

RECEIVED
COUNTY CLERK RECORDER
ETHNOBOTANICA
OCT 29 2015

October 28, 2015

San Luis Obispo County Board of Supervisors
Room D-430
County Government Center
San Luis Obispo, CA 93408

BY _____
DEPUTY

Dear San Luis Obispo County Supervisors,

Thank you all for taking the time to meet with us. We do understand that you have many important issues on your agenda, and appreciate the fact that a Medical Marijuana Dispensary may not seem to be of the highest priority. For that very reason, we would like to utilize the resources we have to help you obtain both sides of the argument, for and against approval.

In doing so, we would like to submit to your attention this rebuttal, which is in reference to a 16 page argument included in, but not officially a part of the Appeal, which was filed following approval of the project by your Planning Commission. The letter was submitted by an unnamed resident of Nipomo, and though factually outdated, was an excellent "study guide" for anyone interested in examining the fundamental arguments for, and against, this project.

As medical marijuana providers, a huge portion of our mission is to educate. That is what we will strive to do here, by including both the letter from the opposing party, and our own rebuttal. We have done our best to put this together in a user friendly way, with bold headings, allowing you to focus on the issues you find most important. I will also email a digital copy so that you may take advantage of the linked citations, if you so choose.

If you have any additional questions, please contact me and I will do my very best to address all your concerns.

Sincerely,

Stephanie Kiel
Executive Director, Ethnobotanica
(831) 706-5975

Rebuttal to the Opposition to the Approval of a Minor Use Permit for a Medical Marijuana Dispensary in Nipomo, written by an unnamed resident of Nipomo, and submitted with the Appeal following Planning Commission approval.

The opposition purports that a medical marijuana dispensary would be to the detriment of the public health, safety, and welfare of the community. This is not the case. The following will show that not only are medical marijuana dispensaries not a threat to the public health, safety, and welfare of a community, but are in fact a benefit which reduce the activities which are a threat to the public health and safety of the communities which contain medical marijuana dispensaries. Medical marijuana dispensaries contribute a public health and welfare benefit by providing the service of distributing a much needed therapeutic alternative to the residents of those communities through safe and legal channels.

Support from the National Medical Community

Journal of the American Medical Association

“Marijuana is one hundred percent a form of medicine, researchers conclude in a bombshell series of reports released today by the Journal of the American Medical Association. Cannabis — which has been used medicinally for thousands of years — reduces nausea, and vomiting, and pain, as well as spasticity, a panel of researchers conclude, after reviewing a total of 79 trials.”

<http://blog.sfgate.com/smellthetruth/2015/06/23/marijuana-is-medicine-journal-of-the-american-medical-association-concludes/>

Cannabinoids for Medical Use; A Systematic Review and Meta-analysis

Penny F. Whiting, PhD^{1,2,3}; Robert F. Wolff, MD³; Sohan Deshpande, MSc³; Marcello Di Nisio, PhD^{4,5}; Steven Duffy, PgD³; Adrian V. Hernandez, MD, PhD^{6,7}; J. Christiaan Keurentjes, MD, PhD⁸; Shona Lang, PhD³; Kate Misso, MSc³; Steve Ryder, MSc³; Simone Schmidlkofer, MSc⁹; Marie Westwood, PhD³; Jos Kleijnen, MD, PhD^{3,10}

<http://jama.jamanetwork.com/article.aspx?articleid=2338251>

Journal of the American Medical Association

"Marijuana does not impair lung function—at least not in the doses inhaled by the majority of users, according to the largest and longest study ever to consider the issue, which was published today in the *Journal of the American Medical Association*."

<http://healthland.time.com/2012/01/10/study-smoking-marijuana-not-linked-with-lung-damage/>

Association Between Marijuana Exposure and Pulmonary Function Over 20 Years

Mark J. Pletcher, MD, MPH; Eric Vittinghoff, PhD; Ravi Kalhan, MD, MS; Joshua Richman, MD, PhD; Monika Safford, MD; Stephen Sidney, MD, MPH; Feng Lin, MS; Stefan Kertesz, MD

<http://jama.jamanetwork.com/article.aspx?articleid=1104848>

American Nurses Association

"The American Nurses Association will:... Support the right of patients to have safe access to therapeutic marijuana/cannabis under appropriate prescriber supervision. Support the ability of health care providers to discuss and/or recommend the medicinal use of marijuana without the threat of intimidation or penalization. Support legislation to remove criminal penalties including arrest and imprisonment for bona fide patients and prescribers of therapeutic marijuana/cannabis. "

Reference: *ANA Resolution: June 2003*

American Preventive Medical Association

"Marijuana should be available for appropriate medicinal purposes, when such use is in accordance with state law, and that physicians who recommend and prescribe marijuana for medicinal purposes in states where such use is legal, should not be censured, harassed, prosecuted or otherwise penalized by the federal government."

Reference: *"Medicinal Use of Marijuana" policy statement: December 8, 1997*

Crime Concerns – General References

3 - The absence of any connection between dispensaries and increased local crime can be seen in data from Los Angeles, San Diego, Denver, and Colorado Springs. After reviewing a study he commissioned, Los Angeles Police Chief Charlie Beck observed that, "banks are more likely to get robbed than medical cannabis dispensaries," and that the claim that dispensaries attract crime "doesn't really bear out."

Castro, Tony. "LAPD chief: Pot clinics not plagued by crime." LA Daily News, Jan 17, 2010.

4 - In San Diego, where some officials have made allegations about increased crime associated with dispensaries, an examination of city police reports by a local paper, the San Diego CityBeat, found that as of late 2009 the number of crimes in areas with dispensaries was frequently lower than it was before the dispensary opened or, at worst, stayed the same.

Maass, Dave. "Prosecutors use dubious claims to attack collectives." San Diego City Beat, Oct 26, 2011

5 - A 2009 analysis of robbery and burglary rates at medical cannabis dispensaries conducted by the Denver, Colorado Police Department at the request of the Denver City Council found that the robbery and burglary rates at dispensaries were lower than area banks and liquor stores, and on par with those of pharmacies. Specifically, the report found a 16.8 percent burglary and robbery rate for dispensaries, equal to that of pharmacies. That's lower than the 19.7 percent rate for liquor stores and the 33.7 percent rate for banks the analysis found.

Ingold, John. "Analysis: Denver pot shops' robbery rate lower than banks." Denver Post. Jan 27, 2010.

6 - In 2012, a study published in the Journal of Studies on Alcohol and Drugs explored the issue of dispensaries and crime in Sacramento, California. Among the conclusions of the report is the following: There were no observed cross-sectional associations between the density of medical marijuana dispensaries and either violent or property crime rates in this study. These results suggest that the density of medical marijuana dispensaries may not be associated with crime rates or that other factors, such as measures dispensaries take to reduce crime (i.e., doormen, video cameras), may increase guardianship such that it deters possible motivated offenders.

Kepple NJ, Freisthler B. "Exploring the ecological association between crime and medical marijuana dispensaries." *J Stud Alcohol Drugs*. 2012 Jul;73(4):523-30. Accessible at <http://www.ncbi.nlm.nih.gov/pubmed/22630790>

7 - A multi-state study published in 2014 noted that medical cannabis laws are associated with a small but measurable decrease in crime, including some surprising decreases in subsequent years. Among the study's findings were: First, the impact of MML [medical marijuana law] on crime was negative or not statistically significant in all but one of the models, suggesting the passage of MML may have a dampening effect on certain crimes. The second key finding was that the coefficients capturing the impact of MML on homicide and assault were the only two that emerged as statistically significant. Specifically, the results indicate approximately a 2.4 percent reduction in homicide and assault, respectively, for each additional year the law is in effect. [emphasis added] The report concluded by saying:

"The central finding gleaned from the present study was that MML is not predictive of higher crime rates and may be related to reductions in rates of homicide and assault. Interestingly, robbery and burglary rates were unaffected by medicinal marijuana legislation, which runs counter to the claim that dispensaries and grow houses lead to an increase in victimization due to the opportunity structures linked to the amount of drugs and cash that are present. Although, this is in line with prior research suggesting that medical marijuana dispensaries may actually reduce crime in the immediate vicinity...."

Morris, Et al. "The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006" *PLoS One*. 2014; 9(3): e92816. Accessible at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3966811/>

Association with Crime

Opposition refers to an increase of littering, loitering, trespassing, graffiti, noise, and marijuana odors. First, these claims are not supported by any data. Second, Ethnobotanica's security plan includes on site security to prevent any issues of littering, loitering, trespassing, graffiti, and noise, including a litter removal by staff of the property, and nearby properties, to overcompensate for these concerns and remove litter from other sources, such as the nearby freeway. Odor removal from the facility is also addressed in the security and operational plan by using tens of thousands of dollars in odor scrubbing carbon filtration as part of a circulatory air handling system at the facility.

Opposition statements include reference to butane hash oil processing houses. These houses are completely unrelated to the use of the proposed Hutton Rd



dispensary. Butane hash oil processing houses are illegal drug manufacturing facilities. The proposed use of Hutton Rd is for a medical marijuana dispensary.

Opposition refers to an increase in violent crime, robberies, burglaries, and assaults. As shown above through multiple studies, these claims are unfounded. Although anecdotal evidence was stated to make this association, scholarly studies and law enforcement statistics show this is not the case. There are always individual incidents that one can point to, but it is important to look at the details surrounding these. For example, the crimes mentioned that have occurred in the County of SLO state Marijuana was involved, but not MEDICAL Marijuana. These cases are not related to legal regulated Medical Marijuana business, but rather individuals operating in the black market.

Even within the realm of storefront MMJ dispensaries, there is a range of operational and legal quality. The best run dispensaries have been shown to DECREASE crime in their immediate vicinity due to security presence and community involvement; those dispensaries ran by less legitimate parties, employing poor business practices, are more likely to suffer from related crime. We are the former type of organization, and will spare no expense ensuring that this dispensary and the surrounding area are safe. Ethnobotanica will maintain private patrol of the facility after hours and have security guard on staff during operating hours, in addition to maintaining a facility with bank level security windows, cameras and alarms.

Highlight from the MPP Report on Dispensaries and Crime:

February 2014 Urban Geography - Researchers from the University of South Florida, the University of Colorado, and the New York City Criminal Justice Agency set out to determine whether medical marijuana dispensaries in Denver could be considered locally undesirable land uses (LULUs), land uses that people do not want to live close to, but which provide services to the community. The researchers studied 275 medical marijuana centers in 75 Denver neighborhoods and concluded that:

"[w]hile public officials, and especially law enforcement, clearly warn residents about the negative effects of these centers on the communities in which they are situated, there is little evidence that residents are listening, as these centers do not appear to have any impact on the urban landscape - and therefore on the health of the communities in which they are located".

The study did find that medical marijuana centers are more likely to be opened in areas that have higher crime rates, but that is not unusual because crime follows retail concentrations.

