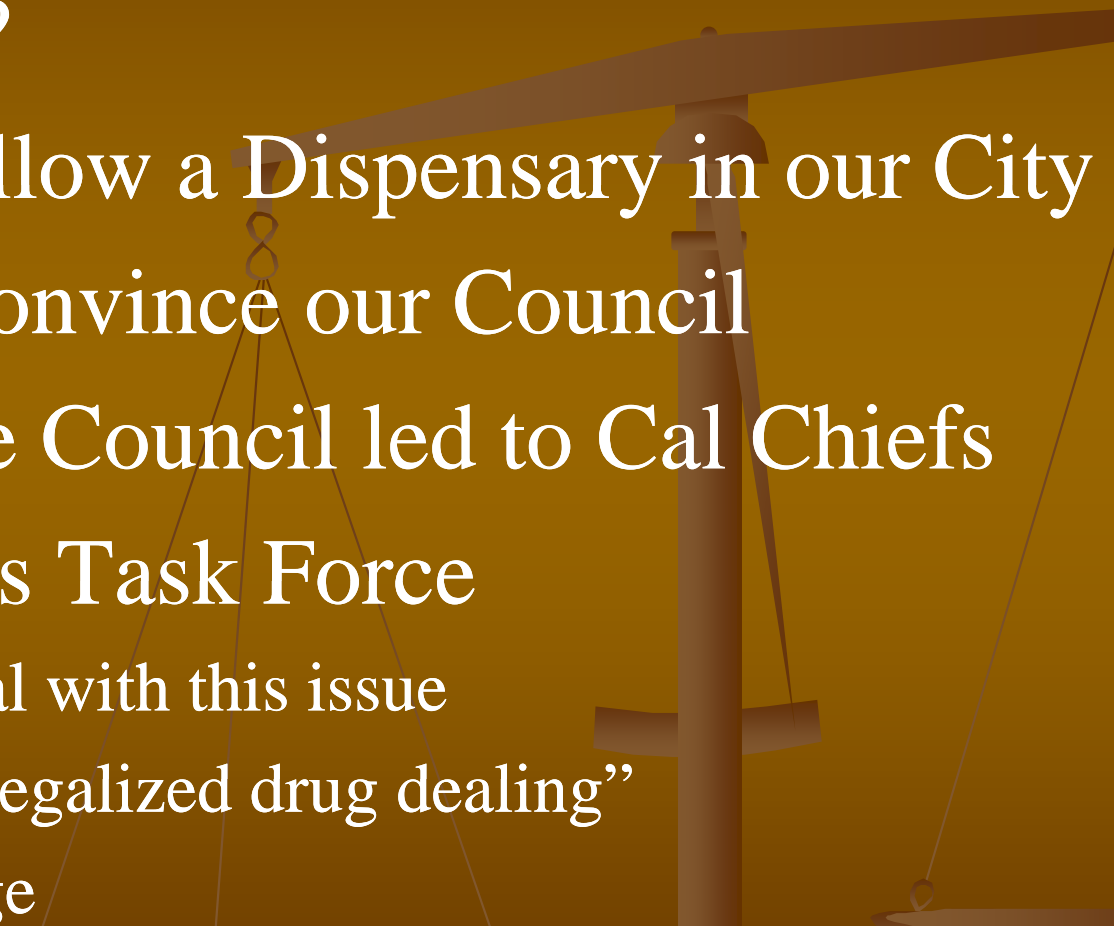
Summit on the Impact of California's Medical Marijuana Laws

Dispensary Related Crime

April 23, 2009

Commander Michael Regan

The El Cerrito Experience

- Why El Cerrito?
 - Movement to Allow a Dispensary in our City
 - Two weeks to convince our Council
 - Success with the Council led to Cal Chiefs
 - Cal Chiefs forms Task Force
 1. Try to help others deal with this issue
 2. Calling it what it is “legalized drug dealing”
 3. Advocating for change
- 

Worse than combining a Liquor Store and Casino analogy

Reasoning is this:

1. Lots of cash
2. Lots of guns
3. However, unlike Liquor Stores and Casinos, with very little if any oversight or ability to impact businesses



Dispensaries



- What exactly is a MMJ Dispensary?
 1. Store Front Retailer
 2. Profit / Non-Profit
 3. Primary Care Giver
- “Dispensary” does not appear anywhere in Prop 215 or AB420
- Some estimates claim 400-800 dispensaries in California (Nobody really knows)
- No State control as compared to Liquor Licenses

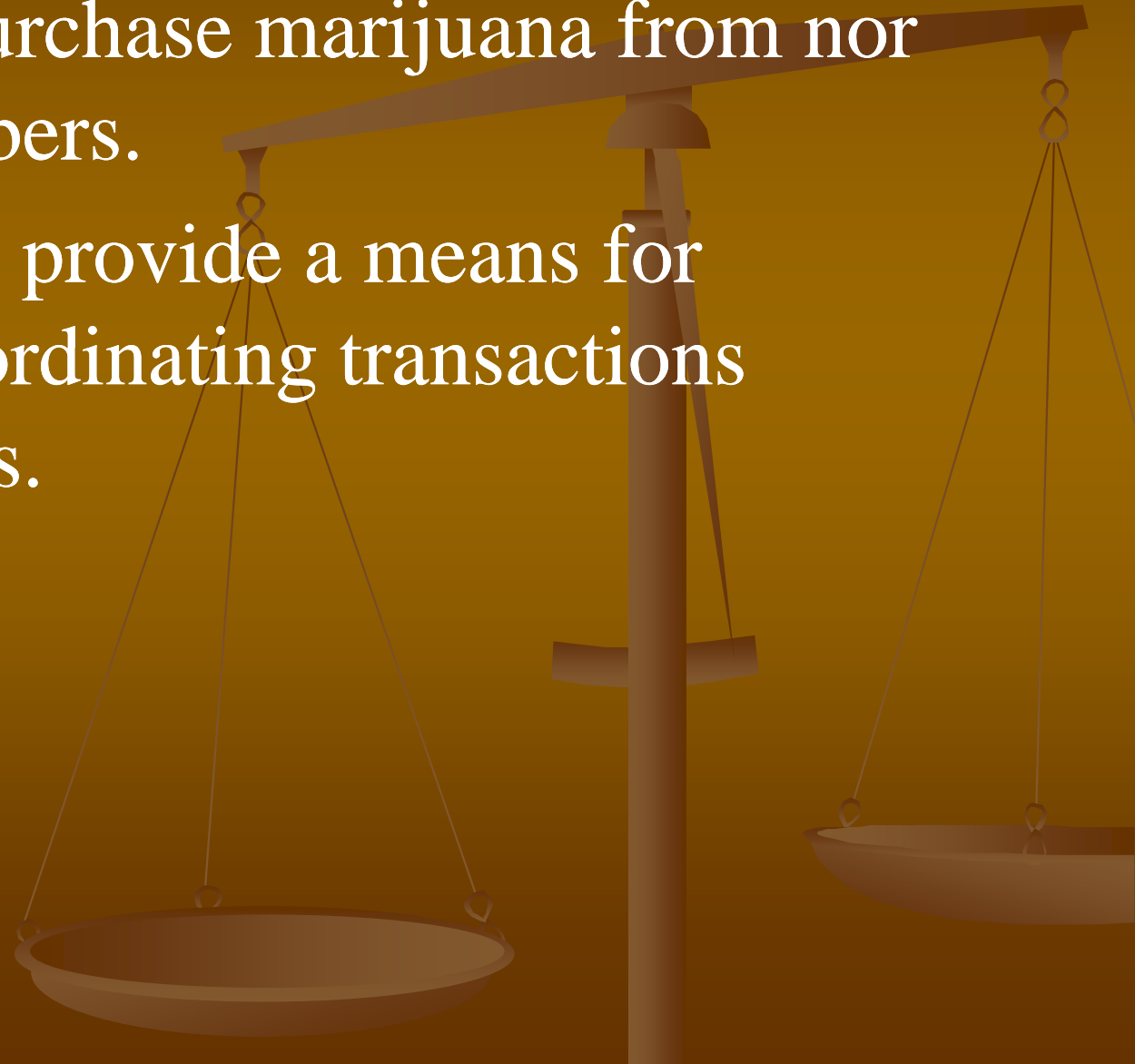
Collective / Cooperative



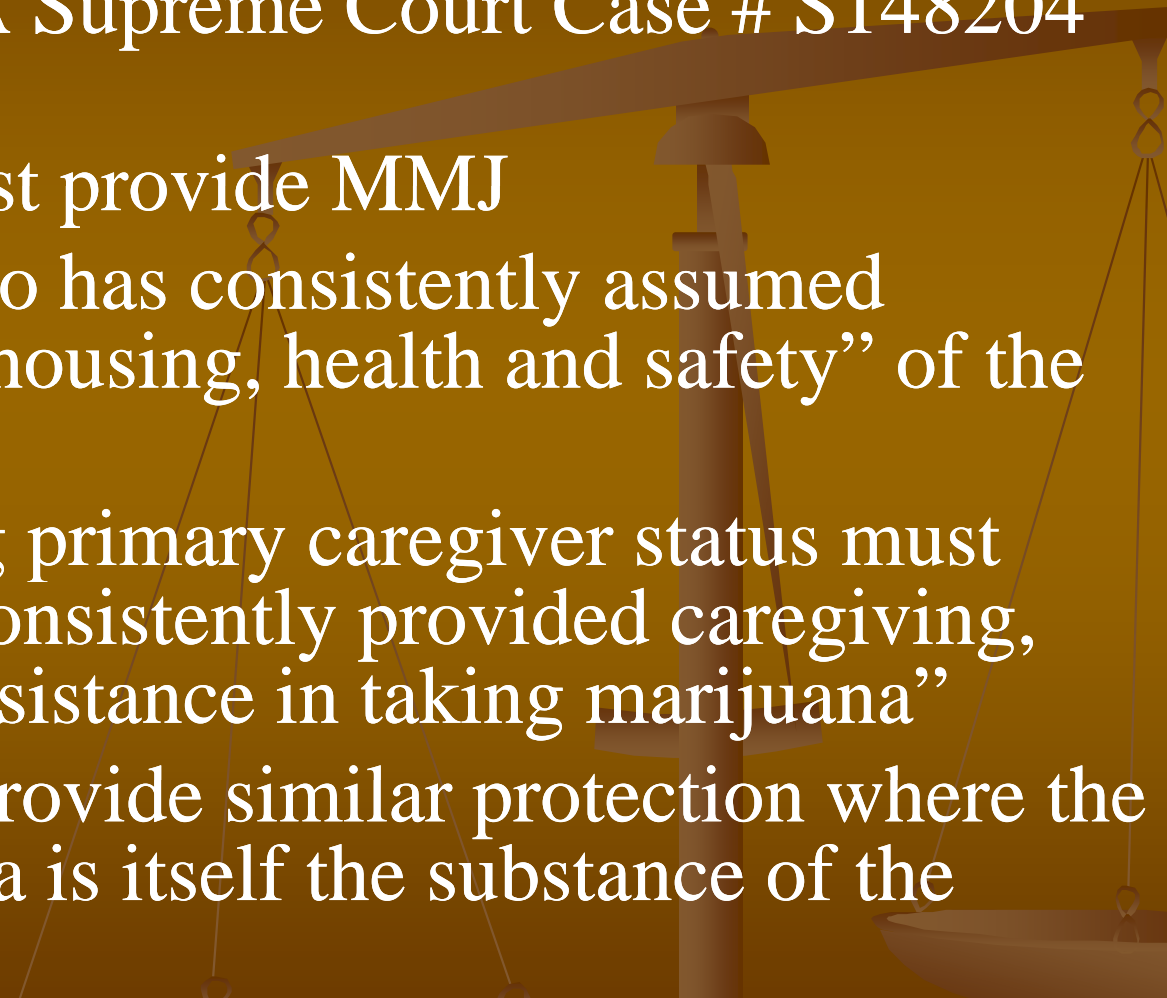
- **Collectives:** An organization that merely facilitates the collaborative efforts of patient and caregiver members –including the allocation of costs and revenues.
- No business may call itself a “cooperative” (or “co-op”) unless it is properly organized and registered as such under the Corporations or Food and Agricultural Code. (*Id.* at § 12311(b).) They are “democratically controlled and are not organized to make a profit for themselves, as such, or for their members, as such, but primarily for their members as patrons.”

Collective / Cooperative

- Neither should purchase marijuana from nor sell to, non-members.
- They should only provide a means for facilitating or coordinating transactions between members.



Primary Caregiver Defined

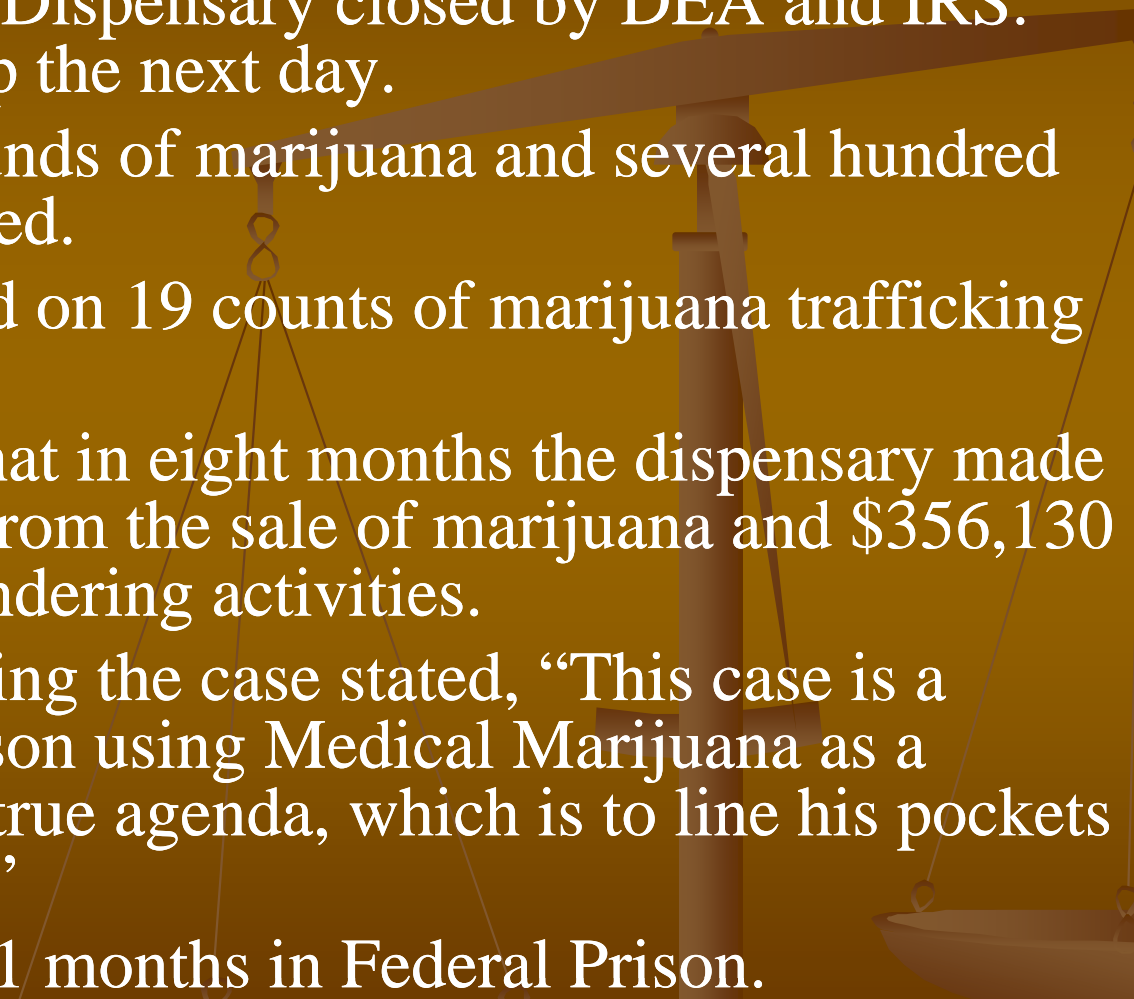
- *People v. Mentch* (CA Supreme Court Case # S148204 (2008))
 - Must do more than just provide MMJ
 - Must be a person “who has consistently assumed responsibility for the housing, health and safety” of the patient.
 - “a defendant asserting primary caregiver status must prove that he or she consistently provided caregiving, independent of any assistance in taking marijuana”
 - The CUA “does not provide similar protection where the provision of marijuana is itself the substance of the relationship.”
- 

Dispensary Enforcement Actions



- Since 2004 the DEA has initiated over 87 investigations involving dispensaries.
- 130 enforcement actions taken as part of these investigations.
- 365 people were arrested on both federal and state charges. None were charged with simple possession. The fact that a wide variety of state charges were also filed indicates that these subjects were also in violation of state law as well.
- Unknown number of State/Local Investigations.
- Publicizes the disingenuous profiteers in this industry and demonstrates the need for statewide regulation.

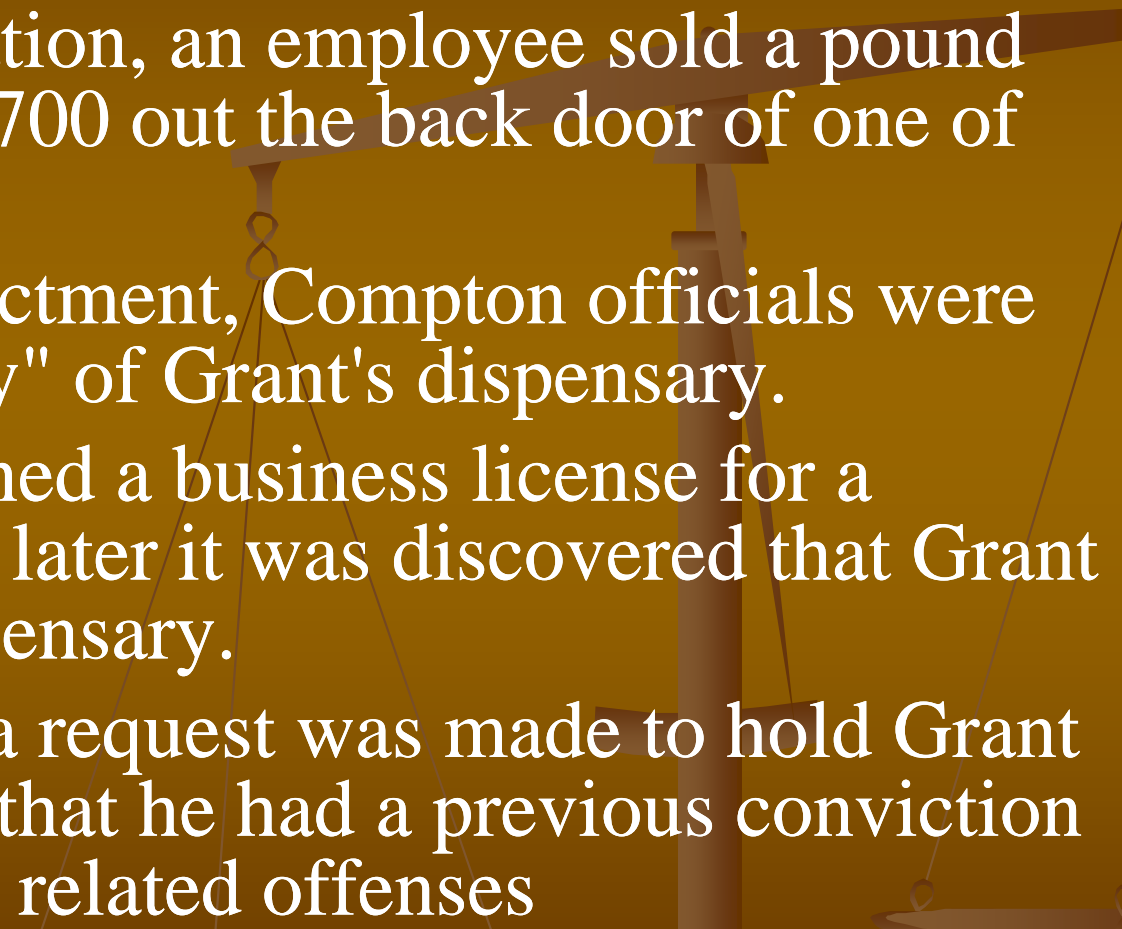
Capitol Compassionate Care

- Sept. 2004 the Roseville Dispensary closed by DEA and IRS. Reported to open back up the next day.
 - \$100,000 in cash, 12 pounds of marijuana and several hundred marijuana plants are seized.
 - Richard Marino indicated on 19 counts of marijuana trafficking and money laundering.
 - The indictment alleges that in eight months the dispensary made approximately \$2.7 mil from the sale of marijuana and \$356,130 was traced to money laundering activities.
 - The U.S. Attorney handling the case stated, “This case is a perfect example of a person using Medical Marijuana as a smokescreen to hide his true agenda, which is to line his pockets with illegal drug money.”
 - July 2008 sentenced to 51 months in Federal Prison.
- 

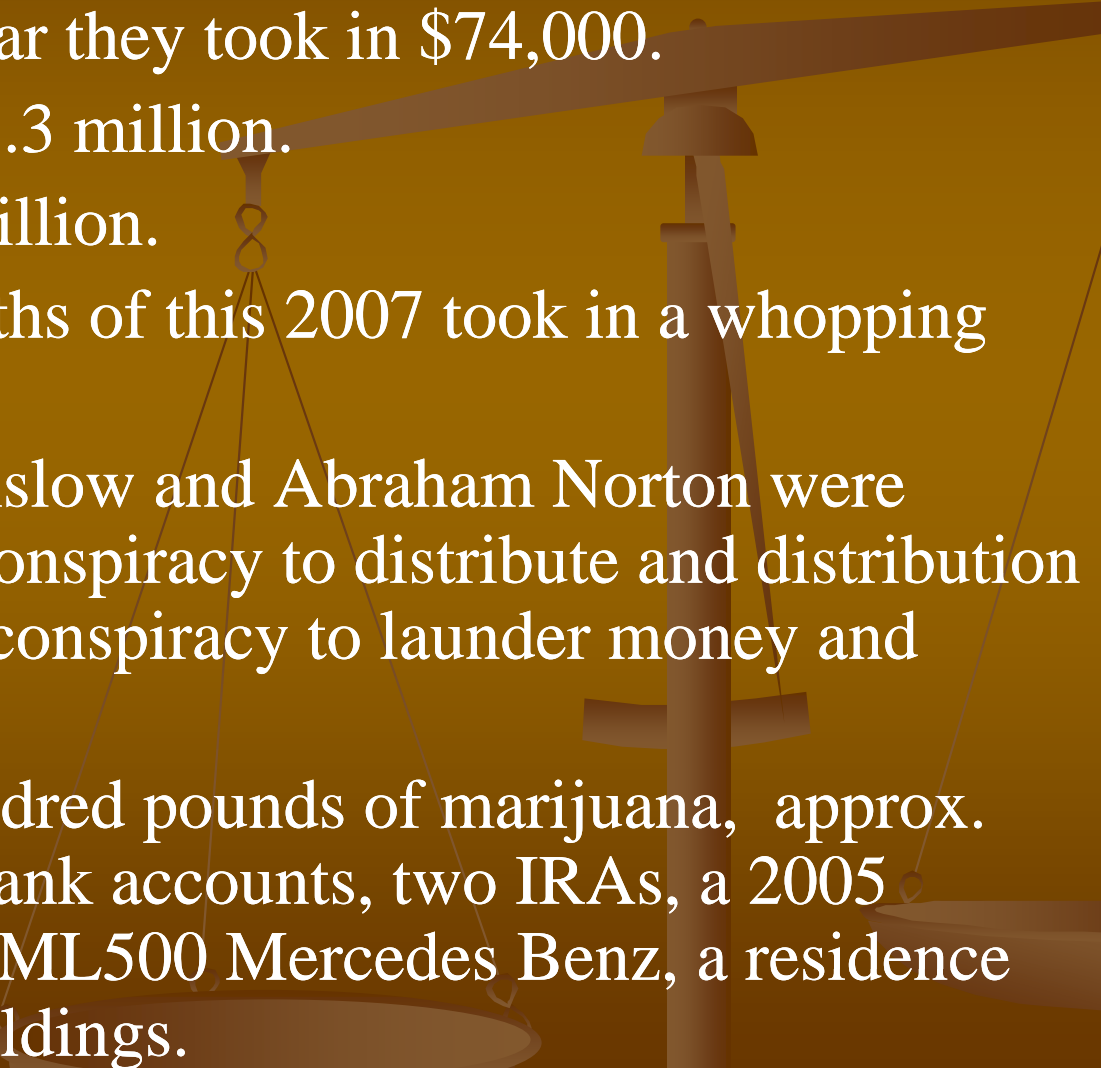
Holistic Caregivers of Compton

- May 2008: Virgil Grant, the owner of six L.A.-area dispensaries is arrested. He and his wife are indicted on 42 charges, including 22 counts of money laundering.
- Investigation sparked by a December 2007 traffic collision in which a motorist was killed, and a CHP officer was paralyzed by a marijuana impaired driver.
- "a large amount of marijuana and marijuana edibles" are found in the suspect vehicle. Forensic expert testified that there was a high concentration of marijuana in driver's blood, "It's one of the highest levels I recall seeing,".

