

city of san luis obispo

Community Development Department • 919 Palm Street, San Luis Obispo, CA 93401-3218

September 19, 2012

Presiding Judge Barry T. LaBarbera
Superior Court of California
1050 Monterey Street
San Luis Obispo, California 93408

Re: Grand Jury Report entitled "Out of Sight, Out of Mind—Medical Marijuana in San Luis Obispo County"

Dear Judge LaBarbera:

This letter constitutes the response of the City of San Luis Obispo to the San Luis Obispo County Grand Jury report entitled "Out of Sight, Out of Mind—Medical Marijuana in San Luis Obispo County" (hereinafter the "Report"). This response is submitted in compliance with Penal Code Section 933(c). A copy of this response is concurrently being transmitted to the Grand Jury.

The Report sets forth ten findings, and six recommendations. The City of San Luis Obispo has been required to respond to Findings 2 through 7, inclusive, and Recommendations 2 through 5, inclusive.

Finding 2. *Each incorporated city in the county has an ordinance prohibiting brick and mortar medical marijuana collectives within city limits.*

Response: Agree in part. The City of San Luis Obispo Municipal Code does not contain a land use designation for medical marijuana collectives and therefore does not provide for medical marijuana collectives within the City jurisdiction. Since the Municipal Code does not provide for medical marijuana uses, they are prohibited.

Finding 3. *The county and incorporated cities in the county have not adopted an ordinance regarding medical marijuana collective delivery services operating within their jurisdictions, with the exception of Atascadero.*

Response: Agree in part. As discussed above under Finding #2, the City of San Luis Obispo does not have a land use designation for medical marijuana collectives, and the City also does not have a land use designation for collective delivery services. Since these land uses are not provided for in the Municipal Code, medical marijuana uses including medical marijuana collective delivery services are prohibited.

Finding 4. *Business licenses are required for all businesses operating in the incorporated and unincorporated areas of the county.*



The City of San Luis Obispo is committed to include the disabled in all of its services, programs and activities. Telecommunications Device for the Deaf (805) 781-7410.

Response: Agree in part. San Luis Obispo Municipal Code Section 5.01.102 requires any person to procure a business license to transact and carry on any business in the City. Section 5.01.104 of the City of San Luis Obispo Municipal Code does not authorize the issuance of a business license that is prohibited by city policies, regulations or ordinances' or any state or federal statute, law, rule, order or regulation. Because medical marijuana collectives are not an expressly allowed use, they are prohibited and the issuance of a business license would be contrary to the City's municipal code and federal law.

Finding 5. *Many medical marijuana mobile collective delivery services operate in the incorporated and unincorporated areas of the county without a business license.*

Response: Disagree in part. The City of San Luis Obispo is unaware of such services operating within the City. San Luis Obispo cannot comment on whether such services operate in other cities in the county.

Finding 6. *There is currently no way to determine the exact number of medical marijuana mobile collective delivery services operating in the incorporated and unincorporated areas of the county or on the Cal Poly campus.*

Response: Agree.

Finding 7. *There is no protocol for medical marijuana mobile collective delivery service recordkeeping.*

Response: Disagree in part. The City of San Luis Obispo is unaware of such protocols within the City. San Luis Obispo cannot comment on whether there are such protocols in other cities in the county.

Recommendation 2. *The county and incorporated cities in the county should develop an ordinance regarding medical marijuana mobile collective delivery services within their respective jurisdictions.*

Response: The recommendation will not be implemented because it is not warranted. There is no evidence demonstrating that mobile delivery services as described in the Report are developing with such frequency and regularity within the City of San Luis Obispo as to mandate the adoption of an ordinance and subsequent enforcement of such an ordinance. Operation of a medical marijuana collective delivery service is not allowed and would be a citable violation of the City's municipal code. Moreover, conflicts between state and federal law and the continuing high volume and conflicting nature of litigation in this area create continuing uncertainty around regulation.

Recommendation 3. *By code or ordinance, the county and each incorporated city in the county should require medical marijuana mobile collective delivery services operating within their jurisdictions to possess a business license and seller's permit.*

Response: The recommendation will not be implemented because it is not warranted. The City of San Luis Obispo will not issue business licenses to medical marijuana dispensaries, since they are prohibited from operating in any zone of the City, and their operation would be in violation of the City's Municipal Code and federal law.

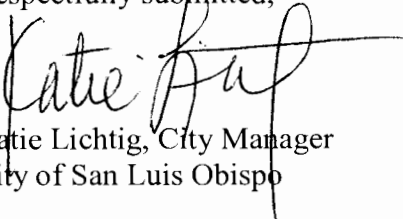
Recommendation 4. *Using business license records, seller's permits and sales taxes, the county and each incorporated city in the county should compile a list of medical marijuana mobile collective delivery services operating within their jurisdictions.*

Response: The recommendation will not be implemented because it is not warranted. The City of San Luis Obispo will not issue business licenses for activities that are not allowed under the City's municipal code and are contrary to federal laws.

Recommendation 5. *By code or ordinance, the county and each incorporated city in the county should require medical marijuana collective and mobile collective delivery services to keep current records.*

Response: The recommendation will not be implemented because it is not warranted. The City of San Luis Obispo will not require medical marijuana dispensaries, whether mobile or fixed, to keep any records, since they are prohibited from operating in any zone of the City, and are in violation of federal law.

Respectfully submitted,



Katie Lichtig, City Manager
City of San Luis Obispo

cc: San Luis Obispo County Grand Jury
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