City of Huntington Beach Planning and Building Department
STAFF REPORT

TO: Planning Commission
FROM: Scott Hess, AICP, Director of Planning and Building
BY: Jane James, Planning Manager
DATE: August 25, 2015

SUBJECT: **PLANNING APPLICATION NO. 2015-145 (APPEAL OF DIRECTOR'S DECISION REGARDING MEDICAL MARIJUANA DISPENSARY)**

APPLICANT/ APPELLANT: Daniel G. Richmond, c/o Cristian L. Peirano, Peirano and Assocites, Inc., 1666 North Main Street, Suite 350, Santa Ana, CA 92701

PROPERTY OWNER: Phan Property Management, 1209 E. 7th Street, Long Beach, CA 90813

LOCATION: 17416 Beach Blvd., 92647 (east side of Beach Blvd., approximately 350 feet north of Slater Avenue)

STATEMENT OF ISSUE:

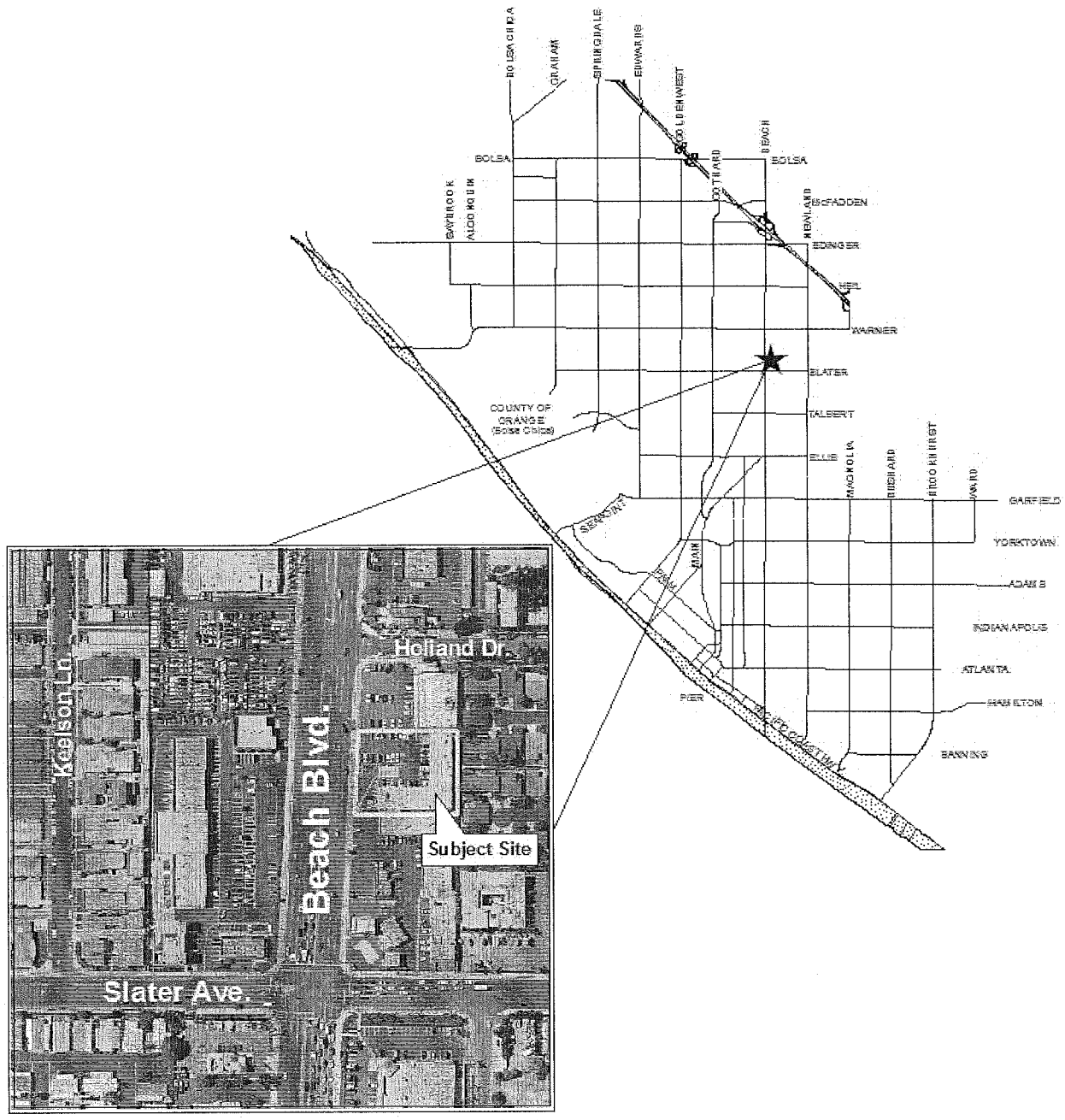
- Planning Application No. 2015-145 (Appeal of Director's Decision):
  - To obtain zoning approval to establish a medical marijuana dispensary at 17416 Beach Blvd.

- Staff Recommendation:
  Deny Planning Application No. 2015-145 (Appeal of Director's Decision) based upon the following:
  - Pursuant to City Ordinance No. 3788 adopted in 2007, medical marijuana dispensaries are a prohibited use throughout the City
  - Dispensaries are not within any of the permitted use classifications of the *Neighborhood Boulevard Segment* of the Beach and Edinger Corridors Specific Plan (BECSP) where applicant's dispensary is located; instead, the characteristics of dispensaries are substantially different than uses within the *Neighborhood Boulevard Segment*
  - Medical marijuana dispensaries are an expressly prohibited use throughout the City pursuant to Huntington Beach Zoning and Subdivision Ordinance Section 204.18, Prohibited Uses

RECOMMENDATION:

Motion to:

"Deny Planning Application No. 2015-145 (Appeal of Director's Decision) with findings (Attachment No. 1)."



VICINITY MAP
PLANNING APPLICATION 2015-145
(17416 BEACH BLVD.)

ALTERNATIVE ACTION(S):

The Planning Commission may take an alternative action such as:

"Continue Planning Application No. 2015-145 (Appeal of Director's Decision and direct staff accordingly."

PROJECT PROPOSAL:

Planning Application No. 2015-145 (Appeal of Director's Decision) represents a request to obtain zoning approval to establish a medical marijuana dispensary at 17416 Beach Blvd.

Background:

The applicant opened and began operating a medical marijuana dispensary no later than February 6, 2014. On several occasions, the applicant sought to apply for a Business License but was told that the City did not issue business licenses for dispensaries.

On June 4, 2015, the City accepted, from the applicant, Business License and Certificate of Occupancy applications requesting to operate a medical marijuana dispensary at the subject site (Attachment No. 3).

On June 26, 2015, the Director of Finance and the Director of Planning and Building together informed the applicant that the Business License and the Certificate of Occupancy applications were denied based on the fact that MMDs are a prohibited use within the City (Attachment No. 3). The City's letter outlined the process for appeal of the Director of Planning and Building's decision.

Appeal:

On July 17, 2015, the applicant filed an appeal of the Director's decision (Attachment No. 4) and the item is now scheduled for public hearing before the Planning Commission. It should be noted that a second appeal was filed the same day for the same location. The second appeal was filed with a slightly different applicant/appellant name. A separate staff report has been prepared for that appeal (Planning Application No. 2015-147).

Code Enforcement History:

On September 16, 2014, the City filed the suit, entitled *Huntington Beach v. Richmond*, Orange County Superior Court, Case No. 30-2014-0074511, against the owners of this dispensary, Daniel Richmond and Huntington Beach Caregivers. On April 13, 2015, the Court entered an order granting the City's motion for a preliminary injunction, which resulted in the closure of the dispensary until the case is tried.

