CITY OF RIVERSIDE

Arts & Innovation

International Municipal Lawyers Association 2013 Annual Conference San Francisco, California

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Work Session VIII – Medical Marijuana

By
Gregory P. Priamos
City Attorney
Riverside, California

RiversideCa.gov

Intelligent Community of the Year 2012

RIVERSIDE: Guard shoots driver outside marijuana dispensary



The Press-Enterprise 5/17/13

CITY OF RIVERSIDE

- Current population of 310,000+
- 12th largest city in the state out of 482 cities.
- 59th largest city in the country.
- Over 85 sq. miles of territory.
- Over 90,000 housing units.
- Divided into seven wards and 26 distinct neighborhoods.


Sorry WE ARE CLOSED. Please
CONTACT your LOCAL CONGRESSMAN
AND THE RIVERSIDE CITY ATTORNEY'S
OFFICE AND TELL THEM you NEED
SAFE ACCESS TO MEDICAL MARIJUANA!!!
THANK YOU C.C.F.C.

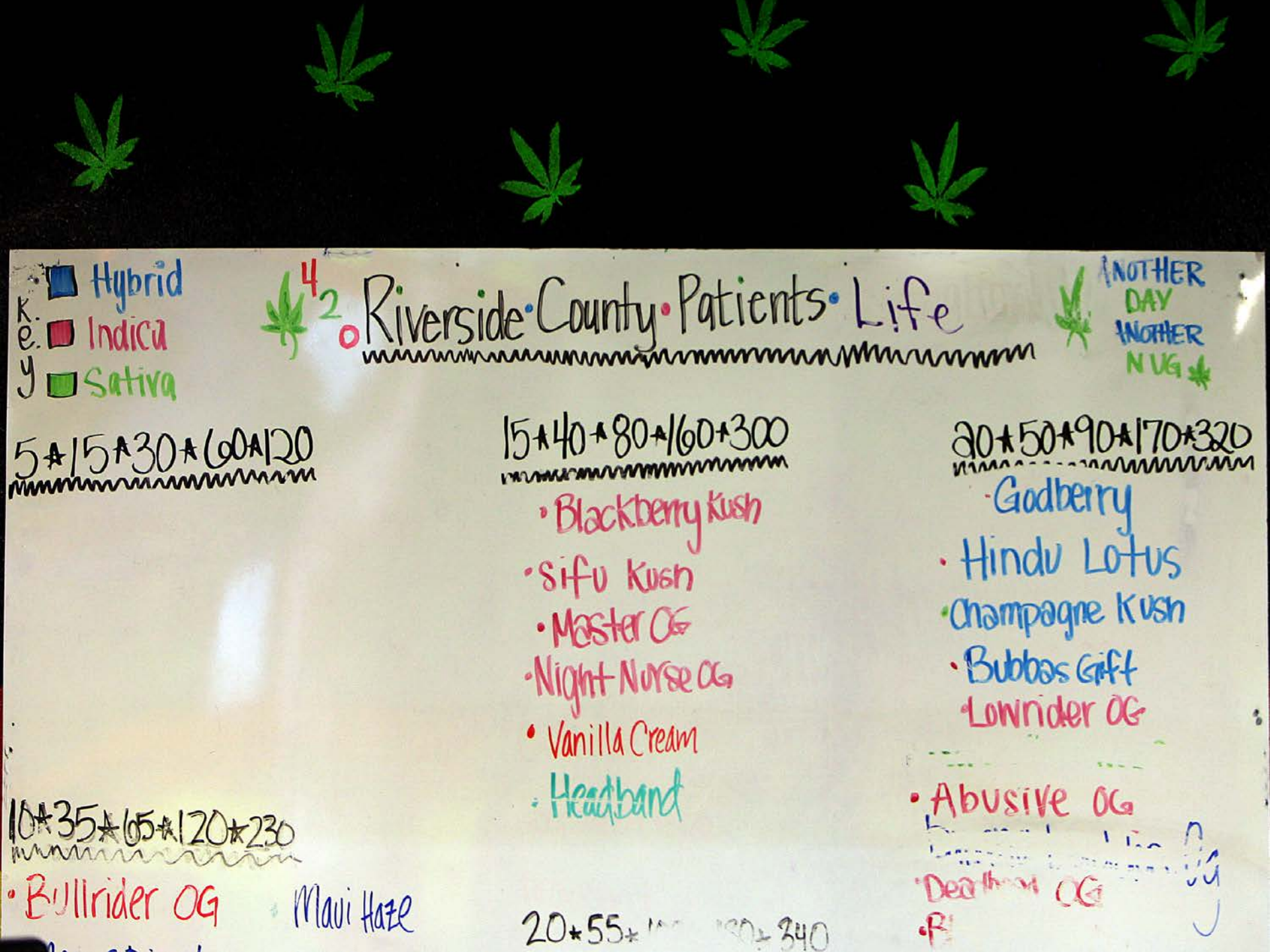
ORIGIN OF RIVERSIDE'S MARIJUANA BAN

- **Ban adopted on November 20, 2007 in conjunction with the update of the City's General Plan and Zoning Code.**
- **First marijuana dispensary opened in 2009, two years later.**
- **Medical marijuana dispensaries are prohibited in all zones.**
- **Any use prohibited by state or federal law is a prohibited use.**
- **Any condition caused or permitted to exist in violation of the ordinance is a public nuisance which may be abated by the City.**

DEFINITION OF MEDICAL MARIJUANA DISPENSARY

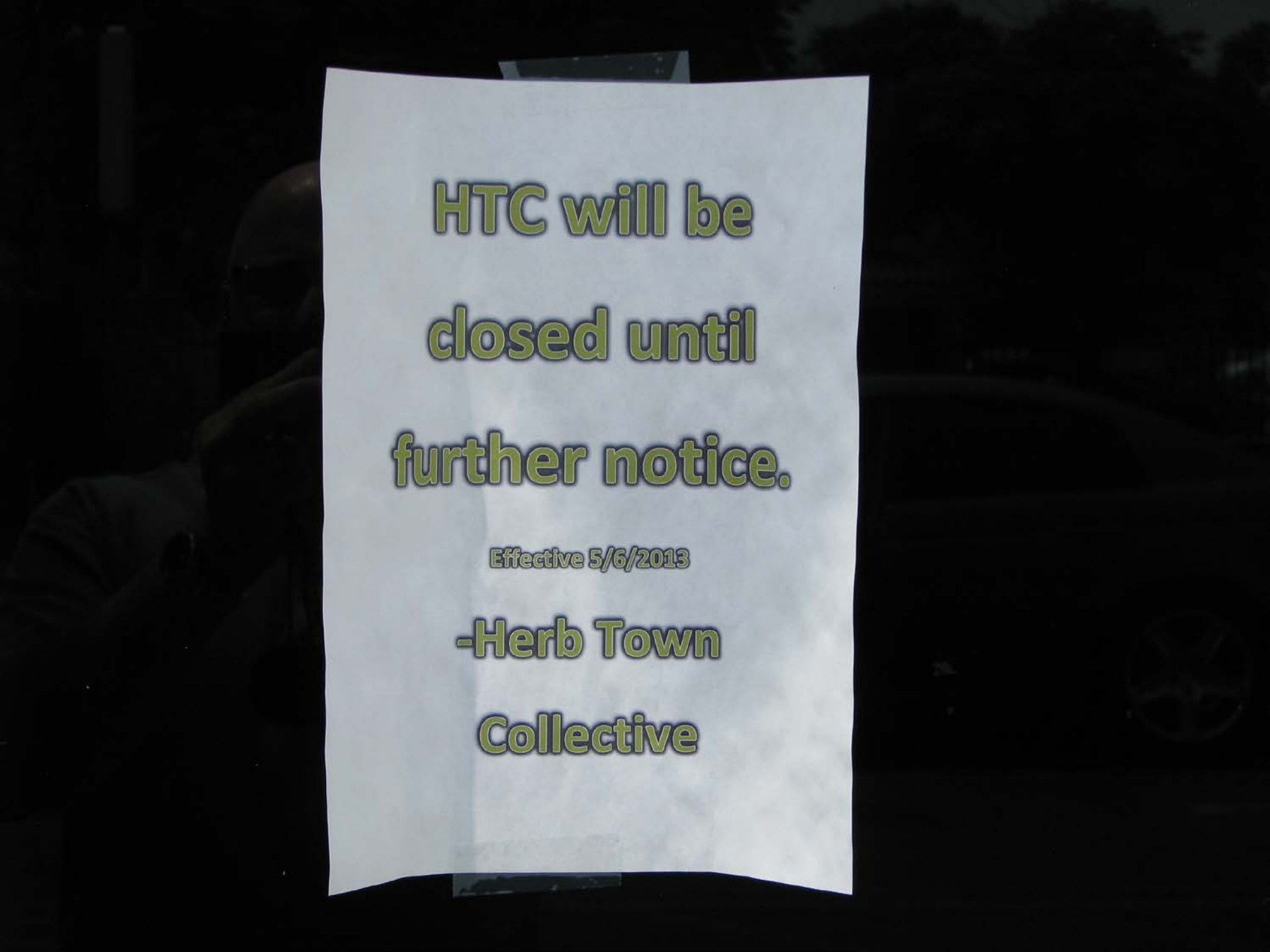
- ***"A facility where marijuana is made available for medical purposes in accordance with Health and Safety Code section 11362.5 (Proposition 215)."***

