



Mendocino County Board of Supervisors
501 Low Gap Road
Ukiah, CA 9548

March 1, 2022

Re: Item 4b for 2/28 - Discussion and Possible Action Including Direction to Staff to Create an Appeal Process for Cannabis Application Denials and Return to the Board of Supervisors before May 1, 2022 (Sponsors: Supervisor Haschak and Supervisor McGourty)

Honorable Supervisors,

The vast majority of the cannabis applicants -- both those applying before the portal existed as well as those who had to pass through the portal that closed on November 2, 2021 -- have been marked as having at least one requirement incomplete. Their experience has been revealed to be marked by inconsistencies in how the standards have been applied by MCP staff; constant mistakes and misunderstandings in communications by and between staff and applicants; and staff generated delays in approving applications with very minor and easily repaired deficiencies. An appeals process is clearly called for, given the failures of the current system.

Additionally, issues concerning imperfect technology, un-published standards and guidelines that have been misunderstood or mistakenly reviewed, along with reliance on third party consultants or agencies that may have caused applications to be deemed incomplete will also likely contribute to applications being denied inappropriately.

The "correction" portal will reopen March 28th for a 30 day period while there continues to be shortcomings in the current system. The cannabis program is only giving these applicants one chance to upload the correct application correctly -- which proved to be a significant challenge during the last portal period. Their re-submitted applications will also receive exactly one review with no additional chance to correct the application. If it is deemed incomplete after that review, the application will be denied. In these hundreds of cases, there will certainly be a number of applicants that feel that they have done everything possible to fully and accurately complete the application in the portal.

A sizable number of applicants were operating for years before the permit process began; some as much as five years. They are deserving of due process after accruing years of operating in the good faith belief that the County would support their effort to become legal. It is likely that many applicants who were denied a permit may seek a legal remedy if not given the chance to have an appeal process. Because of this likelihood, we recommend that the MCP work with

County Counsel in developing an appeal process for these cases so that there will be an opportunity for review of the reasons for denial of an application. Further, it should be County policy to ensure that every applicant be given due process.

The MCP must work with County Counsel in developing an appeal process for these cases. Specifically, this appeals process should include reasonable timelines for appeal responses, and the ability to appeal not just the permit denial, but also the processes or standards adopted by MCP in evaluating the application.

MCA further recommends that the Board of Supervisors give direction on two particular points:

(1) Due to the significant burden being placed on permitted operators due to past and continued issues with the implementation of the Mendocino Cannabis Program, and considering that now those operators are being faced with losing their livelihoods through this process, MCA recommends that a fee should NOT be charged for full cost recovery of the cost of the appeal

(2) MCA recommends that cultivation be permitted to continue while the appeal is being processed and this time should be for at least 60 days so that a cultivation cycle can be completed without interruption.

Finally, we recommend that NO denials be issued by MCP until the Appeals process has been developed and implemented.

We look forward to your consideration of this essential component of the cannabis program.

Sincerely,

Mendocino Cannabis Alliance
e: info@mendocannabis.com