

Richard C. Monk
Steyen Evans Kirby
Bradford F. Ginder
Paul A. Roberts
Peter Susi
Susan H. McCollum
Marcus S. Bird
Peter L. Candy
Michael P. Denver
Kevin R. Nimmons
Gisele M. Goetz
Sarah Berkus Gower
Thomas G. Thornton

**Hollister
& Brace**
a professional corporation
Since 1966
ATTORNEYS AT LAW

SANTA BARBARA OFFICE
1126 Santa Barbara St.
P.O. Box 630
Santa Barbara, CA 93102
TEL (805) 963-6711
FAX (805) 965-0329

SANTA YNEZ VALLEY OFFICE
2933 San Marcos Ave, Suite 201
P.O. Box 206
Los Olivos, CA 93441
TEL (805) 688-6711
FAX (805) 688-3587

www.hbsb.com

December 13, 2017

Via Email: Mghizzoni@co.santa-barbara.ca.us

Michael C. Ghizzoni, Esq.
Santa Barbara County Counsel
105 E. Anapamu Street, Suite 201
Santa Barbara, CA 93101

**Re: Sample Response Letter;
Local Response to Requests For Temporary State Licensing;
County Cannabis Land Use Ordinance and Licensing Program;
Board Hearing December 14, 2017**

Dear Mike:

This office represents the Cannabis Business Council of Santa Barbara County in addition to several individual cannabis growers with operations located throughout the County. I am writing on behalf of both the Business Council and my other industry clients to express concern regarding the adequacy of the Sample Response Letter prepared by staff for the upcoming Board of Supervisors hearing scheduled for December 14, 2017 (Attachment C to the Board Letter.)

The Board Letter concedes that the Sample Response Letter is not likely to satisfy the requirements of State licensing authorities for purposes of issuing State temporary licenses. Attached hereto is a proposed markup of the Sample Response Letter that my clients and I offer as an alternative. We believe our revised Sample Letter will satisfy the requirements of State licensing authorities, and at the same time it will meet important County objectives by clarifying that the letter does not constitute the grant of an entitlement nor does it confer on the holder a vested right to operate.

Staff prepared the Sample Response Letter as one of two options for the Board to consider as the local agency's response to requests for temporary State licensing. Under Business & Professions Code § 26050.1, a cannabis operation seeking a temporary

Michael C. Ghizzoni, Esq.
Santa Barbara County Counsel
December 13, 2017
Page 2

license from the State must submit a written request for a temporary license and a copy of a license, permit or "other authorization" from the local jurisdiction. The County does not issue permits for legal nonconforming uses; however, the Board has the option to issue an "other authorization" letter based on the exemption provided in SBC section 35-1003. As an alternative, the Board could take no action to supply operators seeking a temporary license with a letter from the County, however, this would result in an incomplete request for a temporary license and denial of the application by the State.

We believe the Board deciding to issue a letter that State authorities are not likely to accept is the same as the Board deciding not to issue a letter at all.

Assuming the Board chooses the first option, and decides to supply operators with an "other authorization" letter from the County, the purpose of the letter would be to allow operators cultivating medical cannabis in compliance with SBC section 35-1003 to maintain their legal compliance by obtaining a temporary cultivation license from the State. Given this purpose, it makes sense to try and craft a letter that State licensing authorities are likely to accept, and one that simultaneously meets the County's objectives of providing information that is factual only and cannot be interpreted as conferring an entitlement.

My clients and I believe the revised Sample Response Letter attached accomplishes both objectives. It proposes to delete nothing from the Sample Letter prepared by staff and included as Attachment C to the Board Letter. It retains a clear factual statement regarding (i) the Section 35-1003 exemption for lawfully operating medical marijuana cultivation locations already existing on January 19, 2016; and (ii) the operator's claim of compliance with Section 35-1003 having not been adjudicated by the County.

The only edits proposed are provisions added to:

- clearly and unequivocally state the purpose of the letter;
- create context around Section 35-1003 and the exemption it establishes for medical marijuana cultivation locations already existing on January 19, 2016;
- inform the State regarding the Board's efforts to finalize a comprehensive Cannabis Land Use Ordinance and Licensing Program; and
- clarify that the letter does not constitute the grant of an entitlement nor does it confer on the holder a vested right to operate.