- Medical marijuana is defined broadly to necessarily include dispensaries, collectives and cooperatives.


key
Hybrid
Indica
Sativa
420 Riverside County Patients Life
ANOTHER DAY ANOTHER NUG
5*15*30*60*120
15*40*80*160*300
20*50*90*170*320
Blackberry Kush
Sifu Kush
Master OG
Night Nurse OG
Vanilla Cream
Headband
Godberry
Hindu Lotus
Champagne Kush
Bubbas Gift
Lowrider OG
10*35*65*120*230
Bullrider OG
Maui Haze
Abusive OG
20*55*
340

CITY OF RIVERSIDE v. INLAND EMPIRE PATIENTS HEALTH & WELLNESS CENTER, INC. (2013) 56 Cal.4th 729

- IEPH & WC was selected as the lead defendant since its operator was advising other dispensaries throughout the county to open in violation of local bans and assisting them in setting up shop.
- City sued the owners, operators, property management company, property owners and mortgage lenders.


HTC will be
closed until
further notice.
Effective 5/6/2013
-Herb Town
Collective

CITY v. INLAND EMPIRE PATIENTS

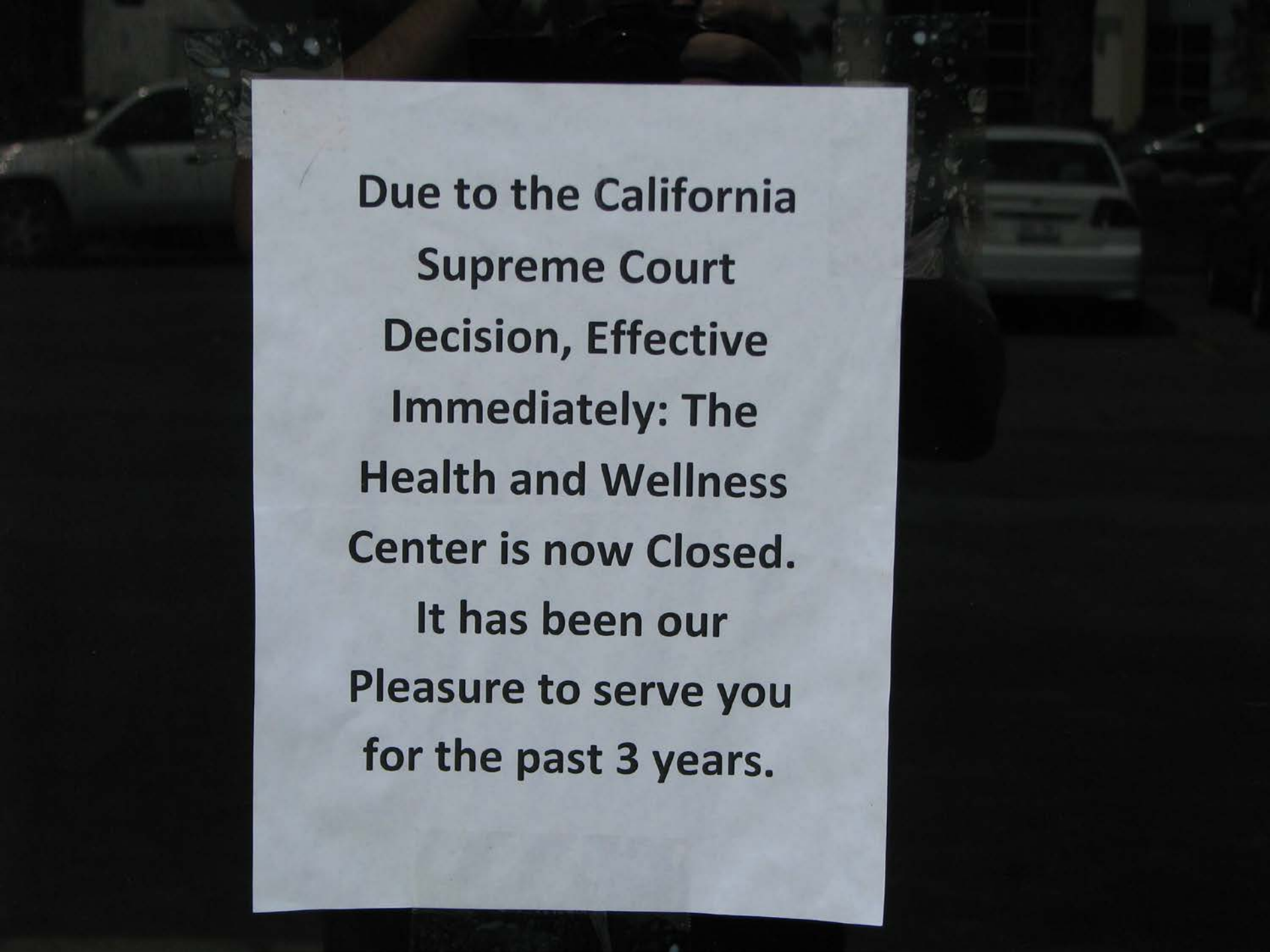
- **Trial court granted City's motion for a preliminary injunction finding that the ban was not preempted by the CUA or the MMP and further, that the use was a prohibited use since it violated federal law.**
- **Court of Appeal unanimously agreed with the trial court on the issue of state preemption but did not reach the issue presented by Government Code section 37100.**
- **On May 6, 2013, the Supreme Court unanimously concluded that California's medical marijuana statutes *do not* preempt a local ban on facilities that distribute medical marijuana.**

CITY v. INLAND EMPIRE PATIENTS

"Nothing in the CUA or MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the uses of its land, including the authority to provide the facilities for the distribution of medical marijuana will not be permitted to operate within its borders. We must therefore reject defendants' preemption argument, and must affirm the judgment of the Court of Appeal."

