ABSTRACT
Summary of the committee research and recommendations based on its work between October 1, 2017 and January 26, 2018.

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It is with deep gratitude that the committee recognizes the contributions of the individuals who shared their time and experience with us, without them, this report would lack depth and detail. We would like to thank the following individuals:

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- Kristi Kelly, Marijuana Industry Group, Denver, Colorado
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1 Introduction
The Acton Board of Selectmen formed the Acton Commercial Marijuana Committee (ACMC) on September 28, 2017. The Selectmen assigned the committee two tasks:

- gather information about commercial marijuana operations, and
- make recommendations based on what was learned about how the Town might proceed

The members of the committee include:

- Richard Nass, Chairperson
- Jennifer Bird
- James Cook
- Carol Komezubumwe
- Michael Macrum
- Jerry Nulton
- Carol Ward

The ACMC did the following:

- Read the Citizen’s Initiative and proposed legislation
- Reached out to various communities, associations and government entities in Colorado and Washington State to see if they would share their own experience
- Contacted various State resources to learn more about the Citizen’s Initiative and proposed legislation
- Held approximately 18 conference calls with state, city and county leaders in Colorado and Washington to learn from their experience with commercial marijuana operations
- Met with a local Medical Marijuana Grower who was interested in opening a commercial operation in Acton
- Read various state and municipal ordinances and zoning documents
- Conducted extensive online research of news articles and state and local government websites
- Attended the MMA Marijuana Update Conference on November 15, 2017
- Met as a group on the following dates: October 13, October 20, October 27, November 3, November 8, November 10, November 17, December 3, December 15, January 12 and January 19.

This document contains the results of the work conducted by the ACMC between October 1, 2017 and January 26, 2018.
2 Maine Marijuana Facts

- Medical Marijuana has been legal in Maine since 1999. The state legalized the recreational use of marijuana by adults 21 and over in November 2016. Each adult can grow up to six mature plants and six immature plants for their own personal use, up to twelve mature and twelve immature per parcel. The committee’s work didn’t address any aspect of this.

- Under the Citizens Initiative, as passed on November 8, 2016, Acton would not share in any sales tax revenue collected from the sale of recreational marijuana. The Town would share the license fees with the state, however, the highest of these is $2,500, and thus it will not be a significant source of income.

- Under the proposed legislation, that the Governor vetoed on November 3, 2017, the Legislature proposed sharing 5% of the 10% sales tax collected with the municipality where the retail store is located. Based on our research we estimated that a typical retail location would likely sell between $500,000 and $2,500,000 per year. Five percent of the 10% sales tax is the equivalent of one-half of one percent coming to the Town. Assuming the volume above, Acton would see between $2,500 and $12,500 in revenue from the State each year.

- If the Legislature does nothing, the Citizen’s Initiative will become law on February 1, 2018.

While it’s impossible to predict the future, it is reasonable to expect that the Legislature will extend the statewide moratorium. However, that only leaves the Legislature January-April 2018 to write new legislation that the Governor will sign. Otherwise, they’ll need to extend the moratorium out for at least another year since this is an election year and they would likely leave it for the new legislature and Governor.

Even though the state has yet to establish their regulatory framework, the ACMC believes the Town needs to decide if we want to permit commercial operations, and if so, which ones. Then, as soon as possible, we need to establish the appropriate ordinances and zoning in order to protect our interests.
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3 Interview Findings

NOTE: In Appendix A you can find the write-ups from each of the interviews. Where the report attributes a specific bullet point to a particular interview you’ll see a reference in the form of “I-xx” where “xx” refers to the number of the specific interview. You’ll find a reference table on the first page of Appendix A that will identify the interview and give you the specific page number in the appendix that correlates to the beginning of the interview.

