



# CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

**C-3**

333 West Ocean Blvd • Long Beach, California 90802

July 10, 2012

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

## RECOMMENDATION:

Refer to Hearing Officer the business license revocation appeal by Oceansider IV, LLC, located at 745 East 4<sup>th</sup> Street, Long Beach, CA 90802. (District 1)

## DISCUSSION

On June 6, 2012 the Department of Financial Management revoked the business license issued to Oceansider IV, LLC, located at 745 East 4<sup>th</sup> Street, Long Beach, CA 90802 (Attachment A), due to violations of the Long Beach Municipal Code (LBMC) and state law.

On May 16, 2012, a business license revocation hearing was conducted, in compliance with LBMC Section 3.80.429.1. On May 30, 2012, the hearing officer recommended the Director of Financial Management to revoke business license number BU07029111 (Attachment B).

Pursuant to LBMC Section 3.80.429.5, a licensee can appeal the revocation of a business license to the City Council. The licensee lodged its written request for appeal on June 13, 2012 (Attachment C). Whenever it is provided that a hearing shall be heard by the City Council, the City Council may, in its discretion, conduct the hearing itself or refer it to a hearing officer, in accordance with LBMC 2.93.050(A).

This matter was reviewed by Deputy City Attorney Kendra Carney on June 22, 2012.

## TIMING CONSIDERATIONS

If referred, upon selection of a hearing officer, the matter will be heard not less than thirty (30) days thereafter.

HONORABLE MAYOR AND CITY COUNCIL  
July 10, 2012  
Page 2

FISCAL IMPACT

There is no fiscal or local job impact associated with this item.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



JOHN GROSS  
DIRECTOR OF FINANCIAL MANAGEMENT

JG:ES  
K:\EXEC\COUNCIL LETTERS\BUSINESS RELATIONS\HEARING LETTERS\07-10-12 ccl - OCEANSIDER IV LLC REFER TO HO.DOC

ATTACHMENTS

APPROVED:



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PATRICK H. WEST  
CITY MANAGER

CITY OF LONG BEACH  
BUSINESS LICENSE

ACCOUNT: BU07029111

OWNERSHIP - TRANSFERABLE  
LICENSE EXPIRES ON 04/01/13

DATE: 04/02/12

THE LICENSEE NAMED BELOW IS AUTHORIZED TO OPERATE THE FOLLOWING TYPE OF  
BUSINESS: COMM/INDUST SPACE RENTAL  
LOCATED AT: 745 E 4TH ST

OCEANSIDER IV LLV  
2901 E PACIFIC COAST HWY  
SIGNAL HILL, CA 90755-1633

INCLDS: 743-745 E 4TH ST  
AUTHORIZED BY JOHN GROSS  
DIRECTOR OF FIN MGMT

.....

=====> LICENSE HOLDER -- PLEASE NOTE <=====

THE TOP PORTION OF THIS FORM IS YOUR LICENSE. YOU MUST DISPLAY THE  
LICENSE IN A CONSPICUOUS PLACE ON THE BUSINESS PREMISES.

THE DATE YOUR LICENSE EXPIRES IS INDICATED ON THE FACE OF THE LICENSE.  
IF YOU DO NOT RECEIVE A RENEWAL NOTICE BY THE EXPIRATION DATE, CONTACT  
THE BUSINESS LICENSE SECTION AT (562) 570-6211.

NOTE: YOU ARE RESPONSIBLE FOR RENEWING THE LICENSE ON OR BEFORE THE  
LICENSE EXPIRATION DATE. (PLEASE NOTIFY THE BUSINESS LICENSE  
SECTION IF YOU ARE NO LONGER IN BUSINESS.)

PLEASE REPORT IMMEDIATELY ANY CHANGE IN OWNERSHIP, BUSINESS LOCATION,  
MAILING ADDRESS, OR BUSINESS ACTIVITY TO THE BUSINESS LICENSE SECTION.

