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8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF LOS ANGELES  
10 UNLIMITED JURISDICTION

11 AMERICANS FOR SAFE ACCESS, PURELIFE )  
12 ALTERNATIVE WELLNESS CENTER, )  
13 YAMILETH BOLANOS, VENICE BEACH )  
14 CARE CENTER, and BRENNAN THICKE, )

15 Plaintiffs, )

16 v. )

17 CITY OF LOS ANGELES, a municipal corporation, )  
18 JANE LAGMAY, in her official capacity as City )  
19 Clerk, and CARMEN TRUTANICH, in his official )  
20 capacity as City Attorney, )

21 Defendants. )

CONFIRMED COPY  
OF ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

MAR 18 2010

John A. Clark, Executive Officer/Clerk  
By ~~Heaven~~ Deputy  
RUGENAS LOBBZ

BC433942

Civil Action No.

VERIFIED COMPLAINT FOR  
DECLARATORY RELIEF,  
TEMPORARY RESTRAINING  
ORDER, PRELIMINARY  
INJUNCTION AND  
PERMANENT INJUNCTION

BY FAX

22 I. INTRODUCTION

23 1. Because many medical marijuana patients are unable to cultivate the medicine  
24 they need to augment their health, the California electorate called upon the State to devise a  
25 distribution system to ensure that qualified patients are able to obtain marijuana. In response, in  
26 2003, the Legislature authorized the formation and operation of medical marijuana collectives  
27 and cooperatives, which enable qualified patients to associate together to provide each other with  
28

1 medical marijuana. Based upon this law, plaintiffs, among others, opened medical marijuana  
2 collectives in the City of Los Angeles (hereinafter "City" or "Los Angeles") to serve the patient  
3 community. And the City did not, at that time, complain. Years later, after plaintiff Americans  
4 for Safe Access (hereinafter "ASA") repeatedly requested that the City adopt regulations for  
5 medical marijuana dispensaries, the City passed an Interim Control Ordinance No. 179027 on  
6 September 14, 2007, which established a moratorium on new dispensaries. On August 25, 2008,  
7 the California Attorney General issued medical marijuana guidelines, recognizing the legality of  
8 properly organized dispensing collectives and cooperatives. Then, on January 26, 2010, the City  
9 passed Ordinance No. 181069 ("the Ordinance") in an attempt to regulate such entities.  
10

11 Unfortunately for patients living in and around Los Angeles, Ordinance No. 181069 severely  
12 restricts access to medical marijuana by effectively forcing plaintiffs, as well as the vast majority  
13 of medical marijuana collectives in the City, to close their doors. This violates due process,  
14 since plaintiffs have a vested right to operate their collectives, which cannot be deprived in such  
15 an unreasonable manner. For this reason, plaintiffs bring the instant action for declaratory and  
16 injunctive relief.  
17

18  
19 2. In the general election of November 4, 1996, fifty-seven percent of the California  
20 electorate approved a ballot measure enacting Proposition 215 ("Proposition 215" or "the  
21 Compassionate Use Act" or "the CUA"). In doing so, the California voters declared as their  
22 purpose "[t]o ensure that seriously ill Californians have the right to obtain and use marijuana for  
23 medical purposes where that medical use is deemed appropriate and has been recommended by a  
24 physician who has determined that the person's health would benefit from the use of marijuana  
25 in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis,  
26 migraine, or any other illness for which marijuana provides relief." (Cal. Health & Safety Code  
27  
28

1 § 11362.5(b)(1)(A)) Furthermore, the voters sought “[t]o encourage the federal and state  
2 governments to implement a plan to provide for the safe and affordable distribution of marijuana  
3 to all patients in medical need of marijuana.” (Cal. Health & Safety Code § 11362.5(b)(1)(C))

4  
5 3. On September 10, 2003, the California Legislature clarified the Compassionate  
6 Use Act through its passage of SB 420, or “the Medical Marijuana Program Act.” In particular,  
7 the Legislature provided that “Qualified patients, persons with valid identification cards, and the  
8 designated primary caregivers of qualified patients and persons with identification cards, who  
9 associate within the State of California in order collectively or cooperatively to cultivate  
10 marijuana for medical purposes, shall not solely on the basis of that fact be subject to state  
11 criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570,”  
12 which includes exemption from arrest and prosecution for the charges of possession for sale and  
13 maintaining a place where sales occur. (Cal. Health & Safety Code § 11362.775) Under these  
14 laws, plaintiffs had a right to associate with other qualified patients and primary caregivers to  
15 furnish sick and dying persons with the medicine they need.  
16  
17