ISSUES:

General Plan Conformance:

The General Plan Land Use Map designation is M-sp-d (Mixed Use-Specific Plan Overlay-Design Overlay). The proposed Planning Application No. 2015-145 to obtain zoning approval of a medical marijuana dispensary is not consistent with this designation or the policies of the City's General Plan as follows:

A. *Land Use Element*:

Policy LU 7.1.1: Accommodate existing uses and new development in accordance with the Land Use and Density Schedules (Table LU-2a and 2b).

The City has established that medical marijuana dispensaries are not a permitted use in any zoning district or specific plan area and therefore the request to obtain zoning approval of a medical marijuana dispensary is not in compliance with the General Plan or the Zoning and Subdivision Ordinance.

Zoning Compliance:

The subject site is located in the Beach and Edinger Corridors Specific Plan, *Neighborhood Boulevard Segment*, and the proposed use does not comply with the requirements of that zoning designation. Huntington Beach Zoning and Subdivision Ordinance Section 204.18 expressly prohibits medical marijuana dispensaries in all zoning districts and all specific plan areas in the City of Huntington Beach, including the Beach and Edinger Corridors Specific Plan. The proposed request to obtain zoning approval for a medical marijuana dispensary does not comply with the Huntington Beach Zoning and Subdivision Ordinance. Further, a medical marijuana dispensary is not listed as a permitted use under the *Neighborhood Boulevard Segment* of the specific plan.

Urban Design Guidelines Conformance: Not applicable.

Environmental Status:

The review of appeal by the Planning Commission is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Coastal Status: Not applicable

Design Review Board: Not applicable.

Subdivision Committee: Not applicable.

Other Departments Concerns and Requirements: This staff report was jointly prepared by the City Attorney's Office and the Planning and Building Department.

Public Notification:

The appellant and property owner were notified of the appeal hearing date on July 24, 2015 (Attachment No. 5). An attorney representing the property owner submitted an email communication stating that, "the owners object to the granting of zoning approval in this matter." Additionally, the attorney states that the property owner has served the tenants with a three day notice to quit or pay rent (Attachment No. 6). As of August 18, 2015, no further communication regarding the request has been received.

Application Processing Dates:

DATE OF COMPLETE APPLICATION:	MANDATORY PROCESSING DATE(S):
Not Applicable	Not Applicable

ANALYSIS:

The applicants' appeal raises the following three issues:

1. Ordinance No. 4058 Prohibiting Medical Marijuana Dispensaries Is Valid

In May 2015, the City Council adopted Ordinance No. 4058, adding Section 204.18 to the Huntington Beach Zoning and Subdivision Ordinance, which states in relevant part: "A medical marijuana business, collective, cooperative or dispensary or any other such business, no matter how so named, is not a permitted use in any zoning district or specific plan in the City" (Attachment No. 2). The applicant makes the legal argument at pages 2-4 of the appeal that Section 204.18 is invalid. The City Attorney considers this claim without merit, particularly since the Supreme Court recently approved of such local ordinances prohibiting medical marijuana dispensaries in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4th 729, 752. If the applicant seeks to persist in this claim, it should be raised in Court. The Planning Commission should review the appeal on the basis that all City Ordinances are valid.

It should also be noted that even prior to the adoption of Section 204.18 prohibiting all medical marijuana dispensaries throughout the City, the HBZSO already banned dispensaries. In November 2007, due to increasing concerns of public health, safety, and welfare of the residents and businesses, the City Council adopted Ordinance No. 3788, which amended the HBZSO to specifically repeal the authorization of dispensaries in Industrial zones. By repealing the singular authorization of dispensaries in Industrial zones, the result was to prohibit them throughout the City. The prohibition on medical marijuana dispensaries has remained intact since 2007.

2. Medical Marijuana Dispensaries Are Not A Permitted Use In The *Neighborhood Boulevard Segment* of the BECSP

As explained above, medical marijuana dispensaries have been prohibited throughout the City since 2007. However, the applicant makes the specific claim at pages 5-8 of its appeal that regardless of the general prohibition on dispensaries, its individual dispensary is a permitted "commercial" use. The Planning Commission should reject this claim.

The property is located in the *Neighborhood Boulevard Segment* of the BECSP. Medical marijuana dispensaries are a prohibited land use of the *Neighborhood Boulevard Segment*.

Both the HBZSO and the BECSP are "permissive" land use regulations in that they list the uses which are permitted. They both use classifications to describe and group uses having similar characteristics, but do not list every use or activity that may be within the classification. Any use not enumerated is presumptively prohibited. To distinguish between the two, BECSP Section 2.2, entitled "Building Use Regulations" states that "Proposed uses that are not explicitly listed in the use charts may be permitted if it is determined by the planning director that the proposed uses meet the purpose and intent of the plan."

This practice of the BECSP is consistent with the HBZSO Section 204.02:

> "The director shall determine whether a specific use shall be deemed to be within one or more use classifications or not within any classification in this title. The director may determine that a specific use shall not be deemed to be within a classification, if its characteristics are substantially different than those typical of uses named within the classification. The director's decision may be appealed to the Planning Commission."

The *Neighborhood Boulevard Segment* use designation is designed to have pedestrian oriented uses available to the neighboring residential subdivisions. These pedestrian oriented uses are primarily Specialty Goods Anchors, Community Oriented Anchors, and Entertainment Anchors, along with numerous similar uses (BECSP Section 2.1.8). Each of these uses is defined at Section 2.2 of the BECSP. Nowhere is a medical marijuana dispensary listed as a permitted use.

Instead of addressing the BECSP in its appeal, the applicant claims that the proposed dispensary should be regulated as if it were a "retail use" relying upon Commercial zone provisions under HBZSO Section 211.04.

Court decisions have recognized that medical marijuana dispensaries are a unique land use different from any other permitted uses, including retail use. In the case of *City of Monterey v. Carrnshimba* (2013) 215 Cal.App.4th 1068, the Court found "that the operation of a dispensary does not fall within the use classification of retail sales." (*Id.* at 1092.) The Court also determined that a dispensary did not fall within the term "personal services," (*id.* at 1092), or fit "within the model under which a pharmacy or medical supply house conducts retail sales of prescription pharmacies and medical supplies to customers." (*Id.* at 1093-1094.) The Court concluded that while "medical marijuana is certainly a good or commodity, it stretches beyond its limits the meaning of a retail sale to include within that category the noncommercial circumstance under which a collective of patients and caregivers qualified under the Compassionate Use Act." (*Id.* at 1093.)

3. The Applicant Was Not Wrongfully Denied The Opportunity To Apply For A Business License

The applicant claims at pages 8-9 of its appeal that the June 26, 2015 letter stating that the Director of Planning and Building had determined that the proposed dispensary is not eligible to receive any zoning approvals incorrectly stated that the applicant could appeal the Director's decision to the Planning Commission (Attachment 3). Applicant contends that the appeal should have been filed with

the City Clerk, and processed under HBMC Section 5.08.310, which states that "Any person aggrieved by any decision of the Finance Director under Huntington Beach Municipal Code Chapters 5.04 through 5.16 may file an appeal with the City Clerk."