"In short, medical marijuana facilities appear to ... be more similar to drugstores and coffee houses than they are to LULUs."

Opposition Stated Crime Scenarios

Opposition uses these simple examples of one-off incidents to suggest those incidents are typical of the industry. If this was the case, then the data from studies would show a correlation between an increase in crime and dispensaries. This is not the case. Highlighting these rare incidents is fear mongering. If incidents like these were used to decide whether the very existence of a land use was appropriate, we would have no gas stations, banks, pharmacies, convenience stores, or likely any use which has ever experienced crime. As short as the examples given are, it is likely that the opposition has withheld certain factors which may give insight into why the incidents happened.

Scenario 1: The High Path Holistic Care robbery, was a simple robbery. From the explanation of the incident, it would appear the members became such for the simple purpose of scoping the premises. That "scouting" of the premises is actually diminished from that of regular businesses due to the limited entry only by members.

Scenario 2: The case of Mathew Davis in Stockton is another sad case where a legally operating collective was subject to enforcement of federal marijuana laws. However, since the Cole memo, FinCEN guidelines, and the Rohrabacher-Farr amendment clearly state it is current federal policy not to prosecute marijuana businesses compliant with state marijuana laws, nor is the Department of Justice allowed to use funds to prosecute those cases, the oppositions claims are no longer valid.

Scenario 3: The Luke Goodman case is truly a tragedy. However, toxicology reports taken indicated that the levels of THC in Mr. Goodman's system were 3.1 ng/ml, well below the 5 ng/ml levels considered to be "impaired". Due to this fact, some suspect undocumented mental health issues may have been a factor, or the incident may have been accidental. Unfortunately, once marijuana use is suspected to be a factor in an incident such as this, blame is decided without further investigation on other possible reasons the incident may have occurred. Oddly, newspaper articles containing the toxicology report have been blacked out, only to be found in Google's cache:

Blacked Out Webpage:

<http://www.summitdaily.com/news/16033544-113/toxicology-report-released-following-keystone-marijuana-suicide>

Web Cache of article regarding Luke Goodman's Toxicology Report:

<http://webcache.googleusercontent.com/search?q=cache:rYr-GeKVCsgJ:www.summitdaily.com/news/16033544-113/toxicology-report-released-following-keystone-marijuana-suicide&hl=en&gl=us&strip=1&vwsr=0>

Health Concerns – General Resources

1 - An early study suggested that recommending “cannabis in place of opioids for neuropathic pain may reduce the morbidity and mortality rates associated with prescription pain medications and may be an effective harm reduction strategy.”

Collen, Mark, Prescribing Cannabis for Harm Reduction, Harm Reduct J. 2012; 9: 1., available at: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3295721>

2 - A 2014 study published by JAMA Internal Medicine looked at ten medical cannabis states from 1999 to 2010 and found “[s]tates with medical cannabis laws had a 24.8% lower mean annual opioid overdose mortality rate...compared with states without medical cannabis laws.”

Bachhuber, Marcus, et al., Medical Cannabis Laws and Opioid Analgesic Overdose Mortality in the United States, 1999-2010, JAMA Internal Medicine, Oct. 2014, available at: <http://archinte.jamanetwork.com/article.aspx?articleid=1898878>

Contamination of Medical Marijuana

Opposition refers to possible contamination of medical marijuana products by a pathogen *Aspergillus* spp. fungi. Ethnobotanica will be testing for microbiological, pesticide, and residual contamination to prevent the exact problems the opposition claims we would cause. In fact, by not allowing a dispensary, patients will be more likely to obtain and use medical Cannabis through quasi-legal sources which do not screen marijuana for microbiological or pesticide contamination. Therefore, allowing a medical marijuana dispensary in Nipomo would guarantee patients in San Luis Obispo County access to medical marijuana that is tested for microbiological and pesticide contaminants. Additionally, Ethnobotanica is certified Clean Green using National Organic Program standards. This is the only third party inspection service available, and is used by Ethnobotanica voluntarily, at much expense, since regulations do not currently exist requiring it. However, testing of pesticides, pathogenic organisms, and potency, are all required under the new implementation of the MMRSA.

Certification and Lab Testing Facility Sites:

<http://cleangreencert.com/home/>

<http://sclabs.com/services/services-microbiological-screening.html>

<http://sclabs.com/services/services-pesticide-testing.html>

Potency of Medical Marijuana

Opposition suggests high cannabinoid potency levels in Medical Marijuana to be a negative factor. It is important to consider the scientific concern in referencing past data on marijuana potency levels, as this information is generally inaccurate due to outdated or incomparable collection and lab testing methods. Opposition does not give reference to peer reviewed studies governed by professional standards, so it seems the specific potency numbers stated from the past may be dubious. However, the higher cannabinoid potency levels are actually of a benefit to the medical marijuana patient. As potency rises, other products and byproducts of concern are reduced. Cost benefit to the medical marijuana consumer raises as the patient is able to use less marijuana to achieve the desired result.

Concentrated marijuana products such as resin, contain far less, if any, carbon based materials which, when burned, can become carcinogenic. In addition, it is becoming increasingly common to use cannabis concentrates in vaporizer style inhalation devices, which produce no carcinogenic byproducts, therefore giving patients immediate relief without the introduction of burnt carcinogenic material. That being said, there are multiple studies listed above that show the net benefit of smoking marijuana is greater than the negative side effects, and there is data to support that carcinogens found in marijuana smoke are offset by the anti-carcinogenic properties of Cannabinoids, the chemical components of marijuana which provide therapeutic value.

Harmful Effects of Marijuana

Opposition refers to the listing of marijuana smoke as a carcinogen. However, there are multiple studies listed above that show while marijuana smoke does contain carcinogens, the overall effect is a reduction and prevention of cancer, which is the very reason it is so widely used by cancer patients. As a matter of patient education, Ethnobotanica discourages the use of Cannabis in a home or other sealed environment where children and non-marijuana users are present. Additionally, marijuana can be vaporized, consumed as a liquid tincture, applied to the skin as a balm, eaten in food, or ingested in a variety of other ways which avoid the inhalation and consumption of carcinogens.

The Surgeon General conclusions referenced by opposition are a relic of the historically anti-medical marijuana federal political position. These positions are not supported by peer-reviewed studies. Former Surgeon General Dr. Joycelyn Elders has made a concerted effort to debunk the myths purported by the office, and current U.S. Surgeon General Vivek Murthy has openly expressed optimism about the medical benefits of marijuana use.

Editorial Reference, online by purchase only. Please email me to request a PDF:
Former U.S. Surgeon General Joycelyn Elders, M.D., "Myths About Medical Marijuana,"
Providence Journal, March 26, 2004

Article on the Current Surgeon Generals Position:

<http://fortune.com/2015/02/04/surgeon-general-medical-marijuana/>

Teen Use of Cannabis – General References

8 - Federal data states that from 2002 to 2014, as medical cannabis programs proliferated across the country, teen use (ages 12-17) of cannabis in the previous 30 days fell from 8.2% to 7.4% and that past year dependence of cannabis by the same age group fell by about 10%.

Hedden, Sarra, et al, Behavioral Health Trends in the United States: Results from the 2014 National Survey on Drug Use and Health, Supplemental Tables of Estimates for Behavioral Health Trends in the United States, Substance Abuse and Mental Health Services Administration, available at:

<http://www.samhsa.gov/data/sites/default/files/NSDUH-FRR1-2014/NSDUH-FRR1-2014.htm#idtextanchor142>

9 - A study by Johns Hopkins University Bloomberg School of Public Health examining the impact of changes in cannabis laws on teen use from 1999 to 2013 found, "[d]espite considerable changes in state marijuana policies over the past 15 years, marijuana use among high school students has largely declined."

Johnson, Rene, et al., Past 15-year trends in adolescent marijuana use: Differences by race/ethnicity and sex, Drug and Alcohol Dependence, Sept. 2015, available at: [http://www.drugandalcoholdependence.com/article/S0376-8716\(15\)01618-X/abstract](http://www.drugandalcoholdependence.com/article/S0376-8716(15)01618-X/abstract)

10 - A July 2015 study published by the Lancet that looked directly at the impact of state medical marijuana laws on teen use reach the following conclusion: In conclusion, the results of this study showed no evidence for an increase in adolescent marijuana use after passage of state laws permitting use of marijuana for medical purposes. Concerns that increased adolescent marijuana use is an unintended effect of state medical marijuana laws seem unfounded.

Hasin, Deborah S. et al., Medical marijuana laws and adolescent marijuana use in the USA from 1991 to 2014: results from annual, repeated cross-sectional surveys, *The Lancet*, June 15, 2015, available at: [http://www.thelancet.com/pdfs/journals/lanpsy/PIIS2215-0366\(15\)00217-5.pdf](http://www.thelancet.com/pdfs/journals/lanpsy/PIIS2215-0366(15)00217-5.pdf)

Youth Consumption

As parents of two boys, 9 and 10, I am also concerned with child exposure, and use by children and teens. The data and studies listed above show that child and teen use has not increased as access by adults to medical marijuana has increased. In fact, it is more likely that children will come into possession of marijuana if patients do not have access to regulated medical marijuana dispensaries. The lack of safe and secure sources for patients leaves a gap in supply and demand that is filled by grey and black market drug dealers. These are the individuals who may be willing to provide marijuana to minors.

Adults (21 years and older)

Opposition to sales of medical marijuana users under the age of 21 would put Ethnobotanica at odds with California law, and may create liability issues associated with age discrimination laws, as California law allows for medical marijuana to be recommended and possessed for those over the age of 18. A medical marijuana patient should not be judged by their age, as there are many young adults who suffer from severe illness.

It is not the intent of Ethnobotanica to allow minors in the dispensary area. Our concern with not allowing minors into the waiting area is that it may unnecessarily impede a severely ill patient, who has children, to obtain their medication. We believe medical marijuana dispensaries should be treated as pharmacies. Upon review of the language in the Use Permit, Ethnobotanica believes it is possible to serve those patients through delivery, but also feels that it would be preferable if those members had the same access as those without children. We request guidance on this issue and understand if the Supervisors wish to place an "18 and older only" condition on the dispensary, which we would gladly enforce.

Concerns over Federal Law – General Resources

11 - The federal Department of Justice (DOJ) is now forbidden by Congressional budgetary language known as the Rohrabacher-Farr Amendment 20 from taking action against state and local officials for attempting to implement their medical cannabis laws and regulations.