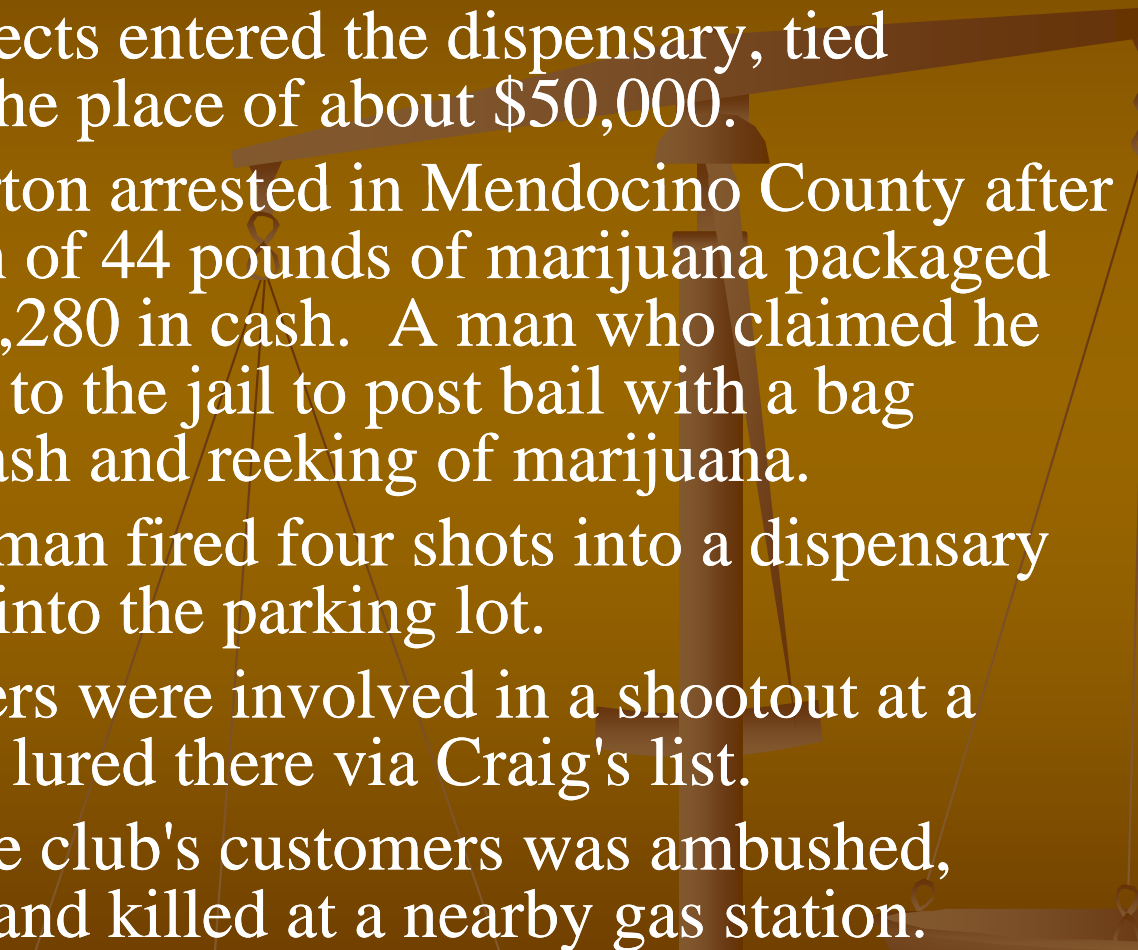
Holistic Caregivers of Compton

- During the investigation, an employee sold a pound of marijuana for \$5,700 out the back door of one of the dispensaries.
 - Even before the indictment, Compton officials were "trying to rid the city" of Grant's dispensary.
 - Grant initially obtained a business license for a "herbal" retail store, later it was discovered that Grant was operating a dispensary.
 - At a bond hearing, a request was made to hold Grant without bail, noting that he had a previous conviction on drug and weapon related offenses
- 

Compassionate Collective of Alameda County

- Opened in 2004, that year they took in \$74,000.
 - In 2005, sales rose to \$1.3 million.
 - In 2006, sales hit \$21 million.
 - And in the first six months of this 2007 took in a whopping \$26.3 million.
 - November 5, 2007; Winslow and Abraham Norton were indicted on charges of conspiracy to distribute and distribution of marijuana as well as conspiracy to launder money and money laundering.
 - Seized were several hundred pounds of marijuana, approx. \$200,000 in cash, two bank accounts, two IRAs, a 2005 Mercedes Benz, a 2006 ML500 Mercedes Benz, a residence and two commercial buildings.
- 

Compassionate Collective of Alameda County

- Feb 2005 a group of suspects entered the dispensary, tied everyone up and robbed the place of about \$50,000.
 - April 2005, Winslow Norton arrested in Mendocino County after being found in possession of 44 pounds of marijuana packaged for individual sale and \$2,280 in cash. A man who claimed he was Norton's father came to the jail to post bail with a bag containing \$150,000 in cash and reeking of marijuana.
 - June 2005, a masked gunman fired four shots into a dispensary worker's car as he pulled into the parking lot.
 - February 2007, the brothers were involved in a shootout at a Fremont hotel after being lured there via Craig's list.
 - In July of 2007, one of the club's customers was ambushed, robbed for his marijuana and killed at a nearby gas station.
- 

Compassionate Caregivers

- Larry Kristich owned and operated the business from 02-05
- Dispensaries in Oakland, San Francisco, San Leandro, West Hollywood, San Diego, Bakersfield and Ukiah
- Company employed more than 200 people as growers, clone cultivators, drivers, directors, store managers, retail sellers (referred to as “budtenders”) and security guards
- Pled guilty to federal narcotics and money laundering charges, admitting that he was responsible for the distribution of more than 15,000 pounds of marijuana
- Admitted that sales of marijuana at Compassionate Caregivers’ stores totaled over \$95 million. Kristich also admitted that he laundered more than \$50 million of that money

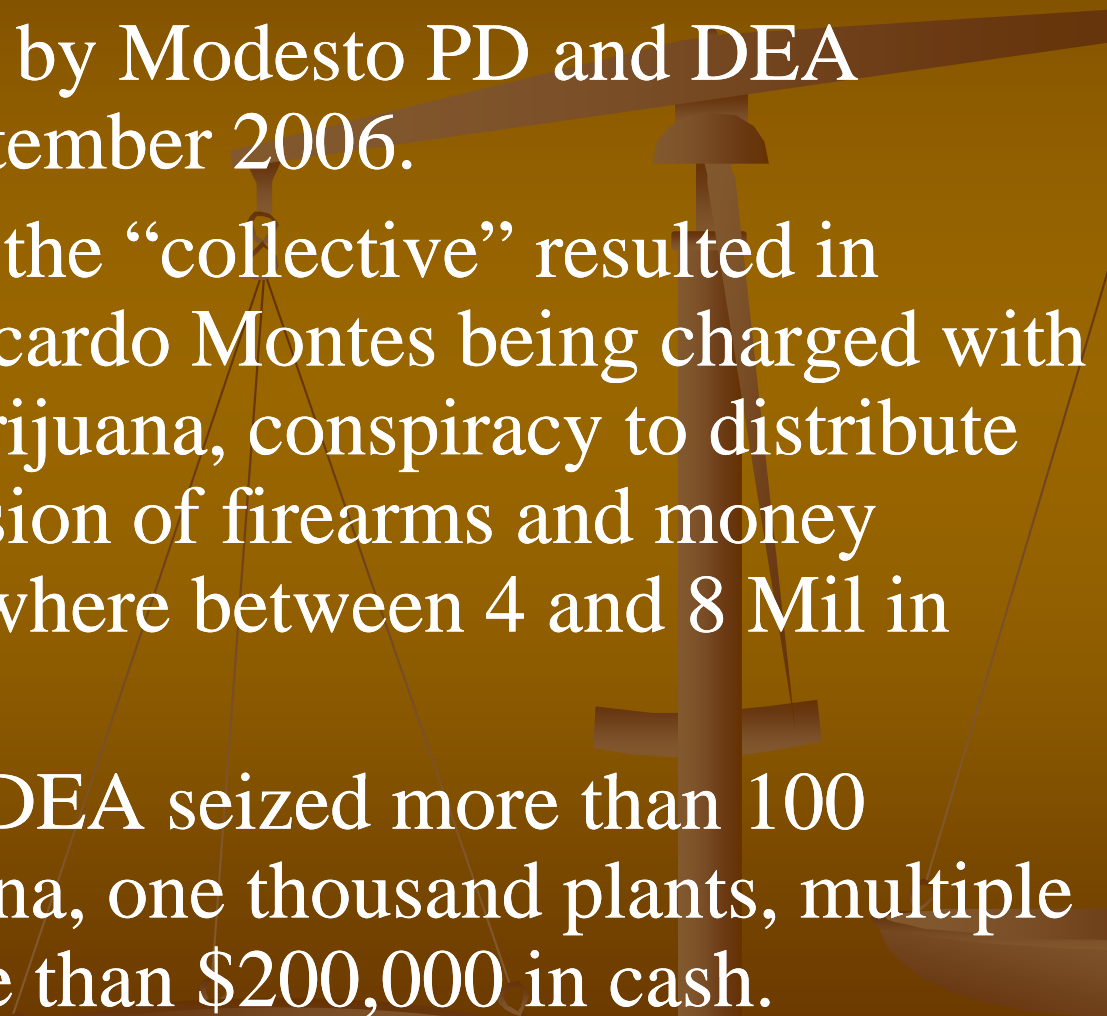
Beyond Bomb

- March 2006: Search warrants resulted in the seizure of thousands of marijuana plants, hundreds of marijuana-laced candies and soft drinks, three guns, approximately \$189,000 in cash and 12 arrests.
- Beyond Bomb Products were seized at the Compassionate Caregivers dispensary in Los Angeles and at other dispensaries throughout the state.
- Described as the largest West Coast operation of its type.
- Affolter was sentenced to more than five years and then sued for \$100,000 by Hershey, for trademark infringement, trademark dilution and unfair competition.
- L.A. NORML called the arrests aggressive and "uncalled for." "Despite the large number of plants seized, the suspects could have a defense if they operated as a caregivers' cooperative."

Beyond Bomb



California Healthcare Collective

- Luke Scarmazzo
 - Joint investigation by Modesto PD and DEA culminated in September 2006.
 - Search Warrant at the “collective” resulted in Scarmazzo and Ricardo Montes being charged with distribution of marijuana, conspiracy to distribute marijuana, possession of firearms and money laundering. Somewhere between 4 and 8 Mil in sales.
 - Reported that the DEA seized more than 100 pounds of marijuana, one thousand plants, multiple firearms, and more than \$200,000 in cash.
- 

Nature's Medicinal Cooperative

- First action against Nature's Medicinal Cooperative in May 2007.
- Operator was warned that federal agents would return if he reopened. At that time 155 pounds of processed marijuana, edibles and \$55,000 in cash were seized.
- Records indicate in a four month span the dispensary purchased 1,500 pounds of marijuana.
- In July 2007 the dispensary was again closed by federal agents. More than 87 pounds of marijuana seized and five arrests.
- Purported that the business brought in \$9.6 million in nine months. According to DEA: “The nature of this enterprise was to make money—plain and simple.”
- David Chavez Jr. and Sr. charged with conducting a "continuing criminal enterprise". They and six others were charged with conspiring to distribute marijuana and other charges including possessing firearms in furtherance of the trafficking crimes.

Hayward Local Patients Cooperative

- October 2007: Owner Shon Squier and Manager Valerie Herschel charged with conspiracy to distribute and distribution of marijuana. The business was on pace *“to net more than \$50 million in sales this year”*.
- Squier allegedly used the profit from marijuana sales to buy a Hayward home for \$532,107 and Herschel allegedly used \$85,853 for a down payment on a home.
- Squier said that he served about 75 customers a day, had 70,000 individual patients in his books and 60 employees.
- DEA froze bank accounts containing \$1.5 million, confiscated two Mercedes, a Hummer, a Cadillac Escalade, Harley Davidson and Ducati motorcycles, indoor marijuana growing equipment and \$200,000 in cash.

Tainted Inc. / Compassion Medicinal Edibles



- Oakland-based business that produced candy, cookies, ice cream, brownies and energy drinks containing marijuana.
- Michael Martin's company supplied marijuana-laced foods to dispensaries in the Bay Area, Los Angeles, Seattle, Vancouver and Amsterdam.
- Search warrants resulted in the seizure of 400 plants and edibles.
- Martin plead guilty and was sentenced to two years of non-prison confinement. The maximum statutory penalty for the violation is 20 years imprisonment, \$1,000,000 fine.
- Defense attorneys arguing for non-prison confinement said Martin had a good-faith belief in the medicinal effectiveness of marijuana and that he accepted responsibility for his acts.
- Martin was supported in the case by Americans for Safe Access, who stated, "Enforcement actions against people like Michael Martin, who are trying to produce edible, non-smoked medicine, is a travesty."

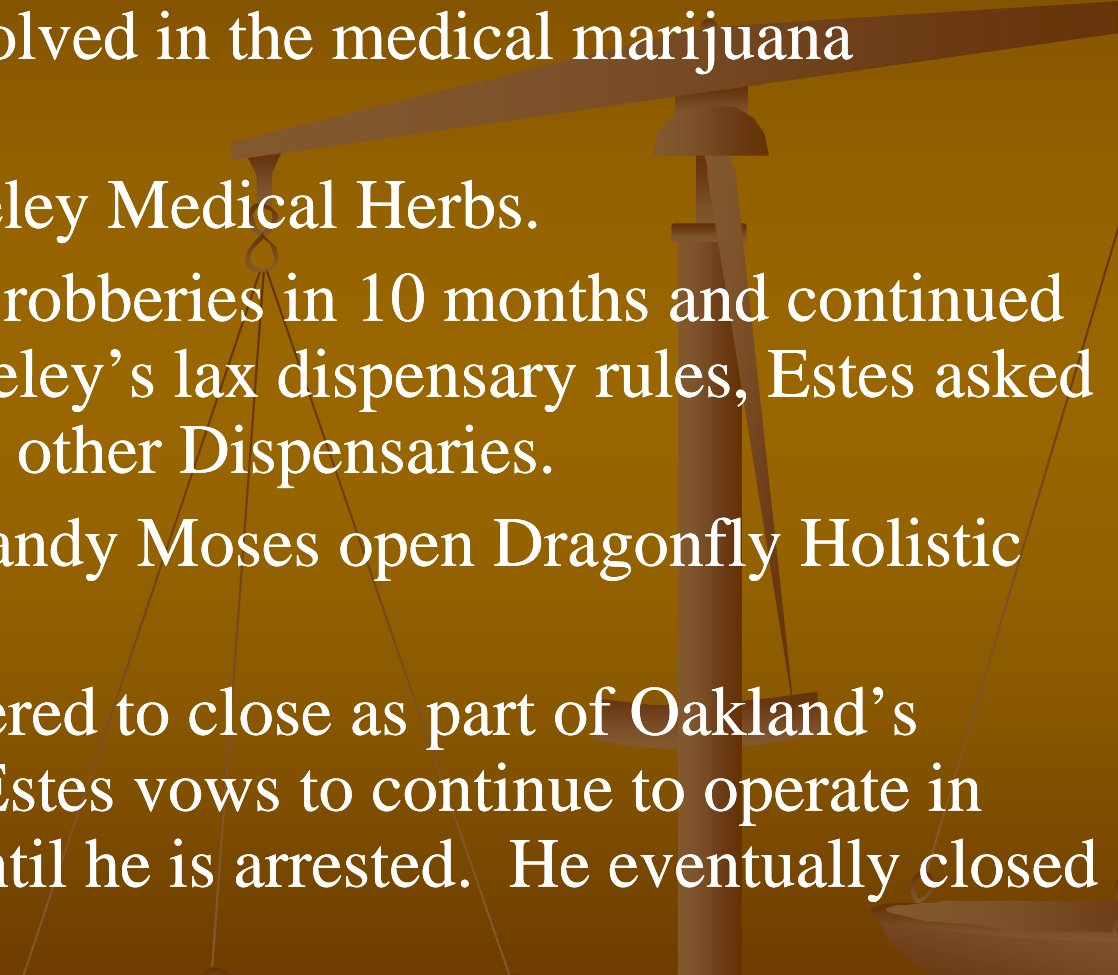
Tainted Inc. / Compassion Medicinal Edibles



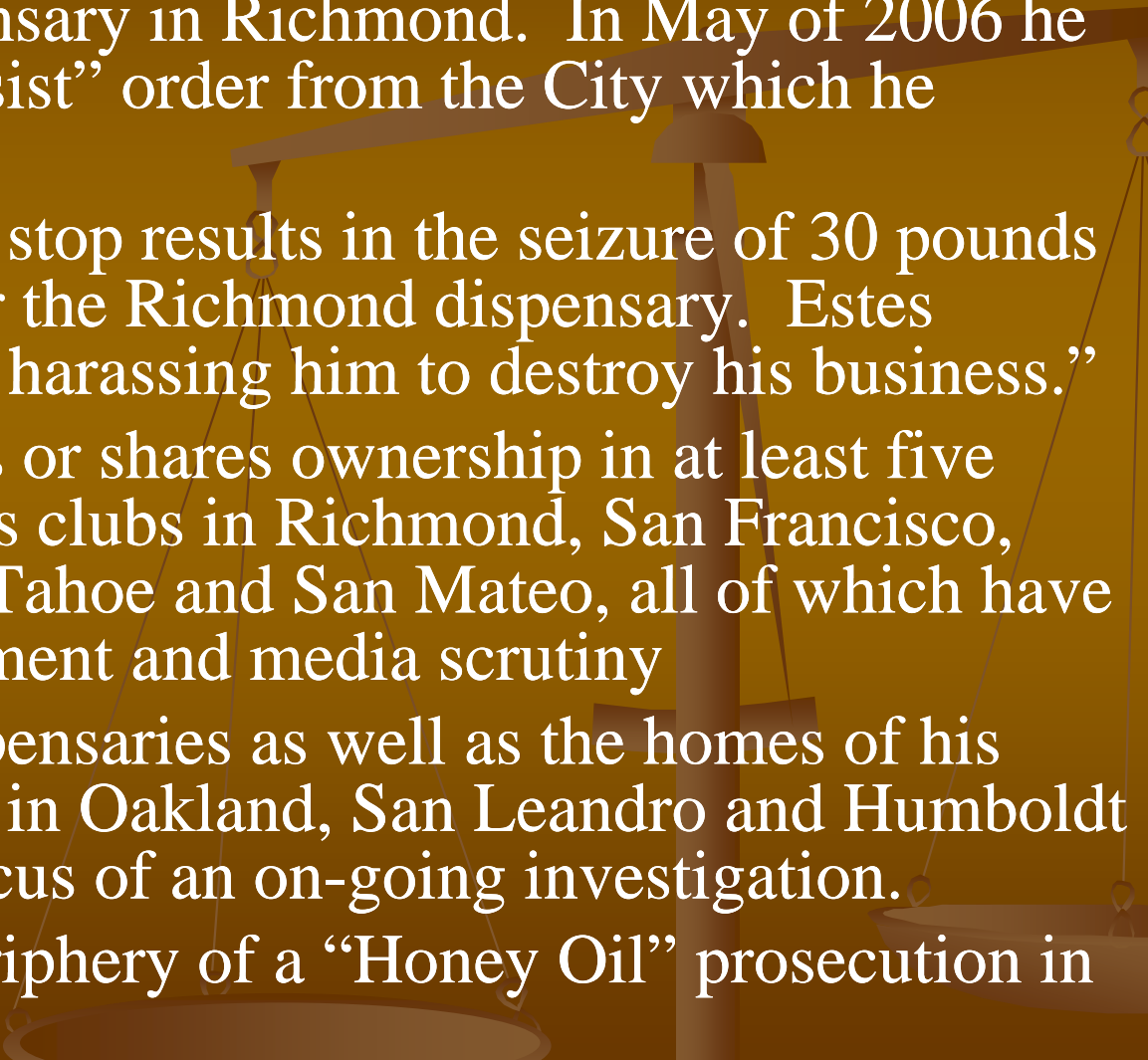
Pacific Greens Inc Santa Barbara

- October 2007: Investigation started with the stop and arrest of Marcel Garcia for possession of several pounds of Marijuana.
- Follow-up led to the arrest of Alexio Garcia for felon in possession of a firearm.
- The Investigation eventually led to David Najera who was operating dispensary.
- March 2008: Investigation resulted in the seizure of 125 pounds of MJ, 2 pounds of hash, \$171,000 in cash and 16 firearms. 6 arrests w/ 2 outstanding. Detectives said they also found a “sophisticated indoor grow” operation as part of the investigation.
- Evidence showed that the facility was operating outside the guidelines of Proposition 215, and case turned over to DEA