The appeal was directed to the Director of Planning and Building because Huntington Beach Municipal Code Section 5.08.360 provides that no business license "shall be issued to any person failing to present all appropriate zoning permits." The June 26, 2015 decision expressly states that lack of zoning approval was one reason the Finance Director denied the business license (Attachment 3). Given that the Director of Planning and Building denied the zoning approval (as well as an occupancy permit on the same ground), any appeal must be directed to the Planning Commission pursuant to HBZSO Section 204.02.

In summary, medical marijuana dispensaries have been a prohibited use within this City since the City adopted Ordinance No. 3788 in November 2007. Recently, in order to make this longstanding prohibition clearer to the public, the City enacted HBZSO Section 204.18 in May 2015. This zoning amendment expressly articulates that medical marijuana dispensaries are a prohibited use everywhere in the City, including all zoning districts and all specific areas. Therefore, Staff recommends that the Planning Commission deny Planning Application No. 2015-145, the applicant's appeal, and request to obtain zoning approval for a medical marijuana dispensary at the subject site.

ATTACHMENTS:

1. Findings for Denial – Planning Application No. 2015-145 (Appeal of Director's Decision)
2. HBZSO Section 204.02, *Applicability*, and Section 204.18 *Prohibited Uses*
3. Letter from City of Huntington Beach to Daniel Richmond dated June 26, 2015 (includes copy of Business License application and Certificate of Occupancy application)
4. Appeal from Applicant, Daniel G. Richmond, C/O Cristian L. Peirano, received and dated July 17, 2015
5. Notice of Filing Status Letter from City of Huntington Beach to Appellant dated July 24, 2015
6. Email communication from Tracy Guerra, representing property owners received and dated August 5, 2015

SH:JJ::kd

ATTACHMENT NO. 1

SUGGESTED FINDINGS FOR DENIAL

PLANNING APPLICATION NO. 2015-145 (APPEAL OF DIRECTOR'S DECISION)

SUGGESTED FINDINGS FOR DENIAL - PLANNING APPLICATION NO. 2015-145:

1. Medical marijuana dispensaries have been a prohibited use within the City since the City adopted Ordinance No. 3788 in November 2007. Since then, Huntington Beach Zoning and Subdivision Ordinance (HBZSO) Section 204.18 went into effect in June 2015 and expressly articulates that medical marijuana dispensaries are not a permitted use anywhere within the City including all zoning districts and all specific plan areas.

2. The property is located in the *Neighborhood Boulevard Segment* of the Beach and Edinger Corridors Specific Plan (BECSP). Medical marijuana dispensary is not listed as a permitted land use of the *Neighborhood Boulevard Segment.* BECSP Section 2.2, states that "Proposed uses that are not explicitly listed in the use charts may be permitted if it is determined by the planning director that the proposed uses meet the purpose and intent of the plan."

3. Medical marijuana dispensaries do not meet the purpose and intent of the Beach and Edinger Corridors Specific Plan or the *Neighborhood Boulevard Segment.* The *Neighborhood Boulevard Segment* use designation is designed to have pedestrian oriented uses available to the neighboring residential subdivisions. These pedestrian oriented uses are primarily Specialty Goods Anchors, Community Oriented Anchors, and Entertainment Anchors, along with numerous similar uses (BECSP Section 2.1.8.). Medical marijuana dispensaries do not meet the pedestrian oriented uses of the *Neighborhood Boulevard Segment.*

4. Court decisions have recognized that medical marijuana dispensaries are a unique land use different from any other permitted uses, including uses such as retail, personal service and pharmacy. (*Monterey v. Carrnshimba* (2013) 215 Cal.App.4th 1068, 1092-94.)

5. The Planning Commission has jurisdiction over this use determination appeal pursuant to HBZSO Section 204.02, including the business license aspects of the appeal, because one of the grounds the Finance Director cited for denial of the business license was lack of zoning approval. (HBMC Section 5.08.360.)

6. Planning Application No. 2015-145 (Appeal of Director's Decision) to obtain zoning approval of a medical marijuana dispensary will be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood because pursuant to Huntington Beach Zoning and Subdivision Ordinance Section 204.18, medical marijuana dispensaries are a prohibited use within the City of Huntington Beach.

7. Planning Application No. 2015-145 (Appeal of Director's Decision) to obtain zoning approval of a medical marijuana dispensary will not be compatible with surrounding uses because pursuant to Ordinance No. 3788, the City repealed in November 2007 the limited exemption for dispensaries in Industrial zones. Further, the City enacted in June 2015, Huntington Beach Zoning and Subdivision Section 204.18, expressly demonstrating that medical marijuana dispensaries are a prohibited use within the City of Huntington Beach.

8. Planning Application No. 2015-145 (Appeal of Director's Decision) to obtain zoning approval of a medical marijuana dispensary will not comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance because pursuant to Huntington Beach Zoning and Subdivision Ordinance Section 204.18, medical marijuana dispensaries are a prohibited use within the City of Huntington Beach.

9. Planning Application No. 2015-145 (Appeal of Director's Decision) to obtain zoning approval of a medical marijuana dispensary is not consistent with the General Plan Land Use Element. In addition, it is not consistent with the following policy of the General Plan:

   A. *Land Use Element*:

   Policy LU 7.1.1: Accommodate existing uses and new development in accordance with the Land Use and Density Schedules (Table LU-2a and 2b).

   The City has established that medical marijuana dispensaries are not a permitted use in any zoning district or specific plan area and therefore the request to obtain zoning approval of an MMD is not in compliance with the General Plan or the Zoning and Subdivision Ordinance.

204.02 Applicability

Use classifications describe one or more uses having similar characteristics, but do not list every use or activity that may appropriately be within the classification. The director shall determine whether a specific use shall be deemed to be within one or more use classifications or not within any classification in this title. The director may determine that a specific use shall not be deemed to be within a classification, if its characteristics are substantially different than those typical of uses named within the classification. The director's decision may be appealed to the Planning Commission. (3334-6/97)

View the mobile version.

ATTACHMENT NO. 2.1

204.18 Prohibited Uses

A. **Purpose.** In order to expressly inform the public that any distribution of marijuana by Medical Marijuana Businesses, Collectives, Cooperatives or Dispensaries, etc., is prohibited in the City of Huntington Beach, the City is adding this express prohibition to the Zoning and Subdivision Ordinance.

B. **Definitions.** For purposes of this section, the following term is defined:

1. **Medical Marijuana Business, Collective, Cooperative or Dispensary** means any location, structure, facility, vehicle, business, store, co-op, residence, or similar facility used, in full or in part, as a place at or in which marijuana is sold, traded, exchanged, bartered for in any way, made available, located, stored, displayed, placed or cultivated, including any of the foregoing if used in connection with the distribution of marijuana.

C. **Medical Marijuana Businesses, Collectives, Cooperatives or Dispensaries.** A Medical Marijuana Business, Collective, Cooperative or Dispensary or any other such business, no matter how so named, is not a permitted use in any zoning district or specific plan in the City. It shall be unlawful for any person or entity to own, manage, establish, conduct or operate a Medical Marijuana Business, Collective, Cooperative or Dispensary. Also, it shall be unlawful for any person to permit to be established, conducted, operated, owned or managed as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, any Medical Marijuana Business, Collective, Cooperative or Dispensary in the City. (4059-5/15, 4058-6/15)

View the mobile version.

ATTACHMENT NO. 2.2

CITY OF HUNTINGTON BEACH

Original via U.S. Mail – Certified Return Receipt

June 26, 2015

Mr. Daniel G. Richmond
Sole Owner
17416 Beach Blvd.
Huntington Beach, CA 92647

Dear Mr. Richmond:

The City of Huntington Beach has received your application for the establishment and operation of a business that appears to be related to the retail/dispensation of Medical Marijuana and related products, commonly referred to as a Medical Marijuana Dispensary. We note that on June 4, 2015, you submitted an application for a business license for the Retail Sale of Medical Marijuana.

