

June 6, 2023, San Diego City Council Non-Agenda Statement by Darryl Cotton.

The digital version of this document can be seen in **Section 13.0.1** @ <https://151farmers.org/2018/04/01/canna-greed-stay-awake-stay-aware-my-story/>

My name is Darryl Cotton. I am a 40-year resident of the City of San Diego, a medical cannabis patient, an advocate of sustainable urban farming and an activist when it comes to uncovering corruption in our government.

I stand before this body on behalf of myself, Michael “Biker” Sherlock, his widow Amy Sherlock, their sons, and the citizens of this great city. With the passage of Proposition 64 and the adoption of statewide adult-use cannabis law and regulation under Senate Bill 94, this state has seen a level of greed and public corruption in cannabis licensing that would make the architects of Tammany Hall blush in comparison. I do not make this statement lightly.

Unfortunately, what I am about to recite to the members of this council should, upon your own investigation, create an environment in which we desire to undo the wrongs of the past. Indeed, what I will set forth here has all happened under previous administrations.

From my personal perspective, and with the evidence I am about to present, which I have memorialized in the minutes and in an email to be sent to each councilmember by close of business of today, there is a cancer in the Development Services Department (DSD) that began in earnest with the City’s cannabis adult-use licensing and application process.

From this information, I would ask that the City issue a Request for Proposal seeking to have an audit performed, by a qualified, private, independent party, who would review the allegations and evidence I and others, have set forth, to review DSD processes with certain projects and to issue a report based on their findings.

What I am about to present required the “special processing” actions by DSD, most notably Ms. Edith Gutierrez, Project Managers Ms. Firouzeh Tirandazi and Ms. Cherlyn Cac, combined and complicit with the efforts of attorney Ms. Gina Austin, Austin Legal Group and Lobbyist James Bartell of Bartell and Associates, to see these projects approved, even when under what would be considered normal disclosure and processing circumstances, they would have been denied.

This council needs to be aware that certain requirements that go towards identifying anyone who has a 20% or greater interest in a licensed cannabis business must be disclosed in the application process. That is not being done. Indeed, during trial, statements were made by DSD Supervisory Project Manager Ms. Firouzeh Tirandazi that she was not concerned with the % ownership interests as that was an application intake issue and outside of her area of responsibility. (see trial transcript Pg’s 111;-113;25 @ <https://151farmers.org/wp-content/uploads/2017/10/07-09-2019- full-transcript-1.pdf>)

That answer is unacceptable. Illegal acquisition and operation of cannabis businesses in the City and County of San Diego is in violation of California Business & Professions Code §§ 26038 and 26057, the Unfair Competition Law, and the Cartwright Act; judicial misconduct; California Department of Cannabis Control Complaint No. 4686. This information was conveyed, by attorney Andrew Flores, counsel for Amy Sherlock, in a letter to the City Attorneys Office and City Attorney Michael Phelps dated January 10, 2023. Attorney Flores never received a reply to that letter. See https://www.justice4amy.org/wp-content/uploads/2023/02/23-01-10_Flores-to-Multiple-Parties-Demand-Letter.pdf

In addition to the BPC violations attorney Flores cites the CA Code and Regulations Sections 15003, 15004 and 15024 plainly states that all those with a 20% or greater interest in the license must be disclosed. These disclosures are not a permissive or a discretionary requirement. They are mandated by law! See <https://www.justice4amy.org/wp-content/uploads/2023/02/CA-Cannabis-Disclosure-Regulations.pdf>

The specific properties and CUP issues I can personally attest to, and can identify as having issues with, are as follows:

8863 Balboa Avenue, San Diego, CA 92123
Project Numbers 368347, 467963 and 538985

In an October 1, 2018, Voice of San Diego article involving this property-project investigated City of San Diego disclosure requirements of property owners, as well as anyone “with a financial interest in the application,” who owns more than 10 percent of shares, to disclose themselves so that city decision-makers know whether a potential conflict of interest exists. The city’s definition of financial interest extends beyond people and corporations to partnerships, estates, trusts, receivers and syndicates. The article goes on to investigate the undisclosed Salam Razuki interest in this project-property to cite **Mr. Scott Robinson, a City of San Diego spokesperson stating that “If someone who provided the funding for a marijuana business fall within this definition, their identity must be disclosed.”** See https://www.justice4amy.org/wp-content/uploads/2023/02/18-10-01_Voice-of-San-Diego-Article-on-8863-Balboa-Ave.pdf

In the July 2018 RAZUKI v MALAN case being cited in the Voice of San Diego article one only has to go to the original complaint filed by Razuki whereby Razuki admits, within the complaint, to having “oral agreements” with the licensee Ninus Malan that purportedly give him a 75% interest in the cannabis businesses. His “on paper” statements were an obvious attempt to withhold disclosing his financial interests in this, and other projects, in and around San Diego. See Pages 5:22-6:24 @ https://www.justice4amy.org/wp-content/uploads/2023/02/18-07-10_RAZUKI-v-MALAN-ET-AL-Complaint_ROA-1.pdf

2015/06/17: DSD approves Mr. Michael “Biker” Sherlock (United Patients Consumer Cooperative) as original licensee under Project No. **368347.** See http://www.justice4amy.org/wpcontent/uploads/2023/02/15-06-17_8863-Planning-Commision-Appeal-Hearing.pdf

2016/02/24: Upon Bikers death, Brad Harcourt submits a DS-191 form to DSD to transfer the 368347 CUP into his name and approved by DSD staff Edith Gutierrez on 03/16/16. See https://www.justice4amy.org/wp-content/uploads/2023/02/16-02-24-thru-17-02-27_DSD-Licensing-for-Brad-Harcourt-1.pdf

2016/03/17: Upon the 12/03/15 death of her husband Biker, DSD “approves” Amy Sherlock as the licensee Permit Holder under Project No. **467963.** Not having been aware of her rights, she had not requested, nor was she aware that the license had been put in her name. She only became aware that this CUP transfer had occurred when, in September 2022, she submitted a FOIA request to the City of San Diego and was provided some of the information in this link. Having been unaware of the transfer, Amy Sherlock never relinquished or transferred ownership of the permit to any other party. See https://www.justice4amy.org/wp-content/uploads/2023/02/City-of-San-Diego_FOIA-CUP-DOCS_8863-Balboa-Ave.pdf

2017/01/18: Here we have Ninus Malan (Balboa Avenue Cooperative) submitting his MMCC Permit (DS-191) which Tirandazi approves giving Malan the originally approved CUP number of **368347**. See https://www.justice4amy.org/wp-content/uploads/2023/02/17-01-18_DS-191-Malan.pdf

2017/02/27: The second year CUP renewal of 368347 required a background check for Mr. Brad Harcourt (San Diego Patients Cooperative). DSD uses Project No. **538985** for this DSD-Tirandazi approval because one month earlier she had approved Ninus Malan as the licensee. This requires Tirandazi to enter the second-year approval under a different project number. I believe it may have been Tirandazi's plan to, at some point in the future, simply delete those other two project numbers so that the only historical record for 8863 would be the 368347-project number. See https://www.justice4amy.org/wp-content/uploads/2023/02/17-02-27_Harcourt-DSD-CUP-Approval-1.pdf

2018/11/19: Salam Razuki is charged, inter alia, with conspiracy to commit murder of his partner Ninus Malan. Perhaps if the disclosure laws had been followed, these types of characters would not have been conspiring to commit murder. See <https://151farmers.org/wp-content/uploads/2016/09/Complaint-Razuki-Gonzalez.pdf>

In February 2020 Ms. Sherlock visited DSD and then Mayor Faulconer's office to see who might be able to address her concerns regarding the CUP transfer out of Bikers name without having considered her interests. Despite a number of attempts to receive help in this matter, Ms. Sherlock never received any replies to her inquiries. See https://www.justice4amy.org/wp-content/uploads/2023/02/20-02-04_Sherlock-Cotton-emails-to-Mayor-Faulconer.pdf

