



OFFICE OF THE CITY ATTORNEY / CITY PROSECUTOR
CIVIL DIVISION

June 28, 2019

Mr. Damian A. Martin
WOW Health and Wellness, LLC
215 N. Central Avenue
Glendale, CA 91203

Re: Continued Request for Appeal of Commercial Cannabis Screening Application

Dear Mr. Martin:

The City Attorney's Office is in receipt of your recent correspondence regarding WOW Health and Wellness, LLC's ("WOW") request to appeal the City's determinations made during its commercial cannabis screening application process. As set forth in the City's response dated June 20, 2019, the City Attorney's Office concurs in the conclusion provided by the City Manager that there is no appeal right to the screening application process. Nothing set forth in your subsequent email dated June 26, 2019 changes the analysis and conclusion set forth by the City Manager.

The City has steadfastly stated that there was no appeal right to the screening application process. As the City Manager indicated, the City's Marijuana Regulations page on the City's website clearly states: "The final application scores for commercial applicants is linked below. Application scores and rankings are final and there is no appeal process." That statement has been on the webpage since at least June 5, 2019 and is located directly above the link to the document titled "Cannabis Application Results – Retailers." A screenshot of the portion of the City's Marijuana Regulations webpage where that language is set forth is attached hereto for your reference. This process was established pursuant to the authority granted to the City Manager to develop the relevant administrative procedures and post them on the City's website, see Pasadena Municipal Code ("PMC") Sections 5.78.070 and 5.78.190.

The City Manager correctly stated that the cannabis screening process is wholly contained within Chapter 5.78 of the PMC. Your argument that the Director of Planning and Community Development ("Director") "existence, appointment, and authority all stem from the Zoning Code" ignores the language throughout Chapter 5.78 that the City Manager may delegate his duties therein. That delegation to the Director does not convert responsibilities under Chapter 5.78 to responsibilities under the Zoning Code. Further, pursuant to PMC Title 2 (Administration and Personnel), the City Manager

specifically has the authority to supervise and control each city department (with the exception of the City Attorney's Office and the City Clerk's Office) pursuant to PMC Section 2.40.030 (City manager – Charter functions, powers and duties), including the ability to delegate his duties as necessary. In administering the cannabis business permitting process, the Director is acting as the City Manager's designee as set forth in Chapter 5.78, and is not taking any action pursuant to the Zoning Code. Accordingly, as the City Manager's letter correctly indicated, any administrative procedure to review the Director's decisions under the Zoning Code is inapplicable here.

The City is moving through the cannabis permitting process without regard to politics or arguments irrelevant to its process and review criteria, so there is no need for a response to your further "political perspective" arguments.

The procedure promulgated and published on the City's Marijuana Regulations page is the controlling procedure. As stated before, WOW may not appeal the results of the screening process, and, therefore, the City will not be taking any action on your request.

Sincerely,

A handwritten signature in cursive script that reads "Michele Beal Bagneris". The signature is written in black ink and is positioned above the printed name and title.

Michele Beal Bagneris
City Attorney/City Prosecutor

Attachment: screenshot of portion of City Marijuana Regulations Page

cc: Steve Mermell, City Manager

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APPLICATION SELECTION RESULTS FOR RETAILER PERMITS

JUNE 5, 2019 – The City of Pasadena has completed the review and scoring of applications received for commercial cannabis retailer permits. The following are the six top-scoring applicants:

	Applicant Name	Points Possible	Points Awarded	Score
1	Integral Associates Dena, LLC	1,575	1,492	94.73%
2	Tony Fong	1,575	1,473	93.52%
3	The Atrium Group, LLC	1,575	1,468	93.21%
4	Harvest of Pasadena, LLC	1,575	1,467	93.14%
5	SweetFlower Pasadena, LLC	1,575	1,465	93.02%
6	MME Pasadena Retail, LLC	1,575	1,459	92.63%

"We would like to recognize and congratulate the six top-scoring applicants who completed a very comprehensive process," states City Manager Steve Mermell. Mr. Mermell added that future retail dispensaries will have appropriate design review and conditions to guard against impacts on surrounding uses and added, "I was pleased with the high-level of sophistication, experience and expertise demonstrated by the top-scoring applicants and look forward to a positive relationship between future permitted dispensaries and our community."

Applications for all three categories of commercial cannabis permits—retailers, testing laboratories and cultivators—were accepted from January 1, 2019 until January 31, 2019. Of the 128 applications received, 122 applications were for the 'Retailer' category. Applications were thoroughly reviewed by Hinderliter, de Llamas and Associates (HdL), an independent municipal consulting group offering cannabis consulting services. Applications were scored by HdL according to the City of Pasadena Commercial Cannabis Permit Application Review Criteria, which consist of four primary categories with a total of 28 specific sub-criteria. Linked below is a complete list of all retail applicants and their scores, which will be maintained by the City for a period of 12 months and may be used to identify potential future operators.

The adopted marijuana regulations allow up to a maximum of six retail operators. The next steps for the top-scoring retail applicants are to submit a Conditional Use Permit (CUP) application and supplemental commercial cannabis information, including verification of a lease or ownership location that complies with the required distance separation requirements of the City's commercial cannabis ordinance, a security plan and community benefits plan. The CUP applications will be evaluated and reviewed by the Planning Commission. The City continues to proactively deter unpermitted dispensaries through a multi-departmental enforcement effort comprised of the City Attorney/City Prosecutor Office, the Pasadena Police Department, Code Compliance and the California Department of Tax and Fee Administration. To date, the City has closed over 20 dispensaries, 11 in the last year.

We anticipate concluding the review, scoring and identification of the top-scoring applicants for the categories of 'Testing Laboratories' and 'Cultivators' within the next few weeks. The City is actively working on placing all public information-related documents related to each application on the City website within the coming weeks.

The final application scores for commercial applicants is linked below. Application scores and rankings are final and there is no appeal process.

 **Cannabis Application Results – Retailers**