

May 4, 2016

Natasha Todorovic  
PO Box 40110  
Santa Barbara, CA 93140

RE: Proposed 118 N. Milpas Medical Marijuana Dispensary Appeal, May 10, 2016

Dear Mayor, City Council, City Administrator, City Attorney, and City Staff,

On Earth Day, which took place on April 16, 2016, at Alameda Park, Ryan Howe used the attached brochure to entice college students supporting marijuana use to help promote his proposed business. He persuaded them to volunteer to distribute this flyer in the neighborhood surrounding 118 N. Milpas Street.

It is interesting that at the March 17 Planning Commission Hearing regarding this proposed dispensary, Joe Allen (Mr. Howe's attorney) said that the typical member of the proposed dispensary will be between the ages of 40 to 70 years of age. "This is not the college crowd that we're talking about here," said Mr. Allen, whose quote can easily be found in the video of the March 17 hearing. If this is not the college crowd, then why is Mr. Howe involving college students (who live outside of this area, and most likely are not candidates to be members of a medical marijuana dispensary)? Also, if this is a proposed medical use, why, then, does Mr. Howe aspire to locate his dispensary in the Funk Zone?

The city council image that Mr. Howe used in his handout lent a false impression of credibility, gravitas, and approval to his proposed business that he otherwise would not have had. We assume permission to use the likeness of the mayor and each member of the city council was not sought. Use of this image gave the impression that this proposed dispensary has already been endorsed by the highest governmental body of our city.

Although an argument might be made that use of the image qualifies under the fair use doctrine, this argument falls apart when we understand the actual use. The use is NOT: news reporting and documentary; criticism; teaching research; scholarship; the work is not transformative; it is not parody and satire; it is not good faith nor fair dealing. Therefore, it does not qualify under fair use.

This use is commercial. It is exploitative and nonfactual. Therefore, the fact that it is in bad faith weighs against the "fair use" argument that might come from the use of this

image. The council has to take into account the effect of this use on the community and the harm that the adverse impact of this message creates.

Furthermore, California State Law makes it illegal to use untrue or misleading statements in advertisements for goods and services. California has laws specifically prohibiting false advertising. Deceptive trade practices are characterized by disinformation, false claims, and other tactics to lure the public into buying a product or service. Under the Uniform Deceptive Trade Practices Act, if a business or person engages in the following, the action constitutes a deceptive trade practice:

1. Passes off goods or services as those of another;
2. Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services;
3. Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another;
4. Uses deceptive representations or designations of geographic origin in connection with goods or services;
5. Represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or qualities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have;

The Santa Barbara Municipal Code 28.80.090.B.13, under Criteria for Issuance, similarly states:

“That the applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices with respect to the operation of another business within the City.”

Mr. Howe’s brochure shows that the applicant has engaged in unfair, fraudulent, and deceptive business practices within the City, and the possibility is high that this behavior is typical and will continue.

This brochure, which was created by Ryan Howe of The Canopy, the proposed marijuana dispensary located at 118 N. Milpas, was distributed to residents beginning on April 14, 2016, in advance of the City Council hearing and in an effort to counteract the growing opposition to his business. He said, it was to “notify the neighborhood.”

*Thank you Santa Barbara!*



*On behalf of the future dispensary patients and the community of Santa Barbara, we would like to thank the Mayor and the City Council for adopting SB 28:80.*

*In doing so they have provided for a safe, legal, and regulated environment for the residents of Santa Barbara to access the medicine and services they require.*



In this framing, he intentionally attempted to cause "confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services" and "confusion/ misunderstanding as to affiliation, connection, or association with, or certification by, another". His effort had the desired effect. It created confusion in the neighborhood. Neighbors thought City Hall was behind it and the decision was made.

Residents, as a result of this brochure, came to believe that this dispensary was supported by all of the members of City Council. His was an intentional effort to cause misunderstanding; Mr. Howe succeeded in his endeavor. Furthermore, he implied that this council endorsed his business, creating an affiliation and approval that did not exist. The connection between this council and the 2010 ordinance regulating dispensaries in the city further served to cause misunderstanding, confusion and

establish a connection, sponsorship, affiliation, approval, and association between The Canopy and current City Council that does not exist.

This is patently misleading and false.

Sincerely,

Natasha Todorovic

**The Dispensaries of Santa Barbara**  
will provide the following services  
to its patient members and the community:

**Cannabis Education Workshops**

**Cooking Classes**

**One On One & Group Consultation Sessions**

**Charitable Donations**

**Donations to Community Events**

**Concert Events**

**Neighborhood Security**

**Meditation and Yoga Classes**

For additional information please visit:  
<http://www.santabarbara.gov/services/planning/marijuana.asp>  
or call Eric Hale @ (805) 291-0666

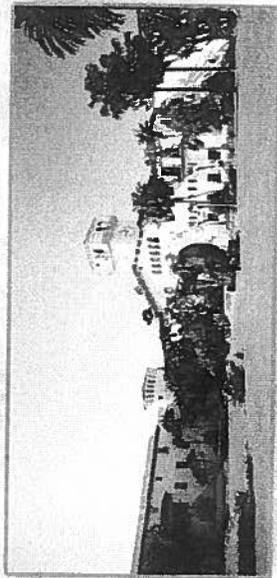


Thank you Santa Barbara!



On behalf of the future dispensary patients and the community of Santa Barbara, we would like to thank the **Mayor and the City Council** for adopting SB 28:80.

In doing so they have provided for a safe, legal, and regulated environment for the residents of Santa Barbara to access the medicine and services they require.



What is SB 28:80?

**SB:28:80** of Zoning Ordinance 5526 is the Chapter which outlines the regulations for Santa Barbara's Medical Cannabis Store Front Dispensaries. As of January 2016, two medical cannabis store front dispensary permits have been approved. One located on Upper State Street in the **Ontare Plaza** and the other on Milpas at **118 North Milpas**.



- Maximum of three (3) storefront collectives (Citywide).**
- Allowable locations limited to the following areas: Milpas, Mission, Outer State, Upper De la Vina, and West Pueblo Medical**
- Prohibition of storefront collectives in existing, mixed-use buildings with residential condominiums.**
- Storefront collective membership limited to Santa Barbara County residents.**
- Require 24 hour waiting period to join a storefront collective.**
- Cultivation, membership and financial record required to be maintained, with inspection by City staff.**
- Medical records may be inspected by City staff with a search or inspection warrant.**
- Dispensary inspection by City staff with limited notice.**
- Security provided by a separate, "Private-party operator" security company, which is licensed by the State.**
- Hours of operation: 8:00 a.m. - 6:00 p.m. Monday through Saturday.**
- Applications are appealable to the City Council.**
- Annual review of the storefront collective operation by the Police and Community Development Departments.**