Berkeley Medical Herbs / Dragonfly Holistic Solutions / Holistic Solutions

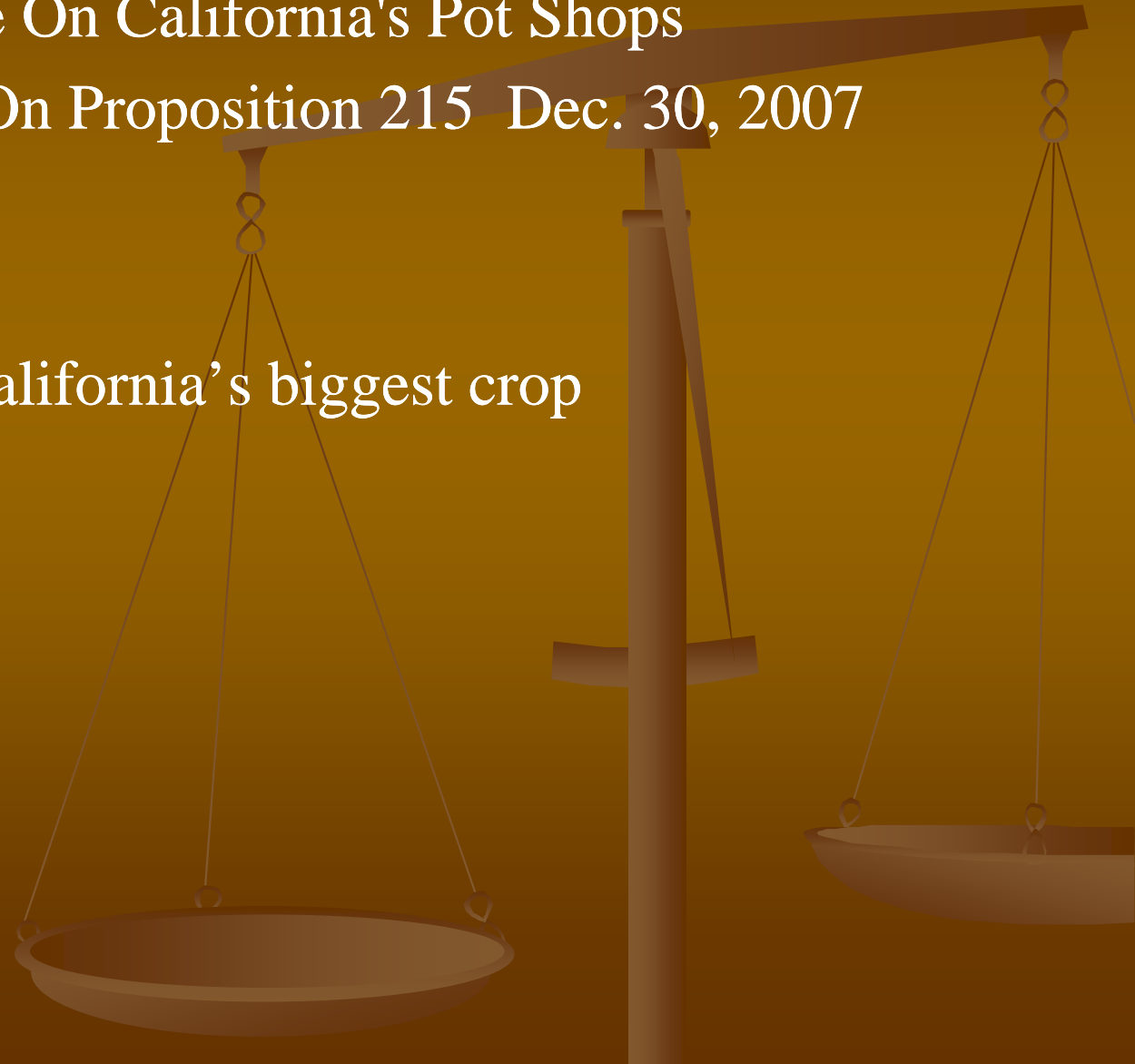
- Ken Estes has been involved in the medical marijuana movement since 1992
 - 1998 Estes opens Berkeley Medical Herbs.
 - 2001, after three armed robberies in 10 months and continued violations of even Berkeley's lax dispensary rules, Estes asked to leave by the City and other Dispensaries.
 - Estes and his brother Randy Moses open Dragonfly Holistic Solutions in Oakland.
 - June 2004, Estes is ordered to close as part of Oakland's dispensary reduction. Estes vows to continue to operate in defiance of city rules until he is arrested. He eventually closed the dispensary.
- 

Berkeley Medical Herbs / Dragonfly Holistic Solutions / Holistic Solutions

- Estes then opens a dispensary in Richmond. In May of 2006 he receives a “cease and desist” order from the City which he ignores.
 - August of 2006, a traffic stop results in the seizure of 30 pounds of marijuana destined for the Richmond dispensary. Estes responds that “the city is harassing him to destroy his business.”
 - It is reported, Estes owns or shares ownership in at least five similarly-named cannabis clubs in Richmond, San Francisco, Clear Lake, South Lake Tahoe and San Mateo, all of which have come under law enforcement and media scrutiny
 - Since January, Estes dispensaries as well as the homes of his managers and grow sites in Oakland, San Leandro and Humboldt County have been the focus of an on-going investigation.
 - Estes was also on the periphery of a “Honey Oil” prosecution in Contra Costa County.
- 

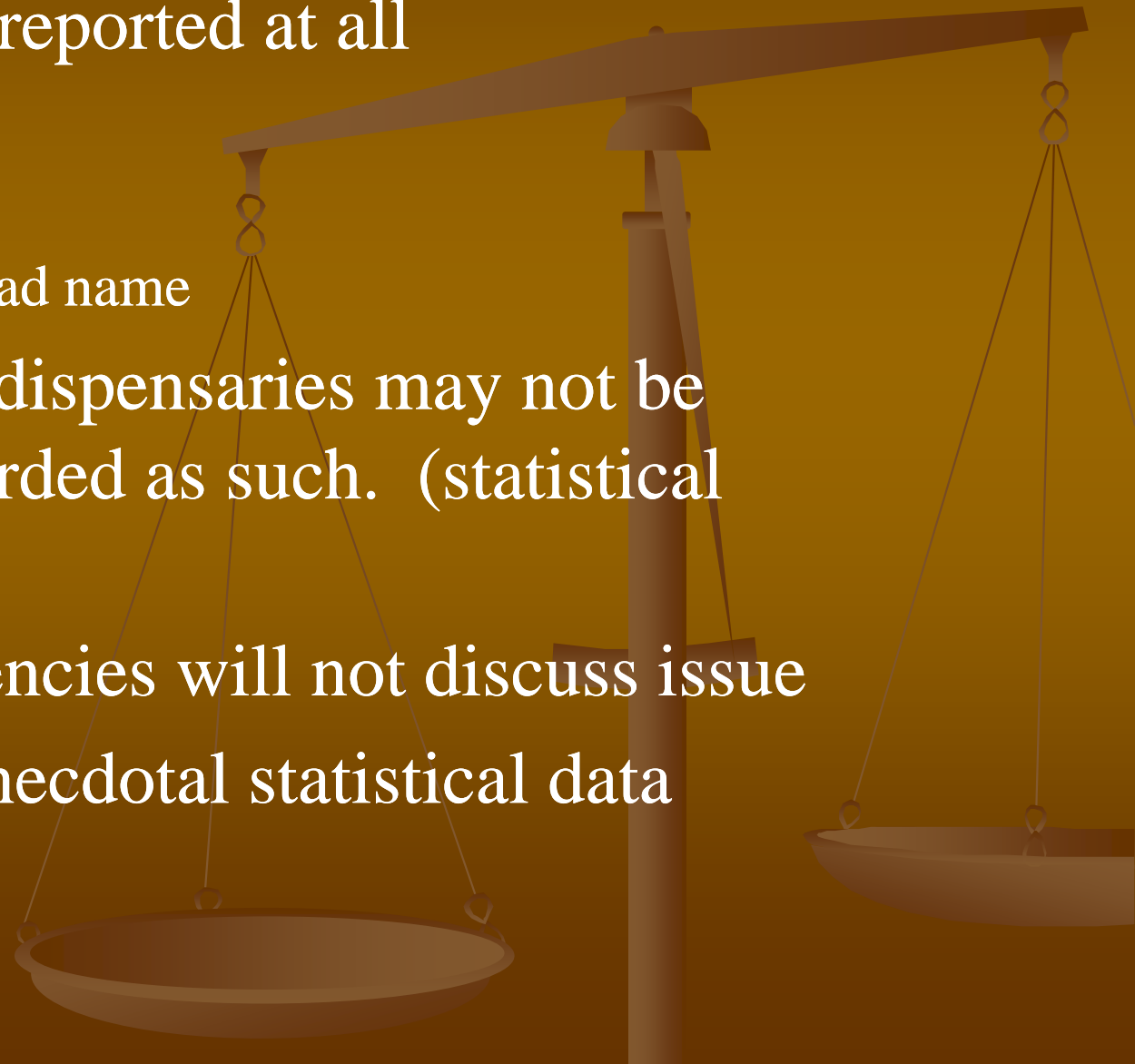
Media Investigations

- 60 Minutes The Debate On California's Pot Shops
Morley Safer Reports On Proposition 215 Dec. 30, 2007
- CNBC Marijuana is California's biggest crop



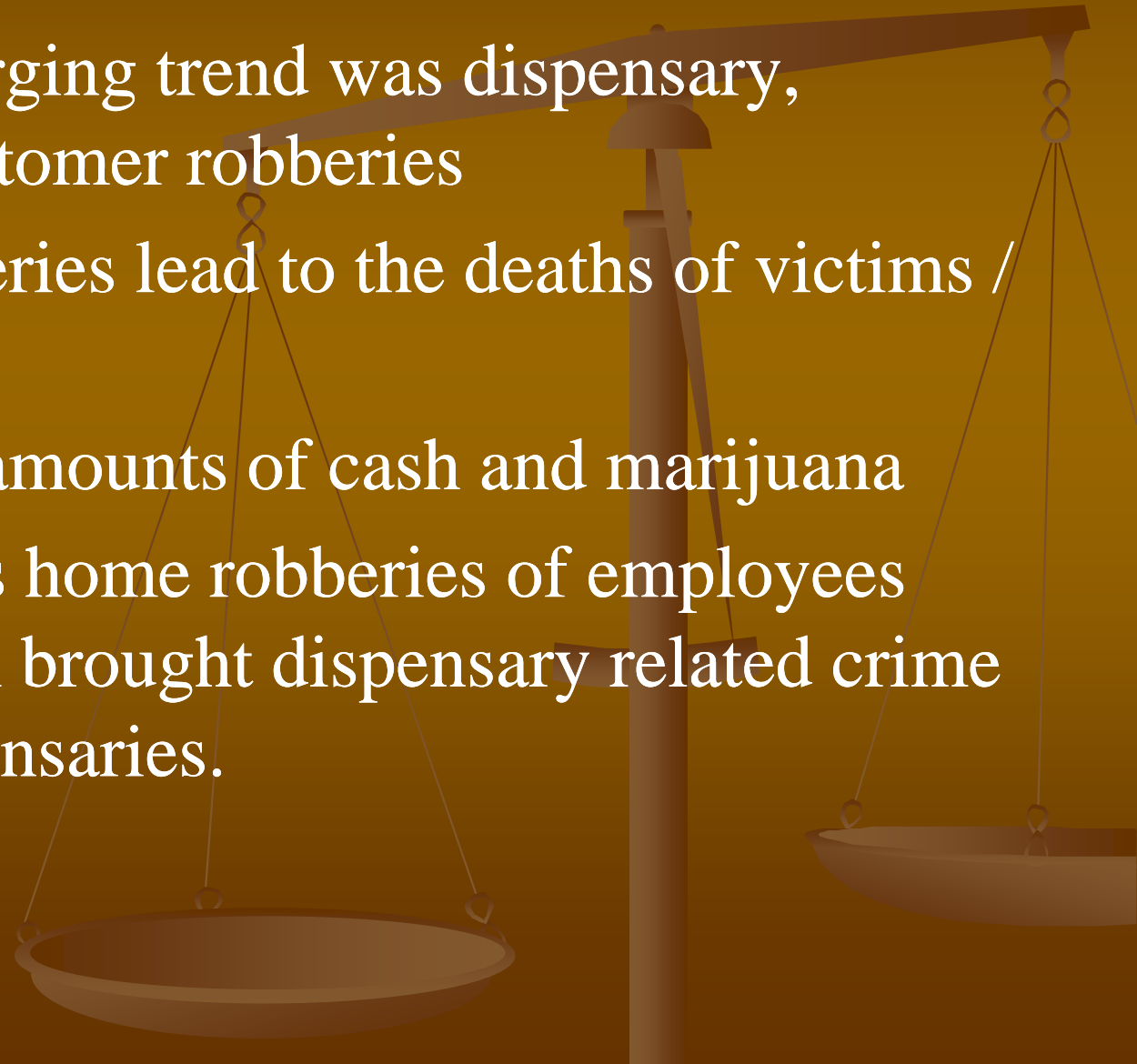
Dispensary Related Crimes

- Under reported if reported at all
 1. Fear of Prosecution
 2. “Covert Industry”
 3. Giving industry a bad name
- Crimes related to dispensaries may not be associated or recorded as such. (statistical gathering)
- Some Cities / Agencies will not discuss issue
- “Need” for non-anecdotal statistical data

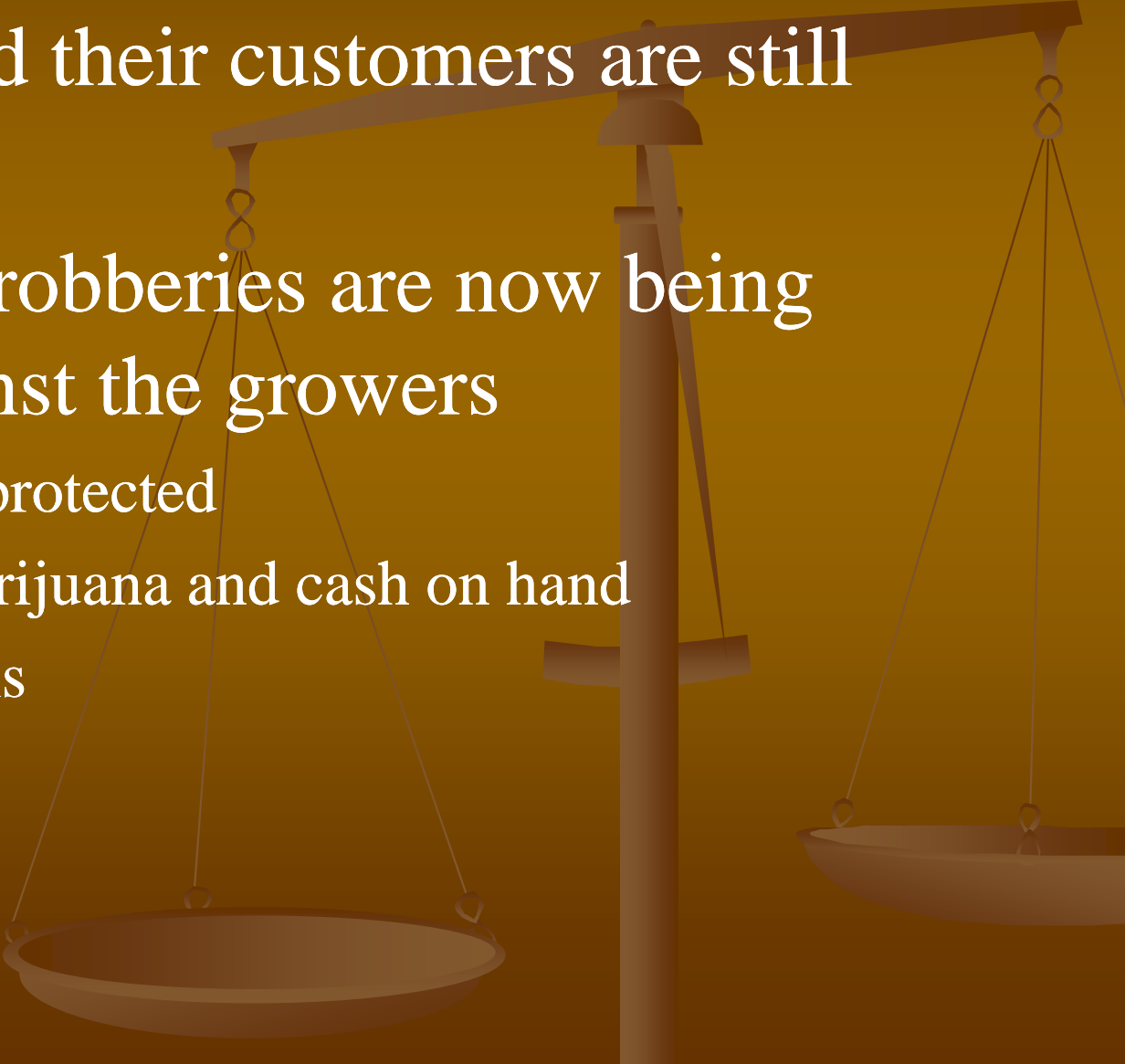


Dispensary Related Crimes

- Pre 2006 the emerging trend was dispensary, employee and customer robberies
- Some of the robberies lead to the deaths of victims / suspects
- Target was large amounts of cash and marijuana
- Another issue was home robberies of employees and owners which brought dispensary related crime to cities w/o dispensaries.



Dispensary Related Crime

- Dispensaries and their customers are still targets but,
 - Home invasion robberies are now being committed against the growers
 1. Potentially less well protected
 2. Large amounts of marijuana and cash on hand
 3. More remote locations
- 

Home Invasion Robberies

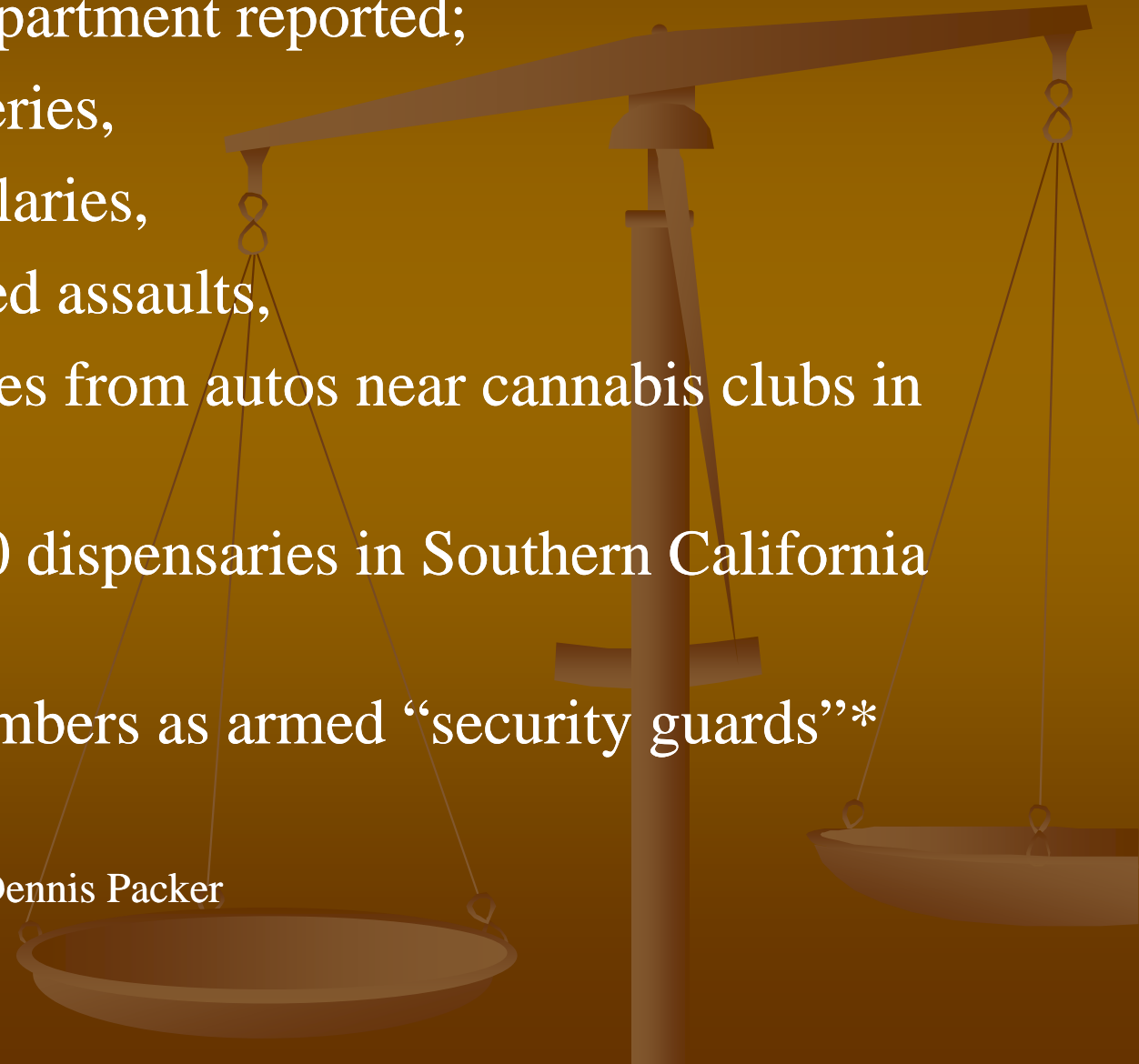
About 30 neighbors signed a certified letter given to MacFarlane earlier this month in which they demand that he address the nuisances allegedly created by growing marijuana, including the discharge of firearms, verbal threats, smell of marijuana and the noise of motion sensitive alarms.