X368 BC15USMC BC0102 ACCOUNT SUMMARY INQUIRY 06/27/12 08:39  
 TC: AS FUNCTION: I SYSTEM: BU ACCOUNT: 07029111  
 SEARCH: KEY: PR:  
 STATUS: ACTIVE STATUS DATE: 04/20/11 TYPE: NORMAL CURRENT DUE: 06/14/12  
 CUST NAME: OCEANSIDER IV LLV \*REVOCATION IN PROCESS\* ACCT BAL: [REDACTED]  
 DBA NAME: DEP DUE: [REDACTED]  
 MAIL: 2901 E PACIFIC COAST HWY DEP BAL: [REDACTED]  
 SIGNAL HILL, CA CENS: 576200 CNCL DIST: 01  
 ZIP: 90755 1633  
 PHONE:  
 SOC SEC: DR LIC:  
 EMPLOYER: EMP PH: EXT:  
 ADDR: CITY:  
 HSE# FRA D STREET NAME TYPE S UNIT ZIP CODE  
 SITE: 00745 E 4TH ST 90802 2606 VALIDATE:  
 SERVICE DATE: 04 20 11 ID#1: H BUS 205024 ID#2: DIST: 05  
 NEXT INTERVAL DUE: 04 01 13 INTERVAL: 012 M CANCELLATION DATE:  
 DESCRIPTION OF SERVICE PROVIDED: COMM RENTIAL



X368 BC15USMC BC0117 BUS LICENSE SUMMARY - INQUIRY 06/27/12 08:40  
 TC: BL FUNCTION: I SYSTEM: BU ACCOUNT: 07029111  
 SEARCH: KEY: OCEANSIDER IV LLV \*REVOCATION IN PROCESS\* PR:  
 STATUS: ACTIVE EXEMPT: START: 03 28 07 NEW CODE: A3 SRCE CODE: 1 I/C:  
 CONAME: INCL: 743-745 E 4TH ST  
 DBA: NTC#: PREV LIC:  
 CRT: 205024 COMM/INDUST SPACE RENTAL PRODUCT: H/O: N ORG:  
 SIC: 006512 REAL ESTATE OPERATORS (EXCEPT DEVELOPERS) & LESSORS  
 OPERATORS OF NONRESIDENTIAL BUILDINGS  
 HSE# FRA D STREET NAME TYPE S UNIT NAICS:  
 BUS ADDR: 00745 E 4TH ST VALIDATE: X  
 CITY: LONG BEACH ST: CA ZIP: 90802 2606 BUS PH:  
 RES ADDR: -----> OWNED BY <-----  
 FEM: MIN: SBA:  
 ALC: N SQFT => BLDG: PUB: HAZ/QTY: N EPA: N  
 PRINCIPAL OFFICER NAMES: ADDRESSES:

FED TAX ID: STATE SALES TAX#: SOC SEC:  
 CONTRACTOR => LIC: RENEW DATE: CLASS:  
 REFERRALS => BUILDING: N FIRE: N HEALTH: N HAZ: N POLICE: N OTHER: N  
 NBR OF => EMPS: VNDNG MCHNS: SQ FT: UNITS: VEHS:

\* ASSESSOR DATA DISPLAY \*

PARCEL: 7281006035 AGENCY: TAX STATUS: SOLD TO CA TRA: 1193  
 SITUS: 00743 E 4TH ST -----SALE-----  
 LONG BEACH CA 90802 CD PRICE DATE  
 1ST OWNER: OCEANSIDER IV LLV PRCNT: 1 [REDACTED] 2007032  
 DT 20070329 2004051  
 1983121

MAIL ADR: 02901 EPACIFIC COAST HWY  
 SIGNAL HILL CA 90755

2ND OWNER: HOW OWNED: 3  
 LAND: 2008 301716 HO EXEMPT: EXEMPT:  
 IMPR: 2008 218484 RE EXEMPT:  
 FIXTURE VAL: ZONED: LBPD USE: 2400  
 FIXTURE EXMP: HAZARD: DOC REASON: A

