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May 6, 2010

Public Counter
Department of Building and Safety
Office of the City Clerk
All Interested Parties

CASE NO. ZA 2010-0977(ZAI)
ZONING ADMINISTRATOR'S
INTERPRETATION

Chapter I of the Los Angeles Municipal
Code – Medical Marijuana Collectives

CITYWIDE

On January 26, 2010, the City Council adopted Ordinance No. 181, 069, amending Chapter IV of the Los Angeles Municipal Code (Public Welfare Code) regulating Medical Marijuana Collectives. LAMC Section 45.19.6.3.A.1 requires Medical Marijuana Collectives to comply with the provisions of Chapter I of the Los Angeles Municipal Code (Zoning Code). This ZAI clarifies the applicability of Chapter I to such Collectives. This ZAI also establishes that a Medical Marijuana Collective is an allowed use of land in all zones provided it complies with State law and the location, distance and other requirements of Chapter 5.1 as well as all applicable provisions of the Zoning Code, as clarified herein.

Section 12.21-A, 2 of the Code provides in pertinent part as follows:

“2. Other Uses Determined by Administrator- The Administrator shall have the authority to determine other uses, in addition to those specifically listed in this Article, which may be permitted in each of the various zones, when in his judgment, such other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation.”

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code, and to provide clarity where ambiguity exists.

Discussion

The establishment and operation of Medical Marijuana Collectives are regulated both by State and Local laws. The City Council adopted Ordinance No. 181,069 which amends Chapter IV of the Los Angeles Municipal Code (commencing with Section 45.19.6) by adding new provisions in Article 5.1 titled: Medical Marijuana Collectives.



Permitted Use and Zones. The Zoning Code is permissive. Only the uses specifically enumerated either in the Code or the Official Use List [Case No. ZA 2003-4842(ZAI)] are permitted. All other uses are prohibited. By adopting Ordinance No. 181,069, Council intended to permit Medical Marijuana Collectives, in furtherance of the Compassionate Use Act and to promote the public safety through appropriate location, distance and other requirements. Based on Council's action, I find that such Collectives are now a permitted use of land in any zone in the City of Los Angeles, so long as these Collectives comply with State law, the regulations set forth in Ordinance No. 181,069, and all applicable provisions of the Zoning Code.

Relief. Medical Marijuana Collectives may apply for relief from those provisions of the Zoning Code, such as parking, that apply to them. Medical Marijuana Collectives may not apply for relief from the regulations set forth in Ordinance No. 181,069.

Parking. Medical Marijuana Collectives operate in a way that is similar to medical offices and clinics and therefore generate the same demand for parking. Accordingly, pursuant to LAMC Section 12.21-A,4(d)(3), Medical Marijuana Collectives shall provide parking at a ratio of one parking space per 200 square feet of floor area. For purposes of applying the parking ratio, the floor area of the Medical Marijuana Collective must include the areas dedicated to all activities of the collective, such as cultivation, storage, packaging, dispensing, etc. The parking requirement for retail establishments, including pharmacies (LAMC Section 12.21-A,4(d)(5)) cannot be applied to Medical Marijuana Collectives because they are expressly prohibited to operate as retail establishments as provided by LAMC Section 45.19.6.4.

Relationship to Other Land Use Regulations. As stated in part in LAMC Chapter IV, Section 45.19.6 (Purposes and Intent), "... medical marijuana collectives shall comply with all provisions of the Los Angeles Municipal Code ("Code"), State Law, and all other applicable local and state laws. Nothing in this article purports to permit activities that are otherwise illegal under state or local law." Medical Marijuana Collectives are thus subject to all applicable regulations contained in the Zoning Code and any other applicable land use regulations, such as Specific Plans, Community Design Overlay Districts, Historic Preservation Overlay Districts, as well as design guidelines. Should there be a conflict between the requirements of Article 5.1 of the LAMC, Public Welfare Code and land use regulations, including design standards, the provisions of Article 5.1 shall prevail.

Nuisance Abatement: LAMC Section 11.00(n) states in part: " Pursuant to Government Code Section 38773, the City may summarily abate any nuisance at the expense of the persons creating, causing, committing, or maintaining it and the expense of the abatement of the nuisance may be a lien against the property on which it is maintained and a personal obligation against the property owner."

