

Commissioner Chuck Elkins - 3D01

Commissioner Tricia Duncan - 3D02

Commissioner Quentin Colón Roosevelt - 3D03

Commissioner Andrew Davis - 3D04

Commissioner Bernie Horn - 3D05

Commissioner Marilyn Nowalk - 3D06

Commissioner J.P. Szymkowicz - 3D07

March 11, 2024

Chairperson Duncan:

We are writing to request that the ANC3D reconsider its vote regarding whether to protest the application of Green Theory, a cannabis dispensary, to open at 4828 MacArthur Boulevard, NW. During the ANC3D meeting on Wednesday, March 6, 2024, the Commissioners failed to consider relevant legal prohibitions. Although a concerned parent expressly raised the fact that a dispensary operating at that address would be in clear violation of the Federal Drug-Free School Zone Act, 21 U.S.C. § 860—which prohibits the distribution of marijuana within 1,000 feet of schools—the Commissioners who voted not to oppose Green Theory did not substantively discuss this issue at all. Our Lady of Victory Catholic School, the River School, Saint Patrick’s Episcopal Day School, and the Lab School are all within 1,000 feet of the proposed dispensary, and Little Ivies, an early childhood youth center, is well within 100 feet. **We strongly urge the ANC3D to hold a special meeting this week to discuss this particular issue and hold a new vote regarding the application after carefully considering this law.**

This concern is not hypothetical, as the District is not the first local government to address the interplay of local dispensary laws and the Federal Drug-Free School Zone Act and to get it wrong. In Colorado, after voters passed a medical marijuana amendment, the Obama Justice Department nonetheless took legal action against dispensaries operating within 1,000 feet of schools, citing 21 U.S.C. § 860, even though the local marijuana laws allowed for some dispensaries within those areas. In keeping with the Supremacy Clause of the U.S. Constitution, the Federal Drug-Free School Zone Act preempts those contrary local laws, and the Justice Department took action.

As explained in the press release issued by the U.S. Attorney’s Office for the District of Colorado (attached):

U.S. Attorney John Walsh today issued letters to 23 marijuana stores, formally notifying them that action will be taken to seize and forfeit their property if they do not discontinue the sale and/or distribution of marijuana

. . . The 23 stores, located in various cities and towns around the state, are each within 1,000 feet of a school. Many are far closer. Because the stores are operating within 1,000 of a school, enhanced penalties apply under federal law. See 21 U.S.C. § 860. “When the voters of Colorado passed the limited medical marijuana amendment in 2000, they could not have anticipated that their vote would be used to justify large marijuana stores located within blocks of our schools,” said U.S. Attorney John Walsh. . . . **The United States Attorney’s Office and its law enforcement partners continue to work to identify marijuana stores within 1,000 feet of schools ... the office will continue to insist marijuana stores near schools shut down.** (emphasis added)

The Obama Justice Department went through multiple rounds of targeting dispensaries within the 1,000-foot Federal Drug-Free School Zone, in Colorado and beyond, and the letters the Department sent to the offending dispensaries clearly state the issue:

“The dispensary is operating in violation of federal law, and the Department of Justice has the authority to enforce the federal law where appropriate even when such activities may be permitted under state law,” the letter reads. “Persons and entities who operate or facilitate the operation of such dispensaries are subject to criminal prosecution and civil enforcement actions under federal law.”¹ (emphasis added)

According to the Justice Department and the DEA, the targeted dispensaries within the Federal Drug-Free School Zone shut down after receiving the letters ordering them to close or face prosecution.²

Despite being alerted to this issue, the ANC3D Commissioners did not meaningfully consider the Federal Drug-Free School Zone Act’s requirements when discussing Green Theory’s application, and how such federal crimes would affect the peace, order, and quiet of the neighborhood.

We reiterate our request that the ANC3D hold a special meeting this week to do so and reconsider its vote in light of that effort.

¹ John Ingold, “*Feds: Colorado Medical-Marijuana Dispensaries within 1,000 Feet of a School Must Close,*” THE DENVER POST (Jan. 12, 2012), <https://www.denverpost.com/2012/01/12/feds-colorado-medical-marijuana-dispensaries-within-1000-feet-of-a-school-must-close/?clearUserState=true>; see also Felisa Cardona, “*25 Colorado Medical Marijuana Dispensaries Told to Move Away from Schools or Close,*” THE DENVER POST (Mar. 23, 2012) (“The Colorado U.S. attorney, John Walsh, sent letters to the owners of 25 medical-marijuana dispensaries — all located within 1,000 feet of a school — notifying them that they have 45 days to close or potentially face criminal prosecution. . . . The letters are the second round of action by federal authorities against the businesses, which are legal under state law but illegal under federal laws.” (emphasis added)), <https://www.denverpost.com/2012/03/23/25-colorado-medical-marijuana-dispensaries-told-to-move-away-from-schools-or-close/>.

² “*Feds Confirm Closure of 25 More Pot Dispensaries Near Schools,*” CBS NEWS COLORADO (May 8, 2012), <https://www.cbsnews.com/colorado/news/feds-confirm-closure-of-25-more-pot-dispensaries-near-schools/>.

Sincerely,

/s/ [REDACTED]
Resident and Our Lady of Victory (OLV) Parent

/s/ [REDACTED]
Resident and OLV Parent

/s/ [REDACTED]
Resident and River School Parent

/s/ [REDACTED]
Resident and OLV Parent

/s/ [REDACTED]
Resident and River School Parent

/s/ [REDACTED]
Resident and OLV Parent

/s/ [REDACTED]
Resident and OLV Parent

/s/ [REDACTED]
Resident and River School Parent

/s/ [REDACTED]
Resident and OLV Parent

/s/ [REDACTED]
Resident and River School Parent

/s/ [REDACTED]
Resident and OLV Parent

/s/ [REDACTED]
Resident

/s/ [REDACTED]
Resident and River School Parent

/s/ [REDACTED]
Resident and River School Parent

/s/ [REDACTED]
Resident and OLV Parent

/s/ [REDACTED]
Resident and OLV Parent

/s/ [REDACTED]
Resident

/s/ [REDACTED]
Resident and River School Parent

/s/ [REDACTED]
Resident and River School Parent

/s/ [REDACTED]
Resident and River School Parent

/s/ [REDACTED]
Resident and OLV Parent

/s/ [REDACTED]
Resident and River School Parent

/s/ [REDACTED]
Resident and River School Parent

/s/ [REDACTED]
Resident

/s/ [REDACTED]
Resident and OLV Parent

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Resident and OLV Parent

/s/ [REDACTED]
Resident and OLV Parent

/s/ [REDACTED]
Resident and OLV Parent

/s/ [REDACTED]
Resident

/s/ [REDACTED]
Resident

/s/ [REDACTED]
River School Parent

/s/ [REDACTED]
OLV Parent

/s/ [REDACTED]
OLV Parent

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OLV Parent

/s/ [REDACTED]
OLV Parent

/s/ [REDACTED]
River School Parent

/s/ [REDACTED]
River School Parent

/s/ [REDACTED]
OLV Parent

/s/ [REDACTED]
OLV Sibling

/s/ [REDACTED]
OLV Grandparent

/s/ [REDACTED]
OLV Grandparent

/s/ [REDACTED]
OLV Parent

/s/ [REDACTED]
OLV Godparent

/s/ [REDACTED]
OLV Parent

/s/ [REDACTED]
River School Parent

cc: Councilmember Matthew Frumin