PART DESIGN CLASS YR UNITS BDR BTH SQFT  
 0101 2600 C5 1921 5 3750 PF1/13: RETURN FOR NEW INQUIRY  
 PF2/14: NEXT SITUS ADDRESS DATA  
 ENTER: NEXT INQUIRY SELECTIONS

LONG BEACH S 75 FT OF LOTS 27 AND LOT 28 BLK 71

\* ENTER:NEW SELECTIONS \* PF1:MAIN MENU \* PF2:NEXT SITUS DATA

<b>Owner</b> OCEANSIDER,LLV IV	<b>Address</b> 743 E 4TH ST LONG BEACH , CA 90802	<b>Parcel/Tax ID</b> 7281-006-035
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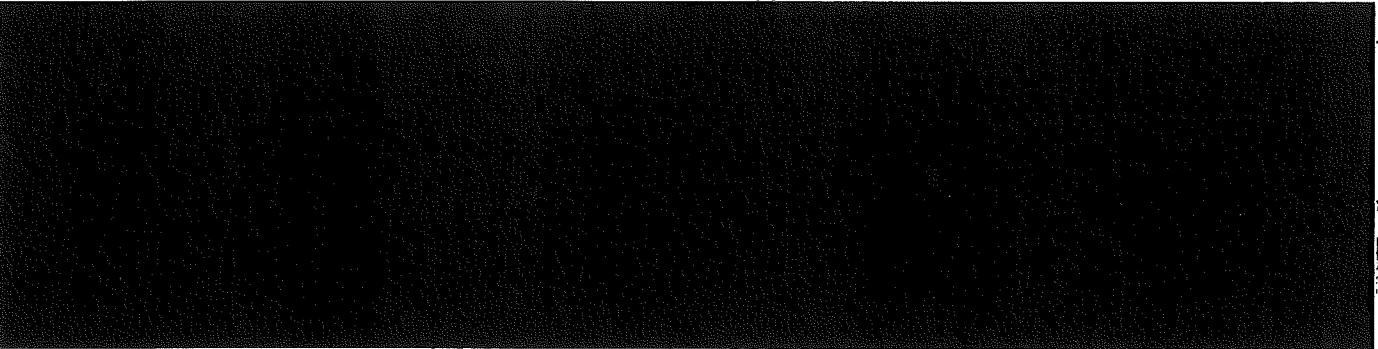
**Property Profile**

**Ownership Information**

<b>Primary Owner</b>	OCEANSIDER,LLV IV	<b>Site Address</b>	743 E 4TH ST
<b>Secondary Owner</b>		<b>Site City, St Zip</b>	LONG BEACH, CA 90802
<b>Ownership Description</b>		<b>Mail Address</b>	2901 E PACIFIC COAST HWY
<b>Telephone Number</b>		<b>Mail City, St Zip</b>	SIGNAL HILL, CA 90755
<b>Lot</b>	28	<b>Census Tract</b>	5762.00
<b>Housing Tract / Subdivision Name</b>	/ LONG BEACH		
<b>Legal Description</b>	LONG BEACH S 75 FT OF LOTS 27 AND LOT 28		

**Property Details**

<b>Use Code</b>	Service station, gas station		
<b>State</b>	CA	<b>County/Municipality</b>	LOS ANGELES
<b>RTSQ</b>		<b>Total Rooms</b>	
<b>Zoning</b>	LBPD30	<b>Bedrooms</b>	
<b>Number Of Units</b>		<b>Bathrooms</b>	
<b>Year Built</b>	1921	<b>Basement Square Feet</b>	
<b># Of Stories</b>		<b>Parking</b>	
<b>Lot Size</b>	3,751	<b>Parking Square Feet</b>	
<b>Usable Lot Size</b>	3,746	<b>View</b>	
<b>Lot Depth</b>		<b>Pool</b>	
<b>Lot Width</b>		<b>Fireplace</b>	
<b>Square Feet</b>	3,750	<b>HT/AC</b>	
<b>Square Ft 1st Fir</b>		<b>Cooling Detail</b>	
<b>Square Ft 2nd Fir</b>		<b>Heating Detail</b>	
<b>Square Ft 3rd Fir</b>		<b>Roof Type</b>	
<b>Additions - Square Feet</b>		<b>Construction Quality</b>	
<b>Building Shape</b>	Other	<b>Construction Type</b>	Other
<b>New Page Grid</b>	795E7	<b>Exterior</b>	
<b>Old Page Grid</b>	75D5	<b>Foundation</b>	





# CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

333 W. Ocean Boulevard, 4th Floor • Long Beach, CA 90802 • (562) 570-6212 FAX (562) 570-6180

BUSINESS RELATIONS BUREAU  
BUSINESS LICENSE SECTION

June 6, 2012

Oceansider LLV IV  
2901 E. Pacific Coast Hwy.  
Signal Hill, CA 90755

RE: Notice of Business License Revocation  
Business License Number: BU07029111

Dear Sir or Madam:

Please be advised that **business license number BU07029111**, issued to Oceansider LLV IV, located at 745 E. 4<sup>th</sup> Street, Long Beach, CA 90802 **has been revoked**, pursuant to Long Beach Municipal Code ("LBMC") section 3.80.429.1, subsection (b), **effective June 6, 2012**. Pursuant to LBMC section 3.80.429.1, you have 10 calendar days from the date of this letter to request an appeal, otherwise the revocation will be final.

**Failure to cease operations at this location after June 16, 2012 shall constitute a criminal offense pursuant to Long Beach Municipal Code sections 3.80.429.1, subsection (a) and 3.80.210.**

Pursuant to Long Beach Municipal Code section 3.80.429.5, a request to appeal must be in writing, must set forth the specific ground or grounds on which it is based, and must be accompanied by a non-refundable cashier's check or money order, made payable to the City of Long Beach, in the amount of \$1,205. The request for appeal must be submitted to the Office of the Long Beach City Clerk, located at 333 W. Ocean Boulevard, Long Beach, California, not later than 4:00 p.m. June 16, 2012. Should you have any questions, please contact me at (562) 570-6663.

Sincerely,

Erik Sund  
Manager, Business Relations Bureau

I have received notification of the above:

**Attachments**

ES:smc

\_\_\_\_\_  
Name/Title

cc: Kendra Carney, Deputy City Attorney  
Council District 1



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May 30, 2012

Larry G. Herrera,  
City Clerk  
City of Long Beach  
333 West Ocean Boulevard  
Long Beach, CA 90802

Attn: Irma Heinrichs

Re: Report and Recommendation of Hearing Officer  
Matter of City of Long Beach Business License Number BU07029111 issued to Oceansider LLV IV

Dear Mr. Herrera:

On May 16, 2012, I conducted an administrative hearing to show cause why the captioned business license should not be revoked pursuant to Long Beach Municipal Code §3.80.429.1.

The hearing was recorded. The recording is in your possession.

The hearing has been completed.

This letter constitutes my report and recommendation.

### ***1. INTRODUCTION***

In this report:

- The City of Long Beach is referred to as “the City.”
- The Director of Financial Management for the City is referred to as “the Director.”
- Oceansider LLV IV is referred to as “the Licensee.” The form of the Licensee is not known. It is not listed as either a corporation or a limited liability company on the California Secretary of State website.
- The improved real property commonly known as 745 East Fourth Street, Long Beach, is referred to as “the Premises.”
- City of Long Beach Business License Number BU07029111 is referred to as “the License.”

THOMAS A. RAMSEY - A PROFESSIONAL CORPORATION - LAWYER

Report and Recommendation of Hearing Officer  
Matter of City of Long Beach Business License Number BU07029111 issued to Oceansider LLV IV  
May 30, 2012  
Page Two

- All references to titles, chapters or sections, without an accompanying reference to a specific code, are to the Long Beach Municipal Code.

