



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

C-4

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 Bentech, LLC, located at 3721 E. Anaheim Street, Long Beach, CA 90807. (District 4)

DISCUSSION

On June 6, 2012, the Department of Financial Management revoked the business license issued to Bentech, LLC, located at 3721 E. Anaheim Street, Long Beach, CA 90804 (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 BU93014571 (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 14, 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.

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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 - BENTECH LLC REFER TO HO.DOC

ATTACHMENTS

APPROVED:



PATRICK H. WEST
CITY MANAGER

CITY OF LONG BEACH
BUSINESS LICENSE

ACCOUNT: BU93014571

OWNERSHIP - TRANSFERABLE
LICENSE EXPIRES ON 04/01/13

DATE: 04/13/12

THE LICENSEE NAMED BELOW IS AUTHORIZED TO OPERATE THE FOLLOWING TYPE OF
BUSINESS: COMM/INDUST SPACE RENTAL
LOCATED AT: 3721 E ANAHEIM ST

BENTECH LLC
C/O EASTSIDE PLAZA
4431 E PEPPER CREEK WAY
ANAHEIM CA 92807-3540

AUTHORIZED BY JOHN GROSS
DIRECTOR OF FIN MGMT

INCLDS: 3715-57 E ANAHEIM ST

.....

=====> 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
TC: AS FUNCTION: I SYSTEM: BU ACCOUNT: 93014571
SEARCH: KEY:
STATUS: ACTIVE STATUS DATE: 08/13/04 TYPE: NORMAL
CUST NAME: BENTECH LLC *REVOCATION IN PROCESS*
DBA NAME:
MAIL: C/O EASTSIDE PLAZA
4431 E PEPPER CREEK WAY
ANAHEIM CA

06/27/12 08:41

PR:
CURRENT DUE: 04/01/12
ACCT BAL: [REDACTED]
DEP DUE:
DEP BAL:
CENS: 575002 CNCL DIST: 04
ZIP: 92807 3540
PHONE: [REDACTED]

SOC SEC: [REDACTED] DR LIC:

EMPLOYER:

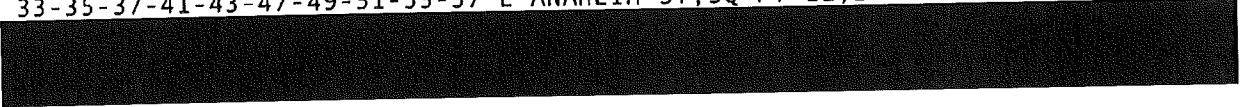
EMP PH:

EXT:

ADDR:

CITY:

HSE# FRA D STREET NAME TYPE S UNIT ZIP CODE
SITE: 03721 E ANAHEIM ST 90804 4003 VALIDATE:
SERVICE DATE: 08 13 04 ID#1: H BUS 205024 ID#2: DIST: 08
NEXT INTERVAL DUE: 04 01 13 INTERVAL: 012 M CANCELLATION DATE:
DESCRIPTION OF SERVICE PROVIDED: COMM/IND
OWNERS OF PROP SINCE 03/07/04, PARCEL#7253009109, PROP INCLUDES: 3715-23-27-31-
33-35-37-41-43-47-49-51-53-57 E ANAHEIM ST, SQ FT=11,268/EAR*WAS DIST 20



X368 BC15USMC BC0117 BUS LICENSE SUMMARY - INQUIRY 06/27/12 08:41
 TC: BL FUNCTION: I SYSTEM: BU ACCOUNT: 93014571
 SEARCH: KEY: BENTECH LLC *REVOCATION IN PROCESS* PR:
 STATUS: ACTIVE EXEMPT: START: 08 13 04 NEW CODE: A3 SRCE CODE: 2 I/C:
 CONAME: INCL: 3715-57 E ANAHEIM 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: 03721 E ANAHEIM ST VALIDATE: X
 CITY: LONG BEACH ST: CA ZIP: 90804 4003 BUS PH: 714 921 9787
 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: XXXXXXXXXX
 CONTRACTOR => LIC: RENEW DATE: CLASS:
 REFERRALS => BUILDING: N FIRE: N HEALTH: N HAZ: N POLICE: N OTHER: N
 NBR OF => EMPS: XXXXXXXXXX VNDNG MCHNS: SQ FT: XXXXXXXXXX UNITS: VEHS:

* ASSESSOR DATA DISPLAY *

PARCEL: 7253009109 AGENCY: TAX STATUS: PAID TRA: 0550
 SITUS: 03721 E ANAHEIM ST -----SALE-----
 LONG BEACH CA 90804 CD PRICE DATE
 1ST OWNER: BENTECH LLC PRCNT: 1 1995042
 DT 20020313