18 4. On August 25, 2008, the Office of California Attorney General issued medical  
19 marijuana guidelines, which affirmed the legislature’s actions and stated that, “a properly  
20 organized and operated collective or cooperative that dispenses medical marijuana through a  
21 storefront may be lawful under California law...”  
22

23 5. Notwithstanding plaintiffs’ legal ability to open collectives to furnish marijuana to  
24 qualified patients and their primary caregivers, the City of Los Angeles, on January 26, 2010,  
25 enacted Ordinance No. 181069, which requires collectives within 1,000 feet of a sensitive  
26 location or abutting a residence to identify a new location not within a 1,000 feet of a sensitive  
27 location or abutting a residence within one week of the effective date of the Ordinance.  
28

1           6.     Despite the adoption of Interim Control Ordinance No. 179027 on September 14,  
2 2007, more than 2 years prior to passage of Ordinance No. 181069, the City failed to create maps  
3 of approved locations for collectives before passing the Ordinance. As a result plaintiffs cannot  
4 identify new locations to relocate their collectives within one week, as required by the  
5 Ordinance.  
6

7           7.     Because the Ordinance effectively divests plaintiffs of their vested right to operate  
8 their collectives, it violates due process. (See *Edmonds v. County of Los Angeles* (1953) 40  
9 Cal.2d 642, 651.)  
10

## 11   II. JURISDICTION AND VENUE

12           8.     Jurisdiction is based on Article VI, Section 10 of the California Constitution;  
13 Civil Code sections 51.7 & 52.1; and Code of Civil Procedure sections 32.5 and 86.

14           9.     Venue is proper in the Superior Court in and for the County of Los Angeles,  
15 pursuant to California Government Code section 955.2 and California Code of Civil Procedure  
16 section 393(b).  
17

## 18   III. THE PARTIES

### 19           A.     Plaintiffs

20           10.    Plaintiff AMERICANS FOR SAFE ACCESS (“ASA”) is a non-profit corporation  
21 with its office in Oakland, California that has as its primary purpose working to protect the rights  
22 of medical marijuana patients and doctors who recommend marijuana for medical use. ASA’s  
23 members and constituents include individuals who reside within and around the City of Los  
24 Angeles who are adversely affected by the Los Angeles Ordinance. Implementation of this  
25 ordinance has had, and will continue to have a severe impact on the statutory rights of the  
26 members and constituents of ASA, which causes them immediate and irreparable harm.  
27  
28

1           10. Plaintiff PURELIFE ALTERNATIVE WELLNESS CENTER is, and at all times  
2 mentioned herein was, a medical marijuana collective legally entitled to operate under California  
3 law. (See Cal. Health & Saf. Code section 11362.775.) It was formed on May 22, 2006.  
4

5           11. Plaintiff YAMILETH BOLANOS is the operator of the PureLife Alternative  
6 Wellness Center. She will almost certainly be required by the Ordinance to close the collective,  
7 despite making diligent and costly efforts to find a location allowed by the Ordinance, to no avail.  
8

9           12. Plaintiff VENICE BEACH CARE CENTER is, and at all times mentioned herein  
10 was, a medical marijuana collective legally entitled to operate under California law. (See Cal.  
11 Health & Saf. Code section 11362.775.) It was formed on November 1, 2006.  
12

13           13. Plaintiff BRENNAN THICKE is the manager of the Venice Beach Care Center.  
14 He will almost certainly be required by the Ordinance to close the collective, despite making  
15 diligent and costly efforts to find a location allowed by the Ordinance, to no avail.  
16

17           **B. Defendants**

18           14. Defendant CITY OF LOS ANGELES is, and at all times mentioned herein was, a  
19 municipal corporation within the State of California.  
20

21           15. Defendant JANE LAGMAY is the City Clerk for the City of Los Angeles. She is  
22 sued in her official capacity only.  
23

24           16. Defendant CARMEN TRUTANICH is the City Attorney for the City of Los  
25 Angeles. He is sued in his official capacity only.  
26

27           **IV. FACTS APPLICABLE TO ALL CAUSES OF ACTION**

28           17. On November 4, 1996, California voters passed Proposition 215, which is  
codified as "the Compassionate Use Act" at California Health & Safety Code § 11362.5, to

1 “ensure that seriously ill Californians have the right to obtain and use marijuana for medical  
2 purposes. . . .” (See Cal. Health & Safety Code § 11362.5(b)(1)).