Therefore, should Medical Marijuana Collectives become a nuisance and adversely affect the public peace, health and safety of persons residing or working in the collective's surrounding area, Administrative Nuisance Abatement proceedings, pursuant to LAMC Section 12.27.1, may be undertaken.

Nonconforming Provisions: LAMC Section 45.19.6.2, "Registration" states that a medical marijuana collective, dispensary, operator, establishment, or provider that registered pursuant to Interim Control Ordinance No. 179.027 with the City Clerk's office before November 12, 2007 (and subject to certain other specified limitations) may be "eligible to register and operate if it immediately complies with all provisions of State law, and within 180 days after the effective date of this ordinance completes its compliance in full with each provision of this article."

In light of this provision, a question has been raised as to whether LAMC Section 12.23 concerning nonconforming buildings and uses confers nonconforming status on a collective, dispensary, operator, establishment, or provider just by virtue of having registered with the City Clerk before November 12, 2007, in accordance with Ordinance No. 179,027, or that otherwise existed before the operative date of Ordinance No. 181,069.

As set forth in LAMC Section 12.23-C, the Council has established unique nonconforming rules for signs; oil wells; commercial animal keeping; automobile dismantling yards, junk yards, and related uses; nonconforming hostels and transient occupancy residential structures; and equine nonconforming uses adjacent to residential buildings. In each case, the unique rules reflected the Council's legislative judgment and priority. In the same vein, the City Council adopted regulations (Ord. No. 181,069) for the establishment and operations of Medical Marijuana Collectives on January 26, 2010. However, no unique nonconforming rules have been established for Medical Marijuana Collectives. Therefore, a Medical Marijuana Collective established prior to the enactment of the ordinance cannot claim nonconforming status as to use.

Determination

Accordingly, I hereby determine that:

1. Zones and Use. Medical Marijuana Collectives are permitted in any zone, subject to all applicable provisions of State law, the Zoning Code and Ordinance No. 181,069.
2. Parking. Parking shall be provided at a ratio of one (1) parking space per 200 square feet of floor area, as provided in LAMC Section 12.21-A,4(d)(3).
3. Development Standards. All development standards, including but not limited to setbacks, yards, height, and floor area of the zone in which the Medical Marijuana Collective is located shall be complied with.
4. Relationship to Other Land Use Regulations. Medical Marijuana Collectives are subject to all applicable regulations contained in the Zoning Code and any other applicable land use regulations, including design guidelines, such as Specific Plans, Community Design Overlay Districts, Historic Preservation Overlay Districts, etc. Should there be a conflict between the requirements of Article 5.1 of the LAMC and a land use regulation, the provisions of Article 5.1 shall prevail.
5. Relief. All relief mechanisms available to applicants in Chapter One (Planning and Zoning Code) of the LAMC, such as a variance, adjustment, interpretation, etc., can

be utilized by applicants for Medical Marijuana Collectives to obtain relief from zoning provisions or any other applicable land use regulations exclusively. No relief is provided from the provisions of LAMC Article 5.1.

- 6. Nuisance Abatement: Medical Marijuana Collectives are subject to Administrative Nuisance Abatement, pursuant to LAMC Section 12.21.1.
- 7. Nonconforming Provisions. LAMC Section 12.23 - nonconforming rights are not applicable to Medical Marijuana Collectives.

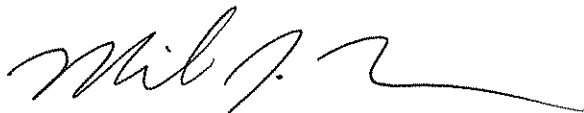
APPEAL PERIOD - EFFECTIVE DATE

The Zoning Administrator's determination in this matter will become effective after MAY 21, 2010, unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>**. Public offices are located at:

Figueroa Plaza
201 North Figueroa Street,
4th Floor
Los Angeles, CA 90012
(213) 482-7077

Marvin Braude San Fernando
Valley Constituent Service Center
6262 Van Nuys Boulevard, Room 251
Van Nuys, CA 91401
(818) 374-5050

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.



MICHAEL LOGRANDE
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ML:AB:HB:Imc