H.R. 83, 113 Cong. (enacted). Print. p. 213-214, available online at: <http://docs.house.gov/billsthisweek/20141208/CPRT-113-HPRT-RU00-HR83sa.pdf>

12 - A report by the Congressional Research Service found that, “[s]tate laws that exempt from state criminal sanctions the cultivation, distribution, or possession of marijuana for medical purposes have generally not been preempted by federal law.” The report notes that the case of *Gonzales v. Raich*, which allows the federal government to enforce against intrastate medical cannabis production, was not a federal preemption case and is silent on the issue. 22

Garvey, Todd, Medical Marijuana: The Supremacy Clause, Federalism, and the Interplay Between State and Federal Laws, Congressional Research Service, November 9, 2012. Available at: <https://www.fas.org/sgp/crs/misc/R42398.pdf>

In practice, the preponderance of cases related to federal preemption of state medical marijuana laws have ruled that the laws are not preempted. One case in Oregon held that a certain portion of the state law was preempted, but that proved to be more of a technical point, as the program was allowed to largely proceed without related hindrance after the ruling

Federal Raid of Previous Dispensary in SLO County

The opposition’s attempt to correlate the City of Morro Bay’s former dispensary to the federal raid is irrelevant. While convicted and sentenced to 1 year and 1 day in federal prison, Charles Lynch has been released on bail pending a series of appeals. Currently, Charles is waiting for a decision regarding a request for dismissal under the Rohrabacher-Farr amendment to the 2015 congressional budget, which came in response to a renewed federal crackdown on the medical marijuana industry in California, where medical marijuana has been legal since 1996. The amendment directly prohibits the ability of the US department of Justice to use funds to prosecute medical marijuana cases. On October 19th, 2015, a similar request was granted for a Marin dispensary case, which set precedent by being the first medical

marijuana dispensary in which a judge explicitly stated, using very strong and clear language, that the U.S. Department of Justice may not interfere with the business activities of a state-compliant medical marijuana business.

Huffington Post Article on the Marin Dispensary Case

http://www.huffingtonpost.com/entry/medical-marijuana-ruling_56265df9e4b08589ef48fee0

Federal Concern - Dispensaries are “Illegal in California”

As a matter of federal law, this is true. However, as I will relay multiple times in this letter, the current federal policy is that federal authorities, namely the Department of Justice, will not enforce federal law in cases where dispensaries are compliant with state law, nor do they have the funding to prosecute. This is clear federal acknowledgement of state and local rights to implement medical marijuana programs.

The same set of policies applies to landlords. In fact, the Authors of the Rohrabacher-Farr amendment requested the Department of Justice Inspector General to audit California’s Northern District DOJ office for pursuing forfeiture action against several dispensaries in Northern California.

Blog Regarding Congressional Request to Investigate DOJ for Violating Rohrabacher-Farr Amendment, Including Information Regarding Lynch Case:

<https://reason.com/blog/2015/07/31/congressmen-ask-doj-inspector-general-to>

Opposition contends that the Consolidating and Further Continuing Appropriation Act passed in December 2014 does not protect criminal and civil prosecutions of medical marijuana patients and providers or civil prosecution of elected officials. First, while the Section 538 technically expired September 30, 2015, the language was again passed and extended with the Rohrabacher-Farr Act in June of 2015 for expiration, as it is an amendment within the annual budget, of September 2016. The language and intent to protect civil and criminal prosecution of medical marijuana businesses, and most definitely elected officials, was reinforced in a decision which scathed the DEA and DOJ for twisting the language of the bill with the 2015 interpretation the opposition uses as evidence (U.S. vs Marin Alliance for Medical Marijuana).

Washington Post Article Regarding Federal Court “scathing” criticism of DOJ and DEA for Violating the Clear Intent of the Rohrabacher-Farr amendment

<http://www.washingtonpost.com/news/wonkblog/wp/2015/10/20/federal-court-tells-the-dea-to-stop-harassing-medical-marijuana-providers/>

Comparing the supporting articles and documents against the opposition's position clearly indicates that the opposition's was using the same ideological interpretation of law which has been utterly dismissed by the courts.

Medical Marijuana is NOT Illegal in California

Opposition is correct in that up until recently, marijuana was illegal and marijuana businesses had an affirmative defense in those cases where charges were filed against a marijuana business. However, the assertion that those businesses are not operating in compliance with state law is false, as an affirmative defense prevents conviction under those laws in which the affirmative defense defends against, therefore not making those offences a crime to be convicted of. This has been interpreted by, then Attorney General of the State of California Jerry Brown, as meaning that collectives can operate as a retail establishment. This reasoning is laid out in the August 2008 Attorney Generals' "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use".

Retail sales of Medical Marijuana are NOT illegal in California

Opposition is factually incorrect with regard to the People v. Sandercock case. The case has a series of appeals, which were not all included, fundamentally eschewing the final outcome. The initial appeal was in fact granted and published, altering the jury instruction of the case at the San Luis Obispo County Superior Court to the benefit of the People with language to the Jury that defendants could not operate retail, for-profit. However, since Sandercock could show through records that such sales were not for-profit, the case never went to trial and was dismissed in the interest of justice by the District Attorney (November 2014). So, while opposition claims that the legal precedent is to not allow retail sales of marijuana, in fact the case merely upholds California law regarding not-for-profit sales of medical marijuana. Ethnobotanica is registered, and operates, as a not-for-profit. This point will soon be mute, as the State recently allowed direct for-profit sales with implantation of the MMRSA.

From reading more about this case, I can see that we operate in a much more rigid manner than the collective referenced. This may be why, during the very same investigations and arrests responsible for creating the Sandercock case (2010), Ethnobotanica was also investigated, but never charged or otherwise involved in any arrests. It is fair to assume, that the People v. Sandercock case was referenced in error. It actually provides evidence that the Collective model is completely legal per state law, and also that Ethnobotanica is exceptional with regard to other collectives in the area.



Confusion often surrounds MMJ transactions, also due to an assumption that a not-for-profit organization cannot "sell" products to their members. However, when the Compassionate Use Act was expanded in 2004 by Senate Bill 420 (Health & Safety Code 11362.7-8), it authorized patient "cooperatives" or "collectives" to grow, distribute and/or sell medical marijuana on a non-profit basis to their members.

The Board of Equalization requires that all MMJ transactions be subject to sales tax, and therefore treated as sales:

"In February 2007, a Special Notice clarifying the application of sales tax to sales of Medical Marijuana made available to marijuana sellers in California as part of the Board of Equalization's (BOE) education outreach efforts. The notice informed marijuana sellers of their seller's permit and tax reporting requirements under the California Sales and Use Tax Law. Due to the growth in the number of medical marijuana sellers and the failure by a number of such sellers to obtain seller's permits, this notice is being sent to all known marijuana sellers as a reminder of your registration and tax reporting requirements."

- CA Board of Equalization

Operating in a manner that is not-for-profit means that excess revenue collected from a Collective's operation should be used for the benefit of the members, and does not restrict businesses from selling products. The details were hashed out in the People v. Jackson case. Ethnobotanica operates as a not-for-profit. We cover our operating expenses and overhead, and all staff are paid a reasonable wage or salary. No additional funds go to any individual or other corporation. Any annual income from sales, that exceeds our expenses, is used for long term projects that will benefit the member base. The dispensary in Nipomo is a perfect example.

Ethnobotanica's Medical Marijuana Delivery Service and the Proposed Medical Marijuana Dispensary ARE in Compliance with the Laws of California

Opposition of Ethnobotanica operations are flawed, using generic data from the RAND institute, not data specific to legally operating medical marijuana collectives. The opposition also seems to lack understanding of non-profit organization and operations, as are consistent with State law. The value of sales of marijuana from Ethnobotanica is stated at \$5,376/lb, claiming that we have a markup between 796% and 1,820%. The problem with these numbers is that they only include cost of production, and do not include taxes, healthcare, our Compassionate Discount Program (8% minimum of sales), general business expenses, delivery drivers, vehicle expenses, accounting, compliance staff, packaging, rent, electricity, and the



many other expenses our business incurs. In fact, cultivation is only approximately 33% of our total overhead.

Operating reserves are not a profit. Operating reserves are justified in a non-profit model so that the non-profit has sufficient budget to operate in the "black", and do not go bankrupt or not have sufficient capital to carry out their mission. Where in a for-profit model, this income would go to an owner. In a non-profit, mutual benefit model, these excesses must legally be used to the benefit of the membership by increasing services to the membership, saved in a reserve account to accommodate for unforeseen budget fluctuations, or returned to the membership by lowering prices. This operating reserve should be above 10% in a healthy non-profit.

In fact, a good example would be to use County government in order to reference how non-profits work. Government entities are a form of non-profit organization. While operating as a non-profit, the Board of Supervisors, Sheriff Department, Health Department, Public Works, etc, all have employees who receive salaries and wages for their work. However, when there is a surplus, the Supervisors don't get to take that money to the bank. That money is saved in a rainy day fund or services are increased. Such is the way of Ethnobotanica, just on a smaller scale.

Legality of Renting to a Medical Marijuana Business

The State legislature recently passed a trio of bills, AB 266, AB 243, and SB 643, known as the Medical Marijuana Regulation and Safety Act (MMRSA), which has been signed into law by Jerry Brown. These bills, among other things, provide Section 19317(b) Article 3 in Chapter 3.5 of Division 8, which reads "(b) The actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to both a state license and a local license or permit following the requirements of the applicable local ordinances, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law." This clearly states that it is not illegal for a landlord to rent property to medical marijuana business

A Loan to a Medical Marijuana Business is not Conspiracy

Ethnobotanica's loan is for tenant improvements. There is no "conspiracy to distribute marijuana". Distribution of medical marijuana is currently legal under California law, within a lawfully operating Collective or Cooperative following the Attorney General's Guidelines for non-diversion, which Ethnobotanica is. Distribution is also a specific license type under the MMRSA, Type 11.



Patients in SLO County

The opposition brings up a question regarding the number of patients vs the number of delivery services. First, as we stated in our application, we have around 3500 members, and approximately 2000 are in San Luis Obispo County. Second, many patients have memberships between different collectives, so therefore it is not appropriate to say if we serve 80% of patients in San Luis Obispo County, then the other 27 delivery services serve the other 20%. In fact, patients may become members of multiple collectives for various reasons, including the collective's scheduling availability, specialization in different aspects of care, or availability of different products.

MMJ Dispensaries are Illegal in Some Central Coast Cities

Yes, medical marijuana dispensaries are illegal in the cities listed in the opposition's argument. However, nothing prevents us from making a delivery to any municipality when a transaction does not occur within the limits of a jurisdiction. One may think of it as a UPS or FedEx delivery. Because the transaction occurs elsewhere, those businesses are not required to obtain a business license, since business is not occurring in those municipalities, just a simple drop off of medication.

The option for patients to drive out of town to a dispensary is an often sighted justification for such bans. Cities can choose to ban dispensaries within city limits, as a matter of land use, yet feel comfortable that their constituents still have access because they can drive to a dispensary located in another municipality, or receive a delivery. These are not optimal choices for the patients themselves, but common political padding for unpopular policy.

Business License NOT required

Opposition purports that Ethnobotanica currently requires a business license to deliver in the County. However, using the same code as the opposition:

6.00.020 - Misdemeanor to engage in designated activity without a license.