3.1 General observations:

- Expect the commercial marijuana issue to be the most contentious your Town has ever faced. I-2, I-3, I-4, I-10, I-17
- In several cases, the ACMC heard about commercial operators who underestimated the startup costs and as a result they failed to follow zoning requirements or the business failed and the Town inherited a costly cleanup. I-17
- In a number of cases, Towns said state licensing and enforcement entities didn’t address illegal behavior on the part of commercial operators. I-8, I-9, I-13, I-17, I-18
- In virtually every conversation, city and county leaders remarked that lobbyists are constantly driving amendments to the law (in both Colorado and Washington) and that they must invest time regularly to remain up to date in order to keep their ordinances and zoning relevant.
- Expect the state to keep changing the regulations. So, make sure your rules specify how you want the operation to run and the limits you want to place on it. I-9
- Make certain that you regulate signage carefully. I-9, I-12
- If possible, make certain that local residents own any commercial operations, in our experience, that has been the secret to our success. I-9
- To avoid lawsuits, make sure you establish strong objective criteria for approving and rejecting applicants. I-9
- If you permit commercial operations, expect commercial operators to challenge your zoning and constantly push the boundaries. Keep a tight rein on them by keeping up your inspections and fining them for any infractions. I-8, I-9
- “Community Grows” are a new development that lobbyists are pushing, this is where a farmer has subscribers, like a CSA, where they do the growing for everyone. This is quickly becoming an unregulated grow. They urged the ACMC to rule these out explicitly by reinforcing the state’s limit on the number of plants for personal use on a property. I-9, I-11
- Research conducted by the Washington State Institute for Public Policy found that for all operating business in the fourth quarter of 2016, the average wages of all marijuana business was between $15.64 and $17.14 and the median was between $13.00 and $13.85. W-16 [NOTE: Minimum wage in Washington State as of January 1, 2017 is $11/hour].
- Early adopters have paid a heavy price as the regulatory regime changes. I-2, I-19
- In Washington State, outdoor production has resulted in odor problems and reductions in both property value and property taxes (10% in a number of cases) – they recommended permitting only indoor grow operations. I-10, I-16
The Colorado Marijuana Industry Group in Colorado suggested that Indoor Growers, Manufacturers and Testing operators are looking for cheap, clean, industrial/commercial buildings that can be easily adapted with the appropriate climate controls. \(^{1,14}\)

In the Spokane region, odor complaints from marijuana operations are running two times those from all other commercial operations combined. \(^{1,16}\)

Odor complaints are very difficult to resolve. Moving from a complaint to a violation requires several steps:
- (a) independent confirmation by the inspector that the odor is “distinct, definite and recognizable”,
- (b) that the inspector can identify the specific source – which is difficult given wind speed, direction, variability and time of day, and
- (c) the citizen issuing the complaint must be willing to sign an affidavit and be willing to testify at any appeals. As a result, few complaints become violations. Odor issues take a great deal of time because they don’t always happen when an inspector is available. \(^{1,16}\)

### 3.2 Commercial operations recommendations:
- One option is to consider prohibiting various classes of licenses, limit the others, limit where they can locate, you can also limit the size and the breadth of the operations. \(^{1,14}\)
- Require a detailed business plan from any prospective commercial operator as part of the application and approval process. \(^{1,5}\)
- The Spokane Regional Clean Air Agency indicated that in their experience there isn’t a sufficient setback to manage odor issues with outdoor grows. \(^{1,16}\)
- Consider as a minimum a buffer zone of 1,000 feet from schools, school bus stops, playgrounds, recreational centers, childcare centers, parks, libraries, churches and public trails. \(^{1,8}\)
- Security: Washington State requires strict security for commercial operations including a security system, full camera security with off-site storage, fences to obscure the view from the street, no one but employees permitted on the premises, and retail operations require a specific setup. \(^{1,1}\)
- An aspiring local grower suggested that since Acton lacks a police force, the Town should require on-site 24x7 security in addition to video surveillance – this agrees with other law enforcement conversations. \(^{1,15,1,19}\)
- For indoor grow operations, most municipalities require carbon-based air scrubbers to eliminate odor problems. \(^{1,1,1,16}\)
- If you plan to approve commercial operations and if possible, assign one person to field the majority of marijuana related licensing, inspections and enforcement – have them coordinate with the Code Enforcement Officer and Fire Chief on their inspections. \(^{1,18}\)
- Two counties La Plata County, Colorado and Cowlitz County, Washington offer interesting permitting/licensing/enforcement processes. However, both have experienced a very low percentage of “licensing compliance”.