CITY v. INLAND EMPIRE PATIENTS

"Local authority to regulate land use for the public welfare is an inherent preexisting power, recognized by the California Constitution, and limited only to the extent exercised 'in conflict with general laws.' As we otherwise conclude herein, the CUA and MMP, by their substantive terms, grant limited exemptions from certain state criminal and nuisance laws, but they do not expressly or impliedly restrict the authority of local jurisdictions to decide whether local land may be used to operate medical marijuana facilities."


Due to the California
Supreme Court
Decision, Effective
Immediately: The
Health and Wellness
Center is now Closed.
It has been our
Pleasure to serve you
for the past 3 years.

CITY v. INLAND EMPIRE PATIENTS

"The CUA and the MMP create no all-encompassing scheme for the control and regulation of marijuana for medicinal use. These statutes, both carefully worded, do no more than exempt certain conduct by certain persons from certain state criminal and nuisance laws against the possession, cultivation, transportation, distribution, manufacture, and storage of marijuana."

CITY v. INLAND EMPIRE PATIENTS

"Unless exercised in clear conflict with general law, a city's or county's inherent, constitutionally recognized power to determine the appropriate use of land within its borders (Cal. Const., art. XI, § 7) allows it to define nuisances for local purposes and to seek abatement of such nuisances."

CITY v. INLAND EMPIRE PATIENTS

"In section 11362.775, the MMP merely removes *state law* criminal and nuisance sanctions from the conduct described therein. By this means, the MMP has signaled that the *state* declines to regard the described acts as nuisances or criminal violations, and that the *state's* enforcement mechanisms will thus not be available against these acts. Accordingly, localities in California are left free to accommodate such conduct, if they choose, free of state interference. As we have explained, however, the MMP's limited provisions neither expressly or impliedly restrict or preempt the authority of individual local jurisdictions to chose otherwise for local reasons, and to prohibit collective or cooperative medical marijuana activities within their own borders."


CLOSED
WARNING
NIGHT OWL

CITY v. INLAND EMPIRE PATIENTS

"Of course, nothing prevents future efforts by the Legislature, or by the people to adopt a different approach. In the meantime, however, we must conclude that Riverside's ordinances are not preempted by state law."

CITY v. INLAND EMPIRE PATIENTS

"Our analysis makes it unnecessary to address the City's argument that, were the CUA and MMP construed to require local jurisdictions to accommodate medical marijuana facilities, it would be preempted by the federal CSA. Nor need we confront the related argument….that a state law, Government Code section 37100, *forbids* a city to adopt ordinances authorizing the use of local land for operation of medical marijuana facilities because such ordinances would conflict with the. . .laws of . . .the United States, i.e., the CSA."


RCPL
Concentrates
FREE House Joint Mondaze:
Receive a free house joint when you donate $40 or more ALL DAY!
Tummy Tuesday:
Donate for 1 edible, get 1 FREE!
Weigh Heavy Wednesday:
Get an extra .5 on grams 1/8ths at Regular Price! (2 strains only)
Moonrocks Fullmelt Hash 10/20g
Thrifty Thursday:
2 for $25 on ALL Top Shelf strains! (4 grams MAX)
Private Reserve
Fat Dab Friday:
ALL Ounces!
FIRE EXTINGUISHER
Ranchers

UNRESOLVED ISSUES

- Federal preemption.
- Government Code section 37100.
- Outdoor cultivation bans.
- Indoor cultivation bans.
- Regulation v. outright ban.
- Soft ban.
- Legislative response.


Doritos
Cheetos
Cheetos
Fritos
iVend.

EMERGING ISSUES

- **Mobile dispensaries.**
- **Business license applications for the collective office and separately for the mobile dispensing operation.**
- **Provisionals.**


ATTENTION
PATIENTS!!
WE ARE CLOSING DUE
TO THE SUPREME
COURT RULING UNTIL
FURTHER NOTICE.
CONTACT (951)581-6437
FOR MORE
INFORMATION.
THANK YOU AND OUR
SINCEREST APOLOGY
-GREEN HOUSE CARE
GROUP