Every person who engages in, conducts, manages, or carries on any business, exhibition, occupation, or other activity for which a license is required by this title without first having procured a license to do so and having paid the fee if any for such license as provided for in this title is guilty of a misdemeanor. Each day that such activity continues without a license shall constitute a separate offense.



Ethnobotanica does not currently engage in a business type required by Title 6 to have a business license in the County of San Luis Obispo, and home delivery is not a "land use", requiring land use permits.

That being said, it would be to the benefit of the County to take the first step in licensing Medical Marijuana businesses by approving this dispensary and further considering a new regulatory framework that can give similar businesses a path to permitting. Ethnobotanica is in agreement with spirit of the Opposition on this point, as it would be a benefit to the County to regulate this largely unseen industry, currently made up of over 30 delivery services and an unknown number of cultivators and processors.

Land Use

To our knowledge, all three of the past applicants required a variance to the current dispensary ordinance. Ethnobotanica is in compliance with the existing dispensary ordinance. Additionally, Ethnobotanica is compliant with all state regulations, which also puts Ethnobotanica in compliance with all federal policies regarding appropriate operations of legal medical marijuana businesses. Ethnobotanica retains compliance staff, consultants, and attorneys, which will assure we are ahead of the curve in regard to compliance with future and current state regulations. Ethnobotanica's 117 page Application, Security Plan, and Operational Plan are far above and beyond the county's current standards, and would be an excellent resource in developing a more comprehensive framework for future County regulations.

Traffic and Parking Concerns

The opposition uses unsupported data to make assumptions regarding traffic and parking. The business plan is both a low and high estimate of sales. Numbers from the letter were either misspoken or incorrect, as they are not numbers used in any Ethnobotanica business plans. Existing real data from current Ethnobotanica sales show our average sale to be around \$110 per transaction. We expect that number to be consistent with the average sale at the dispensary. This drastically reduces the number of trips the opposition claims would occur to and from the proposed dispensary by a factor of 2.75. When dividing the number of trips the opposition uses by that factor, using real data instead of "guessing" how much the average sale is, then the number of trips would be between 45 trips per day and 124 trips per day, or 6 and 18 trips per hour. The estimate of 30 trips between 4:00pm and 6:00pm in the land use application is therefore an accurate assumption on the high end of the range. Ethnobotanica will also be paying a rather large sum of \$30,000 in road fees to the County as part of the project, which is similar to the prior permitted use, and does not include an expansion of the existing facility.



The Planning Department has also studied the impact the dispensary would have on traffic and parking. Planning has agreed that impacts to traffic are negligible and the parking is sufficient to meet the demand, which is part of the reason that staff recommended approval of the application. More information about traffic and parking can be found in the staff report.

Sales to Santa Maria Residents

The opposition states that the proposed dispensary will sell marijuana to medical marijuana patients in Santa Maria. It is true that dispensaries and medical marijuana delivery services are banned in Santa Maria. However, nothing in Santa Maria's ordinances prevents a medical marijuana patient from possessing or using medical marijuana, which is their right under state law. In fact, the locality of dispensaries outside cities is often used as part of the reasoning why a City may ban dispensaries while still allowing access to citizens. It would be a benefit to Santa Maria patients to have local access, and diminish the illegal operation of delivery services within the City limits of Santa Maria. It would therefore be a benefit to the public health, safety, and welfare of Santa Maria.

Additionally, the County of San Luis Obispo would have the benefit of receiving the sales tax, and other taxes incurred, from additional dispensary sales to registered Santa Maria patient members.

Liability for a Medical Marijuana Dispensary

The opposing argument is outdated in this matter. In February 2014, the Department of Justice's Financial Crimes Enforcement Network (FinCEN) released guidance on how banks can legitimately deal with state legal marijuana businesses. While most banks have chosen to not implement the guidelines, Ethnobotanica worked with a local credit union to establish protocol for that bank to implement the FinCEN guidelines, so currently enjoys a strong relationship with that credit union. As a matter of policy, the Department of Justice allows marijuana businesses to bank provided they meet the standards of the FinCEN guidelines, which Ethnobotanica does.

While we do agree that the proposed dispensary is in a remote area, that is the very reason why it is excellent for providing secure operations. Being somewhat remote and not as busy as other areas, it is easier to survey the property by security staff, which Ethnobotanica will be contracting with to monitor, patrol, and respond to any security triggers at the property. We have also agreed to have our security patrol the Costa Pacifica housing development. Judging by the zoning and distance restriction, it was apparently the intent of the Board of Supervisors to put medical marijuana dispensaries in such remote locations



Ethnobotanica Addresses

The addresses mentioned in question are legal PMB street addresses, not post office boxes, as the opposition claims. For security reasons, the addresses of facilities which cultivate and distribute marijuana are not part of our general public record. PMB's are commonly used by corporations, including non-profit corporations, who do not wish to divulge private information about properties, when those addresses are irrelevant or could compromise the security of facilities.

And to be frank, our mailbox in Watsonville is continually knocked over due to high traffic by businesses who tow cars to and from their repair facilities. We do not want to miss important mail from government entities, so we need an alternative option.

Ethnobotanica Employees

Ethnobotanica has over 30 employees, none of which, besides myself, are mentioned in the land use application or business plan. However, if requested by the County, Ethnobotanica will gladly submit all employee names. We will run a background check on all employees at the dispensary as a matter of current and ongoing standard operations. Ethnobotanica has a sole Director in myself, Stephanie Kiel, legal per state law, and will submit our by-laws upon request to any County official.

Permitting in the City of Watsonville

Ethnobotanica is currently operating in good standing with the City of Watsonville, and is also working with the City to develop an ordinance which will be on the Planning Commission and City Council agenda during the months of December and January. The lawsuit against the City was a matter of procedural issues that allowed us time to work with the City to come to an operational agreement. Upon request, we can provide a copy of our current business license and agreement with Watsonville, which shows that not only are we in good standing, but that Watsonville is letting us remodel our cultivation facility with the expectation that the City will pass legislation soon. Additionally, we can provide references in the City of Watsonville to confirm these facts, as well as our draft ordinance developed with and for City officials.

Banking and Business References

Ethnobotanica is willing to provide all of the reference information requested by the opposition, if the County so desires. We have excellent banking relationships, having helped Bay Federal Credit Union develop their medical marijuana compliance rules. We have multiple attorneys with a range of specialties including



business, land use, civil and criminal. We work with a local CPA and consult with a large accounting firm in the Bay Area, Hank Levy and Associates, which specializes in medical marijuana accounting, so that we are always up to date with the current best practices of our industry. We have excellent business relationships, with dozens of accounts from other reputable non-marijuana businesses which we use to carry out our duties to our members.

Advertising: Why do we advertise to the public?

If we did not advertise, patients would not be able to find our services. Our only print advertising is in the New Times weekly paper, in a section specifically designated for medical marijuana businesses. The target demographic of New Times is adults, not underage children. Social Media, such as Facebook or Twitter, is by invitation to members, and is not used as traditional "advertising". These postings are generally not open to the public, although people in the public may join as a form of communication and education. Our online advertising is only in the form of listings on WeedMaps.com or other medical marijuana business sites, which are specifically for medical marijuana patients looking for medical marijuana providers. WeedMaps.com, and many others, are age restricted. This visibility is intended to educate medical marijuana patients of our collective. Any not-for-profit business must inform the public that they exist, what they do, and how to get involved, or they will not be capable of achieving their stated mission.



Residents of Nipomo, and the Rest of the County, Need and Want a Medical Marijuana Dispensary

One argument from the opposition letter states that Nipomo is a small town with schools, residential areas, and golf courses, so therefore does not want a medical marijuana dispensary. Is there a correlation? Medical marijuana patients live in residences, have children, and play golf. Where should medical marijuana patients - who are our grandmothers, grandfathers, mothers, fathers, aunts, uncles, sisters and brothers, have their dispensary if not in a town?

Opposition states that “medical marijuana patients are not required to register in California”, yet uses only county registered patients as evidence that the number of members we serve is inaccurate. There are a significant number of data from Washington and Colorado showing that 2.5-3% of the population uses medical marijuana. Due to the relative longevity of medical marijuana laws and liberal views of medical marijuana use in California, we believe California to be in the 3% range now. This is double the number offered in our land use application, due to new information which has been released over the last year. We can use that percentage to estimate the number of medical marijuana users at around 450 in Nipomo. This is a considerable service to the residents of Nipomo.

Yet, the County does not have a responsibility to service only the residents of Nipomo. Instead, in our opinion, the County Board of Supervisors should consider the necessity of having a dispensary which can serve the entirety of the County, since there is not a single dispensary anywhere in the County.

In fact, many municipalities offer that medical marijuana patients can “drive somewhere else” to obtain medical marijuana, or obtain medical marijuana products from delivery services when justifying prohibition of dispensaries. However, the time required to drive to the nearest dispensaries in Santa Cruz County are 5 to 6 hours round trip, not including stop times, making a “trip to a dispensary” a whole day event. Delivery services, such as Ethnobotanica currently operates, cannot service members as efficiently, adequately, or with the diversity of products required to service those most in need and whom require certain specific products that are not financially plausible to serve through a delivery model.

When considering the entire county, the entire population of 276,000 should be considered. A 3% rate of medical marijuana use would mean that there are approximately 8,280 medical marijuana patients in San Luis Obispo County. While many of these patients may be fine with existing medical marijuana service infrastructure, a guessed figure of 1000 to 2000 patients are likely being underserved.



To take a moment to speak anecdotally from our point of view, doctors have often been the quickest to speak up with regard to the benefit of a clean, secure, brick and mortar dispensary. When a doctor in San Luis Obispo County makes the decision to recommend medical marijuana to an elderly woman who has never consumed cannabis before, he/she then has to tell her to open up the New Times, pick a delivery service advertised, and have a stranger come to her home. This is a true conundrum for a physician trying to treat an ill patient with an alternative therapy they believe will be the best option for their condition.

Opposition's Request

Opposition is correct in that medical marijuana laws are constantly changing, but those changes are consistently in support of the medical marijuana industry. However, the change in laws and current County ordinance, State Laws, State court decisions, Federal policy, and Federal Court decisions are not conflicting, vague, or ambiguous. Instead, all current law and policy, with exception to the continued technical federal illegality, is consistent to allow California State, County's, and Cities to implement laws which regulate medical marijuana, as San Luis Obispo has done. Approval of the dispensary at Hutton Rd would be consistent with the County's ordinance, State Law and regulations, and Federal policy.

The dispensaries mentioned by the opposition which have been shut down in the City of Los Angeles, City of San Diego, and City of Vallejo were all non-compliant. What the opposition fails to mention, is that all three of those cities allow dispensaries to operate per a dispensary ordinance, such as San Luis Obispo County has in place. Approving our proposed dispensary would make it compliant with County Law.