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\(^{1,14}\) \(^{1,16}\) \(^{1,5}\) \(^{1,8}\) \(^{1,1}\) \(^{1,15}\) \(^{1,19}\) \(^{1,18}\) \(^{1,1,1,16}\)
3.3 Town Staffing:
- Having dedicated Municipal staff to manage the approval process, perform inspections and manage the state-level changes is essential. 1-2
- Other than staff time handling zoning issues and remaining current on legislation (which many said is significant), most Towns haven’t seen significant additional costs above the additional zoning, licensing, inspections and policing.
- Before legalization, virtually all Towns and counties have their own dedicated police force. The typical town police force is between three and seven officers.

3.4 Income Potential for Acton:
- Multiple people suggested that without the ability to charge our own local sales tax, it wouldn’t be in the Town’s best interest to permit commercial operations. 1-2, I-3, I-4, I-19
- The Maine Citizen’s Initiative makes no provision for the state to share sales tax with the Town – so we would expect $0 income from sales tax. There is a provision to share some of the licensing fee – but only enough to cover our actual costs. I-6
- Under the Maine Legislation that the Governor vetoed, the state would share 5% of the 10% sales tax collected with the Town. That’s the equivalent of a ½% sales tax. Using Washington State retail sales from small border towns like Acton as a guide, we could expect retail sales between $500,000 and $2,500,000. That would result in Acton receiving between $2,500 and $12,500 per year, which isn’t significant by any measure. I-6

3.5 Community leader observations:
- During the many conversations with Municipal and County leaders (law enforcement was not part of these interviews) in both Colorado and Washington State, most seemed to feel the worst case scenarios predicted after Adult use of Marijuana became legal, did not come to pass. Most felt their problems stemmed more from the localized legal challenges and a lack of strong state support. The problems had more to do with the procedural and implementation side of the laws rather than the legality of adult marijuana use.

3.6 Law Enforcement observations:
- According to both Jim Burak, Chief of Colorado’s Marijuana Enforcement Division and Ryan Engle, the Drug Enforcement Task Force leader in La Plata County Colorado, the number one Law Enforcement issue is diversion (a) to minors, (b) across state lines and (c) illegal grows posing as legal to out of state buyers. I-4, I-19
- La Plata County, Colorado (1,700 square miles compared to Acton’s 40 square miles) has six licensed grows and over 300+ (at last count from law enforcement overflights) illegal grows while Cowlitz has less than 10% licensed operations. I-13, I-19 The minority in the committee pointed out that illegal grows are going to happen regardless of what Acton approves.
- Ryan Engle, the Drug Enforcement Task Force leader in La Plata County Colorado indicated that illegal grow operations is a huge issue. In La Plata County alone, they’ve identified 300+ unlicensed grows using aerial survey techniques. They simply don’t have the resources to address them. Taking down a single illegal grow takes 10-14 officers for 3-4 days and over
$20,000. Once they’re done they need to dry the marijuana, because if they don’t it molds. Then they struggle with the secure storage costs to maintain the evidence. That storage becomes a target for thieves, thus diverting even more officers. The problem is bad and getting worse.
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4 Web research findings

NOTE: In Appendix B, you will find the ACMC’s core web research. Where the report attributes a specific bullet point to a particular article you’ll see a reference in the form of “W-xx” where “xx” refers to the number of the specific interview. You’ll find a reference table on the first page of Appendix B that will identify the document and give you the specific page number in the appendix that correlates to the beginning of the article.

4.1 Commercial Indoor grow hazards in residential buildings:
If the Town decides to allow commercial marijuana grows, the information in this section illustrates concerns the committee identified with full scale commercial grows in residential homes. As a result, the committee believes that the Town should only allow commercial grows in commercial buildings designed and built specifically for the purpose of commercial marijuana cultivation.

