

# Public Comment

#3

Ramirez, Angelica

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**From:** Marc Chytilo <marc@lomcsb.com>  
**Sent:** Monday, March 9, 2020 4:40 PM  
**To:** sbcob  
**Cc:** Courtney Taylor; Ana Citrin  
**Subject:** Sta Rite - Item # 3 -  
**Attachments:** LOMC to BOS Unclean Hands Santa Rita 3-9-20.pdf



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Clerk – please accept the attached 1 page letter to the Santa Rita matter for 3/10

Thank You

Marc

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ENVIRONMENTAL LAW

March 9, 2020

Santa Barbara County Board of Supervisors  
105 E. Anapamu Street  
Santa Barbara, California 93101

By email to [sbcob@co.santa-barbara.ca.us](mailto:sbcob@co.santa-barbara.ca.us)

**RE: Santa Rita Valley Ag., Inc. Cannabis Cultivation Project; 19APL-000000-00032  
Supplemental Letter – Applicant Attempt to Revised Project on Pence’s Appeal**

Chair Hart and Honorable Supervisors,

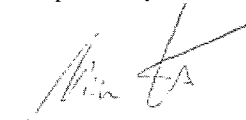
Further to our letter dated March 6, 2020, Applicant should not be allowed to modify its proposed project acreage through the appeal process to eliminate conditions imposed by the Planning Commission without having appealed the Planning Commission’s approval itself.

An accepted equitable maxim, codified by statute, is that no one can take advantage of his or her own wrong (Cal. Civ. Code, § 3517), and one should not be permitted to benefit from its own wrongdoing. *Acker v. Baldwin*, 18 Cal.2d 341, 115 P.2d 455. This statutory rule is substantially a restatement of the clean hands doctrine, which prevents a party from obtaining equitable relief when he or she has participated in inequitable conduct, including breach of a duty of good faith.

In this instance, Applicant cannot benefit from its wrongful and untimely request for expansion of the project acreage from the 12.75 acres approved by the Planning Commission without filing its own appeal to challenge such determination. If Applicant was dissatisfied with the conditions imposed by Planning Commission, the County’s Land Use & Development Code provides a clear remedy of an appeal to the Board. See Section 35.102.050. Here, Applicant failed to timely file an appeal to the Board and now attempts to challenge the Planning Commission’s determination by piggybacking on Appellant’s hearing and duly paid filing fees; this is a clear abuse of the appeal process and Applicant has not acted in good faith in attempting to exhaust its administrative remedies. If Applicant had appealed, the issues of project acreage and the legitimacy of the Planning Commission’s conditions on the project would be squarely before the Board and the record regarding the same would have been developed by staff. The Planning Commission carefully deliberated additional conditions to Applicant’s project, including reducing the acreage from 37 acres to 12.75 – such conditions are at the core of the Commission’s project approval with revised conditions and are immediately and necessarily related to the matter before the Board.

Further, Applicant has willfully abused the County’s appeal process for its own gain. The Board may exercise broad discretion in refusing to aid an applicant coming to the Board with unclean hands, and should do so here. Any willful act concerning the cause of action which rightfully can be said to transgress equitable standards of conduct is sufficient cause for the invocation of the maxim of unclean hands. *Precision Instrument Mfg. Co. v. Automotive Maintenance Machinery Co.* (1945) 324 U.S. 806, 815. Applicant’s attempt to expand its acreage beyond the 12.75 acres approved by the Planning Commission without seeking appropriate remedy runs afoul of equitable standards of the County’s permit review and subsequent appeal process.

Respectfully Submitted,



Marc Chytilo