3 18. Seven years later, on September 10, 2003, the California Legislature enacted  
4 Senate Bill 420, Stats. 2003 c.875 (“SB 420”), to clarify that “Qualified patients, persons with  
5 valid identification cards, and the designated primary caregivers of qualified patients and persons  
6 with identification cards, who associate within the State of California in order collectively or  
7 cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that  
8 fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366,  
9 11366.5, or 11570.” (Cal. Health & Safety Code § 11362.775) Under these laws, plaintiffs had  
10 a right to associate with other qualified patients and primary caregivers to furnish sick and dying  
11 persons with the medicine they need.  
12

13  
14 19. Precisely as the voters of California and their Legislature intended, plaintiffs  
15 formed medical marijuana patient collectives.  
16

17 20. In furtherance of the collectives, plaintiffs expended significant sums of time and  
18 money, including expenditures for rent, salaries, furnishings, and advertising. The collectives  
19 operated as legal nonconforming uses with vested rights.  
20

21 21. On January 26, 2010, the City Council for the City of Los Angeles enacted  
22 Ordinance No. 181069 (“the Ordinance”), which was signed into law by the Mayor on February  
23 3, 2010, with an effective date of March 14, 2010.

24 22. Section 45.19.6.3 A.2 of the Ordinance provides as follows:

25 2. The location of the collective shall comply with the following distance  
26 requirements:

27 a. No collective shall be located within a 1,000-foot radius of a school, public  
28 park, public library, religious institution, licensed child care facility, youth center,  
substance abuse rehabilitation center, or any other medical marijuana

1 collective(s). The distances specified in this paragraph shall be the horizontal  
2 distance measured in a straight line from the property line of the school, public  
3 park, public library, religious institution, licensed child care facility, youth center,  
4 substance abuse rehabilitation center, or other medical marijuana collective(s), to  
5 the closest property line of the lot on which the collective is located without  
6 regard to intervening structures. This provision shall not apply to a collective that  
7 is also a licensed residential medical or eldercare facility; and

8 b. No collective shall be located on a lot abutting, across the street or alley from,  
9 or having a common corner with a residentially zoned lot or a lot improved with a  
10 residential use, including a mixed use residential building. This provision shall  
11 not apply to a collective that is also a licensed residential medical or eldercare  
12 facility. . . .

13 23. Section 45.19.6.2 B.2 of the Ordinance, in turn, provides:

14 2. Notwithstanding the maximum number of collectives described above, every  
15 medical marijuana collective, dispensary, operator, establishment, or provider that  
16 (1) was registered pursuant to Interim Control Ordinance No. 179,027 with the  
17 City Clerk's office on or before November 13, 2007, (2) has operated  
18 continuously at its registered location since on or before September 14, 2007, or  
19 has both moved once within the City due to an enforcement letter from a federal  
20 governmental entity and filed a hardship exemption application pursuant to  
21 Interim Control Ordinance No. 179,027, (3) has the same ownership and  
22 management as it identified in its registration with the City Clerk's office, (4) has  
23 not been cited by the City for a nuisance or public safety violation of State or  
24 local law, and (5) complies currently or identifies to the City during the  
25 preinspection process a new operating location that meets all of the distance  
26 requirements of Section 45.19.6.3 A.2 of this article may be eligible to register  
27 and operate if it immediately complies with all provisions of State Law, and  
28 within 180 days after the effective date of this ordinance completes its compliance  
in full with each provision of this article. Any collectives allowed to register and  
operate in excess of 70 shall also be proportionally distributed by Community  
Plan Area, based on each Community Plan Area's percentage share of the City's  
total Community Plan Area population, as estimated by the Department of City  
Planning as of October 1, 2008 on Table 1, above. In determining the number of  
collectives allowed in each Community Plan Area, the Department of City  
Planning shall apply these percentages to the total number of collectives that file  
their intent to register with the City Clerk pursuant to Subsection C.1, below.