Los Angeles Experience

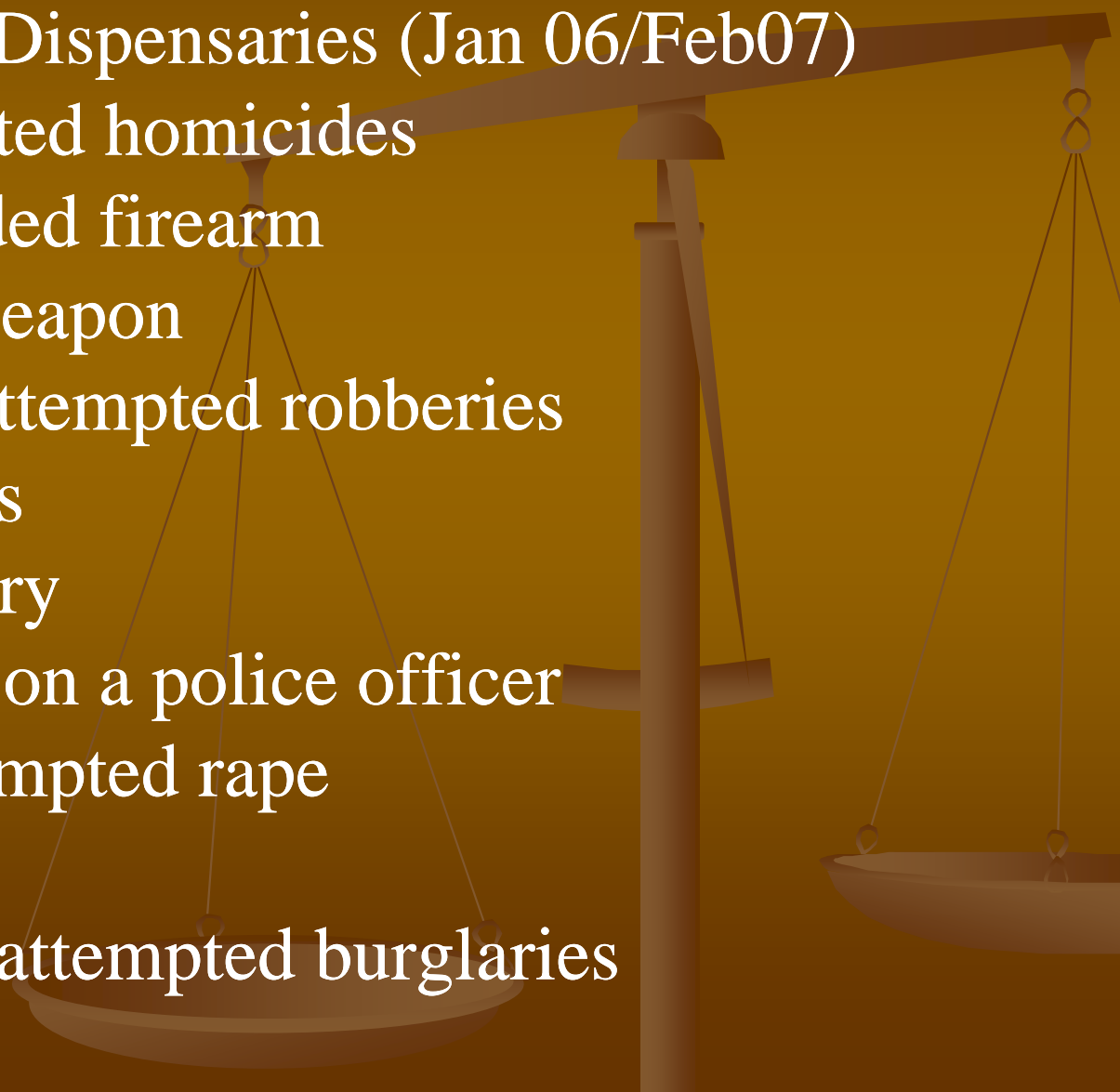
- Los Angeles Police Department reported;
- 200% increase in robberies,
- 52.2% increase in burglaries,
- 57.1% rise in aggravated assaults,
- 130.8% rise in burglaries from autos near cannabis clubs in Los Angeles.
- Estimated there are 400 dispensaries in Southern California alone
- Use of armed gang members as armed “security guards”*

* Information from LAPD Det. Dennis Packer



San Francisco Experience

Crimes that occurred at, or in close proximity to,
San Francisco's Dispensaries (Jan 06/Feb07)

- 3 homicides 2 attempted homicides
 - 6 possession of a loaded firearm
 - 1 exhibiting deadly weapon
 - 57 robberies and 27 attempted robberies
 - 98 aggravated assaults
 - 144 incidents of battery
 - 7 incidents of battery on a police officer
 - 1 forcible rape, 1 attempted rape
 - 3 sexual batteries
 - 198 Burglaries and 2 attempted burglaries
- 

Where does the money go?

- If marijuana costs \$400 a pound to grow
- If the wholesale price is \$2,500-\$3,000
- If the retail price is \$5,000-\$6,400 per pound
- Where does the extra \$2500-\$3,400 per pound go?



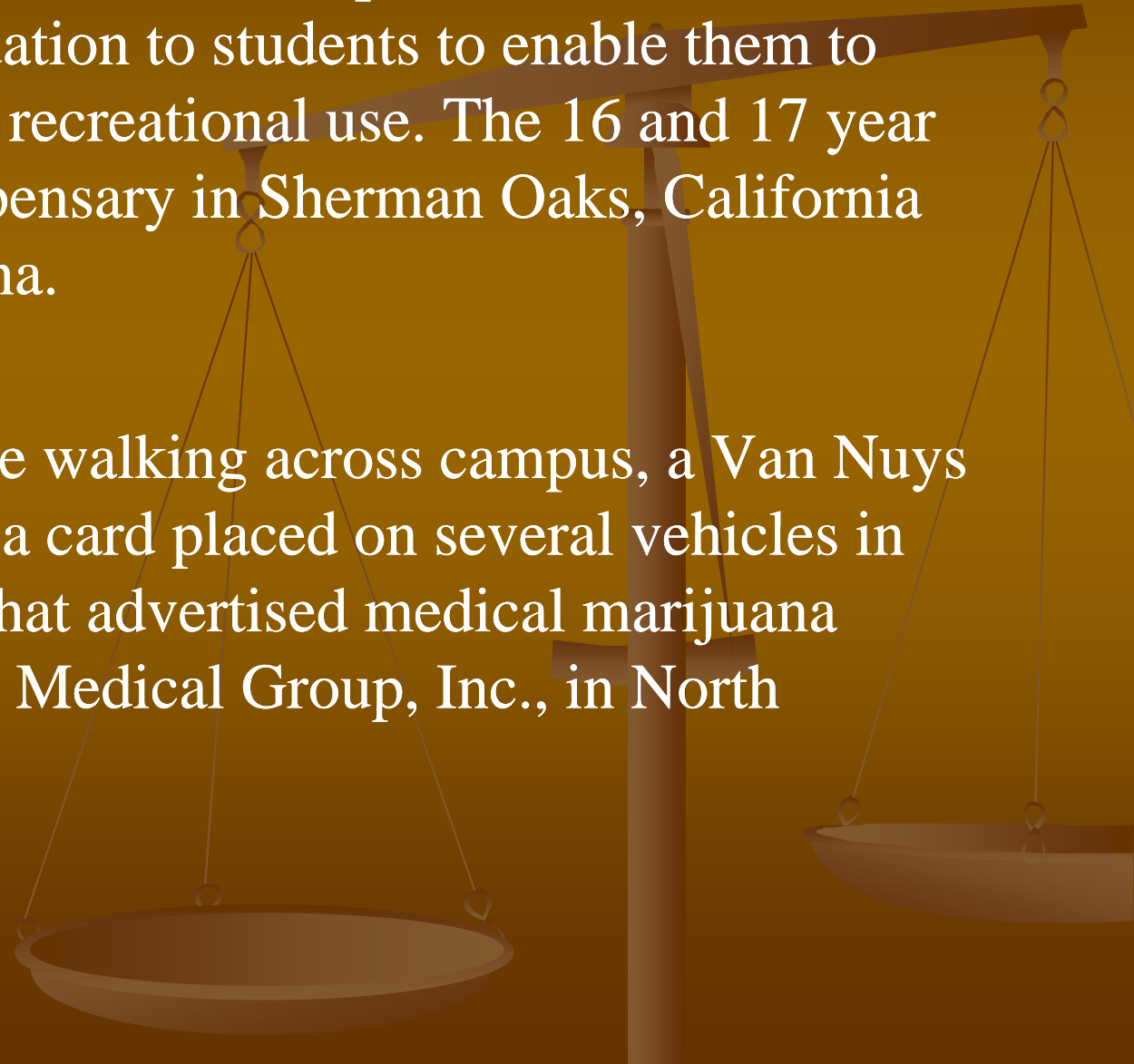
Where does the Marijuana come from?

- Dispensaries sell a significant amount of Marijuana
- Enforcement actions reveal 10-100 pounds on hand at a given time
- 1/8th ounce most common sale point, 1 Pound is 128 1/8^{ths}
- No Accounting of where it comes from;
 1. Indoor and Outdoor grows.
 2. Org. crime involved in grows
 3. Drug Traffic Organizations (LA report indicates dispensaries buying marijuana smuggled into US from Mexico)*
 4. OMGs (Hells Angels and Mongols)

* *Information from LAPD Det. Dennis Packer*

Teenage Use/Abuse

- In August 2006, a high school coach provided his "medical marijuana" recommendation to students to enable them to purchase marijuana for recreational use. The 16 and 17 year olds then went to a dispensary in Sherman Oaks, California and purchased marijuana.
- In a separate case, while walking across campus, a Van Nuys patrol officer observed a card placed on several vehicles in the school parking lot that advertised medical marijuana recommendations at JT Medical Group, Inc., in North Hollywood



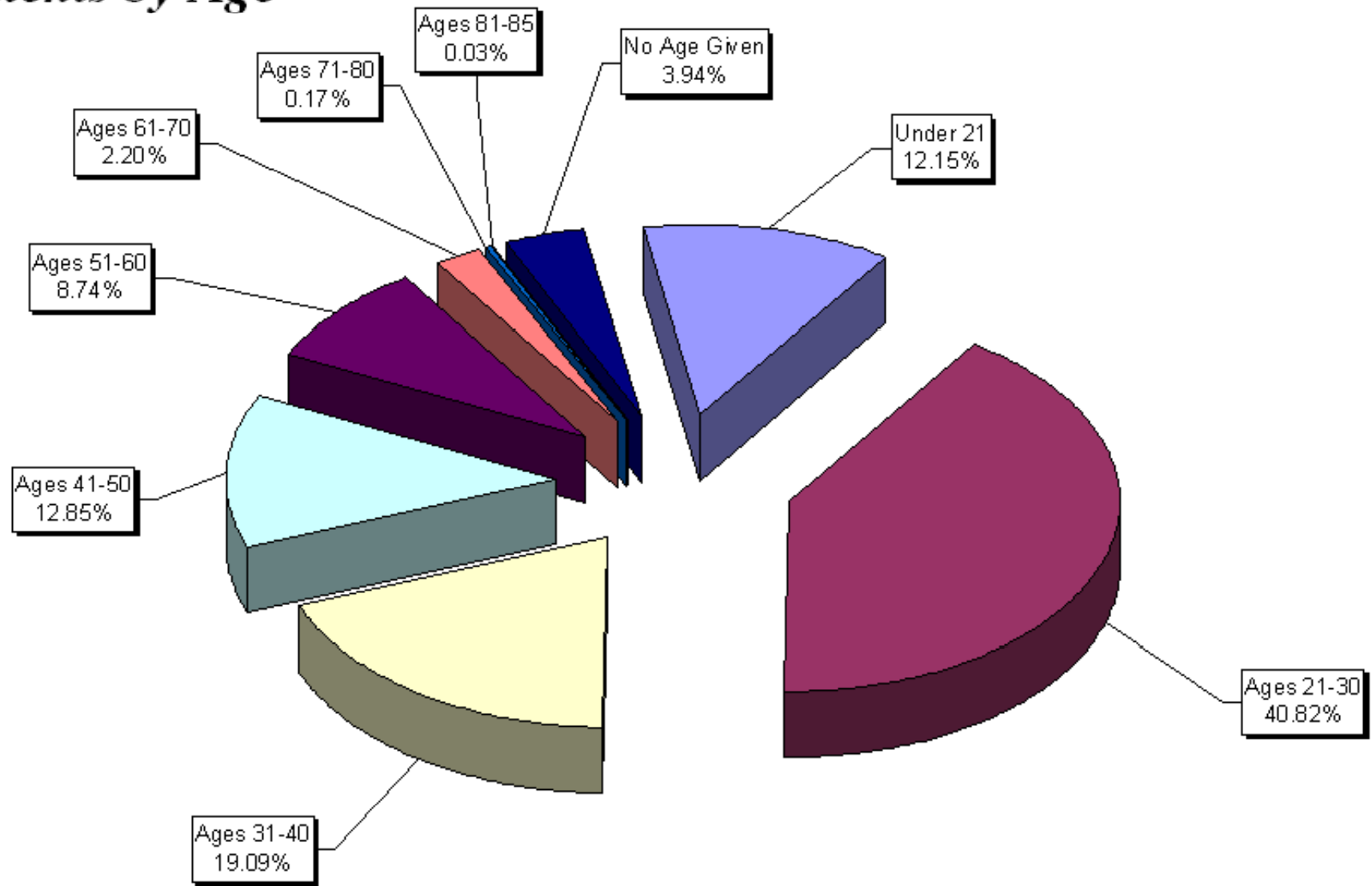
San Diego Investigation

- July 2006: S.D.P.D., S.D.S.O., D.E.A served 13 state search warrants on dispensaries located in the city and county.
- The effort began in Sept. 2005 after numerous complaints from residents in the neighborhoods where the dispensaries were operating. The investigation covered two areas of concern:
 - First: The proliferation of physician recommendations for the use of marijuana. Marijuana recommendations appeared to be openly sold to anyone who had the cash for it. Numerous apparently healthy individuals in their late teens or early 20's in possession of these recommendations were encountered.
 - Second: The investigation of the more than 20 store fronts that would sell marijuana to anyone with a recommendation or a caregiver form signed by the same doctors.

Information Provided by San Diego DDA Damon Mosler

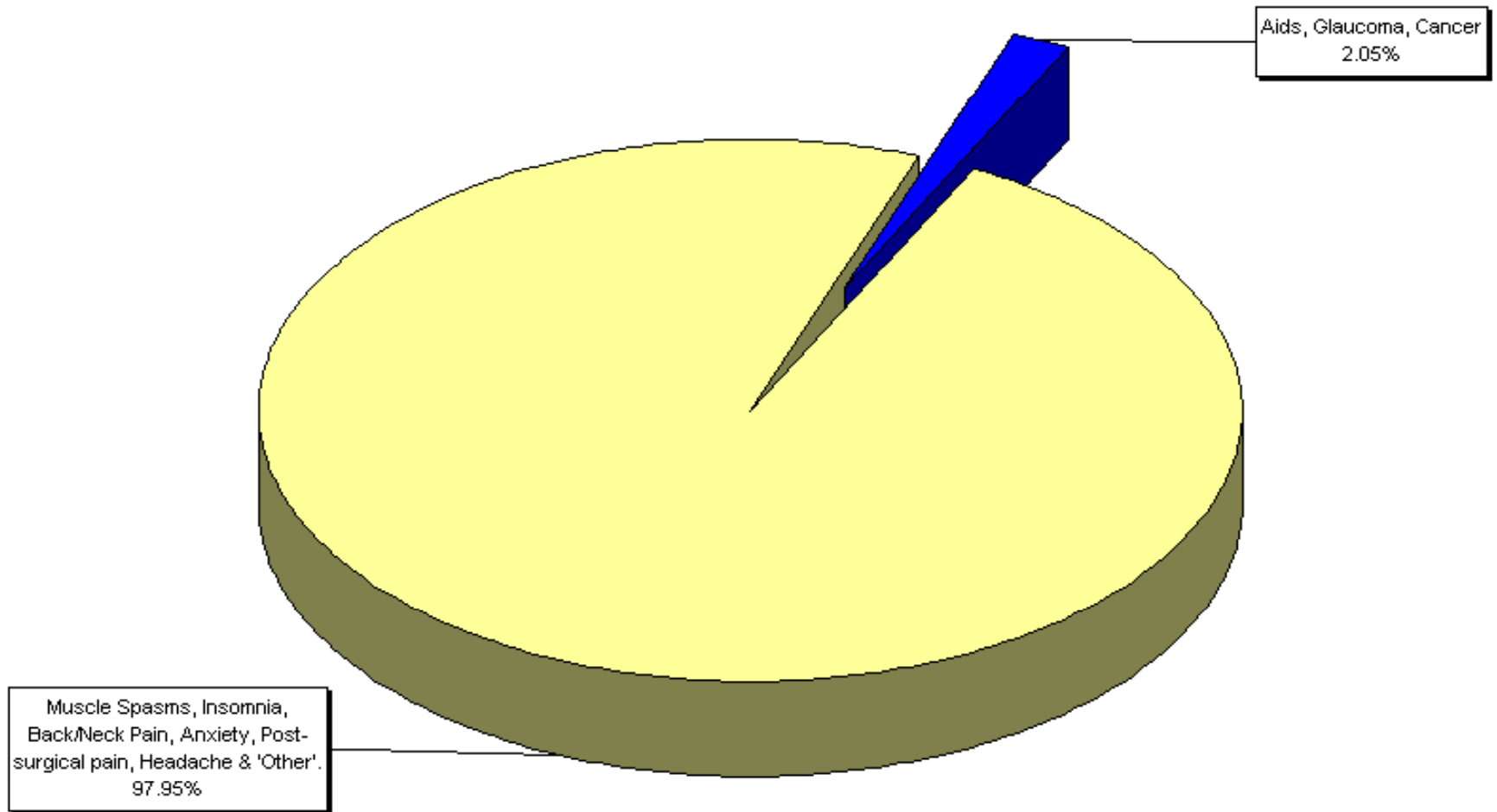
Demographics Data

Patients by Age



Quit Picking on Aids and Cancer Patients!!!!

Distribution by Use



How Much Marijuana is Enough

FOR VERIFICATION CALL: 866.632.6627

MEDICANN
medical marijuana specialists
866.632.6627

PHYSICIAN'S STATEMENT

THIS CALIFORNIA IDENTIFICATION CARD

This letter is to verify that I am the attending physician for _____ regarding the therapeutic value of medical marijuana for him/her.

Patient Name

Additionally, this letter verifies that he/she has been diagnosed with a serious medical condition and that the medical use of marijuana is appropriate for that serious medical condition.

This letter is made a part of the patient's permanent record.

Signed *Joanne Benzob, M.D.* License No.: _____
Joanne Benzob, M.D.
MediCann, Inc.

Date of Statement: Nov 28, 2005

Clinic Location: San Diego

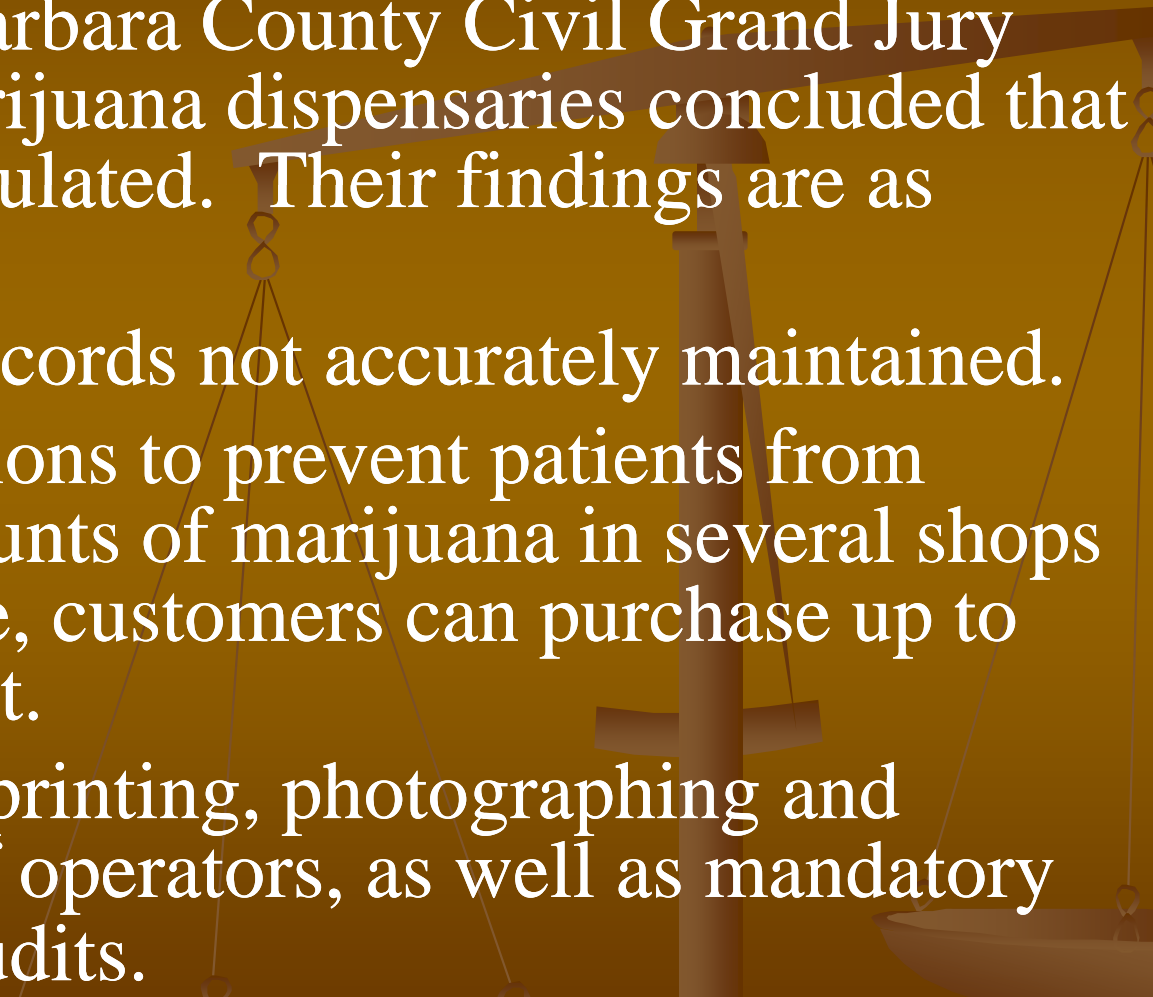
Time Period Covered
 3 Months 6 Months
 12 Months Other _____

This patient uses marijuana topically which greatly increases his need. It is recommended that this patient be allowed to have up to seventy five marijuana plants growing and up to five pounds of dry marijuana.

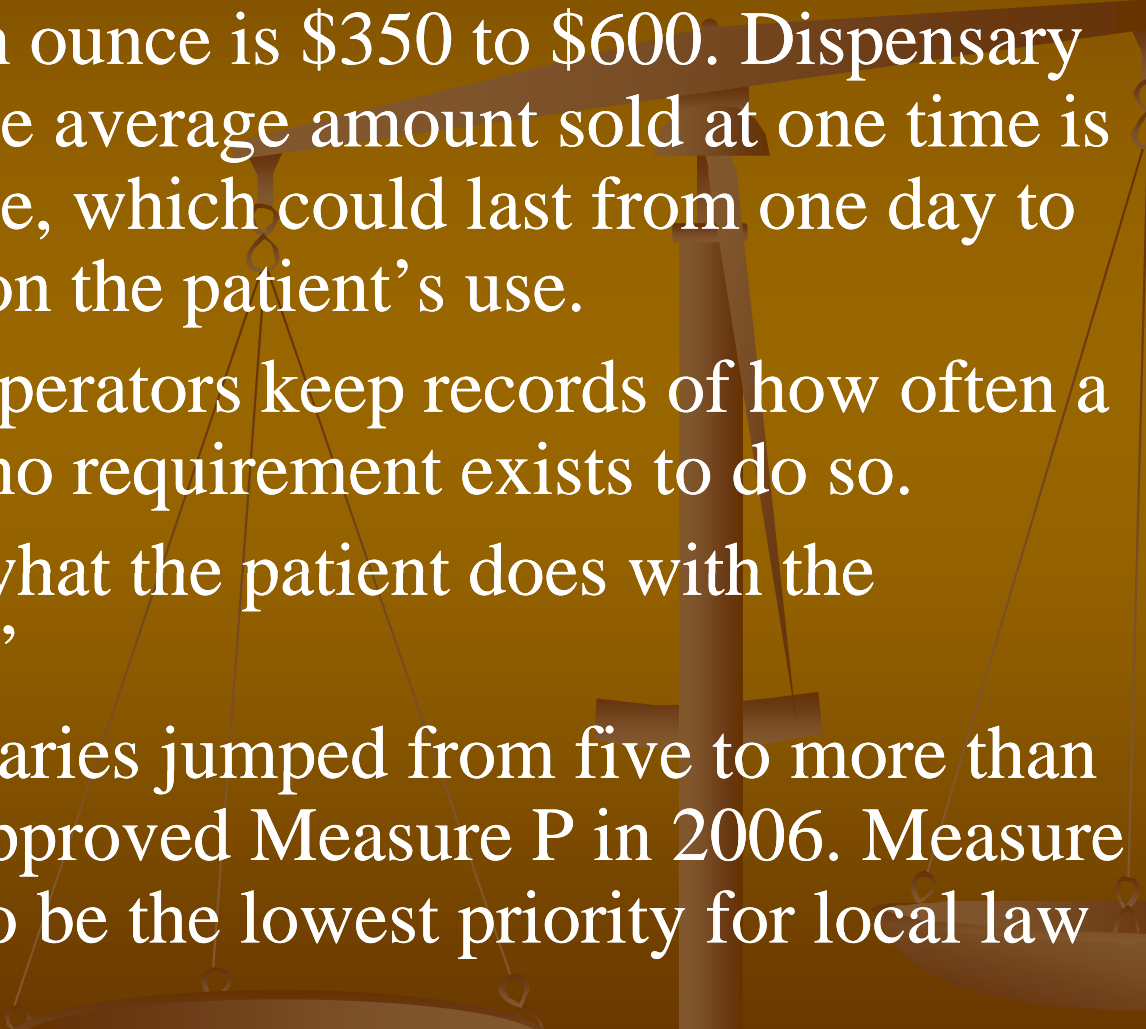
Private & Confidential
FOR VERIFICATION CALL: 866.632.6627
Version 1.2

Joanne M Benzob M.D.