In 2014, not 2015, John Hickenlooper, Governor of Colorado, did say that the decision by voters to legalize marijuana was a bad idea. However, he also walked back that statement within 24 hours. That next day, he rephrased his statements to state that it was "risky", but that the state of Colorado had mitigated those risks. Ethnobotanica, in compliance with state and local law and guidelines, in addition to excellent operating procedures and policies, will also mitigate any risks associated with the proposed dispensary. It should be noted, that John Hickenlooper was speaking to recreational marijuana use, not medical use.

Opposition's request to "wait a couple of years for more clarity of the law and more scientific research on medical marijuana" suggests that the law and policy is not clear and that scientific research is not clear. Across the board, policy is consistent, and there are thousands of research papers showing the benefits of medical marijuana. The County would have a clear benefit in preparation for the coming implication of the new California medical marijuana regulations if there is a permitted and operating dispensary to observe and learn from, and with.



Ethnobotanica's Request

As the medical marijuana industry evolves, it is important that the County learn to permit and regulate what is currently the fastest growing industry in the world. The County has had an ordinance which allows for dispensaries for the past 8 years, yet a single dispensary has not been allowed to operate in the County as such. As a result, there are over 30 delivery services operating in the County in a non-regulated, potentially untaxed, legal vacuum. Ethnobotanica wishes to show the County how a well-managed dispensary can be an asset.

By approving the project, the County can learn from our dispensary to develop sensible policy. Going forward, Ethnobotanica can become an example of how the County can bring the medical marijuana industry, which proliferates largely unregulated, out into the open so that those businesses can be controlled and operated under strict compliance with local and State Law. It is time that the County acknowledge the industry, so that it can ensure the producers, processors and providers are operating legally. Additionally, the County can gain revenue from the industry to offset local concerns, enforce compliance with County laws, and be a general benefit to the community.

We humbly request that the application for minor use permit for a medical marijuana dispensary in Nipomo be approved.

Sincerely,

Stephanie Kiel
Executive Director, Ethnobotanica
(831) 706-5975

OCT 29 2015

Opposition to the application for a minor use permit
for a medical marijuana dispensary in Nipomo

BY _____
DEPUTY

April 27, 2015

San Luis Obispo County Planning Commission
976 Osos Street, Room 200
San Luis Obispo, CA 93408

Dear San Luis Obispo County Planning Commission:

I am a resident of Nipomo. I oppose the application for a minor use permit for a medical marijuana dispensary located at 2122 Hutton Road, Nipomo, CA 93444. The minor use permit file number is DRC2014-00070. The name of the applicant is Ethnobotanica.

I oppose the application for a minor use permit for a medical marijuana dispensary in Nipomo, based on the following:

A medical marijuana dispensary will be detrimental to the public health, safety and welfare of the community

A medical marijuana dispensary will be detrimental to the public health, safety and welfare of the community. A medical marijuana dispensary will adversely impact the quality of life in the community.

There will be negative impacts on residences, businesses and schools in the community. There will be an increase in traffic. There will be an increase in crime. There will be an increase in robberies, burglaries and assaults. There will be an increase in loitering, littering, trespassing, graffiti, noise and marijuana odors. There will be an increase in the diversion of medical marijuana for recreational use. There will be an increase in marijuana trafficking to a medical marijuana dispensary. Nipomo will be known as a green light district, a place to buy and sell marijuana, instead of a place to raise a family. There will be a negative impact on public health due to the harmful mental and physical effects of marijuana. There will be a decrease in academic achievement. There will be a decrease in residential and commercial property values. There will be an increase in indoor and outdoor cultivation sites. There will be an increase in butane hash oil processing houses.

Recently, there were incidents of butane hash oil processing houses exploding and severely burning the occupants in the cities of Grover Beach, Morro Bay, San Luis Obispo and Atascadero, and in the unincorporated communities of Los Osos and Templeton. Butane is a flammable solvent used to extract resin from marijuana leaves. The marijuana resin is called hash oil, shatter and wax. It is illegal to use a flammable solvent to extract resin from marijuana in California. (People v. Bergen).

There will be an increase in accidents caused by driving under the influence of marijuana. It is illegal to drive under the influence of marijuana in California. (California Vehicle Code Section 23152 (e)). To date, California does not have a marijuana intoxication threshold. Colorado and Washington have a marijuana intoxication threshold of 5 nanograms of THC per milliliter of blood. (5 parts of THC per billion parts of blood). THC is a psychoactive ingredient in marijuana.

A medical marijuana dispensary will endorse the use of marijuana as safe and harmless. Scientific research indicates the use of marijuana is unsafe and harmful. Endorsing the use of marijuana sends the wrong message to the community.

In nature, marijuana contains 483 chemicals. Marijuana contains 80 chemicals known as cannabinoids. Research scientists are studying the effects and side effects of these cannabinoids. To date, two cannabinoids have been studied, delta-9-tetrahydrocannabinol (THC) and cannabidiol (CBD). THC is a psychoactive ingredient in marijuana. CBD is a non-psychoactive ingredient in marijuana. Marijuana may contain more chemicals from fertilizers, pesticides, fungicides, bacteria, fungi, mildews, molds, yeasts, insects, hairs, heavy metals, contaminants and debris. Research scientists are studying the effects and side effects of these chemicals and pathogens.

Research scientists have studied marijuana contaminated with fungus. Aspergillus is a fungus that grows on marijuana. There are 60 species of aspergillus that are pathogens. Any person using or working with marijuana may be subject to an allergic reaction or infection from the fungus. An aspergillus infection can cause diseases including invasive aspergillosis, allergic bronchopulmonary aspergillosis, chronic pulmonary aspergillosis and aspergilloma. An aspergillus infection can be lethal in people with a compromised immune system due to leukemia, cancer, chemotherapy, organ transplant, acquired immune deficiency syndrome (AIDS) or other conditions that make it difficult to fight infections.

In 1978, marijuana contained an average of 1.37 percent THC. In 1988, marijuana contained an average of 3.59 percent THC. In 1998, marijuana contained an average of 4.43 percent THC. In 2008, marijuana contained an average of 8.49 percent THC. Ethnobotanica sells marijuana containing up to 22 percent THC. Ethnobotanica sells marijuana resin containing up to 88 percent THC. Research scientists are studying the effects and side effects of these high levels of THC.

I am worried about our children using marijuana. The Colorado Department of Health and Environment is warning teenagers about the dangers of marijuana with a "Don't be a Lab Rat" campaign. (www.dontbealabrat.com). In 2014, a survey by the National Institute on Drug Abuse, found that 34 percent of 10th graders and 44 percent of 12th graders have used marijuana. Nancy Reagan had the right message: "just say no to drugs." This is not reefer madness, this is common sense. Nipomo does not want to be a lab rat for a medical marijuana experiment. The San Luis Obispo County Sheriff and Santa Barbara County Sheriff oppose a medical marijuana dispensary in Nipomo. The South County Advisory Council opposes a medical marijuana dispensary in Nipomo.

Harmful effects of marijuana

In 2009, marijuana smoke was listed as a carcinogen. There are 33 chemicals in marijuana smoke listed as carcinogens. (California Environmental Protection Agency - Chemicals Known to the State to Cause Cancer or Reproductive Toxicity).

"Marijuana smoke contains many of the same carcinogens as tobacco smoke. Marijuana smoke contains bronchial irritants, tumor promoters and carcinogens. The risk of respiratory effects from inhaling marijuana smoke are heightened by the intensive way in which marijuana is smoked. Marijuana cigarettes do not have filters. Marijuana burns at a higher temperature. Marijuana is smoked to a smaller butt size. Marijuana is smoked with a prolonged and deeper inhalation. Marijuana smoke contains 5 times more carbon monoxide, 3 times more tar, higher levels of ammonia and hydrogen cyanide, compared to tobacco smoke." (University of Washington Alcohol and Drug Abuse Institute).

"Marijuana smoke contains about 50 percent more benzopyrene and 75 percent more benzoanthracene, both carcinogens, than a comparable quantity of tobacco smoke. Lung biopsies from marijuana users have revealed widespread alterations to the tissue, some which are precursors to the development of cancer." (University of Washington Alcohol and Drug Abuse Institute).

"Secondhand marijuana smoke contains many of the same toxins and carcinogens found in tobacco smoke. While there is no data on the health consequences of breathing secondhand marijuana smoke, there is concern that it could cause harmful health effects, especially among vulnerable children in the home." (University of Washington Alcohol and Drug Abuse Institute).

The Surgeon General of the United States provides Americans with the best scientific information on how to improve their health and reduce the risk of illness and injury. The Surgeon General has issued a warning on the health hazards of marijuana use, based on scientific reviews by the Institute of Medicine of the National Academy of Sciences, the Canadian Addiction Research Foundation, and the World Health Organization.

"Acute intoxication with marijuana interferes with many aspects of mental functioning and has serious, acute effects on perception and skilled performance, such as driving and other complex tasks involving judgement or fine motor skills. Among the known or suspected chronic effects of marijuana use are short-term memory impairment and slowness of learning, impaired lung function similar to that found in cigarette smokers, indications are more serious effects, such as cancer and other lung disease follow extended use, decreased sperm count and sperm motility, interference with ovulation and pre-natal development, impaired immune response, possible adverse effects on heart function, by-products of marijuana remaining in body fat for several weeks, with unknown consequences. The storage of these by-products increases the possibilities for chronic, as well as residual, effects on performance, even after the acute reaction to the drug has worn off. Of special concern are the long-term developmental effects in children and adolescents, who are particularly vulnerable to the drug's behavioral and

psychological effects. The "amotivational syndrome," characterized by a pattern of energy loss, diminished school performance, harmed parental relationships, and other behavioral disruptions, has been associated with prolonged marijuana use by young persons." (Institute of Medicine of the National Academy of Sciences).

The Surgeon General concludes that marijuana has a broad range of psychological and biological effects, many of which are dangerous and harmful to health, and it supports the major conclusion of the Institute of Medicine of the National Academy of Sciences.

"A number of recent studies have indicated that marijuana use has severe and pervasive impact on public health. Studies show immune system damage, birth defects, infertility, cardiovascular disease, stroke and testicular cancer. Researchers have found that exposure to marijuana smoke can increase the risk of developing respiratory obstruction, emphysema, lung cancer, collapsed lungs, and bullous lung disease. A recent study shows that marijuana smoke has ammonia levels 20 times higher than tobacco smoke. Marijuana smoke has hydrogen cyanide, nitric oxide and aromatic amines at 3-5 times higher than tobacco smoke." (Journal of Global Drug Policy and Practice).