Earlier this year, the City passed an ordinance that expressly prohibits the establishment of Medical Marijuana Dispensaries or related businesses in Huntington Beach; although this ordinance did not change the City's longstanding prohibition (HBZSO Section 204.18). Prior to this recent legislative act by the City Council, the Huntington Beach Zoning and Subdivision Ordinance (land use laws) in Huntington Beach prohibited the establishment of any Medical Marijuana Dispensaries or related businesses in Huntington Beach because such businesses were not listed as a "permitted use" under the City zoning laws (HBZSO Sections 204.02, 204.10, 211.04, 212.04, and 215.04). In keeping with the City's policy on this issue over the years, the Director of Planning and Building has consistently held, under "permissive use" laws, that this kind of establishment in the City is prohibited.

After careful review and consideration of your application, the Director of Planning and Building, relying upon the foregoing authorities, has determined that your proposed Medical Marijuana business is not eligible to receive any zoning approvals or permit because you are proposing to operate a business not permitted within any zoning in the City. Without any zoning approval, a Medical Marijuana Dispensary cannot obtain a Certificate of Occupancy, which is required for the location of your business.

In addition, the Director of Finance shall not issue a business license to any person failing to present all appropriate zoning approvals, or who has failed to comply with any other provision of this code, or whose business is prohibited or illegal (HBMC Sections 5.04.050 and 5.08.360). As the HBZSO Section 204.18 expressly states that your proposed business is a prohibited use, the Finance Director cannot legally issue a business license for this use.

ATTACHMENT NO. 3.1

While we appreciate your interest in conducting business in Huntington Beach, your request for a City Business License is not approved and no business license will be issued.

You may appeal the decision of the Director of Planning and Building by submitting an appeal to the Planning Commission by filing a written notice of appeal within ten (10) days. The Notice of Appeal shall include the name and address of the appellant, the decision to be appealed, and the grounds for the appeal. That appeal must be accompanied by a payment of $494.00 to cover the filing fee.

The City of Huntington Beach thanks you for your interest in conducting business in the City. In light of the denial of your business license application, the City will be issuing you a full refund of any payments you made to the City with your business license application. The reimbursement will be sent by check to your mailing address. If you have any questions or concerns, please do not hesitate to contact either the Director of Finance at (714) 536-5630, or the Director of Planning and Building at (714) 536-5276.

Thank you.

Sincerely,

Lori Ann Farrell, Director of Finance

, ACTING
Scott Hess, Director of Planning and Building

Enclosure: Copy of Application

ATTACHMENT NO. 3.2

CITY OF HUNTINGTON BEACH

FINANCE DEPARTMENT – BUSINESS LICENSE
P. O. Box 190 - 2000 Main Street, Huntington Beach, CA 92648-2702
Phone (714) 536-5267 – Fax (714) 536-5934 – www.huntingtonbeachca.gov

APPLICATION FOR BUSINESS LICENSE

RECEIVED JUN 04 2015 Business License

BUSINESS DETAILS: Applications must be typed, or legibly hand printed in blue or black ink

Name of Business (DBA): Daniel G. Richmond

Name of Corporation (attach list of officers):

Owner(s) or Principal(s)	Title
Daniel G. Richmond	Title Sole Owner
Contact Person Daniel G. Richmond	Title

Business Address:
17416 Beach Blvd. Huntington Beach, CA 92647

Mailing Address; City, State, Zip:
Same

E-mail Address	Web Site	Business Phone	Fax
	weedmaps.com	714-475-5502	

Type of Ownership: ☒ Sole Proprietor	Social Security # [redacted]	Type of Ownership: ☐ LLC ☐ Partnership ☐ Corporation	Federal Tax ID #	State Tax ID #

Date Business Started in Huntington Beach:	# Employees (include self per latest tax filing):	Full-time	Part-time (FTE)	SIC #
October 13, 2014				5999

Detailed Description of Business Activity:
Retail Sale of Medical Marijuana

Located in a BID?	BID Zone	Area (sq ft)	BID Type	Discharge into Stormdrain?	NPDES Permit #
☐ Yes ☐ No	☐ 1 ☐ 2			☐ Yes ☐ No	

Description of Products Sold	Do you collect sales tax? ☐ Yes ☒ No	Seller's Permit (Resale #)
Medical Marijuana		

Business Vehicles Used in the City?	Under 1 ton	1-3 tons	Over 3 tons	License Plate #	License Plate #
☐ Yes ☒ No How Many?					

☐ General Contractor ☐ Sub Contractor	Contractor's Lic #	Classes	Expiration Date	Job Address

Burglar Alarm System? ☐ Yes ☐ No If yes, permit is required. Call (714) 960-8805	Alarm Permit #	Health Permit #	ABC License #	CUPA#

State License (# / Type / Exp. Date)	Live Entertainment? ☐ Yes ☐ No	Sale of Adult Only Items? ☐ Yes ☐No

Coin Operated Machines? ☐ Yes ☐ No	# Vending	# Amusement	# Service	# Music	# Bulk

Vending Company's Name/Address/Phone

# Apt/Motel/Rooming House/Office Units	#Trailer Spaces	Date of Purchase	Mobile Vendor? ☐ Yes ☐ No If yes, complete section on back of form

I am aware of the provisions of Section 3700 of the California Labor Code, which requires every employer to be insured against liability for Workers Compensation. (Please check appropriate box)

☐ Certificate of Workers Compensation Insurance ☐ Certificate of Self-Insurance of Workers Compensation

☒ I certify that in the performance of work for which this license is issued I shall not employ any person in any manner so as to become subject to the worker's compensation laws of California. Note: If after signing the certificate, you hire any employee, you become subject to the workers' compensation provisions of the California Labor Code and you must immediately comply with the provisions of Section 3700 or your license immediately becomes revoked.

I hereby declare under penalty of perjury that the information and statements on this application are true and correct.

Signature: [signature] Title: _____

Printed Name: Daniel G. Richmond Date: 4-8-2015

CP# 1283057 **Total Due:**

ATTACHMENT NO. 3.3

SUPPLEMENTARY INFORMATION REQUIRED: (NON-PUBLIC INFORMATION) Applications must be typed, or legibly hand printed in blue or black ink			
Owner or Principal Daniel G. Richmond			Title Sole Owner
Residence Address 6806 Thaithian Cir			
City Yorba Linda	State CA	Zip 92886	Home Phone [redacted]
Date of Birth [redacted]	Social Security # [redacted]		Drivers License [redacted]
Signature [signature]	Date 4-8-2015		
Partner's Name or Secondary Principal (If applicable) N/A			Title
Residence Address			
City	State	Zip	Home Phone
Date of Birth	Social Security #		Drivers License
Signature	Date		

ALTERNATIVE CONTACT IN CASE OF EMERGENCY:		
Name	Title	Phone

MOBILE VENDORS ONLY -- SUPPLEMENTARY INFORMATION:			
Products Sold		Overnight Location of Vehicle	
Registered Owner of Vehicle		Description of Logo (may attach photo)	
Make of Vehicle	Year	Color	VIN #
Previous License? ☐ Yes ☐ No	City where previous license obtained		Date
Has license/franchise previously been revoked/suspended? ☐ Yes ☐ No	Reason for Suspension if Yes		Year

MOBILE VENDORS MUST ALSO PROVIDE WITH APPLICATION:
- Photo copy of valid drivers license for each driver
- DMV auto registration
- Copy of auto insurance referencing VIN and policy #, naming additionally insured
- Color photos of vehicle showing full side profile with logo and full rear of vehicle with license plate

IMPORTANT INFORMATION:

Please notify the Business License Office of any changes to the business, including business name, location, owners, partners, business type or activity. If the business license is not updated accordingly, it may no longer be valid and the business owner may then be liable for penalties and administrative citations.