Accompanying this report is a copy of the exhibits introduced by the City at the hearing. They are numbered 1-8.

The basis for this hearing is found in §§3.80.429.1 and 3.80.429.5, which provide as follows:

- The belief that a licensee has failed to comply with applicable ordinances or statutes empowers the Director to notice a hearing at which the licensee may show cause why the license should not be revoked.
- Following such a hearing and receipt of the hearing officer's report, the Director may revoke or suspend the license.
- In the event the license is revoked by the Director, the licensee has the right to file a written appeal to the Long Beach City Council.

## ***2. HEARING LOCATION AND DATE***

Pursuant to written notice (Exhibit 1), the matter was heard at Long Beach City Hall, 333 West Ocean Boulevard, Seventh Floor Large Conference Room, on May 16, 2012, commencing at 10:55 a.m.

## ***3. PARTIES AND COUNSEL***

The City was represented by the Long Beach City Attorney, through Kendra L. Carney, Deputy City Attorney.

The Licensee appeared through Mark Milan, identifying himself as the "managing member" of the licensee.

## ***4. STATEMENT OF THE ISSUE BEFORE THE HEARING OFFICER***

The issue in this matter is as follows: Is the Licensee operating its commercial rental business at the Premises outside the scope of the authorized business activities identified in its business license?

Report and Recommendation of Hearing Officer  
Matter of City of Long Beach Business License Number BU07029111 issued to Oceansider LLV IV  
May 30, 2012  
Page Three

**5. SUMMARY OF RELEVANT EVIDENCE INTRODUCED BY THE CITY**

Eric Sund (City of Long Beach Business Relations Manager), Lori Voss (City of Long Beach License Inspector) and Gene Rodriguez (City of Long Beach License Inspector) testified on the City's behalf.

Exhibits 1-8, introduced by the City, were placed into evidence.

The testimony of Eric Sund was as follows:

- The Licensee holds title to the Premises (Exhibit 3).
- Business license number BU07029111, issued to the Licensee, permits the Licensee to lease all or any portion of the Premises to others (Exhibit 2).
- On various visits to the Premises, it was determined that one of the Licensee's lessee operates a medical marijuana collective, apparently under the name "The 4<sup>th</sup> Street Collective."
- At the conclusion of each visit to the Premises which resulted in the discovery of the operation of a medical marijuana collective on at least a portion of the premises, an administrative citation was issued to the collective and posted on its portion of the Premises. Additionally, written notice was sent to the Licensee, advising it that the collective is operating in violation of Long Beach Municipal Code Chapter 5.89 (Exhibit 4).
- Written notice of this hearing, in the form of Exhibit 1, was mailed to the Licensee.

Lori Voss testified that she had visited the Premises on various occasions, during which customers reported to her that they were purchasing marijuana from the collective.

Gene Rodriguez testified that he had visited the Premises on various occasions, during which he smelled marijuana at the site of the collective.

**6. SUMMARY OF RELEVANT EVIDENCE INTRODUCED BY THE LICENSEE**

Although the Licensee appeared through its apparent manager, it did not introduce any evidence.

Instead, the apparent manager engaged in cross-examination of the City's witnesses and presented a closing argument at the conclusion of the hearing.

Report and Recommendation of Hearing Officer  
Matter of City of Long Beach Business License Number BU07029111 issued to Oceansider LLV IV  
May 30, 2012  
Page Four

**7. FINDINGS OF FACT**

The findings of fact are as follows:

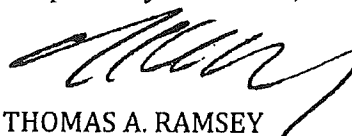
- A. The Licensee is the owner of the Premises.
- B. Business license number BU07029111, issued to the Licensee, authorizes the Licensee to operate a commercial/industrial space rental business at the Premises.
- C. One of the Licensee's lessees is known as The 4<sup>th</sup> Street Collective.
- D. The 4<sup>th</sup> Street Collective operates a medical marijuana collective, in violation of Long Beach Municipal Code Chapter 5.89 (Exhibit 4).
- E. Written notice was sent to the Licensee, advising it that one of its lessees, the collective, is operating in violation of Long Beach Municipal Code Chapter 5.89 (Exhibit 4).
- F. The Licensee has knowledge of the nature of the business of the collective.
- G. The collective continues to operate from a portion of the Premises.
- H. Written notice of this hearing was mailed to the Licensee.