Harmful mental effects of marijuana

"When marijuana is smoked, the THC passes from the lungs and into the bloodstream, which carries the chemical to the organs throughout the body, including the brain. In the brain, the THC connects to specific sites called cannabinoid receptors on nerve cells and influences the activity of those cells. Many of these receptors are found in the parts of the brain that influence pleasure, memory, thought, concentration, sensory and time perception, and coordinated movement. The short-term effects of marijuana include problems with memory and learning, distorted perception, difficulty in thinking and problem-solving, and loss of coordination. The effect of marijuana on perception and coordination are responsible for serious impairments in driving abilities. Long-term chronic marijuana use is associated with Amotivational Syndrome, characterized by apathy, impairment of judgment, memory and concentration, and loss of motivation, ambition and interest in the pursuit of personal goals. High doses of marijuana can result in mental confusion, panic reactions and hallucinations. Researchers have found an association between marijuana use and an increased risk of depression, an increased risk and earlier onset of schizophrenia and other psychotic disorders, especially for teens that have a genetic predisposition." (Drug Fact Sheet - United States Drug Enforcement Administration).

"Marijuana impairs short-term memory and judgment and distorts perception. It can impair performance in school or at work and make it dangerous to drive an automobile. It also affects brain systems that are still maturing through young adulthood, so regular use by teens may have a negative and long-lasting effect on their cognitive development, putting them at a competitive disadvantage and possibly interfering with their well-being in other ways. Contrary to popular belief, marijuana can be addictive, and its use during adolescence may make other forms of drug abuse or addiction more likely." (National Institute on Drug Abuse).

Harmful physical effects of marijuana

"Short-term physical effects from marijuana use may include sedation, blood shot eyes, increased heart rate, coughing from lung irritation, increased appetite, and decreased blood pressure. Like tobacco smokers, marijuana smokers experience serious health problems such as bronchitis, emphysema, and bronchial asthma. Extended use may cause suppression of the immune system. Because marijuana contains toxins and carcinogens, marijuana smokers increase their risk of cancer of the head, neck, lungs and respiratory track. Withdrawal from chronic use of high doses of marijuana causes physical signs including headache, shakiness, sweating, stomach pains and nausea, as well as behavioral signs including restlessness, irritability, sleep difficulties and decreased appetite." (Drug Fact Sheet - United States Drug Enforcement Administration).

Medical marijuana is illegal in California

In 1996, the California voters approved Proposition 215, also known as the Compassionate Use Act (CUA), codified as California Health and Safety Code Section 11362.5.

In 2003, the California State Legislature approved Senate Bill 420, also known as the Medical Marijuana Program Act (MMPA), codified as California Health and Safety Code Section 11362.7 et seq.

Medical marijuana is illegal in California. The CUA and MMPA do not legalize medical marijuana. Thousands of people are arrested every year for possession and cultivation of marijuana in California. The CUA provides a limited defense in court for qualified patients and designated primary caregivers who possess and cultivate marijuana for medical purposes. (California Health and Safety Code Section 11362.5).

Medical marijuana dispensaries are illegal in California

Medical marijuana dispensaries are illegal in California. The CUA and MMPA do not legalize medical marijuana dispensaries. Thousands of people are arrested every year for operating medical marijuana dispensaries in California. The MMPA provides a limited defense in court for qualified patients and designated primary caregivers who associate collectively or cooperatively to cultivate marijuana for medical purposes. (California Health and Safety Code Section 11362.775).

It is illegal for landowners to rent or lease property to a medical marijuana dispensary in California. California law makes it illegal to knowingly rent or lease property for the purpose of unlawfully manufacturing, storing, or distributing any controlled substance. (California Health and Safety Code Section 11366.5 (a)), and provides that real property used in such a manner can be forfeited to California. (California Health and Safety Code Section 11470 (g)). Marijuana is classified as a Schedule I controlled substance in California. (California Health and Safety Code Section 11054 (d)(13)).

Retail sales of medical marijuana are illegal in California

In 2013, the California Court of Appeal issued a decision in *People v. Sandercock*. Thomas Sandercock, Christopher Austin and Amy Austin operated a medical marijuana delivery service in San Luis Obispo County. They alleged the delivery service was in compliance with the CUA and MMPA. They were charged with selling marijuana and possession of marijuana for sale. (California Health and Safety Code Section 11359 and 11360). The Court of Appeal ruled "Nothing in the CUA or the MMPA authorizes the retail sale of marijuana. Had the Legislature intended to authorize retail sales, it could have done so. Instead, it prohibited retail sales. Section 11362.765, subdivision (a) provides in part, "nor shall anything in this section authorize any individual or group to cultivate or distribute marijuana for profit." Thus not only must the group or organization be nonprofit, no individual may benefit financially from the cultivation or distribution of marijuana." In 2014, the California Supreme Court denied a Petition for Review. The case stands as legal precedent in California. (See attached *People v. Sandercock*, p. 4).

Ethnobotanica medical marijuana delivery service and the proposed medical marijuana dispensary are not in compliance with the laws of California and the United States

Ethnobotanica is the applicant for a medical marijuana dispensary in Nipomo. Ethnobotanica is located in Santa Cruz County. Ethnobotanica operates a large medical marijuana delivery service in Monterey County and San Luis Obispo County. In newspaper articles, Ethnobotanica says they delivery marijuana to 3,500 medical marijuana patients in the county. Ethnobotanica says the medical marijuana delivery service has \$2,000,000 in sales per year. Ethnobotanica says the proposed medical marijuana dispensary will have \$3,000,000 to \$8,000,000 in sales per year.

In 2010, RAND Drug Policy Research Center estimated the costs of cultivation, harvesting and processing marijuana are \$280 to \$600 per pound. The estimate is for indoor cultivation of marijuana at a wage rate of \$25 per hour. Ethnobotanica medical marijuana delivery service website says they sell marijuana for \$5,376 per pound. At a cost of \$600 per pound, the markup is 796%. At a cost of \$280 per pound, the markup is 1,820%.

In 2014, Ethnobotanica filed a Summary Business Plan for a medical marijuana dispensary in Nipomo. Ethnobotanica says the medical marijuana delivery service has a markup of 65% and an operating reserve of \$25,000 per month. Ethnobotanica says the proposed medical marijuana dispensary will have an operating reserve of \$45,294 to \$858,294 per year. Ethnobotanica says the proposed medical marijuana dispensary will have \$1,800,000 to \$5,000,000 in sales per year.

The CUA and MMPA do not authorize an operating reserve. The CUA says "nor shall anything in this section authorize any individual or group to cultivate or distribute marijuana for profit." (California Health and Safety Code Section 11362.765 (a)). The Court of Appeal ruled that "any money received must be no more than a cooperative or collective member's proportionate share of the actual cost of cultivating and distributing the marijuana." (*People v. Sandercock*).

The California Attorney General says "marijuana grown at a collective or cooperative for medical purposes may be: a) provided free to qualified patients and primary caregivers who are members of the collective or cooperative, b) provided in exchange for services rendered to the entity, c) allocated based on fees that are reasonably calculated to cover overhead costs and operating expenses, d) any combination of the above." (California Attorney General Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use Section IV (b)(6)).

Ethnobotanica medical marijuana delivery service and the proposed medical marijuana dispensary are not in compliance with the laws of California and the United States. The CUA and MMPA do not authorize the retail sale of marijuana. (California Health and Safety Code Section 11362.765 (a)), (People v. Sandercock), (21 U.S.C. Section 801 et seq.).

The business plan says the funding for the proposed medical marijuana dispensary will be from a \$300,000 loan. Any person providing a loan will be conspiring to distribute marijuana. It is illegal to conspire to distribute marijuana in California and the United States. (California Penal Code Section 182 (a)(1). (21 U.S.C. Section 846)).

In 2011, Ethnobotanica filed Articles of Incorporation with the California Secretary of State. Ryan Booker was the incorporator. Ryan Booker was the agent for service of process. The address is 7960 B Soquel Drive, #361, Aptos, CA 95003. This address is a post office box. The California Secretary of State does not allow post office box street addresses.

In 2014, Ethnobotanica filed Statement of Information with the California Secretary of State. The chief executive officer is Ryan Booker. The secretary is Stephanie Kiel. The chief financial officer is Stephanie Kiel. The agent for service of process is Stephanie Kiel. The address is 1961 Main Street, #239, Watsonville, CA 95076. This address is a post office box. The California Secretary of State does not allow post office box street addresses.

In 2014, Ethnobotanica filed a Land Use Application for a medical marijuana dispensary in Nipomo. The landowner name is Nass-Touey, LLC. The address is PO Box 2417, Nipomo, CA 93444. The applicant name is Ethnobotanica. The agent name is Stephanie Kiel. The executive director of Ethnobotanica is Stephanie Kiel. The address is 1961 Main Street, #239, Watsonville, CA 95076. This address is a post office box.

The street address for the principal office of Ethnobotanica is unknown. The street address for the agent for service of process of Ethnobotanica is unknown. Ryan Booker is not mentioned in the land use application and business plan. The business plan does not contain the names of the board of directors and the bylaws of the corporation. Ethnobotanica should be required to provide a street address for the principal office, a street address for the agent for service of process, names of the board of directors and the bylaws of the corporation.

In newspaper articles, Ethnobotanica says the medical marijuana delivery service is operated by Ryan Booker. He is cultivating marijuana in a warehouse in violation of City of Watsonville ordinances. The city says he is violating its marijuana ordinance as well as zoning rules that

prohibit agriculture in industrial areas. The city issued orders to cease and desist. He filed a lawsuit against the city. In 2007, the City of Watsonville banned medical marijuana cultivation and dispensaries. (Watsonville Municipal Code Section 6-5.102).

The identity, character and background of the applicants should be evaluated to protect the public health, safety and welfare of the community. Ethnobotanica operators and employees should be required to have resumes, personal references, background checks and criminal history investigations by the Sheriff's Department. Ethnobotanica should be required to provide business references, bank references, accountant references, attorney references and insurance references. Ethnobotanica should be required to provide financial records. Ethnobotanica should be required to provide state and federal tax returns.

The business plan says there are 4,147 medical marijuana patients in San Luis Obispo County. Ethnobotanica says the number of medical marijuana patients is 1.5 percent of the population. Ethnobotanica says they delivery marijuana to 3,500 medical marijuana patients in the county. Ethnobotanica delivers marijuana to 84 percent of the medical marijuana patients in the county. Ethnobotanica says they are the largest medical marijuana delivery service in the county.

Who delivers marijuana to the remaining 16 percent (647) of medical marijuana patients in the county? Ethnobotanica says there are 28 other medical marijuana delivery services in the county. That leaves 23 medical marijuana patients for each of the other medical marijuana delivery services. Ethnobotanica says "these organizations do not maintain compliance records, are not caring for those members most in need, and do not pay their taxes." Ethnobotanica does not mention any names of the other medical marijuana delivery services.

Ethnobotanica medical marijuana delivery service advertises with print, internet and social media. Medical marijuana delivery services are not open to the public. Why are they advertising to the public? Our children are influenced by marijuana advertising. Marijuana advertising endorses the use of marijuana as safe and harmless. Scientific research indicates the use of marijuana is unsafe and harmful. Endorsing the use of marijuana sends the wrong message to the community. The United States Controlled Substances Act (CSA) classifies marijuana as a Schedule I controlled substance and is not approved for medical use and has a high potential for abuse. The United States Food and Drug Administration (FDA) has not approved marijuana as a safe and effective drug for any medical condition. It is illegal to advertise marijuana in the United States. (21 U.S.C. Section 843 (c)).

