



CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD FOUR

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February 28th, 2024

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Executive Director
NYS of Cannabis Management
Harriman State Office Building Campus 1220 Washington Ave.
Albany, NY 12207

Tremaine Wright
Chairwoman
Cannabis Control Board
Harriman State Office Building Campus 1220 Washington Ave.
Albany, NY 12207

Dear Mr. Alexander and Ms. Wright,

Manhattan Community Board 4 (MCB4) writes because our communities continue to be at grave risk from the consequences of illegal smokeshops, cannabis clubs, and dispensaries operating within our district, including documented violence, solicitation of minors, and injury or illness from unregulated substances purchased in these establishments. To date, and since we last wrote to the Office of Cannabis Management (“OCM”) in July 2022 (the “2022 Letter”) regarding this issue, over 60 such locations have been identified. New York State must implement effective measures to shut down illegal smoke shops.

As we stated in the 2022 Letter, the current illegal operations “are an affront to our community and to OCM’s laudable attempts to create a robust legal cannabis market.”¹ We wrote that this “gray” market posed a public health risk, threatened community safety, undermined the value of dispensary licenses, and undermined the Marijuana Reform and Taxation Act’s (“MRTA”) goal of creating social and economic equity.²

¹ <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2022/08/13-BLP-Letter-to-Office-of-Cannabis-Management-re-Illicit-Cannabis-Dispensaries.pdf>

² *Id.*

It is now 2024, and the problem has only grown worse. In our July 2022 letter we encouraged OCM to improve its civil enforcement of the MRTA, noting that “we did not support further criminalization of the sale of cannabis by using law enforcement to prosecute violations of current cannabis regulations.”³ Unfortunately, the time has come to reevaluate that position. Although we are not generally in favor of the re-criminalization of cannabis usage and sales, the current approach of civil enforcement is simply not working – these illegal shops continue to proliferate, often by overtly marketing to underage purchasers, and now stand in direct competition to the new *legal* dispensaries finally beginning to open.⁴ Enforcement is required to weed out bad actors that are taking advantage of loopholes in the law. Aggressive action against these perpetrators is not reminiscent of racist laws which punished recreational users for minimal amounts of marijuana in their possession. We are faced today with dealers of a different kind: those with conspicuous store fronts that are well funded to advertise their merchandise.”

New York State and City must come up with new and creative solutions. We would advocate for a three-pronged approach, comprising of (a) improved and meaningful enforcement; (b) education; and (c) opening new legal dispensaries to compete.

1. Improve Enforcement

First and foremost, civil enforcement must be improved. State legislators should provide additional funds to OCM and to the Sheriff's Office, specifically earmarked towards adding additional officers and staff members responsible for identifying and shuttering illegal establishments and their landlords. City legislators should re-introduce and pass proposed legislation to update the nuisance laws to address cannabis, making it easier for State and City officials to padlock these illicit establishments.⁵ The City should also continue to target and fine landlords who lease to such shops.

Secondly, New York City must be provided the authority to enforce the State's criminal provisions regarding illegal cannabis sales. Contrary to popular belief, the MRTA did not do away with criminal penalties for knowingly and unlawfully selling cannabis, nor did it consolidate all enforcement authority within OCM.⁶ New York City must be

³ *Id.*

⁴ We have thus far voted to approve 8 legal dispensaries in our district, with the expectation that they will employ staff at a fair wage, maintain security measures, keep minors out of their stores, sell safe and tested products from New York's farmers, and follow all other OCM regulations regarding their operations.

⁵ <https://www.ourtownny.com/news/nyc-councilmembers-push-for-a-bill-to-padlock-unlicensed-weed-shops-AN2917112>

⁶ https://cannabis.ny.gov/system/files/documents/2022/02/cannabis-management-fact-sheet-penal-law_0_0.pdf; <https://legislation.nysenate.gov/pdf/bills/2021/S854A>

empowered, through the NYPD and District Attorney’s Office, to enforce these statutes on its own. State legislators should support Assembly Bill A8428, the “SMOKEOUT Act,” which: (a) updates the Penal code such that persons selling cannabis without a license “in connection with operation of a business or at the business operation” shall be guilty of a Class A misdemeanor and; (b) explicitly provides authority to *municipalities* to order the closure of such business.⁷ We believe that a limited and targeted deployment of the criminal code should deter the majority of illegal “weed shops” from continuing their operations.

2. Education

State legislators must hold OCM accountable, while still passing legislation providing OCM with additional funding for a new public education campaign to correct its earlier mistakes. In 2022, OCM invested \$5 million in a statewide cannabis public education campaign about “who can consume cannabis and where and how one can safely consume.”⁸ Of course, nowhere did this educational campaign mention that New York State did not yet have any legal establishments open from which cannabis users could make purchases. This was a grave error, and criticism towards OCM is warranted. Nonetheless, the mistake must be corrected, and OCM needs to run a new education campaign – on tv, billboards, social media, and in official visitors guides – informing New York State residents and tourists about the dangers of the illegal cannabis shops, where to patron a legal business, and how to identify the difference. Too many New York State and City residents (and certainly tourists) simply do not realize that the stores they are patronizing are not legal, and that they are selling potentially dangerous products.⁹ Education is more important than ever, especially now that there might be a legal dispensary right around the corner.

3. Opening Legal Dispensaries to Compete

Finally, although we recognize that OCM has faced legal hurdles in approving dispensary license applications, OCM must now redouble its efforts to review and approve qualified applicants.¹⁰ We believe when educated consumers have alternative options, and see

⁷ <https://www.nysenate.gov/legislation/bills/2023/A8428>

⁸ <https://cannabis.ny.gov/system/files/documents/2023/08/ocm-cannabisconversations-final-report.pdf>

⁹ See, e.g., <https://www.thecity.nyc/2024/01/05/weed-gone-wild-cannabis-lower-east-side> (one resident telling a reporter that “I guess if I knew it was illegal, I wouldn’t go, but you don’t realize.”)

¹⁰ We would be remiss if we did not acknowledge that the main source of the delay, an injunction against CAURD applicants, was itself the result of another unforced error from OCM in how it drafted its regulations. See <https://www.forbes.com/sites/dariosabaghi/2023/11/15/new-yorks->

illegal shops beginning to close, they will choose to patron the professional establishments with quality and safety-tested products. OCM should also ensure that the required signage and QR codes identifying a particular store as legal is large and conspicuous.

Residents in our district are justified in their concerns about approving legal dispensary applications on blocks already saturated with illegal smokeshops. Therefore, State and City legislators and officials must pursue all three prongs of the approached outlined above in unison and in a timely fashion.

Sincerely,



Jessica Chait

Chair

Manhattan Community Board 4



Jesse Greenwald

Chair

Cannabis Task Force

cc: Hon. Eric Adams, Mayor
Kevin D. Kim, Commissioner, NYC SBS
Dasheeda Dawson, Director, Cannabis NYC
Sheriff Anthony Miranda
Hon. Brad Hoylman-Sigal, State Senator
Hon. Liz Kreuger, State Senator
Hon. Tony Simone, State Assembly Member
Hon. Mark Levine, Manhattan Borough President
Hon. Erik Bottcher, City Council
Hon. Gale A. Brewer, City Council

[marijuana-regulators-reach-settlement-over-licensing-lawsuit/?sh=5e0dc2b53bc8](https://www.ocr.org/press-releases/marijuana-regulators-reach-settlement-over-licensing-lawsuit/?sh=5e0dc2b53bc8) Again, OCM warrants criticism on this front and should be held accountable.