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Approved as to Form and Legality


Office of the City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION RENEWING THE CITY COUNCIL'S DECLARATION OF A LOCAL PUBLIC HEALTH EMERGENCY WITH RESPECT TO SAFE, AFFORDABLE ACCESS TO MEDICAL CANNABIS IN THE CITY OF OAKLAND

WHEREAS, on November 5, 1996, the voters of California passed Proposition 215, the Compassionate Use Act of 1996, by a YES vote of 55.7 percent, and the residents of Oakland voted YES for Proposition 215 by an overwhelming 79.3 percent; and

WHEREAS, marijuana has been shown to help alleviate pain and discomfort in people suffering from a variety of illnesses including AIDS, cancer, glaucoma, and multiple sclerosis when no other medications have been effective; and

WHEREAS, the City Council of the City of Oakland finds that many of Oakland's residents are suffering from life-threatening or serious illnesses whose painful symptoms are alleviated by the ingestion of cannabis; and

WHEREAS, there is a need to ensure that patients have access to a safe and affordable supply of medical grade marijuana and cannabis products; and

WHEREAS, the City Council finds that the Oakland Cannabis Buyers' Cooperative has provided a well-organized, safe and responsible opportunity for seriously ill persons to obtain medical cannabis in furtherance of a course of medical treatment; and

WHEREAS, the Oakland City Council passed Resolution No. 72516 C.M.S. supporting the activities of the Oakland Cannabis Buyers Cooperative and declaring it to be the policy of the City of Oakland that the investigation and arrest of certain individuals involved with the medical use of marijuana shall be a low priority for the City of Oakland; and

WHEREAS, in furtherance of the City's goal of ensuring a safe and affordable supply of medical grade marijuana and cannabis products for seriously ill Oakland residents whose physicians have recommended or approved medical cannabis use in the treatment of their illnesses, the Oakland City Council, pursuant to Ordinance No. 12077, established a City of Oakland marijuana distribution program and designated the Oakland Cannabis Buyers' Cooperative as the City's agent to administer the program; and

WHEREAS, in January 1998, the United States of America filed an action asking the federal district court to enjoin the Oakland Cannabis Buyers' Cooperative and five other entities from providing medical cannabis to seriously ill persons who are authorized by Proposition 215 to use medical cannabis to alleviate their pain and suffering; and

WHEREAS, on May 19, 1998 the federal district court issued a preliminary injunction ordering the Oakland Cannabis Buyers' Cooperative to cease engaging in the manufacture and distribution of marijuana, on the ground that such activities likely violate federal drug laws; and

WHEREAS, on October 13, 1998 the federal district court authorized the U.S. Marshal to enforce the aforesaid preliminary injunction by entering the cooperative's premises located at 1755 Broadway in Oakland, evicting any and all tenants and padlocking the doors to such premises; and

WHEREAS, on October 19, 1998, the Oakland Cannabis Buyers' Cooperative voluntarily ceased its operations at 1755 Broadway; and

WHEREAS, the Oakland Cannabis Buyers' Cooperative provided medical cannabis to two thousand two hundred (2,200) seriously ill persons, approximately two-thirds of whom are living with AIDS; and

WHEREAS, the closure of the Oakland Cannabis Buyers' Cooperative impairs public safety by encouraging a market for street narcotic peddlers to prey upon Oakland's ill residents by selling them marijuana that may be contaminated and will be of unknown content and potency; and

WHEREAS, the City Council finds that the closure of the Oakland Cannabis Buyers' Cooperative will cause pain and suffering to seriously ill Oakland residents who are unable to cultivate medical strains of cannabis for their personal use and therefore either no longer have access to medical cannabis to alleviate their pain and suffering or purchase contaminated cannabis from street narcotic peddlers; and

WHEREAS, on October 27, 1998, the City Council passed Resolution No. 74618 C.M.S. declaring a local public health emergency with respect to safe, affordable access to medical cannabis in the City of Oakland; and

WHEREAS, one of the dispensaries, that the City has authorized pursuant to Oakland Municipal Code Chapter 5.80 to distribute medical cannabis to persons who

qualify for such medicine under California Proposition 215, received a letter dated December 7, 2007 alerting the dispensary that the Drug Enforcement Administration ("DEA") has determined that the owner or operator of the dispensary is violating federal law and is subject to criminal prosecution, imprisonment, fines and forfeiture of assets; and

WHEREAS, on December 7, 2007, Representative John Conyers, Chair of the U.S. House Judiciary Committee, questioned efforts to undermine California state law and expressed deep concern about recent reports that the DEA is threatening private landlords if they don't evict organizations legally dispensing medical marijuana to suffering patients; and

WHEREAS, the threat of criminal prosecution, imprisonment, fines and forfeiture of assets is threatening the supply of medical cannabis to persons who are in need of medical cannabis to ameliorate their pain and suffering from a variety of injuries and illnesses and has the potential to and may already be exacerbating the local public health emergency that exists with respect to access to an affordable and safe supply of medical cannabis; and

NOW THEREFORE, be it

RESOLVED: That the City Council of the City of Oakland finds that a public health emergency exists with respect to access to an affordable and safe supply of medical cannabis, and pursuant to Government Code section 8630 does so declare; and be it further

RESOLVED: That the City Council finds that the thousands of seriously ill persons who obtained medical cannabis from the Oakland Cannabis Buyers' Cooperative and who are obtaining medical cannabis from the medical cannabis dispensaries authorized by the Council pursuant to OMC Chapter 5.80, will endure great pain and suffering and in some cases may die as a result of the closure of the cooperative and the closure of the medical cannabis dispensaries that have been supplying medical cannabis; and be it further

RESOLVED: That the City Council of the City of Oakland urges the federal government to desist from any and all actions that pose obstacles to access to cannabis for Oakland residents whose physicians have determined that their health will benefit from the use of marijuana and recommended or approved medical cannabis use for such residents; and be it further

RESOLVED: That the City Council urges the Alameda County Board of Supervisors to declare a public health emergency with respect to access to medical cannabis; and be it further

RESOLVED: That copies of this resolution shall be forwarded to Senators Boxer and Feinstein, Congresswoman Lee, and the President of the United States urging

federal policy-makers to dismiss the current lawsuits against California's cannabis buyers' clubs and cooperatives; and be it further

RESOLVED: That copies of this resolution shall be forwarded to Governor Jerry Brown, Attorney General Kamala D. Harris, and all representatives of the City of Oakland in the State Legislature, urging them to comply with the will of the voters as articulated in Proposition 215 by implementing a plan to provide for safe and affordable distribution of marijuana to all patients in medical need of marijuana; and be it further

RESOLVED: That the City Council finds that the public health emergency with respect to access to an affordable and safe supply of medical cannabis continues and is exacerbated by the DEA's December 2007 threats of peril to owners and operators of medical cannabis dispensaries; and be it further

RESOLVED: That the City calls upon the federal authorities to desist from threats of criminal prosecution, imprisonment, fines and forfeiture of assets so that the local emergency will not be heightened; and be it further

RESOLVED: That the City Council urges Representative Lamar Smith, Chair of the U.S. House Judiciary Committee, to hold hearings at the earliest opportunity to investigate and sharply question the DEA's recent surge against medical cannabis and its efforts to undermine related California law, including the DEA's threats of forfeiture and imprisonment against private landlords, and that a copy of this resolution shall be forwarded to him with this paragraph highlighted.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF, AND
PRESIDENT KERNIGHAN

NOES -
ABSENT -
ABSTENTION -

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of the City of
Oakland, California