- The humidity that results from the combination of watering the plants and grow lights can warp drywall to collapse and black mold to grow in vast amounts. W-1, W-8, W-13
- Growers frequently use the attic to handle exhaust; as such, it may be difficult to see the damage. W-1, W-8, W-13
- Growers frequently cut holes in floors, walls and ceilings to handle exhaust resulting in structural problems. W-1, W-8, W-13
- The use of hazardous chemicals including pesticides, fungicides and fertilizers can permeate the house. W-1, W-8, W-13
- Growers can easily hide this damage by patching holes, painting with Kilz and replacing carpets, unfortunately the damage remains. W-1, W-8, W-13
- In illegal indoor grows, growers will frequently rewire the house to circumvent the utility meter. The wiring rarely conforms to code. W-8, W-13
- Reworking an illegal grow house will typically require an inspector, an electrician, a plumber a mold inspection/remediation and some level of general carpentry (insulation, drywall, studs, floor joists). Spending between $50,000 and $75,000 to bring a grow house back to a livable condition is typical. W-8, W-13
- The DEA recently published a report where they make the case that the mold problems from improper ventilation combined with the improper use of pesticides can make residential properties uninhabitable. W-10, W-13

4.2 Marijuana odor impact on property values
If the Town decides to allow commercial marijuana grows, the information in this section illustrates concerns the committee identified with full scale commercial outdoor grows and improperly ventilated indoor grows. As a result, the committee believes that the Town should only allow commercial grows in commercial buildings designed and built specifically for the purpose of commercial marijuana cultivation with the proper carbon filtered ventilation to prevent any release of marijuana odors.
Property owners frequently refer to the smell of marijuana as the smell of angry skunks or the smell of property devaluation. W-4, W-5

Spokane County had enough trouble with odors from outdoor grows that they’ve banned them going forward. W-5

A property owner in Colorado has sued in Federal court under the RICO statute for damages to their property value driven by a Colorado State licensed marijuana outdoor grow operation. The 10th Circuit Court has ruled in their favor that their suit can proceed. Under RICO, they’re entitled to three times damages plus attorney’s fees. W-11, W-12

Unless a town has an odor ordinance there’s little the homeowner can do in spite of the impact on their property values. W-14

According to Realtor.Com Colorado homes within a half-mile of a commercial-grow operation often have lower property value than homes in the same county that are further away. Neighborhoods with grow houses are the least desirable with an 8.4% price discount. At the same time, homes within a half mile of a marijuana retail operation experience only a 0.4% price discount. W-15, W-23 On the other hand, Edgewater, known as the “edge City” for its proximity to Denver, is experiencing a resurgence in their real estate values. They’ve achieved approximately 150% of pre-2009 values driven largely by gentrification and the employment market in Denver. In their opinion, Marijuana hasn’t hurt their property values – keeping in mind, they only allow retail sales. I-5

While property values in Colorado have been increasing at a frantic pace, it isn’t clear what impact legalized marijuana is having. A number of factors including population growth (Colorado is growing at 1.9% per year making it the 2nd fastest growing state behind North Dakota), a hot job market in the Tech and Financial sectors, migration from California and New York as well as legalized marijuana. However, while Colorado real estate is growing at 20.4% compared to the national average of 15.2% over the same period, Washington State, which legalized at the same time, is growing at only 7.3%. Therefore, the impact of legalization on real estate values is difficult to determine. W-23

4.3 Colorado Law Enforcement statistics:

Colorado Law Enforcement tracks the impact of marijuana legalization in their annual Rocky Mountain High Intensity Drug Trafficking Area (RMHIDTA) report. Their report will uses, whenever possible, a comparison of three different eras in Colorado’s legalization history:

- 2006 – 2008: Medical marijuana pre-commercialization era
- 2009 – Present: Medical marijuana commercialization and expansion era
- 2013 – Present: Recreational marijuana era

They collect and report comparative data in a variety of areas, including but not limited to:

- Impaired driving and fatalities
- Youth marijuana use
- Adult marijuana use
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- Emergency room admissions
- Marijuana-related exposure cases
- Diversion of Colorado marijuana

This is the fifth annual report on the impact of legalized marijuana in Colorado. The report includes ten sections, each providing information on the impact of marijuana legalization.

For a copy of the executive summary, refer to Appendix C. For a full copy of the 176-page report, please go to: http://www.rmhidta.org/default.aspx/MenuItemID/687/MenuGroup/RMHIDTAHome.htm
5 Key details behind the findings

5.1 Different State Licensing Approaches

5.1.1 Washington State
The State licenses Applicants and can locate virtually anywhere. The State’s Liquor and Cannabis Control Board is supposed to take local preferences into account, but we heard multiple accounts where the town’s preference wasn’t given any weight and operations were set up in opposition to local wishes.