In this regard, we believe our proposed Sample Response Letter remains true to staff's original purpose and intent. It provides information that is factual only with nothing added that can be interpreted as conferring an entitlement.

Michael C. Ghizzoni, Esq.
Santa Barbara County Counsel
December 13, 2017
Page 3

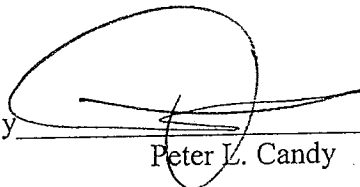
We feel strongly that a clear and unambiguous statement regarding the purpose of the letter is absolutely essential to getting State licensing authorities to view it as adequate. The letter needs to state that its purpose is to allow operators cultivating medical cannabis in compliance with SBC section 35-1003 the opportunity to obtain a temporary cultivation license from the State.

Cannabis operations that continue to operate but do not obtain a temporary license after January 1, 2018 are subject to significant monetary penalties, not to mention the possible forfeiture of their legal right to obtain an annual license from the State. Providing operators with a letter that State licensing authorities will accept avoids placing operators who wish to maintain their legal compliance in a difficult and vulnerable position. It is the only approach the Board can take that gives operators a clear path forward to legal compliance under the new regulatory regime.

My clients and I appreciate your time and thoughtful consideration. Feel free to contact me if you have any questions or wish to discuss.

Best regards,

HOLLISTER & BRACE
A Professional Corporation

By 
Peter L. Candy

PLC/cr
Attachment

Supervisor Joan Hartman - jhartmann@countyofsb.org
Supervisor Peter Adam - peter.adam@countyofsb.org
Supervisor Steve Lavagnino - steve.lavagnino@countyofsb.org
Supervisor Das Williams - dwilliams@countyofsb.org
Supervisor Janet Wolf - jwolf@countyofsb.org

Johannah Hartley - jhartley@co.santa-barbara.ca.us
Mindy Fogg - mfogg@co.santa-barbara.ca.us
Jessica Metzger - jmetzger@co.santa-barbara.ca.us
Dennis Bozanich - dBozanich@countyofsb.org
Daniel Klemann - dklemann@co.santa-barbara.ca.us

EXHIBIT A

Revised Sample Response Letter

[County of Santa Barbara Executive Office Letterhead]

December __, 2017

Dear State Licensing Authority,

Under Santa Barbara County Code Section 35-1003, medical cannabis cultivation operations existing prior to January 19, 2016, and operating in compliance with State law, are allowed as a legal non-conforming use. All other cannabis operations are prohibited in the unincorporated area of Santa Barbara County (hereinafter County).

<Name of Operator > (hereinafter Operator) of _____
<Name of Operation> (hereinafter Operation) at _____
<Location> (APN _____) has submitted an affidavit to the County asserting that their Operation cultivating medical cannabis is in compliance with Santa Barbara County Code section 35-1003.

The Operator's claim of compliance has not been adjudicated by the County. The County does not have a process to adjudicate non-conforming uses under SBC Code section 35-1003, nor does it intend to adopt such process given recent changes in State law under the MAUCRSA. The County instead has adopted an amortization period to eventually phase out cultivation operations under Section 35-1003. As an alternative to Section 35-1003, the County is focused on finalizing a commercial Cannabis Land Use Ordinance and Licensing Program consistent with both the medical and adult use requirements of the MAUCRSA, anticipated for adoption in February 2018.

This letter is submitted to allow operators cultivating medical cannabis in compliance with SBC Code section 35-1003 to obtain a temporary cultivation license from the State. Nothing in this letter creates a vested right in the Operator to conduct cannabis cultivation operations in the County. Nothing in this letter obligates the County to authorize either an extension of the temporary license or the granting of a subsequent annual license from the State. Nothing in this letter obligates the County to approve future land use permit or business license applications submitted by the Operator under the County's proposed Cannabis Land Use Ordinance and Licensing Program.

There ☐ is ☐ is not <check one box> a final Notice of Determination for the Operation at this location or on this property indicating a zoning violation.

The Operator ☐ did ☐ did not <check one box> participate in the County's Cannabis Operations Registry.

Please contact me if you have any questions.

Sincerely,

Dennis Bozanich
Deputy County Executive Officer
County of Santa Barbara
(805) 568-3403 – Office
dbozanich@countyofsb.org