

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FROM:** Supervisor Benoit, Supervisor Stone

**SUBMITTAL DATE:** December 9, 2010

**SUBJECT:** Repeal of Orders Initiating an Ordinance and Ordinance Amendment Regulating the Collective or Cooperative Cultivation of Marijuana for Medical Purposes (3.52 of 9/14/10)

**RECOMMENDED MOTION:** That the Board of Supervisors repeal its September 14, 2010 orders initiating an ordinance and an ordinance amendment that would regulate the collective or cooperative cultivation of marijuana for medical purposes.

**BACKGROUND:**

On September 14, 2010, the Board adopted an order initiating a new ordinance that would regulate the collective or cooperative cultivation of marijuana for medical purposes; adopted an order initiating an amendment to Ordinance No. 348 that would regulate the collective or cooperative cultivation of marijuana for medical purposes; and directed specific County departments to prepare and process the ordinance and ordinance amendment. The Board's initiation orders were made pursuant to Board Policy A-67 (Initiation of Ordinances and Ordinance Amendments), the purpose of which is to ensure that the County does not expend its limited resources without the prior authorization of a Board majority. By adopting the initiation orders, the Board did not pre-commit to support or approve the actual ordinance or ordinance amendment. The Board merely authorized the specified County departments to prepare and process the ordinance and ordinance amendment for the Board's consideration. In the interim, it was understood that the County's current ban on medical marijuana dispensaries set forth in Section 3.3 of Ordinance No. 348 would remain in effect.

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John J. Benoit, Fourth District Supervisor

  
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Jeff Stone, Third District Supervisor

**3.65**

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**SUBJECT:** Repeal of Orders Initiating an Ordinance and Ordinance Amendment Regulating the Collective or Cooperative Cultivation of Marijuana for Medical Purposes.

Since September 14, 2010, all of the following events have occurred:

Los Angeles and Orange counties have banned medical marijuana dispensaries;

San Bernardino County has adopted a moratorium banning the issuance of any entitlements that would authorize any use or development of property for medical marijuana dispensaries;

A Riverside County Superior Court judge has ruled that the City of Riverside is authorized to use its zoning power to ban medical marijuana dispensaries (Riverside County Superior Court Case No. RIC 10009872);

A different Riverside County Superior Court judge has denied a medical marijuana dispensary's request to immediately halt enforcement of the City of Wildomar's ban on medical marijuana dispensaries (Riverside County Superior Court Case No. RIC 10022476); and

The Governor has approved Assembly Bill 2650 which amends the Health and Safety Code to add section 11362.768 regarding the location of medical marijuana cooperatives, collectives, dispensaries, and establishments. Subsection (f) of Section 11362.768 provides, "Nothing in this section shall prohibit a city, county, or city and county from adopting ordinances or policies that further restrict the location or establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider." [Emphasis added.]

In the past year, numerous medical marijuana dispensaries have opened in Riverside County. These dispensaries are run by groups claiming that they may operate notwithstanding the County's ban, and without the County's approval, because they are collectively or cooperatively cultivating marijuana within the meaning of the Compassionate Use Act and the Medical Marijuana Program Act. The purpose of the ordinance and ordinance amendment that the Board initiated was to regulate these dispensaries. We are concerned, however, that the number of these dispensaries will increase exponentially in light of the events described above. As bans are created and maintained in surrounding jurisdictions, dispensary operators will flock to the County and the County will disproportionately bear the cost and burden of regulation. Even the most well-crafted ordinance will present opportunities for violation and the adverse secondary effects of marijuana dispensaries are well documented. As the California Police Chief's Association noted in its 2009 "White Paper on Marijuana Dispensaries" the following specific adverse effects are likely occur: traffic, noise, drug dealing, burglaries, robberies, money laundering and firearms violations.

Given the County's current budgetary constraints and the fact that no California court has barred a local jurisdiction from banning medical marijuana dispensaries, we believe that the County's limited resources would best be utilized enforcing the County's current ban on medical marijuana dispensaries rather than on drafting, implementing and enforcing a new ordinance and ordinance amendment regulating the collective or cooperative cultivation of medical marijuana.

Under the California Constitution (Art. I § 7), the County may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws. This includes the power to adopt regulations that supplement state law. The County has broad discretion to determine what is reasonable to protect the public health, safety, morals and general welfare of the community. Neither the Compassionate Use Act nor the Medical

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Marijuana Program Act expressly restricts a local government's ability to enact and enforce land use or zoning laws affecting medical marijuana dispensaries.