If the business moves to another commercial location, a Certificate of Occupancy for the new location must be applied for with the Planning Department. Call (714) 536-5271 for application.

As an applicant for a business license as a sole proprietor, you are **required** to provide your Social Security number as part of the application. Pursuant to Section 405(c)(2)(C)(i) of Title 42 of the United States Code, the City is permitted to require disclosure of the Social Security number for tax purposes. Disclosure of this information is mandatory. However, while disclosure is required in order for the City to properly administer the business license tax program, the Social Security number is not public record, and will not be disclosed to any members of the public.

Under federal and state law, compliance with disability access laws is a serious and significant responsibility that applies to all California building owners and tenants with buildings open to the public. You may obtain information about your legal obligations and how to comply with disability access laws at the following agencies: The Division of the State Architect at www.dgs.ca.gov/dsa/Home.aspx. The Department of Rehabilitation at www.rehab.cahwnet.gov. The California Commission on Disability Access at www.ccda.ca.gov. Signature

OFFICE USE ONLY:		
Bus License #	NOTES:	TOTAL DUE: $ (Includes non-refundable processing fee)

ATTACHMENT NO. 3.4

HUNTINGTON BEACH

CERTIFICATE OF OCCUPANCY O20___ - _____
CITY OF HUNTINGTON BEACH –
DEPT. OF PLANNING & BUILDING APPLICATION

714/536-5241

(3rd Floor – Must Apply In-Person)

Business License # _____ Date Jan. 2014
Business Address 17416 Beach BLVD Huntington Beach Zip Code 92647
Business Owners Name Daniel Richmond Telephone No. 714-422-5857
Business Name HBCG COOPERATIVE, INC Bus. Phone _____
Business Type Retail Sale of medical Marijuana, Sale related Publications

Property Owner Information *(required)*	Tenant/Emergency Contact *(required)*
Name Phan Property Management	Name Daniel Richmond
Address 1209 E. 7TH ST	Home Address 6806 Tahitian Cir
City Long Beach State/Zip CA 90813	City Yorba Linda State/Zip CA 92886
Telephone No. (562) 218-7601	Telephone No. (714) 970-6084

THIS USE WOULD BE DESCRIBED AS:

☐ Newly Constructed Building or ☒ Existing Building

CHECK ALL THAT APPLY:

☐ Change of Property Owner ☐ Change of Occupant ☐ Change of Use ☐ Additional Occupant

- Indicate former type of business Unknown Believed to be Retail
- Are you requesting that the electricity be turned on? Yes☐ No☒
- **Is the building sprinklered? Yes☐ No☒**
- Will operations produce dust/wood shavings or similar material? Yes☐ No☒
- Will operations involve the repair or replacement of automobile parts Yes☐ No☒ If yes: Describe the components repaired or replaced. _____
- Does the operation involve the use of welding or open flame? Yes☐ No☒
- Will the business be a drinking, dining or assembly use with an occupant load of more than 50 persons? Yes ☐ No ☒
- Will there be storage racks, gondolas, or shelving exceeding 5feet 9 inches in height? Yes ☐ No ☐
- The following best describes my operation: ☐ Office Only ☒ Retail Sales ☐ Medical/Dental ☐ Warehouse /Manufacturing/Distribution ☐ Restaurant/Take Out Food
  (describe process and end product) Retail Sale of medical marijuana
  Other (describe) And sale of related publications

For Official Use Only

Occ Group: _____	Area: _____	Occ Load: _____
Occ Group: _____	Area: _____	Occ Load : _____
Occ Group: _____	Area: _____	Occ Load: _____
Total Sq Ft Occupied: _____	No. of Stories: _____	TIF Review: Y/ N
Bldg. Permit # _____	Entitlement #: _____	Zoning: _____

Plnr Initials: _____ Date: _____ Plan Chkr Initials: _____ Date: _____ Insp Initials: _____ Date: _____

Conditions of Approval or Other Notes:

_____

_____

_____

_____

Inspection Date: _____

ATTACHMENT NO. 3.5

CASH RECEIPT
CITY OF HUNTINGTON BEACH
P.O. BOX 711
HUNTINGTON BEACH, CALIFORNIA 92648-0711
www.huntingtonbeachca.gov/payments

DATE 6/4/15 Issuing Dept. Finance /BL

Dept. Phone # ( ) - 5267

FUNDS RECEIVED FROM ~~Application Fee~~ Daniel Eidm

ADDRESS 17416 Beach Blvd

Huntington Beach, Phone #: ( ) -

FOR application Fee

AMOUNT RECEIVED ☐ Cash ☐ Check # _____ ☑ Credit Card $ 117.60

Prepared By	Received By	Finance Approval
IF OBJECT = 50000 THRU 90000, FINANCE APPROVAL REQUIRED		Approval Date

Business Unit	Object	Subs	Sub-Ledger	Type	
10000100	42110				75.00
10000100	42110				41.60
23400234	42112				1.00

TOTAL $ 117.60

Stamped Validation Only
Please do not write in the box below

6/4/2015 11:15:09 AM
00030011515 28
City Treasurer Receipts
$117.60
Jewel

No. 1283057

ISSUING DEPARTMENT COPY

ATTACHMENT NO. 3.6

CITY OF HUNTINGTON BEACH

Original via U.S. Mail – Certified Return Receipt

July 7, 2015

Mr. Daniel G. Richmond
6806 Thaithian Circle
Yorba Linda, CA 92886

Dear Mr. Richmond:

Please see the enclosed letter from the City of Huntington Beach dated June 26, 2015, regarding your business license application. This letter was sent to you via Certified Mail to the business address you indicated as your mailing address on the business license application as follows:

Daniel G. Richmond, Sole Owner
17416 Beach Blvd.
Huntington Beach, CA 92647

On Monday, July 6, 2015, this letter was returned to the City by the United States Postal Services as "Moved, Left No Order" and "Attempted, Unknown". As such, we are forwarding the letter to your address of residence.

Sincerely,

Lori Ann Farrell, Director of Finance

Enclosure: Certified Letter Reference 7008 3230 0001 1468 1592

ATTACHMENT NO. 3.7

RECEIVED
JUL 17 2015
Dept. of Planning & Building

DEMAND FOR APPEAL OF DENIAL OF BUSINESS LICENSE BY DIRECTOR OF FINANCE

TO: CITY OF HUNTINGTON BEACH CITY CLERK & CITY COUNCIL AND/OR DESIGNEE

FROM: APPLICANT, Daniel G. Richmond
C/O & to the Attention of: Cristian L. Peirano, Esq. of Peirano & Associates, Inc.
1666 North Main Street, Suite 350
Santa Ana, CA 92701

Date: July 15, 2015

RE: **Appeal of City of Huntington Beach, Finance Director, Lori Ann Farrell & Director of Planning & Building, Scott Hess's denial of business license application certificate of occupancy to operate medical marijuana dispensary rendered on June 26, 2015 and Mailed Successfully on July 7, 2015.**

I, Daniel G. Richmond, demand by way of this appeal that the City of Huntington Beach issue me a business license along with all applicable permits in order to operate medical marijuana dispensary at the location commonly known as: 17416 Beach Blvd., Huntington Beach, CA 92647 for the following reasons:

1. The City of Huntington Beach's denial of business license application based on HBZSO section 204.18 is not valid as the underlying Ordinance No. 4059 used to pass 2014.18 is void as a matter of law pursuant to California Government Code section 65858(e) as it duplicated the City's Ordinance No. 3700.

