

July 22. 2017
1444 East Mountain Street
Pasadena, California 91104

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CITY CLERK

Mr. Mark Jomsky
City Clerk
City of Pasadena
100 North Garfield Ave. S228
Pasadena, California 91109

Re: July 24, 2017 Pasadena City Council meeting on Agenda Item No. 22

I recommend that the City Council repeal the ordinance No. 7302 in its entirety.

I recommend that the City of Pasadena for the same reasons that the City Council of Beverly Hills, California will be banning commercial cannabis in response to passage of Proposition 64 legalizing recreation marijuana for people 21 and over. ("Beverly Hills just say "no" to Pot." by Luke Harold - Beverly Press-page one July 20, 2017. www.beverlypress.com.)

I suggest you read the attached article "This Law Puts Homeowners at Risk of Property Rights Violations" Pat Nolan /David Safavian / March 22, 2017 <http://dailysignal.com>) This article points out the unfairness of civil assets forfeitures for homeowners and business firms which is a legal problem under the current Ordinance No. 7302.


Floyd Polven

cc: 10 copies of this letter for City Council members. City Attorney, and City Manager.

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Memo, issued by former Deputy Attorney General James Cole, which allows federal prosecutors to decline prosecution of federal marijuana violations if they occur in a state with a "strong and effective regulatory and enforcement system."

Last year, 64 percent of voters in Beverly Hills approved Proposition 64, compared to 57 percent statewide. Since January, city officials have been working to craft local laws that would be "as restrictive as possible under the new regulations." Despite the support from Beverly Hills residents in the election, the staff report calls into question whether they would welcome commercial cannabis.

"What is unknown is if the voters in Beverly Hills supported the recreational use of marijuana or if they supported both the recreational use and the allowance of commercial cannabis in Beverly Hills," the report states.

The new ordinance has been through the Planning and Health and Safety commissions before arriving in front of the City Council.

Other concerns cited by city staff were banking issues that cause many dispensaries to only accept cash. As a result, they have attracted robberies, although evaluations of dispensaries and crime depend on the context.

A study published in the July issue of the Journal of Urban Economics concluded that medical marijuana dispensaries "reduce crime in their immediate areas."

"Contrary to popular wisdom, we found an immediate increase in crime around dispensaries ordered to close relative to those allowed to remain open," said Mireille Jacobson, of The Paul Merage

School of Business at UC Irvine.

An Ohio State University Study from April 2017, however, said that while areas immediately surrounding the dispensaries did not experience surges in crime, property crimes in adjacent neighborhoods were 84 percent higher than neighborhoods farther away from dispensaries.

During a Tuesday afternoon study session, council members also mentioned upticks in traffic accidents and hospitalization as a result of recreational marijuana legalization.

"It's in the best interest of the city that we adopt this ordinance," Vice Mayor Julian Gold said.

Councilman Lester Friedman added, "I don't think it's a Beverly Hills business we want to have in Beverly Hills."

Bosse, who recently gained recognition in Miami at a mayoral conference for her Healthy City program, also mentioned the public health aspect. Marijuana can cause brain and respiratory problems, and there is conflicting research about lung cancer risks associated with marijuana smoking.

"Health is of foremost importance to me and for our community," she said.

Councilman John Minisch was absent from Tuesday's meeting.

The West Hollywood City Council, by contrast, plans to vote later this year on an ordinance that would regulate commercial cannabis. Other cities in the county are also working to implement new policies by the time recreational sales are allowed to begin on Jan. 1.

Earlier this year laws prohibiting smoking within 20 feet of open-air dining, as well as in the public right-of-way such as sidewalks, alleyways and streets, except while passing by. The ordinance included e-cigarettes and marijuana

Beverly Hills just says 'no' to pot

■ The city will align with federal regulation while other cities in L.A. County embrace commercial marijuana

BY LUKE HAROLD

The Beverly Hills City Council held a first reading of an ordinance prohibiting commercial cannabis in the city at its Tuesday meeting, in response to the passage of Proposition 64, legalizing recreational marijuana for people 21 and over.

The council will likely vote in favor of the ordinance at one of its two August meetings, according to Therese Kosterman, the city's public information manager.

Marijuana dispensaries were already banned in Beverly Hills. With the passage of Proposition 64 in the November election, the City Council has been working to add to its current law by banning commercial cannabis activity such as cultivation, possession, manufacture and distribution.

The local law would still allow delivery of medical marijuana.



photo by Gregory Cornfield

The City Council passed an ordinance earlier this year to ban smoking in public rights-of-way such as sidewalks. The new ordinance would prohibit commercial cannabis.

"This is the right thing to do for our community," Beverly Hills Mayor Lili Bosse said.