5.1.2 Colorado
Similar to Washington State, Colorado’s Liquor and Cannabis Control Board licenses Applicants. However, the State does seem to honor local bans and prohibitions.

5.1.3 Maine
5.1.3.1 Citizens’ Initiative
Under the initiative, towns must actively opt out of commercial operations. Inaction signals an openness to commercial operations.

5.1.3.2 Legislation
Under the legislation, which the Governor vetoed, towns had to opt in. Inaction signaled an opposition to commercial operations.

5.2 Zoning as a Control Approach
Throughout Washington State and in a few cases in Colorado, towns tried to use zoning as a tool to exclude commercial operations. In most cases, operators either found loopholes or sued in order to establish operations. If the Town decides that commercial operations are not appropriate, a commercial ban will be the most effective approach, as recommended in multiple interviews.

5.3 Finding Towns like Acton, ME
While the ACMC found a number of towns with a similar population on a border with a State where marijuana remains illegal, they consistently found that unlike Acton, most towns were under 6 square miles (compared to Acton’s 41 square miles). In Washington and Colorado, the counties manage the space between towns. In addition, counties have significant regulatory, tax and zoning authority. Thus, the ACMC also interviewed county leaders in both states.

5.4 Law Enforcement
Most towns we spoke with had their own police force, on average between three and seven officers and didn’t increase their force in response to marijuana legalization; in addition, they had county and state police coverage to fill any gaps. Given that Acton shares a York County Sherriff deputy with Shapleigh, a potential grower suggested that any commercial operator be required to have 24x7 on-site security in addition to video surveillance. In another interview, a Colorado Sherriff agreed with this view.
6 Zoning considerations

6.1 General for all commercial operations

- Where there are differences between requirements imposed by the State and the Town of Acton, the operation should conform to whichever requirement is stricter.
- Require a bond of sufficient value that if the business should fail, the Town of Acton could contract with a reputable firm for site remediation to remove all marijuana and toxic waste is from the site. The bond should be high enough to incent owners to clean up the site themselves in order to have the Town return the bond to them. The Town should inspect the site to confirm cleanup before returning the bond.
- The Town would need to establish strict signage limitations for all commercial operations but especially for any cultivation or retail operation, limiting the size, location and types of signage allowed including prohibiting the use of cartoon characters and marijuana leaves.
- Require the majority owner to be a resident of Maine. Several towns suggested that having local resident as the majority owner improves the relationship between the operation and the town. It’s also a great way to keep more of the benefits in the town.
- Require a business plan, a building plan, a specific floorplan, a ventilation plan, security plan and electrical plan that the business will run by
- An indoor cultivation operation must construct a permanent, purpose-built building with sufficient carbon-filtration ventilation to prevent any odor issues resulting from the grow operation. The Town should prohibit adapting an existing building.
- Separate parcel from all other commercial operations – a grow operation is not permitted to conduct retail sales in the Town of Acton.
- Because the Town doesn’t have its own police force, any operation should be required to have 24x7 onsite security as well as 24x7 electronic video surveillance (with the video maintained off site). [Consider including security requirements laid out by Colorado and Washington State]
- Setbacks from schools, etc...
- Security lighting
- Ventilation requirements
- Wastewater treatment
- Waste handling
- Fire codes
- Electrical codes
- Building codes
- Lot size, setbacks, parking,
- ???

6.2 Indoor/Outdoor Cultivation

- Require fencing or landscaping to obscure the view from the road and adjacent properties
- Require security fencing, sufficient to prevent illegal entry, around all grow operations
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- Minimum lot size
- Setbacks from property lines
- Wastewater treatment
- Waste handling
- For drying, storage and packaging
  - Fire codes
  - Electrical codes
  - Building codes
  - ???

