



JAN I. GOLDSMITH
SAN DIEGO CITY ATTORNEY

January 14, 2013

Via Facsimile Transmission
and U.S. Mail

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Marijuana Dispensary Litigation

Gentlemen:

As you know, the City of San Diego elected Bob Filner in the November election and he assumed office in December. Recently, Mayor Filner announced that his office, through Neighborhood Code Compliance, would no longer send information or cases against marijuana dispensaries to the City Attorney's office for code enforcement actions. Since Neighborhood Code Compliance is entirely within Mayor Filner's jurisdiction- and our office is not equipped to investigate these matters on our own- we have indicated we will end our enforcement actions.

You are counsel of record in 12 pending cases in various litigation stages. Our lawyers contacted you to indicate that we plan to dismiss those cases without prejudice since, apparently, we will not be receiving cooperation from Neighborhood Code Compliance in presenting evidence at trial. We asked that you waive costs and otherwise end the cases.

Unfortunately, you refused. Instead, you seized upon this request to make allegations, demands and threats. Thus, you are trying to transform what was a good faith effort by the Mayor to resolve the dispensary issue through legislation into a sword aimed at the City's legal position.

I suggest you reconsider if for no other reason than you are placing the Mayor in a difficult position by exploiting his efforts for your gain. By copy of this letter, I ask that Mayor Filner respond to your refusals.

Here are the allegations, demands and threats with my responses.

1. "We are not willing to waive any costs or fees for any of the cases you listed."

You did not win any case in court. All of the marijuana dispensaries in these 12 cases have been shut down. We won and would be entitled to costs. The Mayor is giving your clients a reprieve in light of his effort to work with the dispensaries on a legislative solution.

You are overplaying your hand through "hardball" tactics. A dismissal without prejudice without having to pay our costs and with waiver of your costs is what you get. If the Mayor wants to do otherwise, you are welcome to reach a separate agreement with him on this. We won't be a party to the City paying costs or fees.

2. "...we will file an ex parte motion to disqualify the City Attorney's Office as counsel of record for the City...."

You keep losing in court because you take legal positions without any legal basis. File your ex parte motion and you will lose. We will ask for sanctions.

3. "...the Mayor's directives also constitute a change in City's alleged formal use determination. The position that the City does not permit medical marijuana dispensaries in any zone is completely inconsistent with the Mayor's order to cease enforcement activities."

This is another ridiculous argument. The Mayor cannot change the law and he hasn't tried to do so. What he has said is that he wants to end enforcement actions and, instead, focus on an ordinance.

4. "As attorneys, we all know that this constitutes a felony."

Mr. Wuerfel's letter is chock full of wild and untrue accusations, including allegations that declarations were submitted in violation of perjury laws. His client was evicted through an unlawful detainer filed by its landlord. The cross-complaint is frivolous and will be the subject of sanctions and malicious prosecution. I urge him to reconsider his approach in light of the Mayor's efforts.

In conclusion, let me reiterate: all of the marijuana dispensaries in these 12 cases have been shut down. We won and would be entitled to costs. The Mayor is giving your clients a reprieve in light of his effort to work with the dispensaries on a legislative solution.

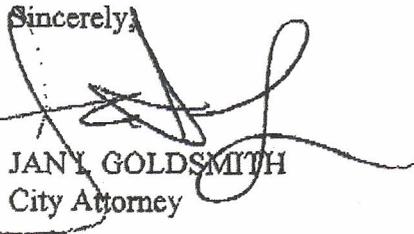
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Sincerely,



JANY GOLDSMITH
City Attorney

JG:cbs

cc: Honorable Mayor Filner (*via hand delivery*)
Vince Hall, Chief of Staff (*via hand delivery*)
Honorable City Council members (*via electronic transmission*)
Andrea Tevlin, Independent Budget Analyst (*via electronic transmission*)
Tricia Pummill, Assistant City Attorney (*via electronic transmission*)
Diane Silva-Martinez, Chief Deputy City Attorney (*via electronic transmission*)
Gabriela Brannan, Deputy City Attorney (*via electronic transmission*)