Ethnobotanica medical marijuana delivery service operates without a business license in San Luis Obispo County. It is illegal to operate a business in San Luis Obispo County without a business license. (San Luis Obispo County Code Section 6.00.020).

Ethnobotanica medical marijuana delivery service sells drug paraphernalia. It is illegal to sell drug paraphernalia in California and the United States. (California Health and Safety Code Section 11364 et seq.), (21 U.S.C. Section 863).

Ethnobotanica medical marijuana delivery service operates in the cities of Arroyo Grande and Atascadero. Medical marijuana delivery services are illegal in the cities of Arroyo Grande and Atascadero. (Arroyo Grande Municipal Code Section 9.26.010 et seq.), (Atascadero Municipal Code Section 5-13.103).

In newspaper articles, Ethnobotanica says the proposed medical marijuana dispensary will sell marijuana to medical marijuana patients in Santa Maria. Medical marijuana dispensaries and medical marijuana delivery services are illegal in Santa Maria. (Santa Maria Municipal Code Section 12-54.01 et seq.). Ethnobotanica purpose will be detrimental to the public health, safety and welfare of their community.

Traffic and parking

The land use application says the proposed medical marijuana dispensary will be open 365 days a year from 11:00 am to 6:00 pm. The dispensary will have 12 employees. The dispensary will have 30 customers from 4:00 pm to 6:00 pm.

The business plan says the proposed medical marijuana dispensary will have \$1,800,000 to \$5,000,000 in sales per year. If the average sale per customer is \$40, then the dispensary will have 45,000 to 125,000 customers per year. This is 123 to 342 customers per day. This will cause traffic and parking problems in the area.

In newspaper articles, Ethnobotanica says the proposed medical marijuana dispensary will have \$3,000,000 to \$8,000,000 in sales per year. If the average sale per customer is \$40, then the dispensary will have 75,000 to 200,000 customers per year. This is 205 to 548 customers per day. This will cause traffic and parking problems in the area.

Adults (21 years and older)

The business plan says "Ethnobotanica shall not allow any person under the age of 18 onto the dispensary property unless accompanied by their parent or legal guardian." Ethnobotanica should not be allowed to have children on the dispensary property under any circumstances. Ethnobotanica should not be allowed to sell marijuana to any person under the age of 21. Marijuana is classified as a Schedule I controlled substance in the United States. Marijuana is illegal in the United States as per the Controlled Substances Act. (21 U.S.C. Section 801 et seq.). The distribution of marijuana to a person under the age of twenty-one is illegal in the United States. (21 U.S.C. Section 859).

In 2015, a Northwestern University study showed that young adults who used marijuana as teenagers performed 18 percent worse on long-term memory tests than young adults who never used marijuana. Marijuana caused abnormal shapes of the hippocampus. The hippocampus is located in the medial temporal lobe of the brain and is associated with long-term memory and spatial navigation. In Alzheimer's disease, the hippocampus is one of the

first regions of the brain to suffer damage with symptoms of memory loss and disorientation. Previous marijuana research on young adults showed poor short-term and working memory performance, and abnormal shapes of brain structures in the sub-cortex including the striatum, globus pallidus and thalamus. (Department of Psychiatry, Behavioral Sciences and Radiology, Northwestern University Feinberg School of Medicine, Warren Wright Adolescent Center, Center for Addiction Medicine, Massachusetts General Hospital).

Scenario: In 2006, the City of Morro Bay approved a use permit for a medical marijuana dispensary, Central Coast Compassionate Caregivers. Charles Lynch, 44, was the operator of the dispensary. He alleged the dispensary was in compliance with the CUA, MMPA and City of Morro Bay ordinances. The use permit indicated "Persons under the age of 18 shall not be allowed on the premises of a collective unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or guardian."

In 2007, the dispensary was raided by the United States Drug Enforcement Administration (DEA). In 2008, Charles Lynch was convicted of five marijuana charges including distributing a controlled substance to a person under twenty-one years of age. (21 U.S.C. Section 859).

In 2009, Charles Lynch was sentenced to one year in federal prison and four years of supervised release. Federal prosecutors appealed the one year sentence insisting that he receive a five year mandatory sentence. He is currently out of custody on \$200,000 bail pending a decision on the appeal. In 2009, the City of Morro Bay banned medical marijuana dispensaries. (Morro Bay Municipal Code Section 9.06.020).

Medical marijuana dispensaries are illegal in central coast cities

Medical marijuana dispensaries are illegal in the cities of Arroyo Grande, Atascadero, Grover Beach, Morro Bay, Paso Robles, Pismo Beach, San Luis Obispo and Santa Maria. Medical marijuana delivery services are illegal in the cities of Arroyo Grande, Atascadero, Lompoc and Santa Maria.

Liability for a medical marijuana dispensary

Medical marijuana dispensaries have large amounts of cash and marijuana. Medical marijuana dispensaries are all cash operations. Medical marijuana dispensaries cannot have bank accounts. Marijuana is classified as a Schedule I controlled substance in the United States. Marijuana is illegal in the United States as per the Controlled Substances Act. (21 U.S.C. Section 801 et seq.). It is illegal for banks to process transactions for medical marijuana dispensaries under the Bank Secrecy Act of 1970 (31 U.S.C. Section 5311 et seq.) and Money Laundering Control Act of 1986 (18 U.S.C. Sections 1956-1957 et seq.). Marijuana is a valuable controlled substance. Medical marijuana dispensaries are targets for robberies. The proposed medical marijuana dispensary is in a remote location and a target for robberies. In newspaper articles, the San Luis Obispo Sheriff said the location is isolated at the far end of a territory patrolled by

just two deputies. He said it could take 10 to 30 minutes for deputies to respond to a robbery.

Scenario: In 2010, a medical marijuana dispensary was robbed in Los Angeles. Higher Path Holistic Care was robbed by two members of the dispensary. The robbers shot two employees lying on the floor. Matthew Butcher, 27, dispensary clerk, died from a bullet to the head. Urban Jones Jr., dispensary security guard, survived from two bullets to the head. The robbers ransacked the dispensary and escaped with thousands of dollars of cash and marijuana.

Scenario: In 2011, a medical marijuana dispensary was raided in Stockton. Pathways Family Health Cooperative was raided by the United States Drug Enforcement Administration (DEA). The dispensary was a California Nonprofit Mutual Benefit Corporation. Matthew Davies was the chief executive officer of the dispensary. He was a 34 year old father with two daughters. He had a master's degree in business. He had no criminal record. The dispensary had been open for two years. He alleged the dispensary was in compliance with the CUA, MMPA and City of Stockton ordinances. The dispensary had a use permit, business license, paid city sales tax, state sales tax, state and federal income tax. The dispensary had employee work permits, and completed quarterly financial audits and reporting requirements for the city. The city required dispensary operators and employees be photographed, fingerprinted and have background and criminal history investigations by the Police Department.

In 2013, Matthew Davies, 35, chief executive officer, was sentenced to five years in federal prison for conspiracy, manufacturing and sales of marijuana. Lynn Smith, 63, business partner, was sentenced to 3.5 years in federal prison. Robert Duncan, 30, cultivator, was sentenced to 2 years in federal prison. Matthew Davies blamed state lawmakers for failing to set clear rules for medical marijuana dispensaries. He said the ambiguity of state medical marijuana laws left him exposed to federal prosecution. In 2013, the City of Stockton banned medical marijuana dispensaries. (Stockton Municipal Code Section 16.80.195).

Scenario: In 2015, Luke Goodman, 23, was on a ski and snowboard vacation with family members in Colorado. He purchase and consumed marijuana candies. Goodman did not feel any immediate effects and consumed five marijuana candies. After a few hours he became incoherent. He committed suicide with a bullet to the head. Kim Goodman, mother, said her son was well adjusted and had no signs of depression or suicidal thoughts. She said the suicide was caused by an overdose of marijuana candies.

The murder, arrests and suicide were a tragedy. These scenarios can happen to a medical marijuana dispensary in Nipomo. Tragedy generates civil and criminal prosecution. Who is liable? Is the county liable? Is the dispensary liable? Is the landlord liable? Who is going to compensate the victims and their families?

Recreational marijuana in California

In 2016, California voters may legalize tax and regulate marijuana for adults. Recent successful marijuana legalization initiatives in Colorado (2012), Washington (2012), Oregon (2014), Alaska

(2014) and District of Columbia (2014), indicate a similar initiative may succeed in California. In 2010, California voters defeated California Proposition 19, Regulate, Control and Tax Cannabis Act.

Medical marijuana dispensaries are illegal in the United States

Marijuana is illegal in the United States. In 1970, the United States Congress enacted the Controlled Substances Act (CSA). (21 U.S.C. Section 801 et seq.). The CSA prohibits the manufacture, distribution and possession of a controlled substance (21 U.S.C. Section 841 (a) (1)). The CSA classifies controlled substances into five schedules. Schedule I substances are not approved for medical use and have a high potential for abuse. Schedule II substances are approved for medical use and have a high potential for abuse. Schedules III, IV, and V substances are approved for medical use and have a lower potential for abuse. Marijuana is classified as a Schedule I controlled substance and is not approved for medical use and has a high potential for abuse. (21 U.S.C. Section 812 Schedule I (c)(10)).

Medical marijuana dispensaries are illegal in the United States. The CSA does not legalize medical marijuana dispensaries. Thousands of people are arrested every year for operating medical marijuana dispensaries in the United States. It is illegal to manufacture, distribute and possess medical marijuana in the United States. The CSA provides no defense in court for medical marijuana dispensaries.

It is illegal for landowners to rent or lease property to a medical marijuana dispensary in the United States. Federal law makes it illegal to knowingly and intentionally rent or lease property for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance (21 U.S.C. Section 856 (a)(2)), and provides that real property used in such a manner can be forfeited to the United States. (21 U.S.C. Section 881 (a)(7)). Marijuana is classified as a Schedule I controlled substance in the United States. (21 U.S.C. Section 812 Schedule I (c)(10)).

The United States Food and Drug Administration (FDA) has not approved marijuana as a safe and effective drug for any medical condition. Physicians cannot prescribe marijuana for any medical condition. Physicians cannot prescribe a Schedule I controlled substance in the United States.

Physicians can prescribe two delta-9-tetrahydrocannabinol (THC) medications. Marijuana contains THC. Marinol (dronabinol) and Cesamet (nabilone) are prescribed in pill form for the treatment of nausea in patients undergoing cancer chemotherapy and to stimulate appetite in patients with wasting syndrome due to acquired immune deficiency syndrome (AIDS). Marinol is classified as a Schedule III controlled substance. Cesamet is classified as a Schedule II controlled substance. Marinol and Cesamet are sold by pharmacies with a prescription.