MAIL ADR: 04431 EPEPPER CREEK WAY
 ANAHEIM CA 92807

2ND OWNER: HOW OWNED: 3
 LAND: 2008 743454 HO EXEMPT: EXEMPT:
 IMPR: 2008 526338 RE EXEMPT:
 FIXTURE VAL: ZONED: COMMERCIAL CC USE: 1500
 FIXTURE EXMP: HAZARD: DOC REASON: S
 PART DESIGN CLASS YR UNITS BDR BTH SQFT
 0101 1500 C6D 1989 12 11268

PF1/13: RETURN FOR NEW INQUIRY
 PF2/14: NEXT SITUS ADDRESS DATA
 ENTER: NEXT INQUIRY SELECTIONS

ALAMITOS TRACT LAND DESC IN DOC 679433, 950425 POR OF LOT 64

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

Owner
BENTECH LLC

Address
3721 E ANAHEIM ST LONG BEACH , CA 90804

Parcel/Tax ID
7253-009-109

Property Profile

Ownership Information

Primary Owner	BENTECH LLC	Site Address	3721 E ANAHEIM ST
Secondary Owner		Site City, St Zip	LONG BEACH, CA 90804
Ownership Description	Company Corporation Incorporated	Mail Address	4431 E PEPPER CREEK WAY
Telephone Number		Mail City, St Zip	ANAHEIM, CA 92807
Lot	64	Census Tract	5750.02
Housing Tract / Subdivision Name	/ ALAMITOS TR		
Legal Description	ALAMITOS TRACT LAND DESC IN DOC 679433, 950425 POR OF LOT 64		

Property Details

Use Code	Shopping center	County/Municipality	LOS ANGELES
State	CA	Total Rooms	
RTSQ		Bedrooms	
Zoning	LBCCP	Bathrooms	
Number Of Units	12	Basement Square Feet	
Year Built	1989	Parking	
# Of Stories		Parking Square Feet	
Lot Size	28,099	View	
Usable Lot Size		Pool	
Lot Depth		Fireplace	
Lot Width		HT/AC	
Square Feet	11,268	Cooling Detail	
Square Ft 1st Fir		Heating Detail	
Square Ft 2nd Fir		Roof Type	
Square Ft 3rd Fir		Construction Quality	
Additions - Square Feet		Construction Type	Other
Building Shape	Other	Exterior	
New Page Grid	795J6	Foundation	
Old Page Grid	76A4		



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

Bentech LLC
4431 E. Pepper Creek Way
Anaheim, CA 92807

RE: Notice of Business License Revocation
Business License Number: BU93014571

Dear Sir or Madam:

Please be advised that **business license number BU93014571**, issued to Bentech LLC, located at 3721 E. Anaheim Street, Long Beach, CA 90804 **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 4

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 BU93014571 issued to Bentech LLC

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.”
- Bentech LLC is referred to as “the Licensee.”
- The improved real property commonly known as 3721 East Anaheim Street, Long Beach, is referred to as “the Premises.”
- City of Long Beach Business License Number BU93014571 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 BU93014571 issued to Bentech LLC
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 1-9.

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 3:10 p.m.

3. PARTIES AND COUNSEL

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

The Licensee was represented by James B. Devine.

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
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May 30, 2012
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5. SUMMARY OF RELEVANT EVIDENCE INTRODUCED BY THE CITY

Eric Sund (City of Long Beach Business Relations Manager) and Ray Gehring (City of Long Beach License Inspector) testified on the City's behalf.

Exhibits 1-9, 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 BU07044741, 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 lessees operates a medical marijuana collective, apparently under the name "The Healing Tree." This determination was based on the following observations: On the exterior was displayed a green cross (the usual symbol of a marijuana dispensary; patients were observed leaving the premises with paper bags of the product; the collective advertised on the internet for the sale of medical marijuana. 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.

Ray Gehring testified that he had visited the Premises on various occasions, interviewed a security guard on the premises. During each visit, he observed transactions involving the sale of marijuana by the collective.

6. SUMMARY OF RELEVANT EVIDENCE INTRODUCED BY THE LICENSEE

Mr. Farano submitted a brief on behalf of the Licensee, which has been reviewed. It appears as the Licensee's Exhibit A.

Report and Recommendation of Hearing Officer
Matter of City of Long Beach Business License Number BU93014571 issued to Bentech LLC
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Page Four

7. ADDITIONAL PLEADINGS

At the conclusion of the hearing, counsel for the Licensee asked permission to file an additional brief or memorandum.

A briefing schedule was established as follows:

- May 18, 2012, will be the deadline for counsel for the Licensee to file and serve his brief or memorandum.
- May 25, 2011, will be the deadline for the City Attorney to file and serve her response.

Counsel for the Licensee did not file or serve any brief or memorandum.

