

Dear Board of Supervisors:

I am a land use attorney representing one of the Phase 1 applicants that was denied on the grounds that her parcel's Certificate of Compliance was recorded a few months after the January 1, 2016 cutoff date for Phase 1 applicants.

I am writing to urge you to strike the language highlighted in blue below (Section 22.18.050(A)(4) that would effectively – and we believe unconstitutionally -- shut out from the Phase 3 process, the Phase 1 applicants such as my client whose Phase 1 applications were denied solely on the grounds that their legal parcels were established after January 1, 2016.

The Phase 3 process broadens the definition of "legal parcel" to include all legal parcels, including those established after January 1, 2016, which would include my client's parcel.

Therefore, the language objected to below unfairly prejudices and excludes Phase 1 applicants that were denied on grounds that are no longer applicable to Phase 3. In other words, if they had not applied and been denied on "parcel legalization" grounds in the Phase 1 process, they would be eligible to apply during Phase 3.

The language highlighted in blue below that we are asking you to strike unfairly shuts them out of the process by treating them unequally from otherwise similarly situated parcel owners in violation of the equal protection for the 14th Amendment of the United States Constitution.

Section 22.18.050 Cultivation Types and Exceptions

Cultivation Types for which Land Use Permits may be applied for shall be the same as those provided in section 8201 of the California Code of Regulations, subject to the limitations in Appendix A of this Chapter in regards to the zoning district in which the cultivation site is located. Appendix A is attached to the Ordinance adopting this Chapter and shall be codified and made a part of this Chapter 22.18.

Notwithstanding the limitations of Appendix A of this Chapter, Phase 1 applicants who applied for a Phase 1 permit under Chapter 10A.17 may apply for a Land Use Permit pursuant to this Chapter, subject to the following criteria:

(A) Eligibility. The parcel upon which the Land Use Permit is requested shall not be located in a Commercial Cannabis Prohibition (CP) Combining District or sunset area (as described in Mendocino County Code section 10A.17.080(B)(2)(b)). In addition, the Phase 1 permit application shall not have been denied for one of the following reasons:

(1) Tree removal violation.

(2) Failure to pass the required background check.

(3) Lack of proof of prior cultivation.

(4) Legal parcel established after January 1, 2016.

(4)(5) Non-responsiveness to requests for information from the County.

Sincerely,

Camas J. Steinmetz

Aaronson, Dickerson, Cohn & Lanzone