Marinol (dronabinol) warnings and precautions: "May impair mental and physical abilities. Seizure and seizure-like activity reported; discontinue immediately if seizures develop. Caution

in patients with history of seizure disorders, and history of substance abuse, including alcohol abuse or dependence. Caution in patients with cardiac disorders due to occasional hypotension, possible hypertension, syncope, or tachycardia. Caution in patients with mania, depression or schizophrenia; exacerbation of these illnesses may occur. Caution in pregnancy and nursing. Adverse reactions: Abdominal pain, nausea and vomiting, dizziness, euphoria, paranoid reaction, somnolence, abnormal thinking." See source for dosage and drug interactions. (Physicians Desk Reference).

Cesamet (nabilone) warnings and precautions: "High potential for abuse. Adverse psychiatric reactions can persist for 48-72 hours following discontinuation of treatment. May cause dizziness, drowsiness, euphoria, disorientation, depression, hallucinations, psychosis, tachycardia, and orthostatic hypotension. May alter mental states; keep patients under adult supervision, especially during initial use and dose adjustments. May impair mental/physical abilities. May elevate heart rate and cause postural hypotension. Caution with hypertension, heart disease, elderly, current or previous psychiatric disorders (manic depressive illness, depression, schizophrenia) and history of substance abuse. Caution in pregnant, nursing patients and pediatrics. Adverse reactions: Drowsiness, vertigo, dizziness, dry mouth, euphoria, ataxia, headache, concentration difficulties, dysphoria, sleep and visual disturbance, asthenia, anorexia, depression, hypotension." See source for dosage and drug interactions. (Physicians Desk Reference).

In 2014, the United States Congress enacted the *Consolidated and Further Continuing Appropriations Act* to fund the federal government. United States Attorneys in California had sent letters to city and county officials saying they could face criminal and civil prosecution for enabling medical marijuana dispensaries to violate the Controlled Substances Act. Elected officials in medical marijuana states were concerned about the criminal and civil liability of enacting medical marijuana laws. In response, Congress added an amendment to the *Appropriations Act*. The amendment was a one year moratorium to prevent funding for criminal prosecution of elected officials in medical marijuana states. (*Appropriations Act Section 538*). Section 538 does not prevent civil prosecution of elected officials in medical marijuana states. Section 538 does not prevent criminal and civil prosecution of medical marijuana patients and providers. Section 538 does not end federal prohibition of medical marijuana. Section 538 expires September 30, 2015.

In 2015, the United States Department of Justice provided an interpretation of the amendment. Patrick Rodenbush, spokesman for Department of Justice, says they can still prosecute medical marijuana cases against individuals and organizations. The amendment merely stops the Department of Justice from "impeding the ability of states to carry out their medical marijuana laws."

In 2015, two members of the United States Congress disagreed with the Department of Justice interpretation of the amendment. Congressmen, Dana Rohrabacher (Republican - Orange County) and Sam Farr (Democrat - Monterey, Santa Cruz), wrote the Department of Justice a letter saying the purpose of the amendment was to prevent prosecutions and asset forfeiture

actions against medical marijuana patients and providers. They insisted the Department of Justice comply with federal law by ceasing medical marijuana prosecutions and asset forfeiture actions against those acting in accordance with state medical marijuana laws. The congressmen mentioned pending criminal prosecutions of five medical marijuana patients in the City of Kettle Falls, Washington, and pending asset forfeiture actions against two medical marijuana dispensaries in the San Francisco Bay Area, California. (Berkeley Patients Group in the City of Berkeley and Harborside Health Center in the City of Oakland).

To date, the Department of Justice has not responded to the letter from the congressmen and is continuing the prosecutions and asset forfeiture actions against medical marijuana patients and providers.

Consolidated and Further Continuing Appropriations Act Section 538. "None of the funds made available in this Act to the Department of Justice may be used, with respect to the States of Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, Oregon, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Washington, and Wisconsin, to prevent such States from implementing their own State laws that authorize the use, distribution, possession, or cultivation of medical marijuana."

In 2015, the United States Congress is considering the *Compassionate Access, Research Expansion and Respect States Act (CARERS)* to end federal prohibition of medical marijuana. *CARERS* will reclassify marijuana as a Schedule II substance, allow veterans to have access to medical marijuana, allow medical marijuana research, allow interstate commerce of cannabidiol, allow bank accounts for medical marijuana businesses and allow deductions for expenses for medical marijuana businesses.

In 1982, the United States Congress enacted Internal Revenue Code Section 280E. It prohibits the deduction of expenses for any business trafficking in Schedule I and Schedule II controlled substances. Marijuana is classified as a Schedule I controlled substance in the United States. It is illegal for a medical marijuana business to deduct expenses like payroll, rent, utilities, phones, office supplies, advertising, etc. (26 U.S.C. Section 280E).

In the United States, twenty-three (23) states and District of Columbia have approved medical marijuana. Fourteen (14) other states have approved a non-psychoactive component of medical marijuana (cannabidiol). Four (4) of those states (Colorado, Washington, Oregon, Alaska) and District of Columbia have approved recreational marijuana. Nineteen (19) states have decriminalized the possession of small amounts of recreational marijuana.

In 2010, the California State Legislature approved Senate Bill 1449 which amended California Health and Safety Code Section 11357 (b) as follows. "Except as authorized by law, every person who possesses not more than 28.5 grams of marijuana, other than concentrated

cannabis, is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100)."

Nipomo does not want or need a medical marijuana dispensary

Nipomo is an unincorporated community in San Luis Obispo County. Nipomo has a population of 16,714. Nipomo has a small town atmosphere. Nipomo has excellent schools and residential neighborhoods. Nipomo has five preschools, three elementary schools, one middle school and one high school. In 2012, Nipomo opened a new tech high school. Nipomo has three world class golf courses: Black Lake, Monarch Dunes and Cypress Ridge. Nipomo does not want a medical marijuana dispensary.

It is difficult to estimate the number of medical marijuana patients in Nipomo. Medical marijuana patients are not required to register in California. Medical marijuana patients are required to have a physician recommendation or medical marijuana identification card. There is not a record of the number of physician recommendations. There is a record of the number medical marijuana identification cards. In 2014, the San Luis Obispo County Public Health Department issued 70 medical marijuana identification cards. Physician recommendations cost \$70 to \$130. Medical marijuana identification cards cost an additional \$133.

Therefore, the number of medical marijuana patients in California is extrapolated from other states. Medical marijuana patients, as a percent of the population, from Rhode Island are 0.3 percent, Hawaii are 0.4 percent, Michigan are 0.6 percent, Oregon are 1.0 percent, Colorado are 2.5 percent and Montana are 3.0 percent. The average number of medical marijuana patients in these states are 1.3 percent of the population. Using this data, Nipomo has an estimated 217 medical marijuana patients. Ethnobotanica says the number of medical marijuana patients are 1.5 percent of the population. Using this data, Nipomo has an estimated 250 medical marijuana patients. Nipomo does not need a medical marijuana dispensary.

Land use ordinance

Title 22 of the San Luis Obispo County Code, Section 22.01.010 - Title and Purpose, says the following: "These regulations are hereby established and adopted to protect and promote the public health, safety and welfare of the community." A medical marijuana dispensary will be detrimental to the public health, safety and welfare of the community.

Title 22 of the San Luis Obispo County Code, Section 22.30.225 - General Retail, requires a minor use permit to establish a medical marijuana dispensary. In 2006, the medical marijuana dispensary ordinance was adopted by the Board of Supervisors. A minor use permit is discretionary permit. In 2008, the county denied a minor use permit for a medical marijuana dispensary in the unincorporated community of Templeton. In 2010, the county denied a minor use permit for a medical marijuana dispensary in the unincorporated community of Nipomo. In 2012, the county denied a minor use permit for a medical marijuana dispensary in the unincorporated community of Oceano. In 2013, the Court of Appeal ruled "Nothing in the

CUA or the MMPA authorizes the retail sale of marijuana. Had the Legislature intended to authorize retail sales, it could have done so. Instead, it prohibited retail sales." (People v. Sandercock). The medical marijuana dispensary ordinance is not in compliance with the laws of California and the United States. The medical marijuana dispensary ordinance should be rewritten or rescinded.

Request

The laws about medical marijuana are constantly changing based on city ordinances, county ordinances, state laws, state court decisions, federal laws and federal court decisions. The laws about medical marijuana are conflicting, vague and ambiguous. To date, there are seventeen (17) medical marijuana bills pending in the California State Legislature. To date, there are nineteen (19) medical marijuana bills pending in the United States Congress. More clarity of the law is required before permitting a medical marijuana dispensary.

California has 482 cities and 58 counties. Medical marijuana dispensary regulations are as follows: 245 cities have no dispensary regulations. 193 cities have banned dispensaries. 44 cities have dispensary regulations. 28 counties have no dispensary regulations. 20 counties have banned dispensaries. 10 counties have dispensary regulations. In 2015, many cities and counties are shutting down medical marijuana dispensaries. Recently, the City of Los Angeles, City of San Diego and City of Vallejo have shut down medical marijuana dispensaries.

The state and federal governments are funding scientific research to study the effects and side effects of medical marijuana. More scientific research is required before permitting a medical marijuana dispensary.

In 2015, John Hickenlooper, Governor of Colorado, said the decision by voters to legalize marijuana was a bad idea and reckless. He said voters lacked the data to make an informed decision. Hickenlooper tells other governors to wait a couple of years before legalizing marijuana as Colorado continues to navigate the unknown consequences and landscape of the industry.

I request the San Luis Obispo Planning Commission wait a couple of years for more clarity of the law and more scientific research on medical marijuana. Nipomo does not want or need a medical marijuana dispensary.

I request the San Luis Obispo Planning Commission deny the application for a minor use permit for a medical marijuana dispensary in Nipomo.

Sincerely,
Resident of Nipomo

CERTIFIED FOR PUBLICATION
IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SIX

THE PEOPLE,

Plaintiff and Appellant,

v.

THOMAS ANTHONY SANDERCOCK,
JR., et al.,

Defendants and Respondents.

2d Crim. No. B238858
(Super. Ct. No. F455771)
(San Luis Obispo County)

Defendants Thomas Anthony Sandercock, Jr., Christopher Austin and Amy Austin were charged with selling marijuana and possession of marijuana for sale. (Health & Saf. Code, §§ 11359 & 11360).¹ In a pretrial motion, the trial court approved a defense instruction that would allow the retail sale of marijuana. The People declared they could not proceed under the instruction. No wonder. Neither the Compassionate Use Act (CUA) nor the Medical Marijuana Program Act (MMPA) allows for the sale of marijuana for profit. (§§ 11362.7 et seq. & 11362.5) The People sought to exclude any defense under the CUA and the MMPA. The trial court entered judgments of dismissal and the People appeal.

¹ All statutory references are to the Health and Safety Code unless stated otherwise.