

de la Guerra, Sheila *Public Comment*

From: Steinfeld, Amy <ASteinfeld@bhfs.com>
Sent: Monday, February 1, 2021 5:38 PM
To: sbcob
Cc: Villalobos, David; Williams, Das; Hartley, Johannah
Subject: Letter on behalf of NCFG re Business License Amendments (2/2 Hearing)
Attachments: NCFG and GFGN Letter re Chapter 50.pdf



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Dear Honorable Supervisors,

Attached is a comment letter on behalf of NCFG re the proposed Business License Amendments in advance of tomorrow's hearing.

Thank you for your consideration.

Best regards, Amy Steinfeld

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February 1, 2021

VIA E-MAIL: SBCOB@CO.SANTA-BARBARA.CA.US
Santa Barbara County Board of Supervisors
123 East Anapamu Street
Santa Barbara, CA 93101

RE: Ordinance Amendment Chapter 50 – Licensing of Commercial Cannabis Operations

North County Farmer's Guild and Good Farmers-Great Neighbors are pleased to support the majority of your proposed amendments to Chapter 50. We appreciate that you have incorporated feedback from cannabis operators.

However, we would like to request clarification on the proposed and existing language in Chapter 50, Section 23 (Changes in Ownership), which as drafted is ambiguous. We presume the purpose of this section and associated amendments was to insure that the County is kept up to speed on ownership transfers and owner information. This issue is already vetted by the State¹ and as new companies apply for land use permits and business licenses in Santa Barbara County and the cap is inevitably reached, the existing and proposed language in the County ordinance will become more and more unworkable.

Most importantly, we are concerned about the potential to lose one's spot in the cap and the associated unintended consequences on cannabis businesses that have diligently worked to obtain land use permits (while successfully defending appeals) and business licenses, and have been operating legally. It's important that compliant operations be able to continue operating during an "ownership change" or "license transfer" period and be assured that their spot in the cap is secured: (a) while a new application is pending; and (2) when a new license is issued. This is important for the following reasons:

- The Business License framework was structured to give landowners the ability to lease to different operators (and remove existing operators). The existing language may create a disincentive to keep bad operators.

¹ See 3 CCR § 8204(b).

- Cannabis farmers also need the ability to sell their land since cannabis land use permits run with the land. Many cannabis applicants have spent years and immense resources permitting projects and should be permitted to sell their businesses, or the value of their business will be dramatically reduced, and their investments lost. Further, the restrictions on changes in ownership could limit the ability to succession plan and give assets to the next generation to operate.
- The restrictions on ownership changes would also result in an inability to raise capital by selling equity of greater than 20% and an inability to obtain loans, as the banks could not foreclose on an entity without risking losing the licenses. It is important to allow existing cannabis operations to raise funds due to the highly regulated and dynamic nature of this business. Most cannabis companies are going to need additional funds at some point to meet stringent state and local regulations.
- In addition, the definition of a change in ownership has a low threshold of 20%. We do not believe that adding a partner (potentially as the result of a life change or even death) to an existing operation should trigger an entirely new business license process, with additional inspections, especially because business licenses must be renewed annually. Instead, adding a new partner, where at least one existing partner remains, should only require notification, plus a new live scan of the new owners(s), and filing a new business license application.

In sum, a cannabis farmer should be able to “change ownership” and continue operating while the new application is pending if they are compliant with their LUP and Business License. Likewise, the new owner(s) (assuming no additional acreage is requested) should be assured that even if the cap has been reached, they are not at risk of losing their spot and going to the back of the line.

For your convenience we have proposed the following amendments to address these concerns and unintended consequences:

Section 50-23. Change in Ownership. [Additions in redline]

a) Any new business owners, managers, supervisors, employees, or other persons intending to be engaged in the business or operation of the commercial cannabis operation must submit their fingerprints and/or other necessary information for a criminal background check pursuant to Section 50-11, to the Sheriff prior to the proposed change. Once the Sheriff has approved the new person’s criminal history and before the new person engages in any activity related to the cannabis business license,

the licensee shall submit this approval along with the new person's contact information to the County Executive Office.

b) Whenever any individual, corporation, limited liability company, partnership or other type of business entity licensed under this Chapter sells or transfers any part greater than 20% of its corporate stock, partnership interest or other business interest in a commercial cannabis operation, a new cannabis business license shall be obtained pursuant to Section 50-8 of this Chapter. If at least one existing owner is not transferring his or her ownership interest and will remain an owner under the new ownership structure and the operation is in good standing, no Business License inspections will be required.

1. Notice. Notice of intent to change ownership should be submitted to the County at least 5 calendar days prior to the change, but in any case, a licensed cannabis operation shall provide notice of any changes to the ownership of the business in writing to the CEO's Office within 5 calendar days of the change, including the details of the change.

2. Continuing Operations. A licensed cannabis operation that timely notifies the County of any change in ownership, and submits a new cannabis business license application within 15 calendar days of the change, may continue to operate for the term of the previously issued County business license while the County evaluates the new application as long as:

~~_____ i. There is sufficient space to allow the operation, if the cannabis operation is subject to the limitations in Section 50-7; and~~

ii. The operation continues to comply with all County Codes, its land use entitlement, and State law, including, but not limited to, filing tax reports and paying all required taxes; and

iii. The operation, as a County business license applicant, makes appropriate progress through the licensing process, as determined by the CEO's office. (For purposes of this subsection appropriate process shall include, but not be limited to, timely and complete compliance with any staff requests, timely submittals, timely scheduling of site visits, etc.)

If the cannabis operation fails to comply with Subsections 1 and 2 above, then the cannabis operation shall cease all cannabis activities until a new business license is issued.

New Clarifying Language: An approved change in ownership that does not increase the size of the cannabis operation shall not result in the operation's removal from the "Eligible Business License Applicants List" and shall be processed as a renewal so that the new owners will maintain their spot in the Cannabis Cultivation Cap (acreage limitation).

Thank you for your consideration. Please let us know if you have any questions.

Sincerely,

John De Friel
Co-founder, President

Sara Rotman
Co-Founder, Secretary