2. Medical Aid Program prior to operating attempted to apply for business license, but was wrongfully denied its due process rights to submit its business license application because of the City's mistaken belief that its municipal code sections prohibited medical marijuana dispensaries from operating in the zone where Applicant operated out of.

3. The City's notice of denial with instructions for appeal of Finance Directors' decision was defective in that HBMC section 5.08.310 clearly states that an applicant aggrieved

ATTACHMENT NO. 4.1

by any decision of the Finance Director 5.04 through 5.16 may file an appeal with the City Clerk within 15 days of the date of mailing and that such appeals be filed with the City Clerk and not the Director of Building and Planning as incorrectly being tasked with the appeal. The notice of decision, however, states that the appeal will be filed with the Director of Planning and Building and that Applicant has only 10 days in which to do so and according to the telephonic confirmation no submission is allowed by mail when all others are allowed to do so.

ARGUMENT

I. The City of Huntington Beach's denial of business license application based on HBZSO section 204.18 is not valid as the underlying Ordinance No. 4059 used to pass 2014.18 is void as a matter of law pursuant to California Government Code section 65858(e) as it duplicated the City's Ordinance No. 3700

According to the City's June 26, 2015, delivered on July 7, 2015, decision to deny Applicant's business license application its application for business license was denied because:

> Earlier this year, the City passed an ordinance that expressly prohibits the establishment of Medical Marijuana Dispensaries or related businesses in Huntington Beach; although this ordinance did not change the City's longstanding (HBZSO Section 204.18). Prior to this Ordinance (land use laws) in Huntington Beach prohibited the establishment of any Medical Marijuana Dispensaries or related business in Huntington Beach because such a businesses were not listed as a "permitted use" under the City zoning laws (HBZSO Sections 204.02, 2014.10, 211.04, and 215.04)

See Exhibit "A" City of Huntington Beach June 26, 2015, denial of business license application.

A. THE CITY'S URGENCY ORDINANCE NO. 4059, IS VOID ON ITS FACE. IT IMPERMISSIBLY DUPLICATED ORDINANCE NO. 3700 IN VIOLATION OF CALIFORNIA GOVERNMENT CODE SECTION 65858, ET. SEQ.

The City's June 26, 2015, denial of business license application by Applicant, the City makes it clear that the City thinks that it passed Ordinance 4059 on May 4, 2015. Passage of an urgency ordinance, such as this one, are subject to particular procedures that must be followed by the City adopting a zoning ordinance. However:

> Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body of a county, city, including a charter city, or city

> and county, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time.

California Government Code section 65858(a).

While enacting Ordinance 4059, the City invoked this provision: "Pursuant to Government Code Section 65858, and based on the findings set forth above, the City Council hereby declares that this interim ordinance is necessary as an urgency measure for the immediate preservation of the public health, safety, or welfare."

B. The City cannot meet the provisions of Cal. Gov. Code §65858 as it failed to ameliorate the effects of its prior urgency ordinance for moratorium against medical marijuana dispensaries.

The ability to simply bypass procedures based upon the willingness of a city council to make "findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare" (Gov. Code § 65858(c)) would seem ripe for abuse, and the City does just that. Fortunately, subdivision (e) steps in to prevent the City's abuse:

> When an interim ordinance has been adopted, **every subsequent ordinance adopted pursuant to this section**, covering the whole or a part of **the same property, shall automatically terminate and be of no further force or effect upon the termination of the first interim ordinance or any extension of the ordinance** as provided in this section.

California Government Code section 65858(e). (Emphasis added).

Subdivision (e) prevents the City from re-enacting its previous moratorium against "medical marijuana dispensaries." No two interim ordinances can address the same subject on the same land for the same reason and purpose.

C. A moratorium on Medical Marijuana Dispensaries was already implemented.

The City admits there was a previous moratorium in the new interim ordinance: "The City of Huntington Beach also previously imposed a Moratorium on medical marijuana dispensaries." (City's RJN E, § 1A.) In fact, the City adopted it on February 22, 2005:

> A motion was made by Bohr, second Hansen to adopt **Interim Ordinance No. 3700** — "*An Interim Ordinance of the City of Huntington Beach Imposing a Moratorium*

ATTACHMENT NO. 4.3

on Medical Marijuana Dispensaries" with specific findings regarding the detriment to the public's health, safety and welfare **amended** to bypass the Planning Commission and bring an ordinance directly to Council and to change from a 45-day to a 30-day moratorium. The motion carried by the following roll call vote:

AYES: Hansen, Coerper, Sullivan, Hardy, Green, Bohr
NOES: Cook
ABSENT: None

City Council Minutes, February 22, 2005.

Interim Ordinance 3700 likewise invoked Government Code section 65858, stating, "Pursuant to California Government Code Section 65858(a) . . . this interim ordinance shall become effective immediately." (Ordinance 3700, § 4.) Including the amendment to cut the effective period down to 30 days, the moratorium **expired on March 25, 2005 and can not be re-enacted ten years later pursuant to Government Code section 65858, subdivision (e)**. As a result, the current state of the law in the City of Huntington Beach falls back on what the law was prior to the City's failed attempt to pass a ban on medical marijuana dispensaries.

II. Daniel G. Richmond prior to operating attempted to apply for business license, but was wrongfully denied its due process rights to submit its business license application because of the City's mistaken belief that its municipal code sections prohibited medical marijuana dispensaries from operating in the zone where the dispensary was located.

The Huntington Beach Municipal Code provides that it will issue licenses for those seeking a business license and that it cannot use its business license for the purpose of regulation:

> "The business licenses issued pursuant to the provisions of this title constitute a receipt for the license fee paid and shall have no other legal effect. A business license is a requirement, not a permit to conduct, manage or carry on any business activity within this City. (838-6/61)"

HBMC section 5.04.090 License not a permit.

> The ordinance codified herein is enacted solely to raise revenue for municipal purposes, and is not intended for regulation. (766-7/60)

HBMC section 5.04.020 Purpose

According to the City's own pamphlets available on line as of the date of this appeal states the following:

> A City of Huntington Beach business license is not a regulatory license but is a tax to help pay for the public safety needs of the people of Huntington Beach.

About Business Licenses, City of Huntington Beach's website: <http://www.huntingtonbeachca.gov/files/users/finance/How_to_do_bus_flyer.pdf

Applicant's dispensary falls under the category of General Commercial under the City's land use laws a property classified as general commercial can undertake retails sales of goods such as medical marijuana:

> 211.04 CO, CG, and CV Districts—Land Use Controls
> In the following schedules, letter designations are used as follows:
>
> "P" designates use classifications permitted in commercial districts.
>
> "L" designates use classifications subject to certain limitations prescribed by the "Additional Provisions" that follow.
>
> [***]
>
> Use classifications that are not listed are prohibited. Letters in parentheses in the "Additional Provisions" column refer to provisions following the schedule or located elsewhere in the Zoning Ordinance. Where letters in parentheses are opposite a use classification heading, referenced provisions shall apply to all use classifications under the heading.
>
> CO, CG, and CV Districts: Land Use Controls
>
> P = Permitted
> [***]

	Co	CG [Commercial General]	CV	Additional Provisions
[***]	[***]	[***]	[***]	[***]
Commerical Uses				
Retail Sales	-	P	P	(U)(V)

> CO, CG, and CV Districts: Additional Provisions

Huntington Beach Zoning Subdivisions & Ordinance section 211.04

This is exactly what Applicant, intends to do which perform retail sales of medical marijuana. This is allowed in this zone for this property and for this purpose without the need for any additional permits as indicated under 211.04 as cited hereinabove.