A city staff report cited federal law, which outlaws medical and recreational marijuana use nationwide. Attorney General Jeff

Sessions has indicated that he would like to crack down on marijuana related crime. Federal enforcement in recent years has taken into account the Cole

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This Law Puts Homeowners at Risk of Property Rights Violations

Pat Nolan / David Safavian / March 22, 2017

The owner of the resort didn't ask his guests why they were there. He offered plush accommodations to those seeking to get away.

Sometimes, guests would come to play golf at the private and very exclusive country club. Other times, they used the fabulous spa services down the road. Still others wanted to simply enjoy the nearby beach.

But people came and stayed at the resort, and it was profitable. Some would call it a huge success.

But not all of the guests were good people. A few brought their drug habits with them. And in 30 instances (over a period of 17 years in which the owner and his wife rented out rooms to guests 125,000 times), law enforcement got involved.

The local police knew that the owner wasn't involved in drugs. He and his wife were model citizens who took pride in their establishment. They even cooperated with law enforcement when something suspicious was going on with their guests.

But the police also knew that the resort was valuable, and that its millions in worth could add to the police department's budget under forfeiture law. But under state law, the local cops didn't have enough evidence of crimes to institute state forfeiture proceedings.

Undeterred by limits imposed by the Massachusetts Legislature, the police utilized a workaround. Federal law provided a lower threshold for seizing assets. The local police could circumvent state rules on forfeiture by turning the case over to the feds.

Using a program called Equitable Sharing, if local law enforcement could convince the Justice Department to institute forfeiture proceedings, the locals would get a cut.

So the police went to the Drug Enforcement Administration and convinced it that the resort should be forfeited. The Drug Enforcement Administration then convinced the Justice Department, which authorized the seizure.

Served with a federal notice of civil forfeiture, the resort owner was told that he had to prove he was innocent in all this. If he failed to do so, Uncle Sam could take the property, auction it off, and keep the proceeds—most of which would end up in the coffers of the local police department.

The owner and his wife, who built the business, would end up with nothing, despite not having been charged with any crime, let alone convicted of anything.

This property is not Mar-a-Lago, and the owner is not Donald Trump. But this is a real case involving the Caswell Inn in Tewksbury, Massachusetts, in 2009.

The owner was baffled by the seizure of his hotel because he had always had a good relationship with the local police department. He asked a police official why they targeted him rather than a nearby motel that was notorious for prostitution and drug dealing. The officer explained that they had looked up the other motel's assessed value and found that it was heavily mortgaged.

The police would have gotten very little money if they seized that one. But seizing the unmortgaged Caswell Inn would net them millions of dollars.

This process is a clear conflict of interest. The local police department profits from these seizures, even if there is no conviction of a crime. The more that is seized, the more money goes back to the police for things like new equipment and retirement programs.

Civil asset forfeiture has turned many law enforcement agencies into modern "Sheriffs of Nottingham," robbing from the so-called rich to give to the poor local police departments. Outraged citizens have taken to calling this nefarious process "policing for profit."

Unfortunately, it's not out of the ordinary. According to The Washington Post, more assets were seized under civil forfeiture proceedings than were stolen in all of the burglaries that took place in the United States in 2014.

The owner of the Tewksbury hotel was very fortunate. The Institute for Justice learned of his case, and undertook the legal fight to get his hotel back. They won.

But it is worth noting that there is no way that the owner could have paid for such top-notch lawyers out his own pocket. Few others can afford to fight the government.

Prosecutors argue that forfeiture is an important weapon in the war on drugs. That may be true, but only if it is tied to a crime for which there is an actual conviction.

Without a conviction, the current system turns our legal rights upside down. When assets are seized, the owners are presumed guilty until proven innocent. They have the burden of showing that their

ownership of the asset was not the result of criminal activity. Otherwise, the government gets to keep the money.

Proving the negative is very hard to do, particularly when the government has seized all your assets and you have no funds to hire a lawyer. That isn't just unfair. It's un-American.

The abuse of asset forfeiture has prompted a growing number of states to restrict its use to when someone has been convicted of a crime.

To get around these restrictions, the federal government uses an equitable sharing law, which allows federal agencies to seize and launder proceeds, and then cut the local police in on the back end. It's a pretty nifty way for the Justice Department and local police to conspire and get around limits imposed by state legislatures.

This issue arose just last month when Trump met with local law enforcement officials. During the meeting, a Texas sheriff complained that proposed reforms to civil asset forfeiture in the Lone Star State would hurt his ability to fight drug traffickers.

Without anyone to explain to him the unfairness of civil asset forfeiture, the president seemed to side with the sheriff and against state efforts to reform it.

Trump won his election by fighting for the "little guy" against an overbearing and dishonest government. Civil asset forfeiture is a prime example of just how overbearing and dishonest the government can be.

The next time asset forfeiture comes up, the president should remember the case of the hotel in Tewksbury. Under current law, his prized resorts are just one Hollywood star with a coke habit away from being seized.