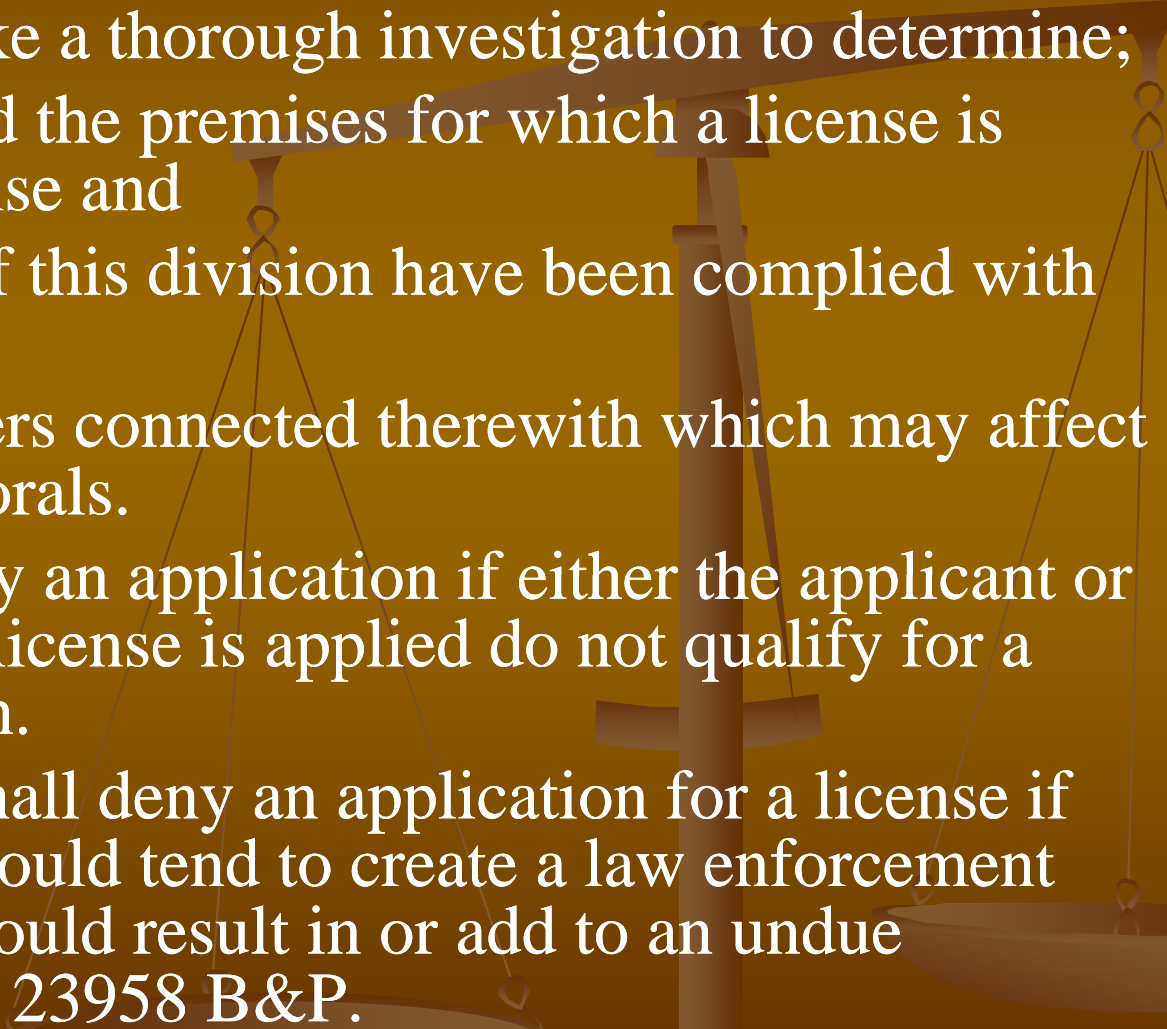
Report Blasts City, Marijuana Dispensaries

- March 08: A Santa Barbara County Civil Grand Jury report on medical marijuana dispensaries concluded that they are largely unregulated. Their findings are as follows:
 - Inventory and sales records not accurately maintained.
 - There are few restrictions to prevent patients from purchasing large amounts of marijuana in several shops as often as they please, customers can purchase up to eight ounces each visit.
 - Should require fingerprinting, photographing and background checks of operators, as well as mandatory inventory and sales audits.
- 

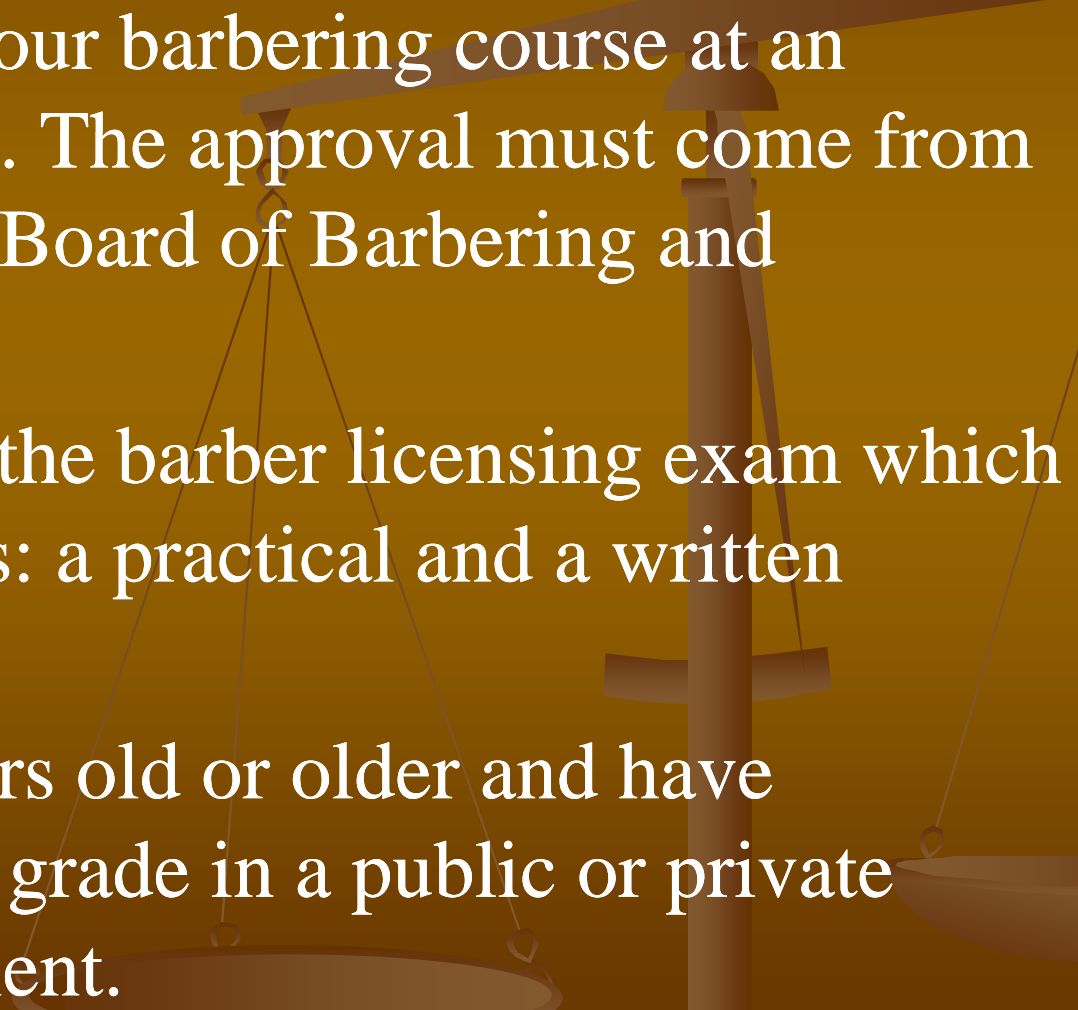
Report Blasts City, Marijuana Dispensaries

- The average cost for an ounce is \$350 to \$600. Dispensary owners reported that the average amount sold at one time is one-eighth of one ounce, which could last from one day to one month depending on the patient's use.
 - Concluded that some operators keep records of how often a patient purchases, but no requirement exists to do so.
 - “They cannot control what the patient does with the cannabis after leaving.”
 - The number of dispensaries jumped from five to more than 20 when local voters approved Measure P in 2006. Measure P declared marijuana to be the lowest priority for local law enforcement.
- 

Obtaining a Liquor License

- 
- The department shall make a thorough investigation to determine;
 - Whether the applicant and the premises for which a license is applied qualify for a license and
 - Whether the provisions of this division have been complied with and
 - Shall investigate all matters connected therewith which may affect the public welfare and morals.
 - The department shall deny an application if either the applicant or the premises for which a license is applied do not qualify for a license under this division.
 - The department further shall deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, 23958 B&P.

Obtaining a Barber's License

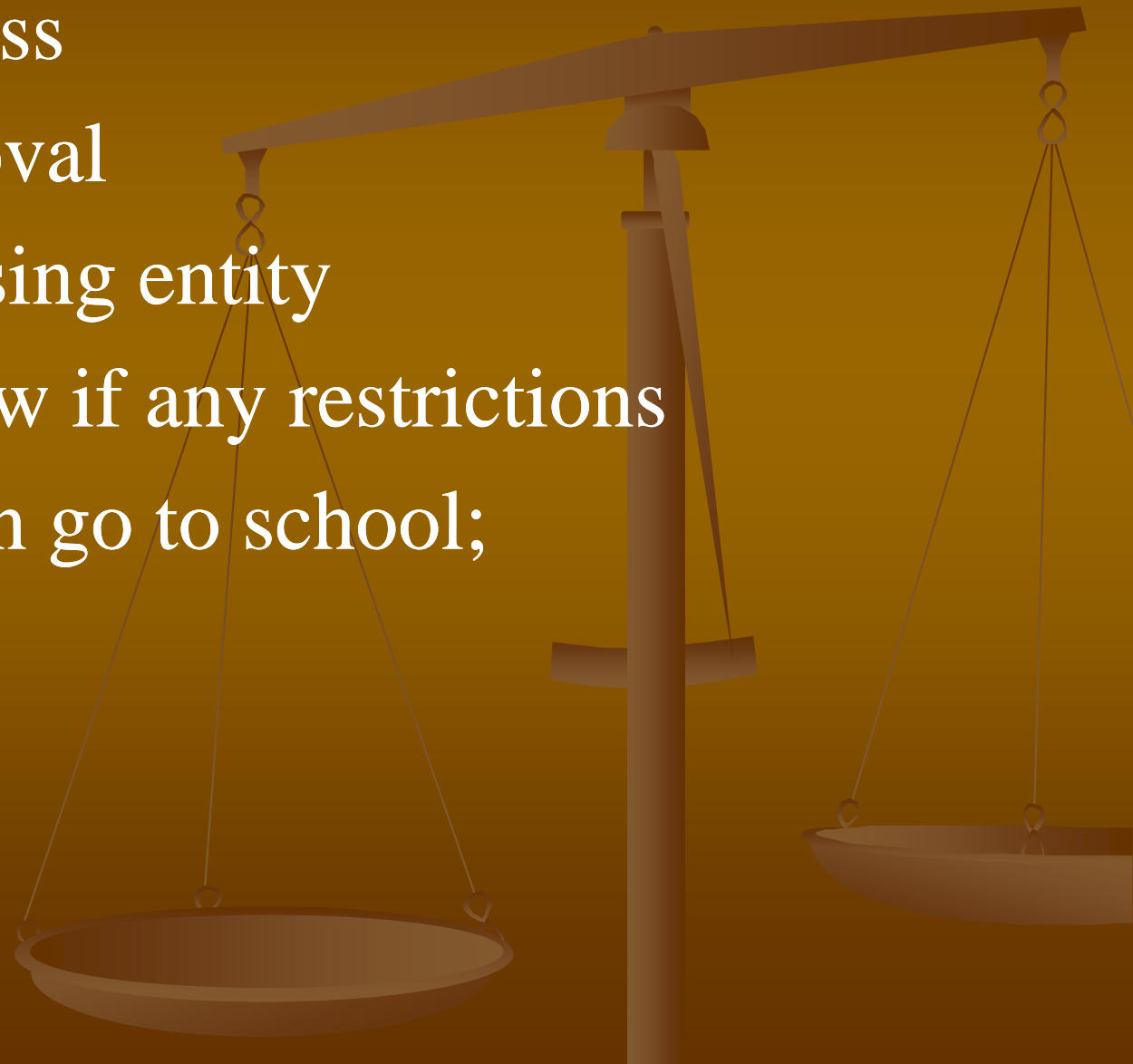
- Complete a 1,500-hour barbering course at an approved institution. The approval must come from the California State Board of Barbering and Cosmetology.
 - You must also pass the barber licensing exam which consists of two parts: a practical and a written portion.
 - You must be 17 years old or older and have completed the tenth grade in a public or private school or its equivalent.
- 

Obtaining a Pharmacist's License

- To be licensed as a pharmacist in California, you must be at least 18 years of age.
- Have obtained a B.S. in Pharmacy or a Pharm.D. degree from an ACPE accredited college of pharmacy program. Graduates from a college of pharmacy program outside the U.S. must obtain certification from the Foreign Pharmacy Graduate Examination Committee.
- Have completed 1,500 intern experience hours or verified licensure as a pharmacist in another state for at least one year.
- Have taken and passed the North American Pharmacist Examination (NAPLEX) and the California Practice Standards and Jurisprudence Examination *4200(a)(1-6) B&P.*

Obtaining a Dispensary License

- There is no process
- There is no approval
- There is no licensing entity
- There are very few if any restrictions
- However, you can go to school;



Oaksterdam University

- Oaksterdam U. Gives New Meaning to Higher Education

Learning how to get started in the medical marijuana business costs a lot less than an Ivy League education and takes as little as one weekend. The school prepares students for jobs in California's medical marijuana industry.

So how are job prospects in the field? Entry-level workers make a little more than minimum wage; "bud tenders" can make over \$50,000 a year; owners and top managers make six figures.

OAKSTERDAM
UNIVERSITY



Oaksterdam University



- Faculty:
- Richard Lee: Oaksterdam University President
Lee has been serving on the City of Oakland Cannabis Regulation and Revenue Ordinance Commission.
- Robert Raich: Attorney in both of the U.S. Supreme Court cases; *United States v. Oakland Cannabis Buyers' Cooperative*, 532 U.S. 483 (2001), and *Gonzales v. Raich*, 545 U.S. 1 (2005).
- Chris Conrad: Qualified as an expert in cannabis cultivation, sex, genetics, cloning, crop yields, preparation, smell, medical use, personal use, dosage, consumption, sales, and commercial intent. Investigated more than 700 criminal cases, testified more than 150 times. Mikki Norris

Oaksterdam University

■ *Curriculum*

Politics/Legal Issues 101

Horticulture 101

Cooking/Concentrates 101

Budtending/Medical Cannabis 101

Distribution/Dispensary Management 102

Cannabusiness 102

Horticulture 102: Advanced Grow Lab

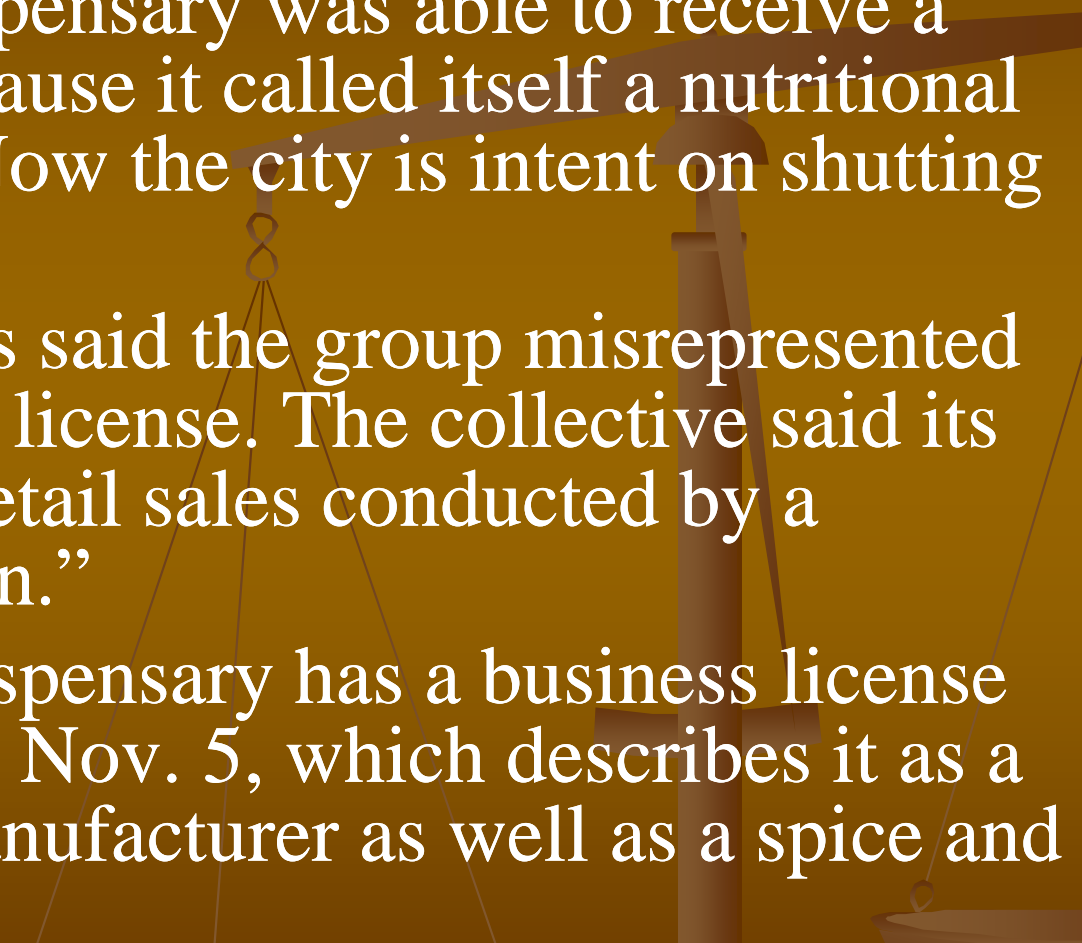
Legal Issues 102



Do Criminals Own Dispensaries?

- In January 2007, DEA executed 11 search warrants and identified 17 owners and/or operators in the Los Angeles area. Of these 17 owners and/or operators;
 1. 14 had prior criminal histories,
 2. 7 had prior weapons charges,
 3. 8 had prior drug charges,
 4. 2 had murder / attempted murder charges.
- One drug dealer reports, I am doing business with the same people, only now they think they are legit.

Owners Lying on the Business Application

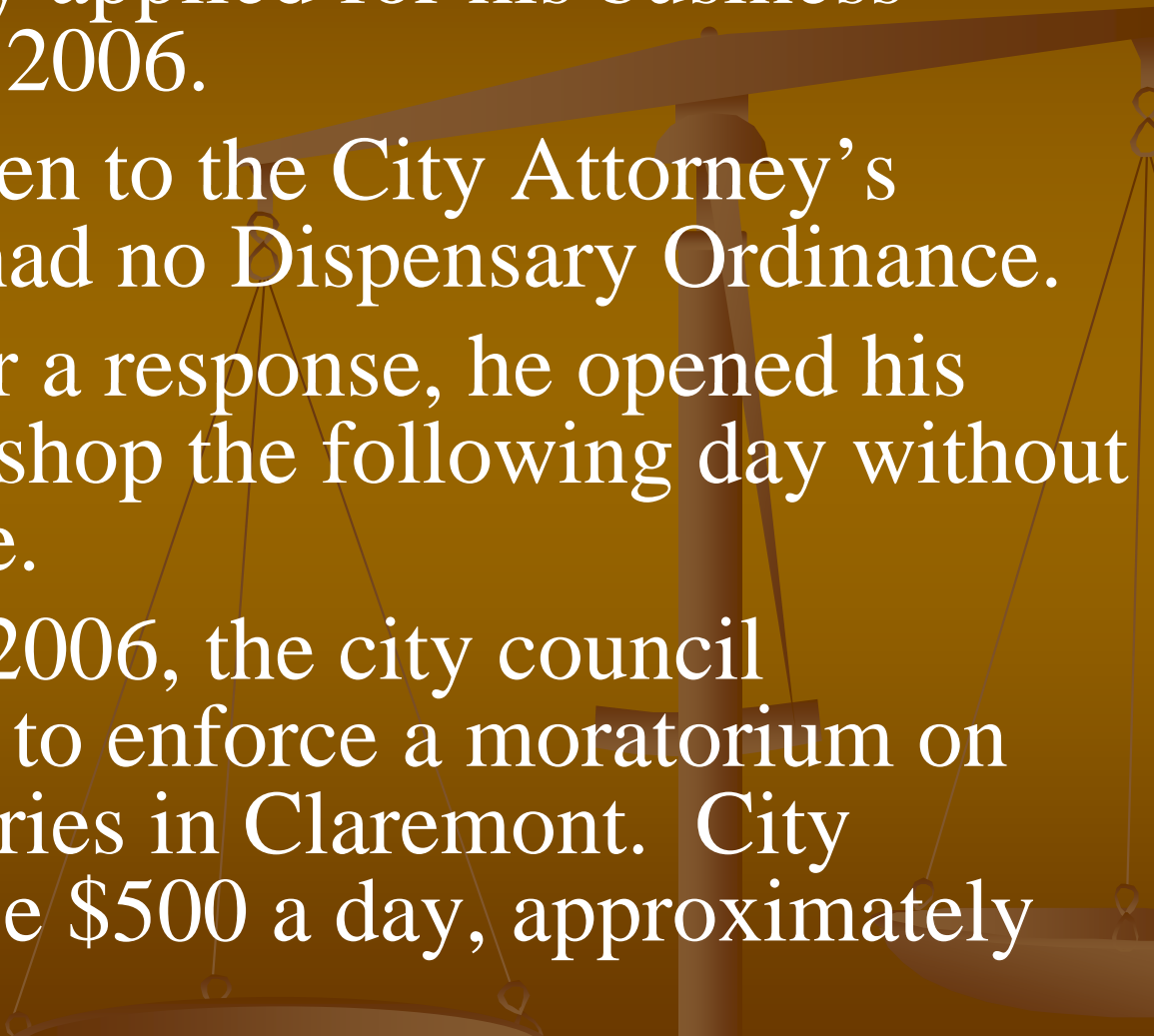
- **San Marcos:** A Dispensary was able to receive a business license because it called itself a nutritional supplement store. Now the city is intent on shutting down the business.
 - **Tracy:** City officials said the group misrepresented itself on its business license. The collective said its activity would be "retail sales conducted by a nonprofit corporation."
 - **Cathedral City:** Dispensary has a business license from the city, issued Nov. 5, which describes it as a spice and extract manufacturer as well as a spice and herb retailer.
- 

Owners Lying on the Business Application



- **Santa Rosa:** The owner of a medical marijuana dispensary failed to disclose her plans for a marijuana club when she signed a three-year lease. Instead, the letter said she planned to run a video game business.
- **Alameda:** Dispensary's owner failed to disclose the true nature of his business on his license application, listing the business as "miscellaneous retail". The City Attorney's opinion was that "The phrase 'miscellaneous retail' suggests that a variety of lawful, noncontroversial items will be sold."