8. FINDINGS OF FACT

The findings of fact are as follows:

- A. The Licensee is the owner of the Premises.
- B. Business license number BU93014571, 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 Healing Tree.
- D. The Healing Tree 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 and to The Healing Tree advising them that The Healing Tree 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.

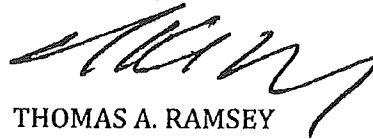
Report and Recommendation of Hearing Officer
Matter of City of Long Beach Business License Number BU93014571 issued to Bentech LLC
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9. RECOMMENDATION

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 BU93014571 issued to Bentech LLC be revoked.

Respectfully submitted,



THOMAS A. RAMSEY

TR:dc
Attachments as noted

LEIDERMAN DEVINE LLP

5740 RALSTON STREET, SUITE 300, VENTURA, CA 93003
TELEPHONE 805-654-0200 FACSIMILE 805-654-0280
WWW.LEIDERMANDEVINE.COM

JAY LEIDERMAN*
JAMES B. DEVINE
TAYLOR L. EMERSON

*STATE BAR CERTIFIED CRIMINAL LAW SPECIALIST

June 14, 2012

VIA OVERNIGHT MAIL ONLY

**CITY OF LONG BEACH
OFFICE OF THE CITY CLERK**
333 West Ocean Blvd.
Long Beach, CA 90802

Re: Bentech, LLC
Your letter of June 6, 2012
Business License Number: BU93014571

**REQUEST TO APPEAL REVOCATION OF BUSINESS LICENSE NO. BU93014571
PURSUANT TO LONG BEACH MUNICIPAL CODE SECTION 3.80.429.5**

Dear Sir or Madam:

Please be advised that this office and the undersigned represent Bentech, LLC (“Bentech”) by way of an indemnity agreement with Healing Tree Holistic Association (the “Collective”). We are in receipt of your June 6, 2012 correspondence to Bentech wherein the City of Long Beach (“City”) effectively revoked business license number BU93014571.

Pursuant to Long Beach Municipal Code section 3.80.429.5, this correspondence serves as a request to appeal the revocation of the business license. Accordingly, enclosed please find a check in the amount of \$1,205 made payable to the City for the costs associated with filing the appeal. The appeal is based upon the grounds that Bentech’s business license was revoked because it permitted the Collective to operate allegedly in violation of Long Beach Municipal Code (“LBMC”) Chapter 5.89, as amended on February 14, 2012 (the “Amended Ordinance”). It is the Collective/Bentech’s position that the Amended Ordinance is unenforceable for each and all of the following reasons.

1. The Amended Ordinance conflicts with general law and is therefore void (see, e.g., Cal. Const., Art. 11, § 7; Gov. Code, § 37100; *O’Connell v. City of Stockton* (2007) 41 Cal.4th 1061);
2. The Amended Ordinance is preempted by existing state law (see, e.g., *Sherwin-Williams Co. v. City of Los Angeles* (1993) 4 Cal.4th 893, 898 [a local ordinance contradicts state law when it is inimical to or cannot be reconciled with state law]; *Fiscal v. City and County of San Francisco* (2008) 158 Cal.App.4th 895, 911 [“[i]f the preemption doctrine means anything, it means that a local entity may not pass an ordinance, the effect of which is to completely frustrate a broad, evolutionary statutory regime enacted by the Legislature.”]) including without

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OFFICE OF THE CITY CLERK
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limitation Health & Safety Code section 11362.5, the Compassionate Use Act (“CUA”) and Health & Safety Code sections 11362.7 to 1132.768, the Medical Marijuana Program Act (“MMPA”), the intent of which are “to ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction” and to “[e]nhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects” (see Health & Saf. Code, §§ 11362.5, subds.(1)(A), (B), and (C), and 11362.7, subds. (b)(2) and (3));

3. The Amended Ordinance attempts to duplicate the California Uniform Controlled Substances Act (“UCSA”) (Health & Saf. Code, §§ 11000 et seq.);

4. The City may not rely on *City of Claremont v. Kruse* (2009) 177 Cal.App.4th 1153, or *City of Corona v. Naulls* (2008) 166 Cal.App.4th 418, to support enforcement of the Amended Ordinance because neither case involved an outright ban such as the Amended Ordinance (see *Qualified Patients Ass’n v. City of Anaheim* (2010) 187 Cal.App.4th 734, 753-754, fn. 4 [“And both cases involved temporary moratoriums rather than the permanent dispensary ban alleged here. Again, cases are not determinative for issues not considered.”]);

5. The Collective and its members’ right to associate collectively or cooperatively to distribute and cultivate medical marijuana is protected by the right of privacy and is lawful under state law (see, e.g., Cal. Const., Art. 1, § 1) because in a public nuisance case, no injunctive relief is may burden the constitutional right of association more than is necessary to serve the significant governmental issue at stake (see, *People ex rel. Gallo v. Acuna* (1997) 14 Cal.4th 1090, 1115, 1120-1122.; *People v. Englebrecht* (2001) 88 Cal.App.4th 1236, 1262);

6. Because (a) “[n]othing which is done or maintained under the express authorization of statute can be deemed a nuisance” (see Civ. Code, § 3482) and (b) Health & Safety Code section 11362.775 provides that qualified patients and designated primary caregivers who associate in California “in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions,” including under Health & Safety Code section 11570 (Health & Saf. Code, § 11362.775), the City may not determine the Collective’s conduct to be a nuisance.