6.3 THC Extraction
- Require enhanced Fire and Building Codes and regular inspections.

6.4 Special recommendations:

- Property owners are encouraged to update their leases to prohibit smoking and growing marijuana if they wish to. W-6, W-7, W-10, W-13
7 Committee Recommendations

As you might expect, given the various perspectives individual committee members have regarding the suitability of commercial operations in the Town of Acton, finding consensus was difficult. We all agreed with the information above in sections 1 through 6. Further, the committee unanimously agreed that the Town should vote to prohibit commercial outdoor cultivation based on the experience of communities in Washington and Colorado. Further, the entire committee agreed that if the Town permits indoor commercial cultivation, it should require that the operation build a purpose-built building with proper carbon filtered ventilation. The Town should not permit adapting an existing structure for reasons outlined in 4.1 above.

However, beyond these recommendations, agreement was elusive. As such, the committee is providing recommendations from the majority and from the minority.

7.1 Majority Recommendations

The majority includes Chairman, Richard Nass and members, Jennifer Bird, Carol Komazabumwe and Jerry Nulton. The following represents the majority views based on our experience throughout the course of our work.

In November 2016, residents of the Town of Acton approved the Citizen’s initiative to allow recreational marijuana in the state of Maine by approximately 56% to 44%. While it is true that the residents voted to approve recreational marijuana, that doesn’t mean that the citizens necessarily voted to approve commercial operations including Commercial Cultivation, Commercial Manufacturing, Commercial Testing, Retail and Social Clubs in the Town of Acton.

While many in the majority were personally opposed to commercial operations in Acton, most were open to it providing the Town would benefit financially such that it could give property tax relief to the citizens. As a result, the committee focused on the revenue potential for Acton. After our research, interviews and deliberations, the majority recommend that the Town should ban all commercial operations, for the following reasons:

**First, we focused on sales tax.** In our interviews with towns in Washington and Colorado, we learned that only towns in Colorado, who possess the right to impose their own sales tax of up to 15% on the sale of marijuana, were seeing any significant income. Since the Town of Acton lacks the ability to impose a sales tax, we’re reliant on what the legislation provides. Under the Citizen’s Initiative Acton would receive $0 from the 10% sales tax imposed by the State. In addition, under the legislation (which the Governor vetoed), our share of sales tax is limited to one-half of one percent (5% of the 10% tax collected – 50 cents of every $10 collected). As such, it is reasonable to assume that the Town of Acton will not benefit financially from a sales tax. That is not to say that individual citizens in the town, involved in licensed commercial marijuana, might benefit.

**Second, we looked at licensing fees.** Some have suggested that we would benefit from licensing fees. However, the marijuana licensing fees are limited to a maximum of $2,500 in the Citizen’s
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Initiative, and, a town may not set a licensing fee higher than the town’s actual cost to perform the related licensing functions, so Acton would only, at best, receive only enough to cover our costs.

Third, we looked at revenue from property taxes. Some wondered whether we could establish a special property tax (either real estate or commercial equipment) on commercial operations. Unfortunately, state laws prohibit the Town from establishing a separate tax to apply to a specific type of operation. Thus, Acton can’t benefit from a special property tax on Marijuana Operations. In addition, while we might see additional property taxes from new buildings, again it wouldn’t be significant enough to provide property tax relief.

Fourth, others wondered whether Acton would benefit from increased commercial activity and employment. From our research, the majority of non-management jobs created by the marijuana industry are not full time, pay at or near minimum wage and most operations employ fewer than 10-15 employees. As such, the Town wouldn’t expect a huge impact from employment, and in fact, there’s no guarantee employees would come from Acton. Further, increased commercial activity in the form of retail sales would increase traffic without increasing benefit to the Town.

Fifth, what might commercial operations cost the Town? We discovered that in Colorado and Washington towns were beginning to lose property taxes. Specifically, several property owners have successfully appealed for property tax reductions due to the unpleasant odor from commercial marijuana facilities.

Acton derives a large portion of its operating income from property taxes on lake homes. In Colorado, while 30% of adults report having used marijuana at least once in the last year, 70% have not. Acton is primarily a residential and agricultural town, and we enjoy a significant income from visitors with summer homes. The majority on the committee don’t believe that commercial marijuana operations are consistent with the character of our town and since the Town will not receive any significant income from these operations, it isn’t worth the risk of affecting our permanent residents and alienating our summer visitors.