It is worth noting here that there is a March 2023 Sworn Affidavit, provided by Mr. Phillip Zamora, a former manager of the 8863 dispensary, in which he cites his previous November 2018 interview and goes on to state that attorney Gina Austin, along with others, conspired to acquire cannabis licenses through the use of proxy applicants. See https://www.justice4amy.org/wp-content/uploads/2023/02/2020-October_Mr-Phil-Zamora-Informant-Interview-Audio-Transcript.pdf

and

https://www.justice4amy.org/wp-content/uploads/2023/02/23-03-17_Zamora-Declaration.pdf

Armed with this and other information that rendered the original licensee and her deceased husband, Michael "Biker" Sherlock death a suicide, Amy Sherlock sent an email on May 2, 2023, to various City of San Diego officials requesting that the new information she had discovered, largely dependent upon motives that existed which had not been addressed whatsoever in the original determination that his death was a suicide but also found that DSD had, unbeknownst to her, had in fact put her name on a new CUP number, as a successor interest shortly after Biker's death . See

<https://www.justice4amy.org/wp-content/uploads/2023/02/3X-Email-to-Tien.pdf>

In her email, Ms. Sherlock requested a response on or before May 10, 2023. In true City fashion, she did not receive a single response.

Ms. Sherlock is determined to, at a minimum, have her husband's cause of death ruled as undetermined. As can be seen in that email, she has hired a private investigator to review the forensic and coroner reports which supports her request that the case be reopened to take into consideration the motives that certain parties had to acquire the adult-use cannabis licenses Biker had acquired.

Ms. Sherlock has also begun doing interviews with Ms. Debbie Peterson and her Corruption Chronicles podcasts that in the Canna-Greed series, go into some detail about what those relationships and motives were which may have led to his death. A death not caused by his own hand.

CANNA-GREED EP 1 @ <https://www.youtube.com/watch?v=D70eFpvYYGQ&t=5s>

CANNA-GREED EP 2 @ <https://www.youtube.com/watch?v=cXKt7ecqP1k>

3279 National Avenue, San Diego, CA 92113
Project Number 585635

Project Number 585635: Attorney Gina Austin, representing applicant Aaron Magagna, got this cannabis cultivation site, located in an Enterprise Zone, approved by Tirandazi, despite the fact that DSD staff recommended denial because it did not meet the 1,000 feet separation requirements from church, school and residences. See <https://151farmers.org/wp-content/uploads/2017/10/DSD-Report-Recommend-Denial.pdf>

3940 Home Avenue, San Diego CA 92105
Project Numbers 611536 and 599099

Project Number 611536: Aaron Magagna is listed as Agent and Applicant. Since Gina Austin represents him and he was given special handling of the 6220 Federal CUP the fact that Magagna is listed on not one but two separate project numbers at this address warrants further investigation into how the CUP was processed. See <https://151farmers.org/wp-content/uploads/2018/04/3940-Home-Ave-DSD-Info-611536.pdf>

Project Number 599099: See <https://151farmers.org/wp-content/uploads/2018/04/3940-Home-Ave-DSD-Info-599099.pdf>

6220 Federal Blvd., San Diego CA. 92114
Project Numbers 598124 and 644432

Project Number 598124: Version One on 04/05/2018: Showing correct APN and image of the site. See <https://151farmers.org/wp-content/uploads/2016/09/8.1.0-6220-DSD-Online-Approval-Details-4-05-18.pdf>

Project Number 598124: Version Two on 06/08/2018: Showing incorrect APN and an image of the City Admin parking garage. The scope was not changed. One of MANY irregularities with this site. See <https://151farmers.org/wp-content/uploads/2016/09/8.1.1-6220-DSD-Online-Approval-Details-6-08-18.pdf>