The Claremont Saga

- Mr. Kruse officially applied for his business license on Sept. 14, 2006.
 - The matter was given to the City Attorney's Office as the City had no Dispensary Ordinance.
 - Without waiting for a response, he opened his medical marijuana shop the following day without an approved license.
 - On September 26, 2006, the city council unanimously voted to enforce a moratorium on marijuana dispensaries in Claremont. City officials fined Kruse \$500 a day, approximately \$10,000 a month.
- 

The Claremont Saga

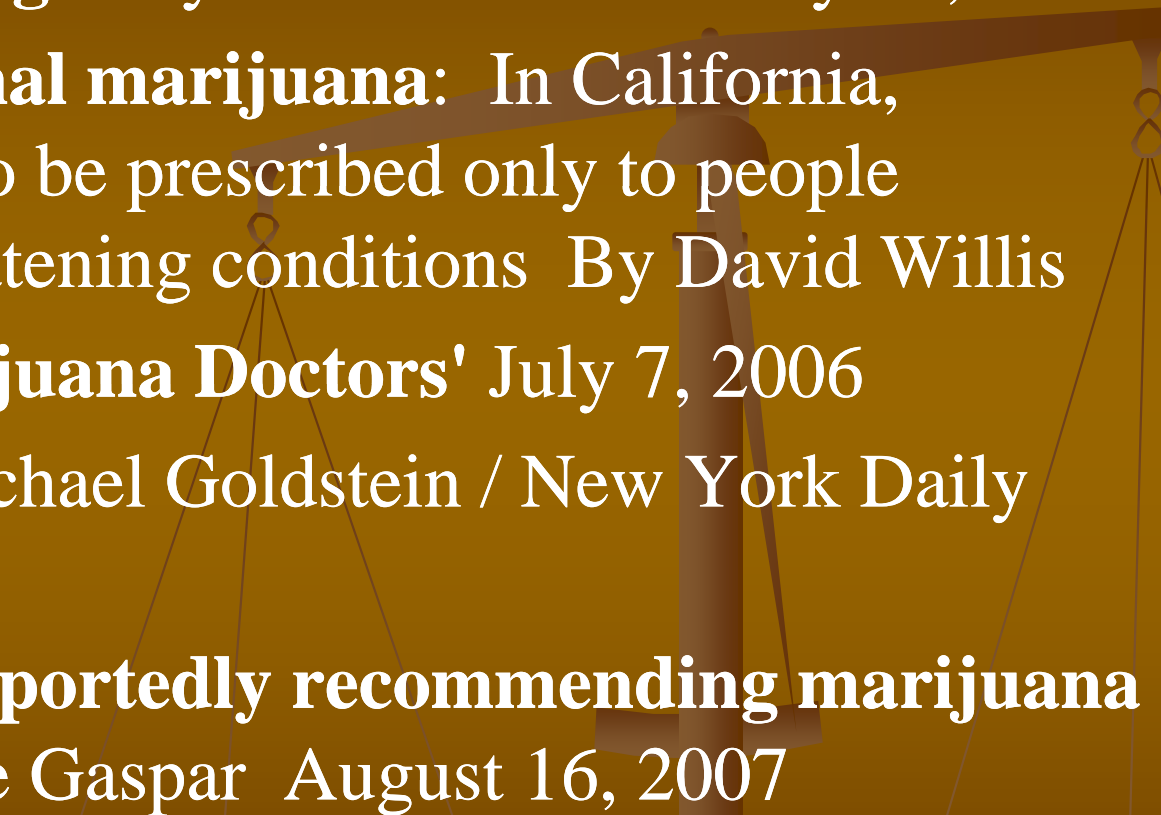
- After months of riling up city hall, Darrell Kruse, admits that he had an ulterior motive in opening his business in Claremont. Mr. Kruse now claims that his outrageous behavior and confrontational style was all just an act in order to get Claremont to pass a moratorium on marijuana dispensaries and therefore block competition from other businesses.
- It is revealed that Kruse and his business partner, David Touhey are co-owners of another marijuana dispensary in nearby Pomona.
- April 10, 2007, Kruse approached the city council to offer an apology to council members and city officials for his actions.

Pot Doctors

Medical Board of California

- In a May 13, 2004 press release, the Medical Board clarified that these accepted standards for recommending marijuana are the same ones that a reasonable and prudent physician would follow when recommending or approving any medication. They include the following:
 - 1. Taking a history and conducting a good faith examination of the patient;
 - 2. Developing a treatment plan with objectives;
 - 3. Providing informed consent, including discussion of side effects;
 - 4. Periodically reviewing the treatment's efficacy;
 - 5. Consultations, as necessary; and
 - 6. Keeping proper records supporting the decision to recommend the use of medical marijuana.
- (http://www.mbc.ca.gov/board/media/releases_2004_05-13_marijuana.html.)

Media Investigations of Pot Doctors

- **Doctor's orders: Get high** By Chris Colin January 31, 2001
 - **High times for medicinal marijuana:** In California, marijuana is supposed to be prescribed only to people suffering from life-threatening conditions By David Willis
 - **10News Exposes 'Marijuana Doctors'** July 7, 2006
 - **License to Chill** By Michael Goldstein / New York Daily News, Feb. 11, 2007
 - **Out of town doctors reportedly recommending marijuana without exams** By Jose Gaspar August 16, 2007
- 

Media Investigations of Pot Doctors

- I-Team Investigation: **Who Is Doc 420?**
- **Availability Of Medical Marijuana Questioned**
/ By Dan Noyes SAN FRANCISCO, Nov. 1,
2007 (KGO)
- **'Pot docs' issuing 'Get Out of Jail Free' cards**
By Linda Williams /TWN Staff Writer /
12/26/2007
- **This bud's for you, and you, and you too** How
I got my hands on some marijuana -- the legal
(and easy) way. May 9, 2008

Pot Doctor Prosecution



- Dr. Jimenez operated several medical marijuana clinics and advertised his services extensively on the internet.
- May 2006, San Diego PD ran two u/c operations at Dr. Jimenez's clinic in San Diego.
- January 2007, Laguna Beach PD ran an u/c operation at Dr. Jimenez's clinic in Orange County.
- Based on the u/c operations, Dr. Jimenez was charged with gross negligence, repeated negligent acts, incompetence, dishonesty or corruption, false representations, failure to maintain adequate and accurate records and false and/or misleading advertising.

Pot Doctor Prosecution



- The Administrative Law Judge (ALJ) found that Dr. Jimenez;
 1. Violated the standard of care when he issued medical marijuana recommendations to the undercover agents without conducting good faith medical examinations, failed to do proper informed consent, and failed to consult with any primary care physicians or review prior medical records prior to issuing recommendations.
 2. Engaged in dishonest behavior by coaching the undercover agents as to what to say in order to qualify for medical marijuana recommendations and in preparing false medical records.
 3. Engaged in false and misleading advertising in representing himself as a “Cannabis Specialist” and “Qualified Medical Marijuana Examiner” when no such formal specialty or qualification existed. The decision is effective April 24, 2009.

Diversion



- Hoey was arrested after deputies found 100 pounds of marijuana in his house and \$500,000 cash in a storage locker. He was convicted in 2008 for possessing and selling hundreds of pounds of marijuana.
- Sheriff's deputies confiscated almost \$900,000, a wine collection valued at least \$250,000 and Oriental rugs worth \$165,000.
- Hoey faced more than 10 years in state prison, but was sentenced to a year in County Jail after he pleaded no contest to trafficking.
- He said he thought his sales were legal because he was largely selling to medical users through a Santa Cruz dispensary.
- He remains adamant that most of the marijuana was destined for medicinal users. Hoey said his "one mistake" was that he had also sold pot to friends on the East Coast.
- Hoey had shipped marijuana through the US Postal Service to people in 10-15 states, and many were not medicinal users.

Diversion



- 01/26/2008 : A Paradise man who claimed to be growing marijuana for medical purposes for himself and eight others pleaded no contest to felony charges of cultivation and possession for sale of marijuana.
- Investigation began in December with a traffic stop in Nebraska resulting in the seizure of more than 68 pounds of processed and packed marijuana.
- A passenger in the car admitted that he had been working for a month making trips between Chicago and Butte County
- Sheriff's deputies obtained a search warrant for both locations and found the suspect had medical marijuana recommendations for himself and eight others, he called "patients."
- Deputies also found more than nine pounds of marijuana in various stages of processing, more than \$39,000 in a shoe box and a loaded shotgun.

Diversion



- November 28, 2008: Authorities arrested two men and were looking for a third after they discovered processed and live marijuana plants at two Trinity County properties
- A search of the properties turned up 70 pounds of processed marijuana and 364 live plants from a greenhouse and an indoor growing area. Also seized were 13 firearms, including a .223 assault rifle and a Benelli 12- gauge shotgun, more than \$70,000 in cash and an unspecified number of vehicles.
- Authorities believe that the men were involved in exploiting California's medical marijuana act, selling the cultivated marijuana from Trinity County, north to Oregon, Washington and Alaska, Knill said.

Diversion



- Utah Highway Patrol's Criminal Interdiction Team conducts directed interdiction efforts to impact drug trafficking along the I-80 corridor, a major pipeline to get drugs from California. This effort is timed with the harvest season.
- In the most recent effort, 14 stops resulted in the seizure of more than 285 pounds of marijuana being trafficked from northern California to places like Colorado, Kansas, Virginia, New Hampshire and New York. Troopers also seized \$7,800 in cash headed back to California and a handgun belonging to a convicted felon.
- The Commander of the unit states marijuana makes up a majority of the drugs seized. Most of that marijuana comes from California and at least half of the subjects arrested claim that the marijuana is grown for medicinal purposes.*

*Interdiction Unit Commander: Lieutenant Chris Simmons

Internet Posts

Why is it better than buying pot from the neighborhood pot dealer?

- #1) The best quality and variety in the world. There are over 100 "weed stores" from Long Beach to The Valley and the weather is right!
- #2) They accept credit. You can have no money in the bank and walk out of a weed store with an ounce of OG KUSH.
- #3) You can complain. If "Lil Smoker" down the street sells you a short 1/4, you're shit out of luck. But when the weed store shorts you, you can tell them and they will hook you up.
- #4) Less risk. Sure, these places get raided every once in a while but the customers are never arrested. At worst, you might get questioned for a short period of time, but who cares? If you are doing a drug deal at a gas station or something, that's sketchy. Or worse, sitting in the drug dealer's living room with an ounce in your pocket when he gets raided, you are going to jail.
- #5) Convenience. With so many stores and Internet access (www.canorml.org) You can find a good place, close to you that will be open when they say they are (a lot of places are open until midnight)!

Internet Posts

Are most of the people shopping at the Medical Marijuana Clinics legitimately sick? No. But, is anyone legitimately sick?

What is the best/worst thing about having a medical marijuana card? The best thing is always having the best weed. The worst thing is spending all my money on always having the best weed.

Internet Posts

A post from one of Doc420's fans on a marijuana message board

- I got my prescription about a week ago and it was the easiest thing I've ever done. I'm pretty sure that for no previous medical records you can easily say that you have ADD or insomnia. *I would recommend Sona Patel at doc420.com. She works off of Melrose and she'll make your appointment last 10 minutes as long as you tell her that you've tried prescription pills for your ailment and you are unwilling to take them again (so get your story straight before you get there).*

Internet Ads

GET YOUR RECOMMENDATION FROM A LICENSED MD.

- Doctor's office available on-site where qualified patients in need of medical marijuana recommendation can receive a low-cost, expert evaluation by a licensed physician. Do it Legally!
 - New Patients \$125
All Renewals \$99
 - <http://iecannabisconsultants.com/>
- 

Internet Ads

PACIFIC SUPPORT SERVICES

Have you or anyone you know experienced an illness which you believe Medical Marijuana could provide relief? Anxiety - Arthritis - AIDS - Chronic Pain - Chronic Nausea – Cancer Glaucoma - Insomnia - Migraines - Sports Injuries - Auto Accidents

Yes, in the state of California, it is legal to own, grow and smoke Medical Marijuana as long as you do it properly. Qualifying is simple and our experienced physicians are more than happy to help you. Please bring your documentation you have with you - old prescription bottles, medical bills, test results, etc. Discrete - Simple - Professional – Legal

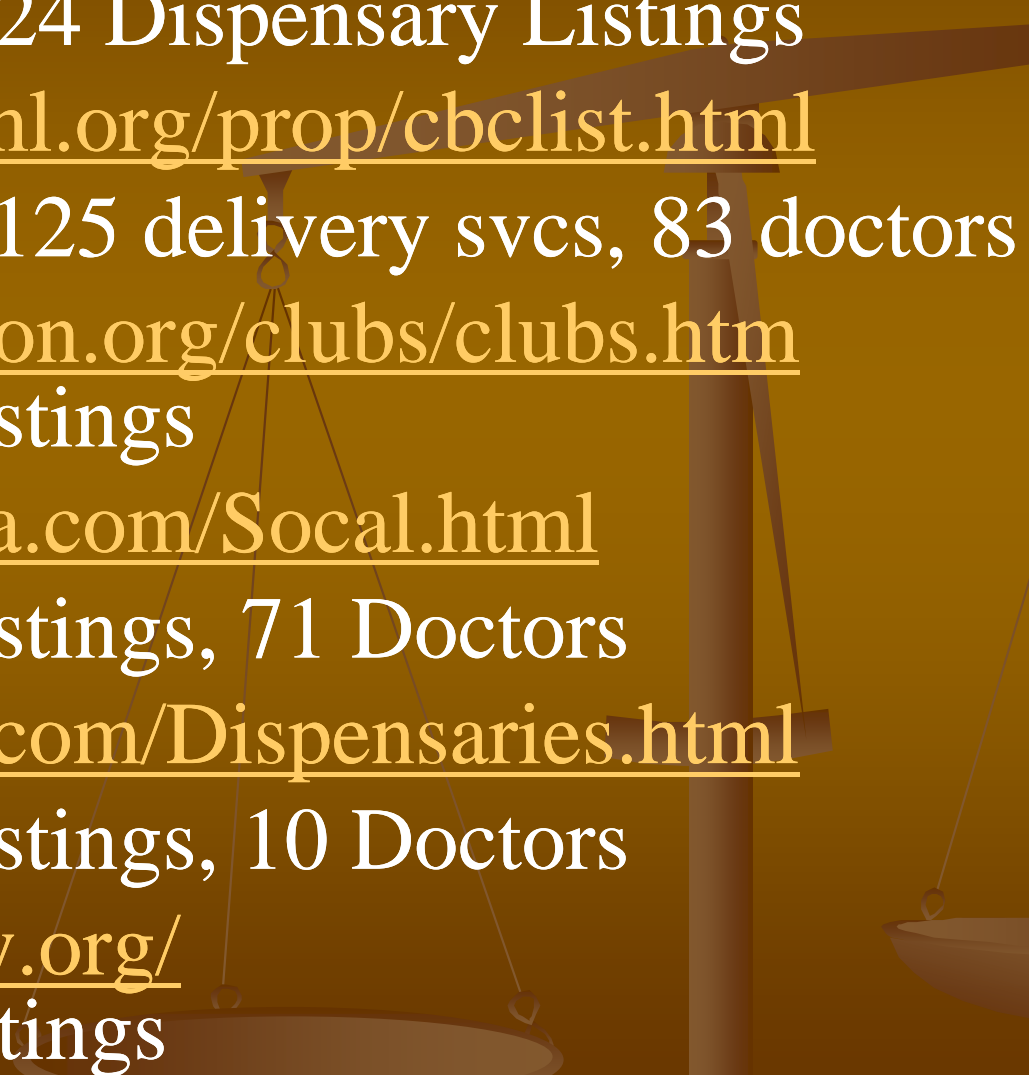
420 MAGAZINE MEMBERS GET HUGE DISCOUNTS!

(You must present this coupon to receive your discount)

New Patients \$150 (Regular \$175) Renewals \$85 (Regular \$175)

If you do not qualify for a recommendation, your visit is FREE

Having Trouble Finding a Dispensary?

- Weedmaps.com 424 Dispensary Listings
 - <http://www.canorml.org/prop/cbclist.html>
376 Dispensaries, 125 delivery svcs, 83 doctors
 - <http://hempevolution.org/clubs/clubs.htm>
331 Dispensary Listings
 - <http://420california.com/Socal.html>
327 Dispensary Listings, 71 Doctors
 - <http://ganjagrocer.com/Dispensaries.html>
489 Dispensary Listings, 10 Doctors
 - <http://mccdirectory.org/>
249 Dispensary listings
- 

More Information

**MEDICAL MARIJUANA
DISPENSARY
INFORMATION** 

- California Police Chiefs Association

http://www.californiapolicechiefs.org/nav_files/medical_marijuana.html

- White Papers (Riverside DA and Cal Chiefs)
- Indoor and Outdoor Grow information
- Dispensaries
- Sample Ordinances

- Commander Michael Regan

(510) 215-4426 mregan@ci.el-cerrito.ca.us

Jeff Bond

From: Kathleen Wilson [kathleen@eastbayhomeguide.com]
Sent: Monday, January 03, 2011 11:47 AM
To: Jeff Bond
Subject: Comments for Jan 10 med marijuan report from El Cerrito police commander Regan for
Attachments: DispensarySummitPresentation.pdf

Hello Jeff,

I would like this to be reviewed and logged as another reason to not have a pot dispensary at 1019 Solano. This is a report from Commander Regan of the El Cerrito police department. It has some interesting information in it on crime, specific incidents at various dispensaries, stats on real medical necessity, and packaging edibles as candy. Commander Regan has given full permission for us to use this. Can you please included it in your record and make sure it gets distributed to the council? Thanks,

Kathleen Wilson

Resident 848 Madison St

Jeff Bond

From: Liz Elliott [liz_m_elliott@yahoo.com]
Sent: Monday, January 03, 2011 9:48 PM
To: Jeff Bond
Subject: 1019 Solano

Jeff,

I am a resident of the 900 block of Madison Street and would like to let you know that I am against the siting of a medical marijuana dispensary at 1019 Solano.

I am not against dispensaries; in fact I feel they play an important role in our society and community. I support the legalization of marijuana. But, I feel very strongly that 1019 Solano is not the right place for a dispensary. Here are my reasons:

1. Solano Avenue, west of San Pablo, is the major artery for West Albany kids to walk to school. I understand that the proposed dispensary would be open nearly 12 hours a day for 7 days a week, and have an armed guard. Personally, I will feel uncomfortable if my son, currently 3, will have to walk past the dispensary twice a day to and from school.
2. It is my understanding that the dispensary is located within 1,000 feet of the YMCA, which is a youth-oriented facility. This is why the Planning and Zoning Commission denied the permit. To me, this alone is reason enough for the City Council to deny the appeal.
3. I love this neighborhood. It is a close knit, child-friendly neighborhood. I do not want this type of facility just steps from my front door!

Thank you.
Liz

1/3/11

Dear Mr. Bond,

I am writing to strongly encourage our City Council to uphold the 10/12/10 Planning and Zoning Commission decision to deny a permit for a medical marijuana dispensary at 1019 Solano Avenue.

The most obvious reason to deny the appeal is that the location violates our ordinance. Common sense dictates that the YMCA is a youth-oriented facility, but common sense is also backed up by our law which says a facility is youth-oriented if it "*advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors.*" A quick trip to the Y's website will verify that they advertise several services primarily intended for minors. There is no disputing that the TG Taekwondo School for kids is a youth-oriented facility. It is located at 813 San Pablo, approximately 465 feet from the proposed dispensary.

I also am very concerned that the measurements for schools contained in the staff report for the 10/12/10 P&Z hearing do not reflect the standard practice of measuring schools from parcel corner to parcel corner. Albany is clearly a city that values its school system and that care has kept property values high and ensures a flow of people wanting to buy homes in Albany. Why then would we choose a method of measurement that does not err on the side of caution where our schools are concerned? And why would we break from the norm in school measurement in order to do it? When using the standard, parcel corner to parcel corner measurements, both Ocean View Elementary and the Albany Children's Center preschool are within the 1000 foot requirement for dispensaries at 981 feet and 899 feet respectively. We have been told the parcel-to-parcel map will be included in the Staff Report.

What troubles me most about the proposed location at 1019 Solano is that this block of Solano is the main pedestrian artery for my entire neighborhood. How the least commercial block in all of Albany's commercial areas could be chosen for a business with such an impact is baffling at best. The very reason our ordinance places a 1000 foot restriction around schools and other places with high volumes of kids is to provide a buffer between them, the crime risks, and the exposure to loitering/smoking of marijuana that our own city staff report tells us occur even in a well-run facility. On the morning before the initial P&Z hearing, I counted 70 kids that traversed this block on their way to school. That figure does not include the groups of older kids that we see walking or skateboarding on this block in the after-school hours. It must also be considered that the vast majority of the 70 kids who walked past in the morning will be walking home at varied times throughout the rest of the day. In other words, well over 70 minors cross this block, most of them twice, at least 5 days a week. Instead of providing a buffer for children we would be quite literally parading them past, day after day. There are clearly more appropriate, more commercial areas in Albany where there is simply not the same volume of pedestrian traffic including kids going back and forth to school.

