



U.S. Department of Justice

*United States Attorney
Northern District of California*

*Melinda Haag
United States Attorney*

*11th Floor, Federal Building
450 Golden Gate Avenue, Box 36055
San Francisco, California 94102-3495*

(415) 436-7200

FAX: (415) 436-7234

August 15, 2011

Robert S. Wall
Director of Community Development
City of Eureka
531 K Street
Eureka, CA 95501-1146

RECEIVED
AUG 18 2011
DEPARTMENT OF
COMMUNITY DEVELOPMENT

Dear Mr. Wall:

I write in response to your letter dated August 8, 2011, seeking guidance regarding medical cannabis growing facilities in the City of Eureka, California.

As the Department has stated on many occasions, Congress has determined that marijuana is a controlled substance. Congress placed marijuana in Schedule I of the Controlled Substances Act (CSA) and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities.

The prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department. This core priority includes prosecution of business enterprises that unlawfully market and sell marijuana. As stated in the October 2009 Ogden Memorandum and reiterated recently in the 2011 Cole Memorandum, the Department does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law. However, individuals and organizations who are in the business of cultivating, selling, or distributing marijuana, and those who knowingly facilitate such activities, are in violation of the Controlled Substances Act and are subject to federal enforcement, even if such activities are permitted under state law.

Consistent with federal law, the Department maintains the authority to pursue criminal or civil actions for any CSA violations whenever the Department determines that such legal action is warranted. This includes, but is not limited to, actions to enforce the criminal provisions of the CSA such as Title 21 Section 841 making it illegal to manufacture, distribute, or possess with intent to distribute any controlled substance including marijuana; Title 21 Section 856 making it unlawful to knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances; and Title 21 Section 846 making it illegal to conspire to commit any of the crimes set forth in the CSA. Federal money laundering and related statutes that prohibit a variety of different types of financial activity involving the movement of drug

Robert S. Wall
August 15, 2011
Page 2

proceeds may likewise be utilized. The government may also pursue civil injunctions, and the forfeiture of drug proceeds, property traceable to such proceeds, and property used to facilitate drug violations.

The Department is concerned about the City of Eureka's creation of a licensing scheme that permits large-scale industrial marijuana cultivation, processing, and distribution, as it authorizes conduct contrary to federal law and threatens the federal government's efforts to regulate the possession, manufacturing, and trafficking of controlled substances. Individuals who elect to operate any such facilities will be doing so in violation of federal law. Others who knowingly facilitate the actions of these individuals, including property owners, landlords, and financiers should also know that their conduct violates federal law. If the City of Eureka were to proceed, this office would consider injunctive actions, civil fines, criminal prosecution, and the forfeiture of any property used to facilitate a violation of the CSA. As the Attorney General has repeatedly stated, the Department of Justice remains firmly committed to enforcing the CSA in all states.

I hope this letter assists the City of Eureka in making informed decisions regarding this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Melinda Haag', is written over a horizontal line.

Melinda Haag
United States Attorney
Northern District of California

cc: David Tyson, City Manager
Mike Knight, Assistant City Manager
City Attorney