Project Number 598124 was approved upon appeal on 12/06/2018. See https://151farmers.org/wp-content/uploads/2017/10/dsd_pc-18-080_federal_blvd._marijuana_outlet.pdf

Project Number 598124: Per DSD records the CUP was issued on 07/24/19. I'm not sure where nearly 8 months went from the approval of the appeal to DSD records indicating the CUP issuance date. All too weird. See <https://151farmers.org/wp-content/uploads/2018/04/6220-CUP-Issuance-07-24-19.pdf>

Project Number 644432: On 05/20/2020 Magagna applies for a new CUP at the same property for a new cannabis dispensary where he had been approved under the previous CUP number. For some inexplicable reason, Magagna has this application notarized. He has never done that on previous applications. See https://151farmers.org/wp-content/uploads/2018/04/6220-DSD-CUP-Application_05-28-20-1.pdf

Project Number 644432: On 06/04/2020 DSD treats the second CUP application as a new project. It's as if the previous 598124 project had not been completed and approved. See https://151farmers.org/wp-content/uploads/2017/10/Project-ID_644432_Federal-Blvd-M.O.-1.pdf

05/05/2021 Originals has their grand opening. <https://originalsca.com/originals-san-diego-cannabis-dispensary/> This grand opening means that all plans had been approved and construction had been completed and inspection satisfied in less than 11 months. Not only is this impossible when one considers the volume of work that DSD required in their 06/04/2020 Project Review but there wouldn't have been enough time to develop and construct the project to meet the grand opening. **And since DSD is treating this as a new project where were the public hearings on Project No. 644432?**

09/20/2022 Amy Sherlock, under a Public Request Act, No 22-4995 which requests all documents in the City's possession that goes to the project development under Project Numbers 598124 and 644432. See PRA Statement @ [Sherlocks-FOIA-22-4995-Request-DOCS.pdf](#)

09/28/2022 were the Responsive Documents to PRA 22-4995, sent by Ginger Rodriguez, City of San Diego Public Records Administration Coordinator (Staff) in the order of her Documents Released statement of the PRA Statement.

RD-1: [598124-Project-Issues_PRA-22-4995](#) Of note, when fees are paid the amounts are shown on the Project Status.

RD-2: [598124-Project-Status_PRA-22-4995](#)

RD-3: [644432-Certificate-of-Compliance_PRA-22-4995](#)

RD-4: [644432-General-Application_PRA-22-4995](#)

RD-5: [644432-Geotechnical-Docs_PRA-22-4995](#) How is it that a Geotechnical document is submitted AFTER Project No 598124 had final approval?

RD-6: [644432-Project-Issues_PRA-22-4995](#) This is being treated as a new plan submittal.

RD-7: [644432-Project-Status_PRA22-4995](#) Of note, the Geotechnical survey that was provided under the previous responsive docs is not even listed on the Project Status or Issues Report. Also, unlike Project No. 598124 the amount billed or paid on invoice 941070 is not shown.

Of note. the parcel directly behind the 6220 parcel is located in the City of Lemon Grove. They denied the applicant because of their being State Licensed Family daycare home within 1,000 feet of the proposed dispensary. There are actually two childcare facilities within that 1,000 feet and the 6220 project is even closer to those facilities than the proposed Lemon Grove project would have been. [City of Lemon Grove Letter re MO Application Denial re Childcare Facilities](#)

While DSD Project Mgr. Cherlyn stated she had no record of there being any licensed childcare facilities within the 1,000 ft. radius of the proposed dispensary the City of Lemon Grove had no problem finding them. I also address the non-compliant setback issues with existing licensed child daycare @ [Child-Care-Setbacks-v8-Doc-.pdf](#)

Much of what is described here, as well as additional issues which should be considered, can be seen in the following link @ [Could this happen in La Jolla? A District 4 CUP Comparison.](#)