Not only does the proposed dispensary not fit within our ordinance, I also do not believe that all the “Required Findings for Approving Use Permits” (Chapter XX, 20.100.030 Section D) can possibly be met by the location at 1019 Solano. Certainly it does not meet the requirement to be “...necessary or desirable for, and compatible with, the neighborhood or the community, “ as over 35 speakers and 100 emails from residents illustrated at the P&Z hearing. In terms of adverse impacts, we are absolutely worried about the “health, safety, convenience, or general welfare of persons residing or working in the vicinity.” In terms of having an adverse impact on “improvements or potential development in the vicinity” there is great concern that having a dispensary on the block will drive away exactly the kinds of businesses that we would like to have here: small businesses that fit the existing fabric of the neighborhood and that are the expectation based on past use of these small commercial spaces. We don’t know about the “accessibility and traffic patterns” since the city decided this was exempt from CEQA.

Please respect our code and ordinances and vote to uphold the denial of the permit for a dispensary at 1019 Solano Avenue.

Sincerely,

Marcy Lauer
1000 block of Solano Avenue

Dear Mr. Bond,

My name is Marcy Lauer and I live in a single family home that we purchased five years ago in the 1000 block of Solano Avenue. There are two other single family homes on the block and 19 apartments. According to the city's zoning map, the blocks immediately adjacent to our block (800 and 900 blocks of Adams and Madison) are zoned R2 and R3 meaning we have more people living directly adjacent to this block than anywhere else on Solano east of Kains Avenue. In other words, my block of Solano Avenue is not only quite residential itself, but is in the middle of the most densely populated part of the whole of Solano Avenue. If you choose to overturn the 10/12/10 decision of your Planning and Zoning Commission and place a marijuana dispensary on my block, it will have a profound impact not only on my family, but on countless other residents who call this part of Albany home.

We know from the city staff report that dispensaries can be targets for serious crimes, no matter how well the dispensary is run, and that there are public nuisance activities associated with them. I am now faced with the possibility of having a dispensary move in 3 doors down from my home. My kids are ages 5 and 7. We walk to school every day, even in the rain, because that is the lifestyle we choose and the lifestyle we feel is healthiest for our kids and our planet. Albany is a paradise for walkers and besides the great schools, one of the main reasons we moved here. Because my kids have different school schedules, a member of my family walks by 1019 Solano Avenue at least 6 times a day. My job as a parent is to prepare my kids for life in the real world, but it is also to mitigate risk. Why would I walk my kids or want my husband or I walking past a site that is a target for serious crime 6 times a day? If I am forced to make a choice between the safety of my children and my green ideals, the safety of my kids is going to win. We don't have time to walk 3 blocks out of our way in order to bypass 1019 Solano Avenue, but we do have time to drive 3 blocks out of our way in order to bypass it. This would generate 6 extra car trips a day from my family alone. Please remember that at least 70 kids traversed this same block the morning of 10/11/10 on their way to school. Please also remember that we have had 5 armed robberies in Albany since November. People are willing to bring guns into our town for the contents of a teenager's pocket or a woman's purse. Dispensaries are known to have large amounts of cash on hand and VitalGen plans to have 20 lbs. of marijuana on site at a value of over \$100K. You cannot convince me that this is not a target. One botched robbery attempt on the route to school could easily end in tragedy.

I would also like to point out that placing a marijuana dispensary on an entire neighborhood's main pedestrian thoroughfare and route to school gives parents no control over having marijuana normalized in front of their kids. One would literally be asking my children to spend the rest of their childhood watching people come and go with marijuana all day long and seven days a week. They would likely see people smoke it in cars parked directly next to our house and then they would likely see those same people start their engines and drive away. By merely finding an appropriate location on a truly commercial block that does not see the volume of pedestrian traffic that our block does, the families in our neighborhood retain their ability to parent around this issue as they see

fit. I have attached a recent article for your consideration. It shows the results of an NIH-funded study that marijuana use is up amongst teenagers. The White House commented on this that, "Mixed messages about drug legalization, particularly marijuana, may be to blame. Such messages certainly don't help parents who are trying to prevent kids from using drugs."

Please give serious consideration to the implications of putting a dispensary on the walking path of an entire neighborhood including kids walking back and forth to school.

Sincerely,

Marcy Lauer
Resident of the 1000 block of Solano Avenue

FOR IMMEDIATE RELEASE

Tuesday, December 14, 2010
10:00 a.m. EST

Contact:

NIDA Press Office
301-443-6245
media@nida.nih.gov

Teen marijuana use increases, especially among eighth-graders

NIDA's Monitoring the Future Survey shows increases in Ecstasy use and continued high levels of prescription drug abuse

WASHINGTON -- Fueled by increases in marijuana use, the rate of eighth-graders saying they have used an illicit drug in the past year jumped to 16 percent, up from last year's 14.5 percent, with daily marijuana use up in all grades surveyed, according to the 2010 Monitoring the Future Survey (MTF).

For 12th-graders, declines in cigarette use accompanied by recent increases in marijuana use have put marijuana ahead of cigarette smoking by some measures. In 2010, 21.4 percent of high school seniors used marijuana in the past 30 days, while 19.2 percent smoked cigarettes.

The survey, released today at a news conference at the National Press Club, also shows significant increases in use of Ecstasy. In addition, nonmedical use of prescription drugs remains high. MTF is an annual series of classroom surveys of eighth, 10th, and 12th-graders conducted by researchers at the University of Michigan, Ann Arbor, under a grant from the National Institute on Drug Abuse (NIDA), part of the National Institutes of Health.

Most measures of marijuana use increased among eighth-graders, and daily marijuana use increased significantly among all three grades. The 2010 use rates were 6.1 percent of high school seniors, 3.3 percent of 10th-graders, and 1.2 percent of eighth-graders compared to 2009 rates of 5.2 percent, 2.8 percent, and 1.0 percent, respectively.

"These high rates of marijuana use during the teen and pre-teen years, when the brain continues to develop, place our young people at particular risk," said NIDA Director Nora D. Volkow, M.D. "Not only does marijuana affect learning, judgment, and motor skills, but research tells us that about 1 in 6 people who start using it as adolescents become addicted."

“The increases in youth drug use reflected in the Monitoring the Future Study are disappointing,” said Gil Kerlikowske, director of the White House Office of National Drug Control Policy. “Mixed messages about drug legalization, particularly marijuana, may be to blame. Such messages certainly don’t help parents who are trying to prevent kids from using drugs. The Obama administration is aggressively addressing the threat of drug use and its consequences through a balanced and comprehensive drug control strategy, but we need parents and other adults who influence children as full partners in teaching young people about the risks and harms associated with drug use, including marijuana.”

The MTF survey also showed a significant increase in the reported use of MDMA, or Ecstasy, with 2.4 percent of eighth-graders citing past-year use, compared to 1.3 percent in 2009. Similarly, past-year MDMA use among 10th-graders increased from 3.7 percent to 4.7 percent in 2010.

Also of concern is that the downward trend in cigarette smoking has stalled in all three grades after several years of marked improvement on most measures. Greater marketing of other forms of tobacco prompted the 2010 survey to add measures for 12th-graders’ use of small cigars (23.1 percent) and of tobacco with a smoking pipe known as a hookah (17.1 percent).

Prescription drug abuse remains a major problem. Although Vicodin abuse decreased in 12th graders this year to 8 percent, down from around 9.7 percent the past four years, other indicators confirm that nonmedical use of prescription drugs remains high. For example, the use of OxyContin, another prescription opiate, stayed about the same for 12th-graders at 5.1 percent in 2010. And six of the top 10 illicit drugs abused by 12th-graders in the year prior to the survey were prescribed or purchased over the counter. The survey again found that teens generally get these prescription drugs from friends and family, whether given, bought, or stolen.

However, the survey says binge drinking continued its downward trend. Among high school seniors, 23.2 percent report having five or more drinks in a row during the past two weeks, down from 25.2 percent in 2009 and from the peak of 31.5 percent in 1998. In addition, 2010 findings showed a drop in high school seniors’ past-year consumption of flavored alcoholic beverages, to 47.9 percent in 2010 from 53.4 percent in 2009. Past-year use of flavored alcohol by eighth-graders was at 21.9 percent, down from 27.9 percent in 2005.

The MTF survey also measures teen attitudes about drugs, including perceived harmfulness, perceived availability, and disapproval, all of which can predict future abuse. Related to its increased use, the perception that regular marijuana smoking is harmful decreased for 10th-graders (down from 59.5 percent in 2009 to 57.2 percent in 2010) and 12th-graders (from 52.4 percent in 2009 to 46.8 percent in 2010). Moreover, disapproval of smoking marijuana decreased significantly among eighth-graders.

“We should examine the extent to which the debate over medical marijuana and marijuana legalization for adults is affecting teens’ perceptions of risk,” said Dr. Volkow. “We must also find better ways to communicate to teens that marijuana use can harm their short-term performance as well as their long-term potential.”

Overall, 46,482 students from 396 public and private schools participated in this year's survey. Since 1975, the MTF survey has measured drug, alcohol, and cigarette use and related attitudes in 12th-graders nationwide. Eighth and 10th-graders were added to the survey in 1991. Survey participants generally report their drug use behaviors across three time periods: lifetime, past year, and past month. The survey has been conducted since its inception by a team of investigators at the University of Michigan, led by NIDA grantee Dr. Lloyd Johnston. Additional information on the MTF Survey, as well as comments from Dr. Volkow can be found at <http://www.drugabuse.gov/drugpages/MTF.html>.

MTF is one of three major surveys sponsored by the U.S Department of Health and Human Services (HHS) that provide data on substance use among youth. The others are the National Survey on Drug Use and Health and the Youth Risk Behavior Survey. The MTF Web site is: <http://monitoringthefuture.org>. Follow Monitoring the Future 2010 news on Twitter at [@NIDANews](https://twitter.com/NIDANews), or join the conversation by using: #MTF2010. Additional information on MTF can be found at <http://www.hhs.gov/news>; or <http://www.whitehousedrugpolicy.gov>.

The National Survey on Drug Use and Health, sponsored by the Substance Abuse and Mental Health Services Administration, is the primary source of statistical information on substance use in the U.S. population 12 years of age and older. More information is available at <http://www.drugabusestatistics.samhsa.gov>.

The Youth Risk Behavior Survey, part of HHS' Centers for Disease Control and Prevention's Youth Risk Behavior Surveillance System, is a school-based survey that collects data from students in grades 9-12. The survey includes questions on a wide variety of health-related risk behaviors, including substance abuse. More information is available at <http://www.cdc.gov/nccdphp/dash/yrbs/index.htm>.

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The National Institute on Drug Abuse is a component of the National Institutes of Health, U.S. Department of Health and Human Services. NIDA supports most of the world's research on the health aspects of drug abuse and addiction. The Institute carries out a large variety of programs to inform policy and improve practice. Fact sheets on the health effects of drugs of abuse and information on NIDA research and other activities can be found on the NIDA home page at www.drugabuse.gov. To order publications in English or Spanish, call NIDA's new DrugPubs research dissemination center at 1-877-NIDA-NIH or 240-645-0228 (TDD) or fax or email requests to 240-645-0227 or drugpubs@nida.nih.gov. Online ordering is available at <http://drugpubs.drugabuse.gov>. NIDA's new media guide can be found at <http://drugabuse.gov/mediaguide>.

The National Institutes of Health (NIH) - The Nation's Medical Research Agency - includes 27 Institutes and Centers and is a component of the U.S. Department of Health and Human Services. It is the primary Federal agency for conducting and supporting basic, clinical and translational medical research, and it investigates the causes, treatments, and cures for both common and rare diseases. For more information about NIH and its programs, visit www.nih.gov.

Jeff Bond

From: Eileen Harrington
Sent: Monday, January 03, 2011 9:20 AM
To: Jeff Bond; Beth Pollard; J Bucholz; rjz7@aol.com; Councilmember Joanne Wile (jwile46@gmail.com); fjavandel@ci.berkeley.ca.us; lieber.home@yahoo.com; marge.atkinson@mac.com; peggy.thomsen@gmail.com; peggy_thomsen@heald.edu
Subject: FW: Dispensary Side Effects
Attachments: TeenMarijuanaUseOnTheRise_NIDA_121410.pdf

From: Marcy Newman [<mailto:marcella27@hotmail.com>]

Sent: Sunday, January 02, 2011 2:13 PM

To: City General Email Box

Subject: Dispensary Side Effects

Dear Mayor Javandel and City Council members Atkinson, Lieber, Thomsen and Wile,

My name is Marcy Lauer and I live in a single family home that we purchased five years ago in the 1000 block of Solano Avenue. There are two other single family homes on the block and 19 apartments. According to the city's zoning map, the blocks immediately adjacent to our block (800 and 900 blocks of Adams and Madison) are zoned R2 and R3 meaning we have more people living directly adjacent to this block than anywhere else on Solano east of Kains Avenue. In other words, my block of Solano Avenue is not only quite residential itself, but is in the middle of the most densely populated part of the whole of Solano Avenue. If you choose to overturn the 10/12/10 decision of your Planning and Zoning Commission and place a marijuana dispensary on my block, it will have a profound impact not only on my family, but on countless other residents who call this part of Albany home.

We know from the city staff report that dispensaries can be targets for serious crimes, no matter how well the dispensary is run, and that there are public nuisance activities associated with them. I am now faced with having a dispensary move in 3 doors down from my home. My kids are ages 5 and 7. We walk to school every day, even in the rain, because that is the lifestyle we choose and the lifestyle we feel is healthiest for our kids and our planet. Albany is a paradise for walkers and besides the great schools, one of the main reasons we moved here. Because my kids have different school schedules, a member of my family walks by 1019 Solano Avenue at least 6 times a day. My job as a parent is to prepare my kids for life in the real world, but it is also to mitigate risk. Why would I walk my kids or want my husband or I walking past a site that is a target for serious crime 6 times a day? If I am forced to make a choice between the safety of my children and my green ideals, the safety of my kids is going to win. We don't have time to walk 3 blocks out of our way in order to bypass 1019 Solano Avenue, but we do have time to drive 3 blocks out of our way in order to bypass it. This would generate 6 extra car trips a day from my family alone. Please remember that at least 70 kids traversed this same block the morning of 10/11/10 on their way to school. Please also remember that we have had 5 armed robberies in Albany since November. People are willing to bring guns into our town for the contents of a teenager's pocket or a woman's purse. Dispensaries are known to have large amounts of cash on hand and VitalGen plans to have 20 lbs. of marijuana on site at a value of over \$100K. You cannot convince me that is not a target. One botched robbery attempt on the route to school could easily end in tragedy.

I would also like to point out that placing a marijuana dispensary on an entire neighborhood's main pedestrian thoroughfare and route to school gives parents no control over having marijuana normalized in front of their kids. You would literally be asking my children to spend the rest of their childhood watching people come and go with marijuana all day long and seven days a week. They would likely see people smoke it in cars parked directly next to our house and then they would likely see those same people start their engines and drive away. By merely finding an appropriate location on a truly commercial block that does not see the volume of pedestrian traffic that our block does, the families in our neighborhood retain their ability to parent around this issue as they see fit. I have attached a recent article for your consideration. It shows the results of an NIH study that marijuana use is up amongst teenagers. The White House commented on this that, "Mixed messages about drug legalization, particularly marijuana, may be to blame. Such messages certainly don't help parents who are trying to prevent kids from using drugs."

Please give serious consideration to the implications of putting a dispensary on the walking path of an entire neighborhood including kids walking back and forth to school.

Sincerely,
Marcy Lauer

Jeff Bond

From: Eileen Harrington
Sent: Monday, January 03, 2011 9:21 AM
To: Jeff Bond; Beth Pollard; J Bucholz; rjz7@aol.com; Councilmember Joanne Wile (jwile46@gmail.com); fjavandel@ci.berkeley.ca.us; lieber.home@yahoo.com; marge.atkinson@mac.com; peggy.thomsen@gmail.com; peggy_thomsen@heald.edu
Subject: FW: VitalGen marijuana dispensary

-----Original Message-----

From: Marilyn Chamberlain [<mailto:mawich@comcast.net>]
Sent: Saturday, January 01, 2011 5:19 PM
To: City General Email Box
Subject: VitalGen marijuana dispensary

I am definitely opposed to the opening of a medical marijuana dispensary close to the YMCA and in a place where children are constantly walking by on their way to and from school. Albany has always been family and children friendly and this does not fit that description. I cannot attend the meeting on January 10th to voice my concerns, but would be there if at all possible.

Sincerely,
Marilyn Chamberlain
633 Curtis Street
Albany, CA 94706

Jeff Bond

From: Meghan O'Shea Beynon [meghan_beynon@hotmail.com]
Sent: Monday, January 03, 2011 2:24 PM
To: Jeff Bond; City General Email Box
Subject: 1019 Solano

Dear Albany City Council Members,

I oppose the marijuana dispensary proposed for 1019 Solano for many, many reasons. A few of the most important include:

1. The location violates city code and is too close to the YMCA – a youth oriented establishment
2. The dispensary poses safety risks for our community
3. The marijuana dispensary location creates a barrier for neighborhood residents to access schools and local businesses
4. The VitalGen operators are not the right choice for our community

The location violates city code and is too close to the YMCA – a youth oriented establishment

The Albany YMCA's slogan is:

For Youth Development

For Healthy Living

For Social Responsibility

Youth Development is the first item highlighted. My children attend the YMCA for classes, parties, and care, as do most Albany children I know. To say that the YMCA is not youth-oriented is showing a lack of knowledge about our community.

The dispensary poses safety risks for our community

The VitalGen operators are arguing that well run dispensaries are not targets for crime. This is a bogus argument. Wells Fargo banks are well run establishments with many, many security protocols. Yet, once in a

while they get robbed.

Additionally, the Albany staff report to the Planning and Zoning Commission stated, “Regardless of the quality of operation, dispensaries have been targets for serious crimes.”

Captain Denise Schmitt of the San Francisco PD wrote a letter of concern when a pot dispensary was slated to move into her district. She wrote:

"From a Law Enforcement standpoint, MCDs have proven an attractive target for violent criminals due to the large amount of marijuana and cash maintained on site. Dispensaries have experienced take-over robberies, burglaries, shootings, stabbings, fights and homicides. Additionally, criminals target the pedestrian traffic in and around MCDs for strong-arm and armed robberies, knowing that the potential for these victims to be carrying either cash and or marijuana is highly likely. Reports of street sales of marijuana by individuals leaving the dispensaries are routinely the subject of investigations. Complaints are also received of public smoking of medicinal marijuana in the streets and public parks around these locations. These potential side effects of an MCD are very concerning given the residential character of the neighborhood.

<http://www.taraval.org/archive/2010/0301.pdf>

People have argued that dispensaries “reduce crime in a neighborhood”. That may be the case when you put in surveillance cameras and a security guard into a crime-ridden area. But, that is not the case in this neighborhood. We are not a crime-ridden area that would benefit from increased security. **We are a residential neighborhood.**

The Marijuana Dispensary location creates a barrier for neighborhood residents to access schools and local businesses

One of the main reasons I live in Albany is because of its walkability. The walkability score our neighborhood receives is a 91 and is deemed “walkers paradise” walking 3 small children everyday by a pot dispensary that is a target of serious crimes is not paradise. I want Albany to remain a safe, community where my neighbors and I feel comfortable walking our children to school and to support our local businesses.

The VitalGen operators are not the right choice for our community

Professionally, I evaluate organizations for investment opportunities. I have learned over the years that **investing in the proper people is the biggest predictor of success.**

The Van Akkers have misrepresented their business plans and showed a serious lack of business acumen. They are not running a wellness center as they had originally claimed; they are running a dispensary storefront. They have also portrayed themselves to be part of our community when in fact they are not.

When I asked them how pot would be delivered to their dispensary they simply did not know. The answers ranged from “in a bag” to “in a bank style truck”. When asked about neighborhood security they responded,

“security starts at our front door.”

Just because they have risen to the top of this process thus far does not mean they are the right fit for our community. For a pot dispensary to work in our small town there needs to be mutual respect between the operators and the community.

Let’s find the right operators and the right location.

Regards,

Meghan Beynon
920 Madison St. Albany

Jeff Bond

From: j. Michael tucker [jmichael@jmichaeltucker.com]
Sent: Monday, January 03, 2011 11:07 PM
To: Jeff Bond
Cc: cityhall@albany.ca.org
Subject: 1019 Solano / J. Michael Tucker
Attachments: pastedGraphic.tiff; ATT12446488.txt

Albany City Council,

My name is J. Michael Tucker and I have owned my home on Madison street for approximately 12 years.

I live in a community. I live in a place where neighbors care about my well being, a place where friendship and support for one another comes easily.

I write this letter to explain that I am not against a Marijuana Dispensary in Albany, just that I'm only against it in the proposed location at 1019 Solano.

We have over thirty kids on my street alone, and I do not feel it is the right location for our community.

Albany will change drastically as you know.

I feel we have enough problems in our small microcosm having bars such as The Ivy Room and the Mallard, which brings in tons of traffic from our surrounding towns.

Respectfully yours
Albany Resident

J. Michael Tucker

Jeff Bond

From: Eileen Harrington
Sent: Monday, January 03, 2011 9:18 AM
To: Jeff Bond; Beth Pollard; J Bucholz; rjz7@aol.com; Councilmember Joanne Wile (jwile46@gmail.com); fjavandel@ci.berkeley.ca.us; lieber.home@yahoo.com; marge.atkinson@mac.com; peggy.thomsen@gmail.com; peggy_thomsen@heald.edu
Subject: FW: Agenda item - Jan 10th

From: Mindi & Dave Ritzman [<mailto:mindianddave@gmail.com>]
Sent: Monday, January 03, 2011 8:10 AM
To: City General Email Box
Subject: Agenda item - Jan 10th

Dear City Council Members,

We are writing to you about VitalGen's appeal of their denied conditional use permit, an item on the agenda for your meeting on January 10, 2011. We urge you to turn down their appeal based on the following reasons:

- (1) The proposed location of their business, 1019 Solano Avenue, is within 1,000 feet of a youth oriented facility - the YMCA on Kains Avenue as well as the Albany Children's Center on the 700 block of Jackson Street. This is a violation of the city's ordinance.
- (2) Many minors walk by this location on a daily basis as they go to and from school or to other businesses located on Solano Avenue and San Pablo Avenue. Because of the lights/crosswalks and crossing guards posted at the Jackson/Solano intersection and (formerly) at the Solano Avenue/San Pablo Avenue intersection, the 1000 block of Solano Avenue is on the main route for children traveling between the east and west sides of San Pablo Avenue to school. While the number of minors passing by a marijuana dispensary is technically not written in the ordinance, we believe that this is the underlying intent of the "1,000 foot rule" contained in the ordinance. The ordinance included specific provisions for keeping a dispensary away from minors. This location, 1019 Solano Avenue, is putting the dispensary directly in the path of minors, many of whom will pass it more than once a day.
- (3) We believe this type of business at this location will have a negative impact on the neighborhood residents' quality of life. We are greatly concerned about traffic impacts, people smoking pot in their cars after leaving the dispensary and then driving, increased levels of crime in the neighborhood, and the visual/environmental impact of a business that requires a full-time security guard, bullet-proof glass, and video surveillance for protection. How can a community that places such high value on aesthetics in its residential design guidelines ignore the impact of these visually disturbing "safety" measures and the impression they give about the safety and quality of life in our community?
- (4) We are concerned that the proposed marijuana dispensary will disproportionately consume the resources of local law enforcement. Our neighborhoods already have significant problems as a result of the bars and liquor stores on San Pablo Avenue. We believe the proposed dispensary will only compound this problem.