**8. RECOMMENDATION**

The business license issued to the Licensee allows the Licensee to operate a commercial/industrial space rental business at the Premises. By leasing/renting/licensing/permitting an unlicensed medical marijuana dispensary on the Premises, the Licensee is operating outside the scope of the authorized business activities identified in his business license.

In this factual setting, it is recommended that the City of Long Beach Business License Number BU07029111 issued to Oceansider LLV IV be revoked.

Respectfully submitted,



THOMAS A. RAMSEY

TR:dc  
Attachments as noted

## Oceansiders IV, LLC

2901 Pacific Coast Hwy, Signal Hill, CA 90755 (562) 983-6700

6/13/2012

Office of the Long Beach City Clerk  
333 W. Ocean Blvd.  
Long Beach, CA 90802

RECEIVED  
CITY CLERK  
LONG BEACH, CA  
12 JUN 14 AM 10:31

### **Appeal of Decision Regarding BU07029111**

TO WHOM IT MAY CONCERN:

#### **WRONG FIRM**

First and foremost, the City has cited and served the wrong company. The decision against the property located at 743 E. 4<sup>th</sup> Street was entered into against Oceansiders LLV, IV, which is not the property owner. The Los Angeles County recorder shows that the property is owned by the firm on this letterhead, not the name that the city uses. Also it is fair to mention here that most of the correspondence from the City had been sent via Certified US Mail, and the post office does not deliver Certified Mail to our office. We always request regular mail or personal delivery. Bottom line about the name is that the City has served the wrong party and for this reason alone, the Decision should be vacated and the City lien filed on the property should be retracted.

#### **LACK OF IMPARTIALITY**

The second and most troubling issue is that of impartiality. The hearing officer was witnessed to spend a minimum of 30 minutes prior to the start of the hearing in private consultation with the City's Deputy Attorney. This is akin to having one side in chamber with the judge working on the prosecution without the benefit of the defense being involved. The hearing was unfair and the Trier-Of-Fact partial to the outcome. During said private conference prior to the beginning of the hearing all the witnesses for the prosecution were in the hearing room. On its face this proves that the Hearing Officer was partial. In fact, it appears that the witnesses were coached on what to say in the hearing when it began.

**COURT ADMONISHMENT**

Erik Sund, Business License Official for the City of Long Beach, who was the key witness in this case was recently admonished by the courts for, according to the judge hearing the case, "using strong arm tactics and performing unwarranted raids". While the City is still to be served in the case for damages regarding the constitutional violations committed by Mr. Sund, this recent comment from the court involving Long Beach's medical marijuana enforcement procedures stresses Mr. Sund's failure to follow State law and deals a severe blow to his creditability. Also to be noted, Kendra Carney is on the hidden video camera assisting in the unwarranted raid.

**LACK OF EVIDENCE I**

After the Hearing Officer, Prosecutor and Witnesses had conferred about the case in private, the property manager was allowed into the room to be sworn in. (More on that will be discussed under a separate heading.) The booklet of 'evidence' was found to contain several Citations that were issued under a Long Beach Ordinance that the courts had concluded were unconstitutional. Once this was pointed out to the Hearing Officer, he suggested removal of that evidence, which not only took 13 of the 15 pages of evidence out leaving the case on weak legs, but also destroyed the claim that the property was a habitual 'breaker of the law'. However, the case went on because the outcome was pre-ordained. **(NOTE: Even though the city law was found to be unconstitutional by the courts, all the threats, harassment, Citations, and other official abuse from the city towards the property owner were never forgiven in writing. There were no apologies. There were no notifications of release or error. The City attacked a local businessman and city native with great abuse and never took one step to ask forgiveness or admit their error.)**