6176 Federal Boulevard, San Diego, CA 92114
Project Number 520606

10/31/16: an Ownership Disclosure Statement, form DS-318, was submitted to DSD to begin the application process to develop a licensed marijuana outlet. I was listed as the property owner in this document. Nowhere, in any documents ever having been submitted to the City of San Diego, does Larry Geraci's name come up as anyone having a 10 or 20% ownership interest in this property-project. Of note, Larry Geraci is represented by Gina Austin and James Bartell. See <https://151farmers.org/wp-content/uploads/2017/10/6176-DS-318.pdf>

03/21/17: Larry Geraci sues me for Breach of Contract. See <https://151farmers.org/wp-content/uploads/2017/01/A6-GERACI-VS-COTTON-03-21-17.pdf>

In numerous attempts to have the court rule on disclosure laws not being upheld by either the City or the courts, never, in any court, state or federal, has that threshold issue been addressed. It is simply ignored or referred to as having already been visited. This determination of plain English law has never been decided.

06/11/18: I reached out by phone and email to Mr. Ken Malbrough, Chair of the Encanto Neighborhood Community Planning Group for District 4 and my liaison to the City, to tell him about my concerns with the way a competing CUP application was being processed at 6220 Federal Blvd. Within 3 days Mr. Malbrough informed me he was done communicating with me. See <https://151farmers.org/wp-content/uploads/2017/10/152-1.pdf>

02/15/19: DSD shows that with the passing of the 6220 CUP the 6176 CUP, located within 1,000 feet of the 6220 CUP was withdrawn. See <https://151farmers.org/wp-content/uploads/2017/10/6176-Cycles-8-and-13-2-15-19.pdf>

08/09/19: Geraci prevails in a jury trial in which the jury was asked to determine a point of law. Despite requesting a disqualification of Judge Wohlfeil, he allowed the case to go forward even though Geraci, like Razuki, used the proxy (AKA strawman) practice to acquire adult-use cannabis licenses in the City of San Diego where had they disclosed their interests would have been denied for having been previously sanctioned within 3 years of the application. As previously stated, Judge Wohlfeil refused to rule on that case dispositive issue and any attempts to bring it in front of the jury with the filing of a Motion in Limine were denied. See

Judgment @ https://151farmers.org/wp-content/uploads/2017/10/37-2017-00010073-CU-BC-CTL_ROA-652_08-20-19_Notice_of_Entry_of_Judgment_with_attached_conforme_1609635695452.pdf

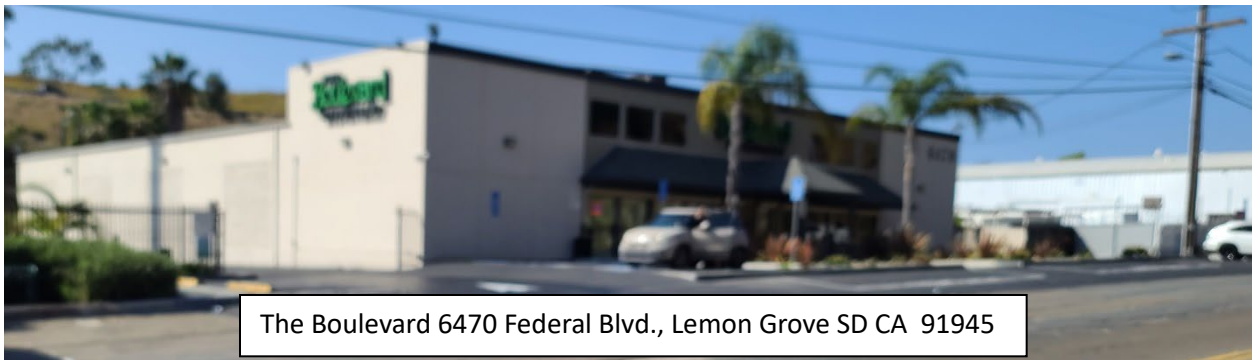
Sanctions @ <https://151farmers.org/wp-content/uploads/2017/10/Exhibit-B-Tree-Club-JD-1.pdf>

Denial @ <https://151farmers.org/wp-content/uploads/2017/10/ROA-596.pdf>

Of note, there has never been an attempt to collect on this judgment. This is a clear indication that to do so would open up this case in front of another judge when it came time to my arguing the merits of the judgment.

