

Kriss Worthington

Councilmember, City of Berkeley, District 7
2180 Milvia Street, 5th Floor, Berkeley, CA 94704
PHONE 510-981-7170 FAX 510-981-7177 kworthington@ci.berkeley.ca.us

CONSENT CALENDAR November 13, 2012

To: Honorable Mayor and Members of the City Council

From: Councilmember Kriss Worthington

Subject: Supporting Oakland's Lawsuit to Stop Seizure of Property of Oakland

Medical Marijuana Dispensary

RECOMMENDATION

Adopt a Resolution supporting Oakland's lawsuit and offer legal support, including but not limited to coordinating with the City of Oakland the possibility of filing an amicus brief and providing other legal assistance to the Oakland City Attorney challenging the US Attorney's attacks on regulated medical marijuana facilities.

BACKGROUND

Oakland City Attorney Barbara Parker has filed suit in United States District Court to stop the federal government from seizing an Oakland building used by a medical marijuana dispensary. The property at 1840 Embarcadero is the location of the Harborside Health Center, a medical marijuana dispensary operating under a permit issued by the City of Oakland. In July, the U.S. Attorney for the Northern District of California filed a forfeiture action against the real property where the dispensary is located. The City's lawsuit does not seek damages, but asks the court to enjoin and declare unlawful the federal government's attempt to close down the dispensary.

The City of Oakland carefully created a regulatory scheme for medical marijuana dispensaries in order to maintain public health and safety, including the issuance of permits, the monitoring of licensed dispensaries, annual auditing of the dispensaries' financial statements, and employee background checks to ensure compliance with state and city law. The City of Oakland alleges in its lawsuit that it believed that the federal government would not disturb medical marijuana dispensaries that operate in compliance with state law.

"This legal action demonstrates that localities that support safe and legal access to medical marijuana can make a difference in this struggle with the federal government" said Joe Elford, Chief Counsel for Americans for Safe Access, an advocacy group leading the charge for safe access for medical marijuana patients.

FINANCIAL IMPLICATIONS:

Unknown.

CONTACT PERSON:

Councilmember Kriss Worthington 510-981-7170

Attachment:

1. Resolution

RESOLUTION NO. ##.###-N.S.

STOP SEIZURE OF PROPERTY OF OAKLAND MEDICAL MARIJUANA DISPENSARY

WHEREAS, the City of Berkeley supports the legality of medical marijuana in California, and

WHEREAS, the City of Berkeley opposes the federal government's continuous effort to close Oakland marijuana dispensaries and seize the dispensaries' properties; and

WHEREAS the City of Berkeley supports medical marijuana dispensaries in Oakland and throughout California that operate in compliance with state law; and

WHEREAS, the City of Berkeley recognizes that Oakland has invested time, money, and many resources in developing the regulatory scheme, monitoring of licensed dispensaries, annual auditing of the dispensaries' financial statements, and executing employee background checks to ensure compliance with state and city law; and

WHEREAS, the City of Berkeley also believes that these facilities contribute to the protection and preservation of public health and safety by providing many patients access to helpful and affordable treatment; and

WHEREAS, the City of Berkeley supports the city of Oakland's lawsuit preventing the federal government from seizing the assets of Harborside Health Clinic, Oakland's largest medical cannabis dispensary; and

WHEREAS, the City of Berkeley support Oakland's lawsuit and offer legal support, including, but not limited to, coordinating with the City of Oakland the possibility of filing an amicus brief and providing other legal assistance to the Oakland City Attorney challenging the US Attorney's attacks on regulated medical marijuana facilities.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley hereby supports Oakland's lawsuit to prevent the federal government from seizing property of Oakland medical marijuana dispensary that operate in compliance with state law.