The next question is what retails sales are allowed and what merchandise can be sold in the sector where the Property is located? Those two questions are easily disposed of in the City's municipal code section that follows regarding the permitted use by Applicant under HBMC 204.10Y.

a. **The retail sale of medical marijuana is provided for under the City of Huntington Beach municipal code section under: 204.10Y states:**

ATTACHMENT NO. 4.5

> Y. Retail Sales. The retail sale of merchandise not specifically listed under another use classification. This classification includes department stores, drug stores, clothing stores, and furniture stores, and businesses retailing the following goods: toys, hobby materials, handcrafted items, jewelry, cameras, photographic supplies, medical supplies and equipment, electronic equipment, records, sporting goods, surfing boards and equipment, kitchen utensils, hardware, appliances, antiques, art supplies and services, paint and wallpaper, carpeting and floor covering, office supplies, bicycles, and new automotive parts and accessories (excluding service and installation).

Hunting Beach Zoning & Subdivision and Ordinances section 204.10Y.

Clearly, the retail sale of medical marijuana is allowed under the local land use laws of the City. "Permissive" in circumstances such this means that if something is not specifically provided for or allowed then it is not permitted and/or is prohibited.

In this case however, there are two reasons why this does not apply as a matter of fact and law. The first is the code section above, is a catchall provision providing for the right to sell merchandise: "Retail Sales. The retail sale of merchandise not specifically listed under another use classification." Huntington Beach Zoning & Subdivision Ordinances Section 204.10Y.

This language lifts it out of the permissive analysis to a prohibitive statutory analysis. Under a prohibitive statutory analysis that which is not prohibited is permitted unlike the analysis applicable under the permissive scheme: Nothing which is done or maintained under express authority of a statute can be deemed a nuisance California Civil Code section 3482.

As a compliment to that section and in order to further understand the application of the language in establishing that the City's laws do embrace medical marijuana dispensaries:

> 211.02 Commercial Districts Established
> The purpose of the commercial districts is to implement the General Plan and Local Coastal Program commercial land use designations. Three commercial zoning districts are established by this chapter as follows:
>
> [***]
>
> B. The CG General Commercial District provides opportunities for the full range of retail and service businesses deemed suitable for location in Huntington Beach.

Huntington Beach Zoning & Subdivision Ordinance section 211.02

This section clearly establishes that if dispensary is seeking to sell medical marijuana that it falls within the stated purposes of the City in keeping with its objectives for its land use laws. This is made clear through its use of the terms "full range of retail...businesses" meaning the complete spectrum of retail businesses without any further qualification whatsoever.

This section does not say "a moderate range of retail businesses", "some retails business", or

"everything except medical marijuana." The City could have but it did not. Clearly, persons such as Applicant seeking a business license to sell medical marijuana have the legal authority to do so in the City of Huntington Beach.

The second reason why the principal of permissive code interpretation is inapplicable in this case comes by way of Art. I., Sec.'s 1 & 26 of the California State Constitution. It mandates that the rights involved with medical marijuana deal with certain inalienable rights:

> "All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy."

California Constitution, Article 1, Section 1.

Medical marijuana is property and the ability to seek treatment through the use of medical marijuana involves the right to enjoy life in not suffering from ailments that can be cured or resolved and/or better tolerated through the use of medical marijuana. It also involves the right to be safe from chronic pain of medical conditions, which also affects one's rights to pursue happiness, all of which can be achieved through the use of medical marijuana.

The right to medical marijuana however, is not an absolute or an unfettered right. The right to medical marijuana is subject to proscription under the language provided for under California Constitution Art. I. Sec. 3(b)(4) that guarantees and mandates that if such a right is to be limited or denied that such limitation or prohibition must be achieved through due process of law and under equal protection of law. In order to meet this mandate, those like the City; seeking to limit or take away any person's rights to medical marijuana must do so through express words.

> "The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise."

California Constitution, Article 1, Section 26

But the reality is that please property falls squarely within the classification general commercial and is offered to the opportunity of conducting general retail sales. The City's general commercial zones use classification states full:

> ...retail sale of merchandise not specifically listed under another use classification.

This classification includes… drugstores, and businesses retailing the following goods:… handcrafted items, medical supplies,…"

HBZSO section 204.10Y

But this thing is a question of just how generous and expansive MBZSO section 204.10Y. The answer is that it is wide open according to the stated intent of the city when seeking to define the universe of retail sales that are included in the applicable use classification. The answer simple because the city clearly states and it's intention of what has intended to include in its retail sales:

The purpose of the commercial district is to implement the general plan and local coastal program commercial land-use designations. Three commercial zoning districts ourselves by this chapter as follows:

[***]

B. The CG general commercial district provides opportunities for the full range of retail and service this is being suitable for location in Huntington Beach.

HBZOS 211.02, ("***" indicating deletion of chapters or paragraphs not being used in the citation by applicant)

Clearly, the intended universe of retail sales encompasses in the cities limited industrial area covered under general commercial district is compliments and he is a full range of retail business. Full range can be defined according to common parlance is used by the people means: the entire spectrum. Plainly and clearly intending to encompass anything and everything that can fall into this use classification.

III. The City's notice of denial with instructions for appeal of Finance Directors' decision was defective in that HBMC section 5.08.310 clearly states that an applicant aggrieved by any decision of the Finance Director 5.04 through 5.16 may file an appeal with the City Clerk within 15 days of the date of mailing. Such appeals are to be filed with the City Clerk and not the Director of Building and Planning, which is incorrectly being tasked with the appeal. In violation of the City's laws decision states that the appeal will be filed with the Director of Planning and Building and that Applicant has only 10 days in which to do so and according to the telephonic confirmation no submission is allowed by mail when all others are allowed to do so.

ATTACHMENT NO. 4.8

The City's notice of denial with instructions for appeal of Finance Directors' decision was defective in that HBMC section 5.08.310 clearly states that an applicant aggrieved by any decision of the Finance Director 5.04 through 5.16 may file an appeal with eh City Clerk within 15 days of the date of mailing and that such appeals be filed with the City Clerk and not the Director of Building and Planning as incorrectly being tasked with the appeal.

Applicant therefore files this appeal to Building and Planning Directors decision under protest as he was not entitled to provide a decision as to the Finance Director's decisions involving denial of business license applications for HBMC sections 5.04 through 5.16 as clearly set forth in HBMC 5.08.310. The applicant has the right to appeal any decision by the Finance Director within 15 days and file the appeal with the City Clerk and have it heard by the City Council and/or designee. Failing to provide Applicant the right to appeal the City Finance Director's decision and then arbitrarily reduce the appeal time to 10 days instead of 15 days is illegal and constitutes a violation of Applicants due process rights under California State Constitution Article 1, Section 3(b)4. and in violation of 42 USC 1983.

More importantly, the City's decision fails to set forth the necessary permits that the Applicant would need to get approval for when the use under HBZSO 204.11, is clearly designated with a "P" for the applicable zone for use involving general retail, which is what Applicant is seeking to use the property for. In other words the City has no basis for its denial.