Sixth, does Acton want to be the exception? Towns surrounding Acton, including Shapleigh, Sanford, Berwick, Lebanon, Newfield, Alfred and Limerick have already enacted a moratorium or a full ban. While at the same time, New Hampshire has decriminalized but not legalized marijuana. If we permit commercial operations, we run the risk of becoming the nexus of traffic for legal purchases without any offsetting benefit to the Town.

Seventh, does Acton have the financial resources to litigate zoning violations? The majority of the towns and counties we spoke with indicated that they found that achieving zoning compliance among commercial marijuana operators was difficult. Several had given up enforcement because they found the commercial operators had deeper pockets and the cost of litigation was beyond their budgets. The majority in both Washington and Colorado indicated that they lacked the support they expected from the State when it came to enforcement. Given
our limited budgets, the majority doesn’t believe that the Town can’t rely on zoning and instead should simply ban commercial operations.

**Finally, is Acton prepared to pay for a full time police force?** Unlike the majority of towns we spoke with, Acton doesn’t have a full time police force. We only have 20 hours per week of a York County Sherriff. In our opinion, that won’t be sufficient to address their current responsibilities and discharge their inspection and enforcement responsibilities related to legal commercial operators in the Town. While commercial operators may hire on-site 24x7 security, they would protect the operator not the Town.

For all of these reasons, the majority on the committee believe that a full ban of commercial marijuana operations is the best course of action for the Town of Acton. This would in no way impact medical marijuana or anyone’s personal right to use marijuana or to grow up to six mature plants and six immature plants individually, up to twelve each per parcel.

### 7.1.1 Need to act quickly

Some have argued that we don’t need to act until we know what the Legislature does. Some even think that the State will extend the moratorium; as such, we don’t need to rush. However, we believe that if the State extends the moratorium it’s reasonable to expect a lawsuit challenging the State to implement the Citizen’s Initiative immediately. Which, if successful, would put Acton at risk. Additionally, there have been rumblings challenging the legitimacy of local moratoriums, which if overturned in court would put Acton at risk.

Given that the town, with enough support, could reverse a commercial ban, the prudent course is to pursue a vote on a commercial ban immediately to avoid these risks.

### 7.1.2 Impact of pending legislation

As soon as the Legislature passes legislation, members of the committee will immediately revisit the income potential for the Town of Acton and update the report. However, the majority feel it is highly unlikely that any legislation will give the towns the right to impose meaningful local sales or excise taxes that would permit real property tax relief. Given the risks to the town from commercial operations, anything short of meaningful property tax relief suggests that the risks to the town from commercial operations far outweigh the benefits.

### 7.1.3 Majority recommendations if a vote to ban commercial operations fails

There are currently five commercial licenses types in Maine, cultivation, manufacturing, testing, retail and social clubs. It’s worth understanding the issues with each.

#### 7.1.3.1 Cultivation

As the full committee recommended above, the town should not permit outdoor cultivation due to odor and security issues. Further, the Maine Municipal Association indicated that, as it currently stands, under the Citizen’s Initiative and the legislation under consideration, a commercial cultivation operation could also sell retail without any additional licenses. Therefore, if the Town of Acton approves cultivation we’re also permitting backdoor retail operations in the town. The majority doesn’t believe
Acton Commercial Marijuana Committee Report

that retail operations are appropriate to the character of the Town. Further, we are concerned that even if the Town limits cultivation to indoor operations in purpose built buildings the town may still experience odor issues. While the majority prefers that the Town prohibit cultivation, if the Town acts to permit, we strongly urge the Town to limit commercial cultivation operations to one license for an indoor, purpose built building in the Town of Acton.

7.1.3.2  Manufacturing
In our research, it became clear that commercial manufacturing comes in a variety of forms with different risk profiles; these include simple packaging of buds and folding them into edibles versus THC extraction. While packaging and folding is low risk, THC extraction frequently involves volatile chemicals. In addition, since Acton’s Fire Department relies on volunteers, it doesn’t seem prudent or fair to expose the Acton Firefighters or the Town to unnecessary risks.

While we’re against manufacturing, if the Town looks to approve manufacturing the majority strongly urges the Town to limit its approval to simple packaging with proper ventilation and filtration, while prohibiting THC extraction.

