

## Communication from Public

**Name:** Steven Lubell

**Date Submitted:** 04/04/2022 04:50 PM

**Council File No:** 21-1083

**Comments for Public Posting:** Due Process is a basic constitutional requirement that is lacking. Add due process language to Section 5. Subsection (e) of Section 104.03 of Article 4, Chapter X of the Los Angeles Municipal Code to read as follows: (e) Application - Modification. An Applicant or Licensee shall not make modifications to an Application or License without prior written approval by DCR in accordance with this subsection. An Applicant or Licensee shall submit a modification request on a form provided by OCR through the DCR Licensing Portal and pay the applicable modification request fee pursuant to Section 104.19(h). Upon payment, DCR, in its sole discretion, will review the modification request and determine if it is eligible for further processing. If the requested modification(s) can be further considered, the Applicant or Licensee shall submit any additional information, forms, or documents that DCR deems necessary to process the request and pay any additional modification fee(s) pursuant to Section 104.19. Modification requests shall not be processed until all required information, forms, documents, and fees have been submitted and received. DCR will provide the Applicant with electronic mail notice of any missing information, forms, documents, or fees before denying any application or license modification request. The Applicant will have fifteen (15) days after the electronic mail notice to provide the missing information, forms, documents, or fees requested. DCR's determination is final and not appealable.

## Communication from Public

**Name:** Michelle Mabugat

**Date Submitted:** 04/04/2022 07:38 PM

**Council File No:** 21-1083

**Comments for Public Posting:** Please see the attached public comment (Council File No. 21-1083) submitted on behalf of attorneys Yelena Katchko, Steven Lubell, Michelle Mabugat, Bryan Bergman, Lesa Slaughter, Katie Podein, Cassia Furman, Jodi Green, Joshua Mandell and Meital Manzuri.

April 4, 2022

The Honorable City Council  
City of Los Angeles  
City Hall, Room 395  
Los Angeles, California

**Re: Public Comments on Draft Ordinance amending Sections 104.01, 104.03, 104.06, 104.06.1, and 104.20 of Article 4 Chapter X of the LAMC; [Council File No. 21-1083](#)**

Dear Honorable Councilmembers of the City of Los Angeles:

On February 16, 2022, the Planning and Land Use Management Committee (“[PLUM](#)”) instructed the Office of the City Attorney (“[City Attorney](#)”), with the assistance of the Department of Cannabis Regulation (“[DCR](#)”), to prepare and present an Ordinance relative to the implementation of cannabis licensing changes to increase speed and equity in the process in response to the Harris-Dawson-Price-De Leon–Ridley Thomas–Raman Motion introduced on September 29, 2021 and subsequently amended on January 18, 2022 (the “[Motion](#)”) (CF 21-1083). City Attorney transmitted a [draft ordinance](#) (the “[Ordinance](#)”) to City Council on March 15, 2022. The Ordinance amends Sections 104.01, 104.03, 104.06, 104.06.1, and 104.20 of Article 4 Chapter X of the Los Angeles Municipal Code (LAMC) to incorporate numerous changes related to commercial cannabis businesses.

The undersigned attorneys – each of whom represent clients throughout the City of Los Angeles and State of California in all aspects of the cannabis industry – support and appreciate the City’s efforts to address application processing delays and clarify and simplify application processes, but respectfully submit the following comments and concerns regarding the Ordinance.

**1. DCR Should Provide Applicants or Licensees With Adequate Notice and Opportunity to Cure.**

After submitting a modification request, Applicants or Licensees should have the ability to cure deficiencies before DCR determines that the modification request is not eligible for further processing. Providing Applicants or Licensees with adequate notice and opportunity to cure will reduce DCR’s administrative burden by decreasing the number of new modification requests and eliminate the potential waste of DCR’s time and resources by ensuring that multiple analysts are not reviewing the same modification request.

We recommend that the proposed changes to Subsection (e) of Section 104.03 of Article 4, Chapter X of the Los Angeles Municipal Code be modified as follows (changes in red):

“(e) Application - Modification. An Applicant or Licensee shall not make modifications to an Application or License without prior written approval by DCR in accordance with this subsection. An Applicant or Licensee shall submit a modification request on a form provided by OCR through the DCR Licensing Portal and pay the applicable modification request fee pursuant to Section 104.19(h). Upon payment, DCR, in its sole discretion, will review the modification request and determine if it is eligible for further processing. If the requested modification(s) can be further considered, the Applicant or Licensee shall submit any additional information, forms or documents that DCR deems necessary to process the request and pay any additional modification fee(s) pursuant to Section

104.19. Modification requests shall not be processed until all required information, forms, documents, and fees have been submitted and received. **If DCR determines that the requested modification(s) is not eligible for further processing, DCR will provide the Applicant or Licensee with electronic mail notice of any missing information, forms, documents, or fees before denying the modification request. The Applicant or Licensee will have fifteen (15) days from the date of the electronic mail notice to provide the missing information, forms, documents, or fees identified in the notice.** DCR's determination is final and not appealable. If the requested modification(s) can be further considered, the Applicant or Licensee shall submit any additional information, forms or documents that DCR deems necessary to process the request and pay any additional modification fee(s) pursuant to Section 104.19....”