III. CONCLUSION

Based on the foregoing Applicant requests that the City of Huntington Beach issue a business license and permit for the operation of a medical marijuana dispensary. More importantly, the City in its denial letter has failed to specify what permits Applicant would have needed and therefore demands a statement of what permits it is referring to in order to properly prepare for the appeal of the City's decision so Applicant can properly prepare for the prosecution of the appeal. Applicant files this appeal under protest in that the City failed to properly consider the business license application, has in bad faith changed the appellate procedures for appealing a decision by the Finance Director which Applicant is

entitled to and because it is shortening the appellate time from 10 to 15 days without legally authority to do so and discriminatorily rerouting the appeal to the Planning and Building Director without authority to do so and without establishing that the City Council has designated the Planning and Building director as its designee for the appeal. In addition, by not allowing the Applicant to submit the appeal by US Mail as all others are allowed to do.

ATTACHMENT NO. 4.10

City of Huntington Beach

2000 MAIN STREET CALIFORNIA 92648

DEPARTMENT OF PLANNING AND BUILDING

www.huntingtonbeachca.gov

Planning Division
714.536.5271

Building Division
714.536.5241

July 24, 2015

NOTICE OF FILING STATUS

APPLICATION: **PLANNING APPLICATION NO. 2015-145 – APPEAL OF DIRECTOR'S DECISION (17416 BEACH BLVD.)**

APPLICANT: Daniel G. Richmond
C/O and to the Attention of Cristian L. Peirano, Peirano and Associates, Inc., 1666 North Main Street, Suite 350, Santa Ana, CA 92701

PROPERTY OWNER: Robert C. Autrey, PO Box 90639, Long Beach, CA 90809

REQUEST: To obtain zoning approval to establish a medical marijuana dispensary.

PROJECT LOCATION: 17416 Beach Blvd., 92647 (east side of Beach Blvd., approximately 350 feet north of Slater Avenue)

Dear Applicant:

NOTICE IS HEREBY GIVEN that the Planning and Building Department has received your Appeal of Director's Decision, received and dated July 17, 2015.

NOTICE IS HEREBY GIVEN that on **Tuesday, August 25, 2015, at 7:00 PM in the City Council Chambers, 2000 Main Street, Huntington Beach, CA, 92648**, the **Planning Commission** will hold a **public hearing** on the request described above.

Please note the applicant is allowed to present to the Planning Commission up to the pre-set amount of time of four minutes. Additional time may be granted to the applicant at the discretion of the Planning Commission Chair. If you would like to request more time or if you would like to make a detailed presentation with PowerPoint, please contact staff prior to the meeting to make arrangements. Also, if you have handouts or presentation materials, please make sure you have sufficient copies for all in attendance.

If you should have any questions or concerns regarding the processing of your application, please feel free to contact me at (714) 536-5596 or jjames@surfcity-hb.org.

Sincerely,

Jane James
Planning Manager

copy: Robert C. Autrey, PO Box 90639, Long Beach, CA 90809, Property Owner
Phan Property Management, 1209 E. 7th Street, Long Beach, CA 90813

ATTACHMENT NO. 5

Scott Hess, Director of Planning and Building
Michael Gates, City Attorney
Michael Vigliotta, Chief Assistant City Attorney
John Fujii, Senior Deputy City Attorney
Project File

ATTACHMENT NO. 5.1

James, Jane

From: Tracy Guerra [tracyguerra@msn.com]
Sent: Wednesday, August 05, 2015 5:43 PM
To: James, Jane
Subject: planning application 2015-145 / 17416 Beach Blvd
Attachments: 20150805173443745.pdf

hi - concerning this hearing that is set for august 25, 2015 at 7 pm for planning application 2015-145, requesting zoning approval to establish a medical marijuana facility at 17416 Beach Blvd:

i am an attorney representing the owners of these premises. the owners object to the granting of zoning approval in this matter.

further, attached please find courtesy copies of a 3 day notice to pay rent or quit, and a 30 day notice to vacate, being served upon these tenants at this time.

if these tenants do not vacate these premises within 30 days of service of the notice, my office will be filing an unlawful detainer (eviction) action against them immediately thereafter.

i believe that the property owner's objection to the granting of zoning approval, and the tenant's pending termination of tenancy, should be considered as factors in this matter.

please let me know if this email is sufficient for that purpose, or whether our appearance at the hearing is necessary to make that point.

to discuss further, please call me anytime. thanks - tracy

Tracy Guerra, Esq.
LAW OFFICE OF TRACY GUERRA
235 E. Broadway #314
Long Beach CA 90802
(562) 997-9690

ATTACHMENT NO. 6.1

THREE DAY NOTICE TO PAY RENT OR QUIT - COMMERCIAL TENANCY

To: Danny Richmond

And ALL OTHER OCCUPANTS of the premises located at:

17416 Beach Blvd, Huntington Beach CA 92647

Within THREE DAYS after service of this notice, you are hereby required to pay the landlord or his/her authorized agent the rent of the premises hereinafter described, of which you now hold possession, amounting to the sum of $20,000, being a reasonable estimate of the rent due (pursuant to C.C.P. section 1161.1) through 8/31/15.

OR QUIT AND DELIVER UP THE POSSESSION OF THE PREMISES.

YOU ARE FURTHER NOTIFIED THAT, the owner/landlord does hereby elect to declare forfeiture of your lease or rental agreement under which you hold possession of the above-described premises and if you fail to perform or otherwise comply, will institute legal proceedings to recover rent and possession of said premises, costs, attorney's fees and punitive damages as allowed by law.

Acceptance of a partial payment of the amount shown above will not constitute a waiver of the landlord's right to commence and/or pursue an action in unlawful detainer to recover the balance of the rent due and possession of said premises. (C.C.P. section 1161.1)

Dated: 8/6/15

Julieanne Phan, Phan Property Management
Person to Pay: Julieanne Phan
Phone No. (562) 218-7601
Address to Pay: 1209 E. 7th St.
Long Beach CA 90813
Days/Hours to Pay: Mon - Fri; 9am to 5pm

ATTACHMENT NO. 6.2

30 DAY NOTICE TO QUIT

Tenant(s): Danny Richmond

Premises: 17416 Beach Blvd, Huntington Beach CA 92647

YOU ARE HEREBY NOTIFIED that the tenancy under which you occupy these premises shall expire thirty (30) days after service of a copy of this notice upon you, and you are required to quit and deliver up possession of the premises to the undersigned on or before that date.

IF YOU FAIL TO DO SO, legal proceedings will be instituted against you for possession of the premises, for forfeiture of the rental agreement and monetary damages as may be allowed by law.

YOUR RENT REMAINS DUE for the period of time up through the termination of your tenancy. Failure to pay any rent as it comes due may cause your tenancy to be terminated sooner than thirty (30) days.

YOU ARE FURTHER NOTIFIED that you may request an optional move-out inspection and to be present at the inspection. The inspection must be performed no earlier that two (2) weeks prior to move out. Call to schedule an appointment at (562) 218-7601.

YOU ARE FURTHER NOTIFIED that State law permits former tenants to reclaim abandoned personal property left at the former address of the tenant, subject to certain conditions. You may or may not be able to reclaim property without incurring additional costs, depending on the cost of storing the property and the length of time before it is reclaimed. In general, these costs will be lower the sooner you contact your former landlord after being notified that property belonging to you was left behind after you moved out.

Dated: 8/6/15

Julieanne Phan, Phan Property Management

ATTACHMENT NO. 6.3