

Joseph D. Elford
Chief Counsel
Americans for Safe Access
1322 Webster St., Suite 402
Oakland, CA 94612
(415) 573-7842

April 28, 2011

Jan Goldsmith
San Diego City Attorney
1200 Third Avenue, Suite 1620
San Diego, CA 92101

Re: Ordinance No. 20042

Dear Mr. Goldsmith:

On April 12, 2011, the San Diego City Council voted to approve Ordinance No. 20042 [hereinafter “Ordinance”], which severely restricts medical marijuana collectives in the City of San Diego. The Ordinance became law on or about April 27, 2011, when the Mayor neither signed nor vetoed the Ordinance. I write on behalf of Americans for Safe Access [hereinafter “ASA”], which is the largest grassroots organization devoted to protecting the rights of medical marijuana patients and their physicians, to ask that you amend the Ordinance to ease the restrictions on medical marijuana collectives, so that qualified patients can obtain the medicine they need. (See Stats. 2003, C. 875, Section I, subd. (b)(3) [declaring that the purpose of the Medical Marijuana Program Act is to “[e]nhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects”].) In its current form, the Ordinance allows medical marijuana collectives to operate only in very small slivers of the City and, by requiring operating medical marijuana collectives to find suitable locations and obtain conditional use permits within thirty days, violates the vested property rights of their current operators.

Under Ordinance No 20042, medical marijuana collectives are only permitted to operate in certain commercial and industrial zones, and they must obtain a conditional use permit to do so. (Ordinance No., 20042, Section 5 [amending San Diego Municipal Code § 141.0614]) The Ordinance allows currently operating medical marijuana collectives only thirty days to meet both of these requirements, once the San Diego County Regional Airport Authority issues its consistency determination. (Ordinance No. 20042, Section 9) Because there are so few places in the City where medical marijuana

Headquarters

1322 Webster St, Suite 402, Oakland, CA 94612
PHONE: 510.251.1856 FAX: 510.251.2036

National Office

1730 M Street NW, Washington DC 20036
PHONE: 202.857.4272 FAX: 202.857.4273

General Information

WEB: www.AmericansForSafeAccess.org
TOLL FREE: 1.888.929.4367

collectives can legally operate under the Ordinance and the amortization period is so short, the Ordinance effectively divests medical marijuana collective operators of their vested right to operate their collective, which violates due process. (See *Edmonds v. County of Los Angeles* (1953) 40 Cal.2d 642, 651.) For these reasons, if you do not ease these unconstitutional restrictions -- for instance, by allowing medical marijuana collectives to operate in most commercial and all industrial zones, and increasing the period to obtain a conditional use permit to one year -- we will explore our options for doing so in court.

I thank you in advance for your prompt consideration of this matter.

Sincerely,

A handwritten signature in blue ink that reads "Joseph D. Elford". The signature is written in a cursive style.

Sincerely,

Joseph D. Elford

Chief Counsel

Americans for Safe Access

Cc: Sherri Lightner, Kevin Faulconer, Todd Gloria, Tony Young, Carl DeMaio,
Laurie Zapf, Marti Emerald, David Alvarez, Hon. Jerry Sanders

Headquarters

1322 Webster St, Suite 402, Oakland, CA 94612
PHONE: 510.251.1856 FAX: 510.251.2036

National Office

1730 M Street NW, Washington DC 20036
PHONE: 202.857.4272 FAX: 202.857.4273

General Information

WEB: www.AmericansForSafeAccess.org
TOLL FREE: 1.888.939.4367