**LACK OF EVIDENCE II**

While the following fact may be a continued proof of the Lack Of Impartiality as designed by the Hearing Officer, it speaks to the *evidence* in the case. The two City of Long Beach employees that were in the private meeting with the Deputy Prosecutor and the Hearing Officer prior to the hearing being started were called up to testify in the case in addition to Erik Sund:

The male witness stated that he issued several citations on the site for being a medical marijuana dispensary. When questioned he stated that he never saw any type of marijuana at the location. Upon further questioning he said that he smelled marijuana. This witness stated that it was not smoked, but raw marijuana he smelled. He stated that he was not trained in the olfactory skills but that he was once on the site of a police action and the smell he remembered was similar to the smell at the property in question and therefore concluded that there must have been marijuana in the building. He swore under oath that he had never smoked marijuana.

When asked where and when the police action was so that the defense could determine if there had in fact been marijuana at that site the one and only time the witness claimed that he had smelled what he thought was marijuana in his entire life, the Hearing Officer forbid the questioning. This was meant to stop all efforts to see if the witness was credible and was abhorrent.

How could a witness who never smoked marijuana and had only smelled it once before (maybe?) in his life testify that the smell he witnessed at the subject property was marijuana without seeing it? However, he continued to issue daily citations? What if it wasn't marijuana that one time at the police action? Did he smell it every day? To stop the questioning regarding the skill level of a marijuana novice without any olfactory training and no visual evidence or proof of any type was clearly partial to the prosecution.

### **LACK OF EVIDENCE III**

The City also produced a female witness that posted notices on the property. She stated under sworn testimony that she never saw any marijuana on the site. She stated that she never saw any marijuana leaving the site or anyone smoking marijuana. The female witness testified that she saw a green cross on the building and that represented that it was a dispensary. Does that mean everybody who wears a cross around their neck or has a cross tattoo is a Christian or practices the Christian faith? She concluded that there were marijuana sales based on the green cross on the outside of the building. No evidence was considered regarding where this witness learned about cross symbol awareness.

### **AMBUSH AND MISREPRESENTATION**

The property manager did not know that he needed to be or was even allowed to be, represented by legal counsel. Repeatedly during the hearing the property manager stated that he thought he was coming down to talk to Erik Sund. The notice should have stated that legal representation could or should be at the hearing. How would anyone have known? Clearly an attorney would have not permitted the private meeting between the Hearing Officer, witnesses and the prosecution prior to the start of the hearing. Witnesses should have been kept outside the "in chambers" meeting and perhaps the prosecution and the Trier-Of-Fact shouldn't have been allowed to orchestrate the hearing in advance of its origination.

### **STARE DECISIS**

The current LBMC 5.89 is in the courts. The City's last code (5.87) was determined to be in conflict with the State Constitution. How can, or why should, the City hurt and cause damage to its own citizens when in all fairness any person with a shred of legal knowledge knows that

the Municipal Code, as it is now on the books, is unenforceable. In the recent Lake Forest decision the State court has ruled that no city can determine that any type of business is a nuisance "*per se*". This has already been ruled on and for the City to continue to enforce this poorly constructed municipal code is an abusive sham. The State rules of law require all courts use *STARE DECISIS* to determine outcomes. This has been decided and can not be enforced.

What *stare decisis* means is that in order to have uniformity in State laws and enforcement, IF a court has rendered a decision about a topic, all other courts have to abide by that decision. In the case of the City of LAKE FOREST the courts ruled that no city can make medical marijuana dispensaries a nuisance 'per se'. This attempt to destroy the property ownership of 743 E. 4<sup>th</sup> Street relies solely on the LBMC 5.89 that designates any dispensary as a "nuisance", which is the reason for the Hearings and the Appeal. There is no other issue before us today. There is no claim of nuisance outside of the LBMC, no complaints, no crime, nothing to substantiate the claims.

