



San Diego City Attorney Jan I. Goldsmith

NEWS RELEASE

FOR IMMEDIATE RELEASE

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Contact: Jonathan Heller, Communications Director: jheller@sandiego.gov, (619) 533-4782

COURT UPHOLDS CITY'S RIGHT TO RESTRICT POT DISPENSARIES

JUDGE: LOCAL ZONING LAWS NOT TRUMPED BY PROP. 215

San Diego, CA: Superior Court Judge Ronald Prager has issued a written decision (attached) holding that the City of San Diego's zoning laws are not preempted by state laws that allow for the use of medical marijuana.

Under the decision, Judge Prager ordered closed the Ocean Beach Wellness Center at 4851 Newport Avenue. The business was ordered to cease operation by 5 p.m. Thursday, Oct. 13, 2011. Earlier in the week, the judge issued a Temporary Restraining Order requiring the Redwood Collective at 1516 W. Redwood St. near downtown to close as of Oct. 11, 2011.

In addition to 12 cases filed earlier this month in which closure orders were obtained, the City Attorney's Office this week filed new civil cases against 16 more dispensaries that are operating in violation of City zoning laws. The office expects to file another group of cases next week.

"Our job is to enforce the law as to dispensaries operating illegally in the City of San Diego," said City Attorney Jan Goldsmith. "We are also willing to work out settlements with those building owners who are committed to voluntarily removing illegal drug operations from their buildings."

Prager wrote in a decision handed down Thursday that the City had a right to regulate and restrict the location and establishment of marijuana dispensaries based on local zoning law.

The judge emphasized that state law regarding medical marijuana is narrow in scope and addresses only the cultivation and possession of the drug for medicinal purposes.

"(State law) does not address the licensing or location of medical marijuana dispensaries, nor does it prohibit local regulations of such dispensaries," Prager wrote.

The 16 new civil cases filed this week include:

1. Brutus Collective, Inc. / 1515 – 1555 Palm Avenue

City v. BRUTUS COLLECTIVE, INC., a California corporation; THOMAS C. M. SPAULDING, also known as THOMAS MICHAEL SPAULDING, as an individual; RICHARD J. LORAH, also known as RICHARD JACOB LORAH, as an individual and as Trustee of the LORAH FAMILY TRUST dated October 3, 1979, and HOLLY HAJJAR LORAH, as an individual and as Trustee of the LORAH FAMILY TRUST dated October 3, 1979; and DOES 1 through 50, inclusive.

2. Beneficial Care Collective, Inc. / 740 Broadway

City v. WATERFALL CENTER, LLC, a California company; EMANUEL TORBATI, an individual; BENEFICIAL CARE COLLECTIVE, INC., doing business as BENEFICIAL CARE COLLECTIVE; EUGENE TANAKA, an individual; DWAYNE ROBERT GILLILAND, an individual; MARK LEONARD GARCIA, an individual; and DOES 1 through 50, inclusive.

3. Progressive Medical Collective, Inc./ 6210 Progressive Avenue, Ste. 300

City v. THE SANCHEZ FAMILY TRUST dated April 5, 2006, a Trust; TEODULO T. SANCHEZ, as an individual and as Trustee of THE SANCHEZ FAMILY TRUST dated April 5, 2006; PROGRESSIVE MEDICAL COLLECTIVE, INC., a California corporation; JUSTIN J. SALDANA-OLIVER, as an individual and as Chief Executive Officer of PROGRESSIVE MEDICAL COLLECTIVE, INC.; DONALD OLIVER, as an individual and as Secretary of PROGRESSIVE MEDICAL COLLECTIVE, INC.; RYAN OLIVER, as an individual and as Chief Financial Officer of PROGRESSIVE MEDICAL COLLECTIVE, INC.; and DOES 1 through 50, inclusive.

4. The Happy Cooperative, Inc. / 5703 Oberlin Drive

City v. ANTOINE A. GEORGES, an individual; CAROL R. GEORGES, an individual; THE HAPPY COOPERATIVE, INC., a California corporation; CHRIS BOOTH, an individual and CEO; JEREMY KNEEBONE, an individual and CFO; and DOES 1 through 50, inclusive.

5. California's Best Meds, Inc. / 6186 University Avenue

City v. MARTHA L. VITALE TRUST, a trust dated January 6, 1993; SERENA MARIE DAVIS aka SARINA J. VITALE, as an individual and as trustee; MIKE LAWSON, as an individual; CALIFORNIA'S BEST MEDS, INC., a California corporation; ROBERT MELENDEZ, JR., as an individual; and DOES 1 through 50, inclusive.