The Proliferation of Licensed Cannabis Dispensaries on Federal Blvd.

While this City Council may only be concerned about the single “licensed” dispensary at 6220 Federal Blvd. it is worth noting that there are now 3 active dispensaries within 1 mile of each other with a 4th one in the application process. Does this community really need 4 cannabis dispensaries within a mile of each other? Also look at the setbacks and clear lines of sight to crossing traffic each of the Lemon Grove dispensaries has that the 6220 site does not.





With the 05/31/23 State Assembly passage of AB-347 (currently in the State Senate) which would allow any licensed cannabis dispensary to allow (pending local approval) on-site consumption of cannabis products, packaged food and live music. If any of the dispensaries listed here on Federal Blvd. decide to take advantage of this new provision in the law, their competitors will likely do the same thing just to stay in business.

From AB-347 SECTION 1, Section 26200 (8)(g)(1) of the Business and Professions Code:

(g) (1) Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, *if all of the conditions in paragraph (2) are met*, a local jurisdiction may allow for ~~the smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness licensed under this division if all of the following are met:~~ *any of the following:*

(A) Smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness licensed under this division that has been granted authority by a local jurisdiction to engage in onsite cannabis consumption.

(B) Preparation or sale of noncannabis food or beverage products in compliance with all applicable provisions of the California Retail Food Code (Chapter 1 (commencing with Section 113700) of Part 7 of Division 104 of the Health and Safety Code) by a retailer or microbusiness licensed under this division in the area where the consumption of cannabis is allowed.

(C) Live musical or other performances on the premises of a retailer or microbusiness licensed under this division in the area where the consumption of cannabis is allowed, and the sale of tickets for those performances.

See the full text of AB-347 @

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB374

With 3 active adult-use cannabis businesses currently operating on Federal Blvd. a proliferation is not an overstatement. When adding a 4th cannabis business within that 1-mile stretch of Federal Blvd. with businesses competing by having on-site cannabis consumption, food and entertainment, this will likely become a mecca for those who want to turn what had been a straight retail exchange into a more extended stay. Should that 4th license be granted, proliferation would be an understatement.

Regardless, if there are 3 or 4 dispensaries what that means for the traffic and quality of life for those impacted by these highly concentrated businesses is yet to be determined. As with **social equity** and **CEQA exempt** determinations (both areas that San Diego and DSD has failed to meet their ministerial

responsibilities), these license applications need to be processed by the law and with the overall community interests at heart.

While the implications of what has been described here are enormous in scope, what remains the foundational issue, which brings us here today, is that anyone who has not disclosed their interest in these businesses should not be allowed to participate in the profits these businesses make without regard to their impact on the surrounding community.

Closing Statement

There are so many issues that I could go into with the way I and Amy Sherlock have been treated by both the court(s) and the City of San Diego that I won't take the time to run through our personal hurdles here. Since 2018 I have documented, with numerous screen shots of DSD and court records as to how these things wound out for me and why it led me to question the relationship's I was seeing within the City of San Diego adult-use licensing scheme. A scheme that relied on certain attorneys and their politically connected clients coordinated by DSD. It's hard to believe that these things occurred.

I would ask that this Council take a hard look at the disclosure laws being ignored and to take corrective action. It won't be easy cleaning up other peoples messes. You are, figuratively speaking, walking into a burning building to rescue a great number of people who have been harmed by these practices. As I suggested earlier, let's move forward with an audit and report whereby that firm would review our records and report back to this council to expose any anomalies during the application process, correct the wrongs of the past and make certain that future applicant/applications will be treated fairly during the process.

Thank you.

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