We are 10-year residents of Albany and have chosen to raise our family here based on the value this community places on its children and families. We believe that allowing a marijuana dispensary to open at this location, adjacent to a residential neighborhood and where many children pass by on a daily basis, is in direct conflict with these values.

Thank you for your time,
Mindi and Dave Ritzman
622 Adams Street

Jeff Bond

From: naomi osterweil [nomiost@hotmail.com]
Sent: Monday, January 03, 2011 9:33 AM
To: Jeff Bond
Subject: Objections to the Medical Marijuana Dispensary

1/3/11

Mr. Bond,

As a resident of Albany and as a parent of a child who goes to Cornell elementary school i am deeply concerned about the plans to set up a medical Marijuana dispensary about a block from where i live. My six year old daughter and I would be walking by that site every morning on our way to school and although I am not opposed to medical Marijuana use, I do not think this is the best place to set up such a clinic. There are many many children who pass this site daily on their walk to school and i am afraid of not only the increased traffic stemming from the clinics long hours of operation from 8am to 7pm, the idea of clients who might openly be smoking Marijuana in that area but finally and most seriously, the well documented fact that these clinics are often targets of armed robbery.

Albany is a relatively quiet, and safe small city. There are surely areas that would be more appropriate (in Albany) for the location of a medical Marijuana clinic, than in a residential neighborhood that is literally located between two elementary schools and is situated on the route that many many families take daily to get to these schools.

I urge you to oppose this site as the potential site for this dispensary. I am sure that a more appropriate site can be found.

Thank you.

Sincerely,
Naomi Osterweil

941 Solano Ave #9
Albany Ca. 94706

January 3, 2011

RE: VitalGen appeal of conditional use permit denial for 1019 Solano Avenue

Dear Mr. Bond,

I am writing to express my opposition to the appeal filed by VitalGen to open a medical marijuana dispensary 1019 Solano Avenue. First, I support access to medical marijuana and voted to allow a dispensary in Albany. I also happen to live in the 1000 block of Solano Avenue, where my family bought our single family house five years ago. This is the same block, same side of the street, 100 feet from the proposed location of the VitalGen facility. When I first heard that a dispensary was planned, I was interested in the details and not against the possibility. Then I started to research the experiences of other communities, crime associated with dispensaries, and finally our zoning laws which by my reading make the chosen site incompatible with the necessary findings for issuance of a conditional use permit (specifically, sections 20.100.030.D.1-2: “proposed use will provide a development that is necessary or desirable for, and compatible with, the neighborhood” and “use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity”). The proposed location is neither necessary, or compatible with the mostly residential neighborhood at the end of the Solano Commercial district. Additionally, two schools (Ocean View School and Albany Children’s Center) and two youth oriented facilities (The YMCA on Kains and T.G. Afterschool Program on San Pablo) fall within the 1000 feet of 1019 Solano Ave precluding the permitting of a dispensary at this location.

Perhaps the best summary of potential impacts and crime associated with dispensaries comes from a presentation by Commander Michael Regan of the El Cerrito police. This is a comprehensive presentation that is organized and concise, but is also 68 pages. The full presentation is available online from the following link: (http://www.californiapolicechiefs.org/nav_files/marijuana_files/files/DispensarySummitPresentation.ppt). I hope that you will find time to peruse it, and with Commander Regan’s permission I have included a few pages of the presentation as an attachment. Below, I summarize a few of the points that most concern me related to safety, crime, and children.

- Unlike liquor stores, gun shops, and even pharmacies, medical marijuana dispensaries are subject to zero statewide regulation and oversight.
- In the Bay Area, a worst case scenario is the case study of the Compassionate Collective of Alameda County founded by two brothers. There was explosive growth over 3 ½ years then the brothers were arrested for money laundering and drug trafficking (over 200 pounds of pot) when within the space of a few months the brothers got into a gunfight at a party, an employee plowed through the parking lot fence after four shots were fired into his car, and a customer was killed and robbed of his marijuana after he stopped for gas near the dispensary (pages 12-13 of the full presentation are attached here).

- Berkeley Medicinal Herbs was the target of multiple robberies (3 times in 10 months) when it was located close to the freeway. 1019 Solano is a very short drive and “strategically” located between two freeway exits.
- Dispensary related crime from larger cities are summarized on page 31 for San Francisco (included here) and for Los Angeles (page 30 of the full presentation). I found the numbers a bit shocking – but these are cities on a different scale from Albany. One thing that has become clear to me living here is that crime happens even in our small community – there have been 5 armed robberies on our streets in recent months for small potatoes compared to the cash and marijuana that will be in a dispensary.
- There is a pattern of marketing edibles that will appeal to children. I know my kids would be attracted to these sorts of wrappers, and have found nothing in our ordinance to prevent this sort of packaging (pages 15-16, describing Beyond Bomb with pictures of their products are included in the attachment).

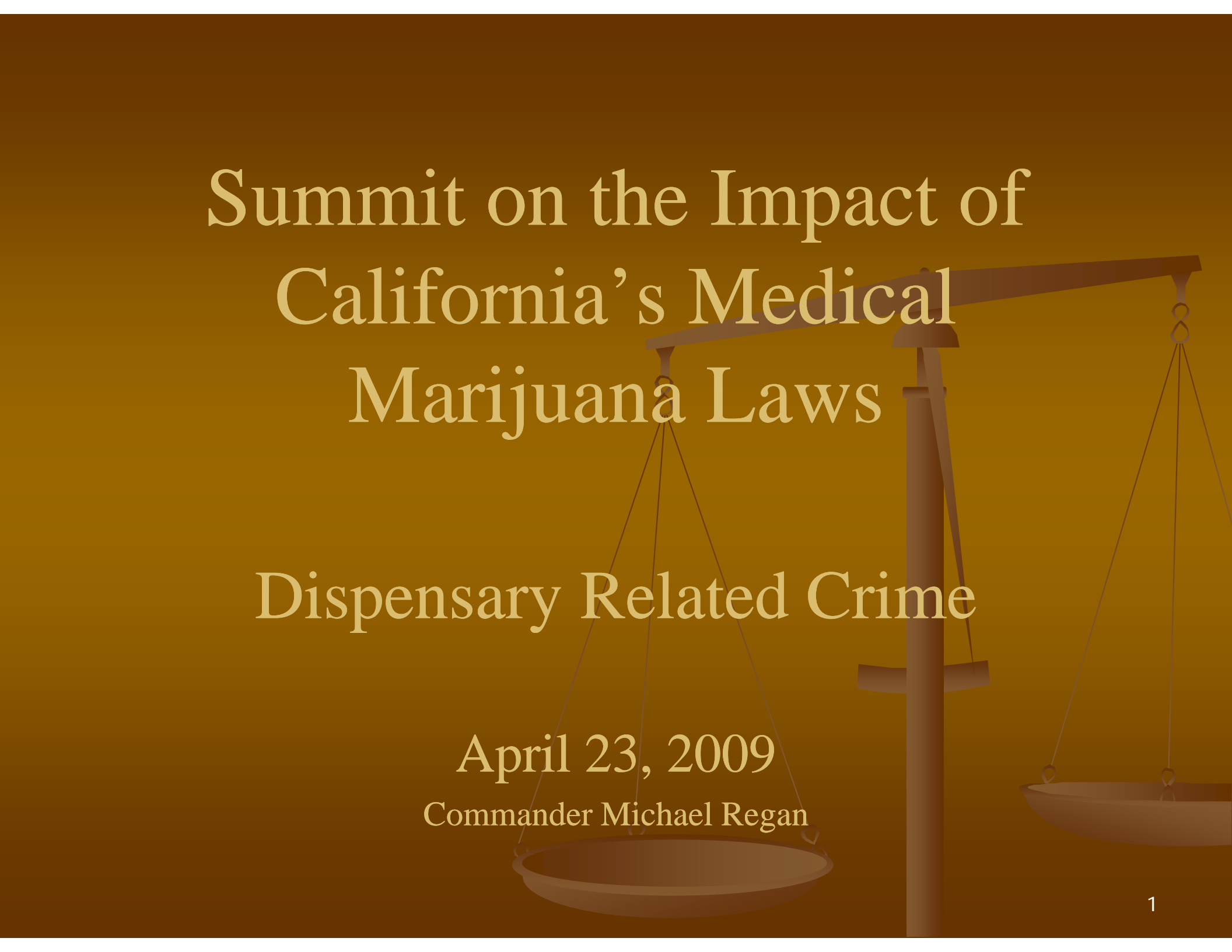
In addition to the information put together by Commander Regan, there have been four armed robberies of medical marijuana facilities in the Bay Area in the last four months:

- On September 18th, 2010, the 408 Compassion Center was robbed by 4 armed men. Two employees were pistol whipped (originally reported in the Mercury news, but still available here: <http://health.groups.yahoo.com/group/mmjnews/message/13079>).
- On September 29th, 2010, the Monterey Road Dispensary was methodically robbed by two armed men (http://www.contracostatimes.com/crime-courts/ci_16447344?nclick_check=1).
- On November 19th, 2010 the Hemp Center in San Francisco was robbed by two men with an Uzi (!!) and a handgun (http://blogs.sfweekly.com/thesnitch/2010/11/marijuana_robbery.php). While the robbers in this incident do not sound altogether impressive, it would not take much when armed with an Uzi to do irreparable damage to our community.
- On December 28th, 2010, a home that had been converted to grow medical marijuana was robbed, resulting in a shootout with police (http://www.insidebayarea.com/oaklandtribune/localnews/ci_16964909?source=rss).

The will of the voters of Albany is to have a medical marijuana dispensary. But allowing one to open in direct violation of our ordinance and on the main route traversed by our children walking to school, our neighbors going to shop, eat, or to the movies is just plain irresponsible. Please help us to place this business in a location that is as safe as possible for the residents of Albany and deny this appeal.

Respectfully,

Peter Lauer
1003 Solano Avenue



Summit on the Impact of California's Medical Marijuana Laws

Dispensary Related Crime

April 23, 2009

Commander Michael Regan

Compassionate Collective of Alameda County

- Opened in 2004, that year they took in \$74,000.
- In 2005, sales rose to \$1.3 million.
- In 2006, sales hit \$21 million.
- And in the first six months of this 2007 took in a whopping \$26.3 million.
- November 5, 2007; Winslow and Abraham Norton were indicted on charges of conspiracy to distribute and distribution of marijuana as well as conspiracy to launder money and money laundering.
- Seized were several hundred pounds of marijuana, approx. \$200,000 in cash, two bank accounts, two IRAs, a 2005 Mercedes Benz, a 2006 ML500 Mercedes Benz, a residence and two commercial buildings.

Compassionate Collective of Alameda County

- Feb 2005 a group of suspects entered the dispensary, tied everyone up and robbed the place of about \$50,000.
- April 2005, Winslow Norton arrested in Mendocino County after being found in possession of 44 pounds of marijuana packaged for individual sale and \$2,280 in cash. A man who claimed he was Norton's father came to the jail to post bail with a bag containing \$150,000 in cash and reeking of marijuana.
- June 2005, a masked gunman fired four shots into a dispensary worker's car as he pulled into the parking lot.
- February 2007, the brothers were involved in a shootout at a Fremont hotel after being lured there via Craig's list.
- In July of 2007, one of the club's customers was ambushed, robbed for his marijuana and killed at a nearby gas station.

Beyond Bomb

- March 2006: Search warrants resulted in the seizure of thousands of marijuana plants, hundreds of marijuana-laced candies and soft drinks, three guns, approximately \$189,000 in cash and 12 arrests.
- Beyond Bomb Products were seized at the Compassionate Caregivers dispensary in Los Angeles and at other dispensaries throughout the state.
- Described as the largest West Coast operation of its type.
- Affolter was sentenced to more than five years and then sued for \$100,000 by Hershey, for trademark infringement, trademark dilution and unfair competition.
- L.A. NORML called the arrests aggressive and "uncalled for." "Despite the large number of plants seized, the suspects could have a defense if they operated as a caregivers' cooperative."

Beyond Bomb



San Francisco Experience

Crimes that occurred at, or in close proximity to,
San Francisco's Dispensaries (Jan 06/Feb07)

- 3 homicides 2 attempted homicides
- 6 possession of a loaded firearm
- 1 exhibiting deadly weapon
- 57 robberies and 27 attempted robberies
- 98 aggravated assaults
- 144 incidents of battery
- 7 incidents of battery on a police officer
- 1 forcible rape, 1 attempted rape
- 3 sexual batteries
- 198 Burglaries and 2 attempted burglaries

Jeff Bond

From: Valdemar Jordan [vbjordan@gmail.com]
Sent: Monday, January 03, 2011 12:06 PM
To: liebtaub@sbcglobal.net; peggy.thomsen@gmail.com; Joanne Wile; Marge Atkinson; Jeff Bond
Subject: Proposed Cannabis Dispensary at 1019 Solano

January 3, 2011

To Whom It May Concern,

I am writing to say that for various reasons a cannabis dispensary cannot and should not be sited at 1019 Solano Avenue:

1. It is less than 1000 feet from Ocean View School
2. It is less than 1000 feet from the Albany Children's Center Preschool
3. It is less than 800 feet from the YMCA, a youth-oriented facility

The minimum 1000 foot distance was written into our cannabis dispensary ordinance for a very good reason: to protect our children. It would be misguided to treat the minimum distance as a fuzzy guideline. Just this past December the National Institute on Drug Abuse issued a report stating that due to "...talk about the potential health benefits of pot, teenagers are increasingly complacent about the risks of marijuana..." <http://bit.ly/ejyv9q> Do we really think it's a good idea to shoehorn a dispensary in between two schools, a youth-oriented facility and what is a major thoroughfare for Albany children going to and from school?

I am aware that the prospective business owners have submitted their appeal on their belief that the YMCA does not qualify as a youth-oriented facility. I believe they are wrong. Spend some time browsing the YMCA's web site and the fact that they have a strong focus on children becomes clear:

- * The first thing you see are pictures of children.
- * As part of their strategic vision they include 5 bullet points, 2 of which are: Empowering teens; Fostering healthy development of the child. <http://bit.ly/fWP2A5>
- * On the page providing details on membership they provide 5 different options 3 of which are specifically for or include children: Bay Area Family Membership, Teen Full-Service Membership & Youth Program Membership. <http://bit.ly/h1V6Cj>
- * On the Youth & Family page you'll find the following statement: "The YMCA, since its inception, has been all about the personal growth, character development and recreation of young people. Children and their families continue to be at the center of our work."
- * The Youth & Family page lists the following types of programs: preschool classes, babysitting, youth dance and movement, birthday parties, kindergym, babygym, school holiday camps and youth sports.
- * On the Teens page it says: "We provide a positive, teen-friendly environment and a variety of fitness, educational, vocational and character-building opportunities for community teens-beginning with low-cost YMCA teen membership."

* Here are a few of the programs listed on the teens page: teen fitness, youth & government, babysitter training course & programs specifically for girls

* Though the activities are not held at the site in question, the Albany YMCA has been providing before and after school care to Albany children for the past 23 years.

To say that the YMCA is not youth-oriented shows a complete ignorance of the facts. Personally I have used the YMCA only for it's child and youth activities. For the past 7 years we have taken our children to the baby and kindergym classes. We have also attended many birthday parties and used the babysitting services.

One other reason why I think that a dispensary does not belong at that location, indeed anywhere on that stretch of Solano, is the fact that it's a major thoroughfare for anyone living west of San Pablo Avenue to cross that street. I'm sure you're aware that a large number of children (around 70 as counted by my neighbor Marcy Lauer) pass by 1019 Solano every day going to and from school. You can be sure that there are children passing through on weekends as well. The previous staff report submitted by Planning & Zoning states that cannabis dispensaries have been the targets of serious and sometimes violent crime. I believe that this fact points out conflicts with our city ordinances in section 20.100.030.D.1 which requires a business to be necessary, compatible and desirable with the surrounding area and section 20.100.030.D.2 which prohibits a business that would be "detrimental to the ... safety ... or general welfare of persons residing or working in the vicinity." A site that could attract very serious crime does not belong in what is clearly a residential neighborhood. If you haven't visited the proposed location please do before next week and you'll see that it's an inappropriate location for this type of business.

Personally I support a dispensary in Albany but believe that the time has come to involve as many interested parties as possible in choosing an appropriate location or area. Past attempts at opening a dispensary have met with similar reactions from Albany residents and it seems that the ordinance as it is written is flawed and needs amendment or a complete rewrite. (City staff made this very point at the Planning & Zoning meeting last fall.) Many in my neighborhood have sent a strong message that we are not simply standing arms akimbo and shaking our heads "No!" but have shown a willingness to work with the city on working towards a solution based on consensus. Council members and the city Planning and Zoning department I think realize that this is a fraught issue. The only way we're going to solve the dispensary problem is to have some serious public discussion of the issues.

Again, I urge you to vote to deny this application for a permit to open a cannabis dispensary at 1091 Solano Avenue.

Thank you for your time and consideration.

Yours Truly,

Valdemar Jordan
840 Madison Street

Jeff Bond

From: Wendy Musell [wmusell@stewartandmusell.com]
Sent: Monday, January 03, 2011 11:42 AM
To: Jeff Bond
Cc: Wendy Musell; Mari Willits
Subject: Objection to Marijuana Dispensary at 1019 Solano Avenue

Dear County Representative:

I am a resident of Albany and write to you in this capacity. I understand that there is a plan to place a marijuana dispensary at 1019 Solano Avenue. This plan appears to contravene city ordinances requiring that any marijuana dispensary be at least 1000 feet from a school or youth oriented establishment. Thus, it would be unlawful to allow the dispensary to be located at this location. You can be sure that city residents will seek a legal challenge to the dispensary location, if it is granted. This would only waste limited resources of the city on a legal challenge it is likely to lose and require a business to move after incurring costs to start a business at that location. It would also displace workers at the marijuana dispensary and make Albany appear as unfriendly towards business.

Even more important is that the site is an area frequently passed by children who go to the local elementary school Ocean View and the YMCA. While I live close to Marin Elementary, and thus, my children would likely not pass this location on a daily basis, it is not a safe or appropriate location for children to have daily contact with a marijuana dispensary. This is aptly described by the experiences of pedestrians near the dispensary in Oakland/Berkeley. The dispensary there has high chain link fences and razor wire surrounding it. It often has security guards in the public access way in front of the dispensary. My then two year old child and I have been accosted by these security guards demanding we move and identify ourselves without any legal authority to do so (scaring my child and myself) and only leaving us alone when I said I would call the police, even though we were simply waiting outside for our car to be fixed at a neighboring business.

Allowing a marijuana dispensary near Ocean View Elementary is also troubling, given the recent discussions that children at Ocean View (who according to the statistics furnished by the Albany public schools are less affluent and more likely to have immigrant parents) are provided less funding and programs than children at the other two Albany elementary schools. This perceived or real disparity in treatment of the families and children living near Ocean View Elementary will only be increased by allowing a marijuana dispensary near Ocean View. The message being sent is that it is okay to have a dispensary in the "flats" where children and their families are more likely to have less money and be a person of color, but not "up the hill" where families are more affluent, more white, and often very organized to address changes in their neighborhoods.

Lastly, there are other far more appropriate locations for a marijuana dispensary that are not near schools or youth oriented establishments. For example, across I-80 near the dog track there appears to be plenty of space to place a marijuana dispensary, if that is a business that must be in Albany. While there are traffic and safety considerations at this location as well (as well as discussions of the "best use" of limited public space), it is not near a school or residential area and likely meets the 1000 feet requirement.

I urge you to take all steps necessary to make sure a marijuana dispensary does not occur at 1019 Solano Ave. and allow community input regarding an appropriate location for a marijuana dispensary that would not have these great negative social impacts on the residential community near the proposed site.

Sincerely,

Wendy Musell

Wendy Musell

We have moved. Please note our new address.

Stewart & Musell
351 California Street, Suite 700
San Francisco, CA 94104
Telephone: 415/593-0083
Fax: 415/520-0920
wmusell@stewartandmusell.com

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January 5, 2011

From: Ed Fields

Re: Appeal Planning Application 09-064, Conditional Use Permit, Medical Marijuana Dispensary

Parking Requirements Not Met for 1019 Solano Avenue

Mayor Javandel, Members of the City Council,

I believe you should uphold the decision of the Planning and Zoning Commission to deny this Conditional Use Permit for a medical marijuana dispensary because the proposed location at 1019 Solano Avenue is:

less than 1000 feet from both the AUSD Albany Children's Center pre-school and from Ocean View Elementary School,

less than 900 feet from the YMCA at 921 Kains Avenue, which is a youth-oriented facility,

less than 500 feet from the TG after-school program at 813 San Pablo Avenue, which is a youth-oriented facility.

I would find it difficult to believe that you that you would overturn the Planning and Zoning Commission decision and allow a dispensary to operate from this location. In fact, if you have any thoughts about overturning the decision, you cannot approve the conditional use permit without a parking exception, which was not discussed nor granted at the P&Z Commission meeting.

The staff report states that three parking spaces would be required, and that five off-street parking spaces are provided. The first statement is debatable, and the second is completely wrong!

The location at 1019 Solano Avenue only provides two parking spaces, and they must be accessed through the parking garage for the apartments at 1021 Solano Avenue. The applicant has stated that they would not be available to patients of the dispensary.

The determination that only three spaces are required was made on the basis of the approximately 1300 square feet of office space on the second and third floors of the dispensary, based on office use which requires one space for 400 square feet. A determination that the 860 square foot ground floor dispensary was a neighborhood retail use allowed it to escape any parking requirement. In fact, it is more appropriate that this use be considered "Offices, professional, and other, medical" for which the requirement is one parking space per 200 square feet, or four more spaces required, for a total of seven. If the upstairs floor space is to be used for medical-related services such as hypnotherapy, nutritional counseling, acupuncture, chiropractic, etc. as the applicants propose, then perhaps it too should be considered as medical offices with the increased one space per 200 square foot parking requirement.

I do not see anything in the Findings prepared for the P&Z Commission hearing which justify making the required finding (20.100.030.D) under Adverse Impacts, 2.b. "The project's use as proposed will not be

detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity...with respect to...[T]he accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed-off street parking and loading.”

The applicants state that they plan to have 250 patients within the first six months of operation. They are expecting you to “assume” that the average patient will only visit the dispensary once per month. Hence, they are trying to allay neighbors concerns about traffic by stating that there will only be one patient seen per hour. Nothing could be further from the truth. Given the high cost of “medical marijuana”, it would be more likely to expect many patients to visit multiple times per week, despite the language in our ordinance 20.20.110.K.3.a, which states, “A dispensary shall dispense medical marijuana to meet monthly medication needs of qualified patients, similar to typical pharmacy operations. The dispensary shall strongly discourage and avoid daily or weekly visits by patients as a routine practice.” The language here clearly anticipated the potential problem. Do we really expect them to turn away patients with cash in their hands?