6. Rombeck Cooperative, Inc. / 6957 El Cajon Boulevard

City v. KAKIMON LLC; MARK PERECMAN, an individual; SEYMOUR L. WEKSLER, an individual; ROMBECK COOPERATIVE, INC. a California corporation; JOSH BERRY BUBECK, an individual; RUSSELL JOHN ROMANDIA, an individual; and DOES 1 through 50, inclusive.

7. Earth Medical Collective, Inc. / 7933 Balboa Avenue

City v. BRANDON TRACY KEITH, an individual; EARTH MEDICAL COLLECTIVE, INC., a California corporation; LUIGI EUGENE AMBROSE, as an individual; and DOES 1 through 50, inclusive.

8. San Diego Medical Collective / 1233 Camino Del Rio South, Ste 275

City v. SAN DIEGO MEDICAL COLLECTIVE, a California corporation, SEAN A. ST. PETER, as an individual; COREY L. BARNETTE, as an individual; RODERICK D. CHAPPELL, as an individual; FREDERICK L. MCDONALD II, as an individual; MISSION VALLEY SOUTH, LTD, a California Limited Partnership; FRANK M. GOLDBERG, as an individual; ARNOLD G. FISCHER; as an individual; and DOES 1 through 50, inclusive.

9. San Diego Organic Collective Inc. / 2731 Shelter Island Drive

City v. RICHARD J. WIRA, an individual and Co-Trustee of the WIRA FAMILY TRUST; YVETTE S. WIRA, an individual and Co-Trustee of the WIRA FAMILY TRUST; SAN DIEGO ORGANIC COLLECTIVE, INC., a California corporation; ALEXANDER B. BANKI, an individual; MICHAEL A. BANKI, an individual; and DOES 1 through 50, inclusive.

10. Tri City Holistic /915 Grape Street

City v. TRI CITY HOLISTIC, a California corporation; KENNETH VARNER, as an individual; ARLENE MOORE, as an individual; SECOND TUESDAY INVESTORS, LLC, a Limited Liability Company; DAVID LEWIS, as an individual; NANCY JOHNSTON, as an individual; and DOES 1 through 50, inclusive.

11. Green South Collective /4223 University Avenue

City v. GERALDINE LEE GOLDMAN, an individual and Trustee of THE GERALDINE LEE GOLDMAN TRUST DATED June 17, 1987; MICHAEL ISAAC GOMEZ, an individual; SOCAL CAREGIVERS dba GREEN SOUTH COLLECTIVE, a California corporation; and DOES 1 through 50, inclusive.

12. Ocean Grown / 5006 El Cajon Blvd

City v. AL SHAO INC. a California corporation, ADEL S. YALDA, an individual and President; ALBERT YALDA, an individual and Director; ALAN YALDA, an individual and Director; GISM DEVELOPMENTS INC. dba OCEAN GROWN, a California Corporation; MARCELLA S. FODOR an individual and CEO; and DOES 1 through 50, inclusive.

13. Sibbanac Alternative Inc. / 3140 El Cajon Blvd

City v. EL CAJON ESTATES LLC; MARK PERECMAN, an individual; SEYMOUR L. WEKSLER, an individual; SIBANNAC ALTERNATIVE, INC. a California corporation; ANTHONY H. GAUSSOIN, an individual; and DOES 1 through 50, inclusive.

14. San Diego Discount Caregivers Collective Inc. / 3152 University Avenue, 7306 Fairway Road

City v. SAN DIEGO DISCOUNT CAREGIVERS COLLECTIVE, INC. a California corporation; DAVID C. CASPINO, an individual; IOWA STREET, a Limited Liability Company; CHRISTOPHER D. SICKELS, as an individual; and DOES 1 through 50, inclusive.

15. Higher Healing Patient's Association / 5995 Mission Gorge Road

City v. LAWRENCE J. BAILEY, an individual and Trustee of the LAWRENCE J. BAILEY DDS 1988 REVOCABLE ESTATE TRUST; HIGHER HEALING PATIENTS ASSOCIATION, an unincorporated association; DAVID A. BUCKLEY, an individual and President; and DOES 1 through 50, inclusive.

16. Green Earth Herbal / 936 Garnet Avenue

City v. JOHN I. NOBEL, an individual and Co-Trustee of the Nobel Family Trust; MAHIN NOBEL, an individual and Co-Trustee of the Nobel Family Trust; NOBEL FAMILY TRUST, 2/18/1998, a Trust; DAVID N. ABELES, an individual and Co-Trustee of the Abeles Family Trust; MELODY N. ABELES, an individual and Co-Trustee of the Abeles Family Trust; ABELES FAMILY TRUST, 12/06/2005, a Trust; GREEN EARTH MANAGEMENT, INC., doing business as GREEN EARTH HERBAL COLLECTIVE; WALDON WELTY, an individual; LYNN BALLANTYNE, an individual; and DOES 1 through 50, inclusive.

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