**2. DCR’s Ownership Change Process Should be Consistent With DCC’s Ownership Change Process.**

LAMC 104.01(a)(36) currently defines “Owner” as persons having (a) an aggregate ownership interest (other than a security interest, lien, or encumbrance) of 20 percent or more in the licensee (“Equity Owners”); and (b) the power to direct or cause to be directed, the management or control of the licensee (“Controlling Owners”). The Ordinance amends the definition of “Owner” to only include Equity Owners and the definition of “Primary Personnel” to include all Controlling Owners. Although we support the proposed changes to these defined terms, we want to ensure that other sections of the LAMC substantially affected by these amendments are properly addressed.

As part of the June of 2020 amendments to the City’s cannabis regulations, DCR created an ownership change process for licensees. DCR mirrored the Bureau of Cannabis Control’s (“BCC”) regulations<sup>1</sup> in that a cannabis business can continue operating under new ownership while DCR reviews the ownership change request as long as at least one existing owner remains. (LAMC 104.03(e)(2)(ii)). Given that DCR’s definitions of “Owner” expressly includes Controlling Owners, the existing owner requirement can be satisfied by a director, manager, officer, or equity owner holding at least a 20% aggregate ownership interest in the licensee. DCR’s adoption of BCC’s ownership change language achieved consistency in the submission and processing of the ownership change requests on the local and state level.

Removing “Controlling Owners” from the definition of “Owner,” means that the City’s existing owner requirement can only be satisfied by an Equity Owner, which is inconsistent with the State’s existing owner requirement. Having to navigate two ownership change processes and wait for the City to process the ownership change before being able to submit a request to the State will result in further delay and additional expense to the Licensee and its owners.

To simplify ownership changes and ensure consistency in local and state processes, we recommend that the City amends LAMC 104.03(e)(2)(ii) as follows:

- (ii) If at least one existing Owner **or a natural person who qualifies as Primary Personnel pursuant to Section 104.01(39)(ii)** is not transferring his or her ownership interest and will remain as an Owner under the new structure, the business may continue

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<sup>1</sup> Previously codified at Cal. Code Regs. tit 16 Section 5023(c)(1) and relocated to Cal. Code. Regs. tit 4 Section 15023(c)(1) after creation of the Department of Cannabis Control and consolidation of the regulatory agencies.

to operate if a Temporary Approval or License has been issued while DCR reviews the eligibility of the new Owner(s) pursuant to Section 104.03(a)(1) and (2).

**3. DCR Should Standardize The Equity Report.**

We support the proposed amendment to Section 104.02(c)(1) to require each Licensee subject to Section 104.20 to submit to DCR an annual “Equity Report.” However, we believe that DCR should standardize the Equity Report requirement by developing an Information and Procedure Bulletin and a DCR form for submission of the Equity Report. Requiring that Licensees submit the Equity Report using a form developed by DCR will (i) ensure that Licensees provide all the necessary information DCR needs to evaluate whether the Licensee has provided sufficient technical assistance the Social Equity Individual Applicant Owner; and (ii) streamline DCR’s review of the Equity Reports.

We thank the City Council for its consideration of these recommendations and look forward to the passing of the Motion as amended with the clarifications and additions referenced above.

Sincerely,

//s//

Yelena Katchko, Katchko, Vitiello & Karikomi, PC

Steven Lubell, Attorney At Law

Michelle Mabugat, Greenberg Glusker LLP

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Katie Podein, Clark Howell LLP

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Jodi Green, Miller Nash LLP

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cc: Honorable Nury Martinez, City Council President  
Honorable Marqueece Harris-Dawson, Chair, Planning and Land Use Committee  
Honorable Paul Krekorian, Chair, Budget and Finance Committee  
Honorable Kevin De León, Chair, Immigrant Affairs, Civil Rights and Equity Committee  
Andre Herndon, Chief of Staff, Office of the Mayor  
Kevin Keller, Deputy Mayor of Economic Development, Office of the Mayor  
Ron L. Frierson, Director of Economic Policy, Office of the Mayor  
Margaret Wynne, Director of Legislative Affairs, Office of the Mayor  
Matt Szabo, Chief Administrative Officer  
Sharen Tso, Chief Legislative Analyst  
Michelle Garakian, Acting Executive Director, Department of Cannabis Regulation  
Robert Ahn, President, Cannabis Regulation Commission