IN FACT, the RAND Corporation actually studied dispensaries in the City of LA and concluded due to their posting of armed guards (like at the mall) and having multiple surveillance cameras pointed at or near the store fronts that crime is actually reduced near dispensaries. The dispensaries make our city safer and regulate the distribution of medical marijuana to patients that have received referrals from their physicians.

#### **APPEAL**

The Deputy City Prosecutor, Kendra Carney, should not only been aware of the rules of court but should also be fair. Ms. Carney also promised that a copy of the transcript would be provided just in case an appeal was required. She did not forward a copy of the taped transcript and so this appeal is minimized compared to the amount of facts that would be incorporated due to her failure to provide said copy of the transcript. *Further*, the transcript has been requested from Erik Sund and Robert Shannon (City Prosecutor) and to date, none of the three City employees have honored Kendra Carney's promise by making the transcript available to the property owner. Therefore, only memorable lapses in the conduct of the parties and errors made are included herein.

#### **MISREPRESENTATION**

Ms. Carney further misrepresented the status of the City's Municipal Code. A full review of the transcript will produce the fact the the Deputy City Attorney should be remanded to the State of California Bar for misrepresenting the facts of the City's laws she was prosecuting under and evidence provided therein. Although she did not take the oath to testify, as an officer of the court/city her deliberate misrepresentation is the type of thing that destroys the respect for the



courts and the city as a whole. Once this evidence (oral or typed transcript) is provided it will be in the interest of the public good, especially the citizens of Long Beach, that these actions be investigated for these and other unethical actions (including the involvement with unwarranted police raid(s) that can be reviewed on youtube and is not hard to locate).

Perhaps the Deputy City Attorney is too impassioned about this topic to be involved with these kinds of cases and therefore creates prosecution where none is warranted. However, the fabrication of facts is outside the duties of any city prosecutor and should be reviewed for remedial education purposes.

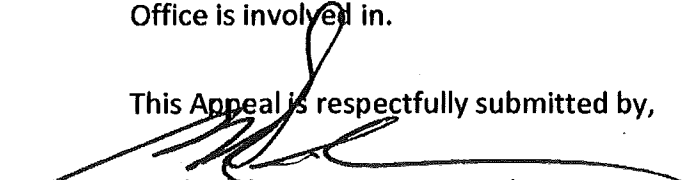
#### **CONCLUSION AND WILLINGNESS TO EVICT**

The wrong firm was named in the citations and in all hearing notices. Almost all of the mail was sent Certified and not delivered or served on the property owner. There is no way the Hearing Officer can be considered impartial due to several lapses in judicial fairness. There was no credible evidence presented at the hearing therefore a decision couldn't be intelligently made. The property owner was shocked to understand the process as it lacked civility and reason. There are laws on the books that eliminate the City's actions from even being allowed to take place and yet a decision was recklessly rendered.

That being said, the property owner is willing to cancel the occupancy of the tenant based on two conditions. First and foremost, the City must bear the financial repercussions and indemnify the property owner from damages claimed by the tenant. The tenant has a right in California to be in possession of a store front like the one at the subject building and any claim by the tenant to the detriment of the Landlord must be the responsibility of the City. To be sure, a case for unlawful eviction under these conditions would be eminent. And secondly, the City must pay the monthly rent on the vacant space until a replacement tenant is secured. The property owner should not be damaged by going outside the law to assist the City with their tenancy requests.

The Hearing was a not much more than a Kangaroo Court. The property owner looks forward to his day in court. It is his responsibility to inform the City Council and his fellow citizens of Long Beach about the waste of resources and the violations in State law that the Prosecutor's Office is involved in.

This Appeal is respectfully submitted by,



Mark Maian, Managing Member  
Oceansiders IV, LLC