7. The Amended Ordinance is overly broad and criminalizes otherwise lawful conduct;

8. The Amended Ordinance on its face and as applied is discriminatory (see, e.g., Gov. Code, § 65008, subd. (a)(1));

9. The Amended Ordinance deprives qualified patients and primary caregivers of vested property rights without the opportunity of a neutral hearing resulting in a deprivation of due process of law (see *Ryan v California Interscholastic Federation* (2001) 94 Cal.App.4th 1048);

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10. The Amended Ordinance allows the City to prove criminal conduct with evidence that is less than “beyond a reasonable doubt” (see *Morrison v. California* (1934) 291 U.S. 82, 88-89, 54 S.Ct. 281, 78 L.Ed. 664; *In re Winship* (1970) 397 U.S. 358, 363-364, 90 S.Ct. 1068, 1073, 25 L.Ed.2d 368; *People v. Lim* (1941) 18 Cal.2d 872, 880);

11. The Amended Ordinance is an impermissibly retroactive zoning law (see, e.g., *Scrutton v. Sacramento County* (1969) 275 Cal.App.2d 412, 420 [zoning ordinance may not immediately suppress or force removal of an otherwise lawful business or use]; *Jones v. City of Los Angeles* (1930) 211 Cal. 304, 321 [if a retroactive ordinance causes substantial injury and the prohibited business is not a nuisance, the ordinance is to that extent an unreasonable and unjustifiable exercise of police power].)

12. Because the Amended Ordinance imposes quasi-criminal penalties, any citee should be afforded all of the due process protections found in criminal proceedings. In *Department of Revenue of Montana v. Kurth Ranch* (1994) 511 U.S. 767, 781, the United States Supreme Court “considered whether a state tax imposed on marijuana was invalid under the Double Jeopardy Clause when the taxpayer had already been criminally convicted only a person charged with a criminal offense was subject to the tax. We also noted that the taxpayer did not own or possess the taxed marijuana at the time that the tax was imposed. From these differences, we determined that the tax was motivated by a ‘penal and prohibitory intent rather than the gathering of revenue.’” (See also *Austin v. United States* (1993) 509 U.S. 602, 619 [forfeiture proceeding].)

In this instance, the Collective/Bentech’s defense is not provided for in the LBMC. As evidenced by the “Notice of Administrative Citation Appeal and Request for Hearing,” a citee may only dispute (1) that they are not the responsible party, (2) the violation did not exist on the date of the citation, (3) the lot cleaning levy is unreasonable, or (4) the inoperable vehicle levy is unreasonable. It is the Collective and Bentech’s defense that the Amended Ordinance is not enforceable and violates California law.

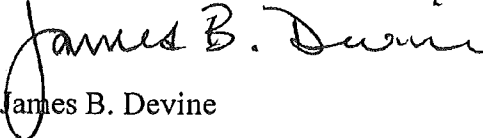
As recently stated in the *City of Lake Forest v. Evergreen Holistic Collective*, G043909, 2012 WL 639462 (Cal. Ct. App. Feb. 29, 2012), “the City [of Lake Forest]’s purported per se ban on medical marijuana dispensaries violates state medical marijuana law.... Put another way, the City’s purported per se nuisance bar against medical marijuana dispensaries directly contradicts the Legislature’s intent to shield collective or cooperative activity from nuisance abatement “solely on the basis” that it involves distribution of medical marijuana authorized by section [Health & Safety Code section] 11362.775, and because the Legislature has determined the issue is a matter of statewide concern, the City’s ban is preempted.”

Based upon the foregoing, Bentech respectfully appeals the revocation of the business license and requests a hearing. If you have any questions or concerns, please feel free contact me by telephone at 805-654-0200, extension 23, or by email at james@leidermandevine.com.

CITY OF LONG BEACH
OFFICE OF THE CITY CLERK
June 14, 2012
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Sincerely,

LEIDERMAN DEVINE LLP


James B. Devine

JBD

Enclosure: Leiderman Devine LLP Check No. 170 (\$1,205)

Cc: client
Bentech, LLC (via fax - 714-921-9787)