29 24. And Section 45.19.6.2 C.1 provides as follows:

30 1. All collectives that meet the requirements set forth in Paragraph 2 of  
31 Subsection B, above, and that notify the City Clerk within one week after the  
32 effective date of this ordinance of their intention to register under this article at an  
33 *identified location* shall be eligible to apply for preinspection pursuant to

1 Subsection D, below. The City Clerk shall use the date and time that these  
2 collectives registered with the City pursuant to Interim Control Ordinance No.  
3 179,027, as evidenced by the date and time stamp placed on each registration  
4 form by the City Clerk, to determine the priority order in which the Department of  
Building and Safety will conduct the preinspections of these collectives. [Italics  
added]

5 25. Under Section 45.19.6.10, Section 3, "Th[e] ordinance shall not become effective  
6 until the registration fee specified in Section 1 of th[e] ordinance becomes effective."

7  
8 26. Based upon the passage of Ordinance No. 181069, plaintiffs will lose their vested  
9 right to operate their collectives, which, in turn, deprives the seriously ill of the medicine  
10 promised them by the electorate and Legislature of California.

11 27. An actual and substantial controversy exists between plaintiffs and defendant as  
12 to their respective legal rights and duties. Plaintiffs contend that, as applied to them and to  
13 others similarly situated, Los Angeles Ordinance No. 181069 is unlawful and unconstitutional.  
14 Defendant contends the opposite.

15  
16 28. If not enjoined by the Court, defendant will implement Ordinance No. 181069 in  
17 derogation of the rights of plaintiffs, others similarly situated, and qualified medical marijuana  
18 patients. Such implementation will impose irreparable injury on the plaintiffs and these other  
19 persons.  
20

21 29. Plaintiffs have no plain, speedy, and adequate remedy at law.

## 22 V. CAUSES OF ACTION

### 23 FIRST CAUSE OF ACTION

#### 24 Violation of California Constitution, Article 1, § 7(a) and Civil Code § 52.1

25  
26 30. Plaintiffs reallege and incorporate by reference paragraphs 1 through 29 of this  
27 complaint as though fully set forth herein.  
28



1           31.     Article 1, Section 7(a) of the California Constitution and Civil Code Section 52.1  
2 prohibit the enactment of municipal laws that deprive individuals of their vested right to operate  
3 a business.

4           32.     Ordinance No. 181069 violates due process by effectively divesting plaintiffs of  
5 their vested rights to operate their medical marijuana collectives in an unreasonable manner.  
6

7   **V. RELIEF SOUGHT**

8           WHEREFORE, plaintiffs, on behalf of themselves and others similarly situated, seek the  
9 following relief:  
10

11           1.     A declaration that Los Angeles Ordinance No. 181069 is unlawful and  
12 unconstitutional;

13           2.     A temporary restraining order enjoining defendants and their agents from  
14 enforcing, or threatening to enforce, Los Angeles Municipal Ordinance No. 181069, or accepting  
15 notices of intent to register, pursuant to Section 45.19.6.2 B.2 of the Ordinance, pending a  
16 resolution of the motion for preliminary injunction and/or a resolution of this action on the  
17 merits;  
18

19           3.     A preliminary and permanent injunction enjoining defendant and its agents and  
20 employees from enforcing, or threatening to enforce, Los Angeles Municipal Ordinance No.  
21 181069, or accepting notices of intent to register, pursuant to Section 45.19.6.2 B.2 of the  
22 Ordinance, except in compliance with the constitutional requirement of due process;  
23

24           4.     Treble damages for each violation of the Bane Civil Rights Act, as provided by  
25 Civil Code §§ 52(a) & 52.1;  
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- 5. Costs and attorneys fees incurred in this action; and
- 6. Such other and further relief as may be just and proper.

DATED: March 16, 2010

  
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JOSEPH D. ELFORD  
Counsel for Plaintiffs


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**VERIFICATION**

I represent plaintiffs in this action. I verify the above-stated facts on behalf of Americans for Safe Access and do so for the other plaintiffs, since I do not reside in Los Angeles County.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


Executed this 16<sup>th</sup> day of March, in Oakland, California.

  
\_\_\_\_\_  
JOSEPH D. ELFORD  
Counsel for Plaintiffs

1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs hereby demand a jury trial of this action.

3  
4  
5 DATED: March 16, 2010

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7 \_\_\_\_\_  
8 JOSEPH D. ELFORD  
9 Counsel for Plaintiffs  
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