If the Town votes to permit THC extraction, the Town should have very strict fire control requirements, inspections and ventilation requirements. In addition, the Town should require strict building plans that detail the manufacturing process, the chemicals involved and require prior approval for any changes to the building plan, process or chemicals.

7.1.3.3  Testing
Of the commercial licenses, it would seem that Testing is the least impactful. The majority remains opposed to these operations, because a testing facility will be serving cultivators and manufactures throughout the area thus increasing traffic. Proper odor controls would be required as well as proper security. However, this is the least likely commercial operation to attempt to locate in Acton because they need to be central to their customers and to high-skilled laboratory personnel.

7.1.3.4  Retail
Due to our location on the New Hampshire border and the bans in surrounding towns, if Acton approves retail sales we can expect a significant increase in traffic. Additional traffic would increase the strain on the Town’s resources and would be an unwelcome nuisance for our local and summer residents. Further, while we would like to believe that retail customers would wait to get home before using their purchases, law enforcement experience would suggest otherwise. While the majority strongly urges the Town to prohibit retail operations, if the town permits them, we urge the town to limit the number of operations to one.

7.1.3.5  Social Clubs
Social Clubs are the most egregious element of the Citizen’s Initiative. This license requires the customer to consume the marijuana at the club; the law prohibits customers from leaving the premises with their purchase. By law, driving under the influence of marijuana remains illegal, yet there’s no requirement that the consumer remain at the social club. Thus, by its very nature, Social Clubs result in their customers violating the law unless they have a designated driver or stay for a reasonably long time after
Acton Commercial Marijuana Committee Report

consuming their purchase. The majority strongly urges the Town to prohibit Social Clubs in the Town of Acton.

7.2 Minority Recommendations
The Minority includes Members James Cook, Mike Macrum and Carol Ward. The following represents the minority views based on our experience throughout the course of our work.

7.2.1 Town Vote and introduction
In November of 2016, 1483 Acton residents voted on Referendum Question 1, legalizing marijuana.

It read:

\[
\text{Do you want to allow the possession and use of marijuana under state law by persons who are at least 21 years of age, and allow the cultivation, manufacture, distribution, testing, and sale of marijuana and marijuana products subject to state regulation, taxation, and local ordinance?}
\]

832 residents (56%) voted yes and 651 residents (44%) voted no. Such a wide margin put Acton squarely on the Yes side. No equivocation, it was a decisive vote in favor of Question 1 and all that it entailed. Now it is time for Acton to determine what role Commercial marijuana will have in the future.

The minority of the Acton Commercial Marijuana Committee thanks all the members of the committee for their dedication and passion during the last three months that we have been investigating the results and experiences of other municipalities where marijuana has been legal now for several years. While there is much in the data that we all agree on, there remains a few key areas in which we may not have the same conclusions as the majority of the committee.

Those of us in the minority have a different perspective on the manner in which the committee has proceeded. We believe that the Board of Selectman had asked the committee to bring back information we have found rather than personal opinions about what the information may mean. We believe that there are some recommendations being highlighted in the report that have been influenced by opinions and conjecture which leads to an incomplete picture of the information.

The minority of the committee has asked the full committee to lay out the facts for the selectman to use as they develop the direction of the town as it awaits the final state statutes, which are being deliberated by the legislature on commercial marijuana regulations. We feel it is too early in the process given the Maine legislature is still developing statute and regulations. Acton would benefit from taking a longer look rather than making hasty decisions.

Throughout our investigation into the results of legalization in Colorado and Washington State, one underlying theme stood out. The dire consequences predicted by those opposed to legalization did not come to pass. There have been problems and unintended consequences, but nothing of the magnitude anticipated by the opponents to commercial marijuana have actually occurred. Most problems have been on the implementation and civil side of enforcement.
7.2.2 Legal v. Illegal

The goal of the committee was to gather information and make recommendations to the board of selectman about “legal” commercial marijuana operations in town. The inclusion of information regarding “illegal” grows distracts from the original task of the committee.

Illegal grows, sales, etc will happen, regardless of what the Town decides. The town derives no benefit whatsoever from “illegal” grows. Allowing legal sales, legal grow operations, etc. in town at least adds something to the town coffers; illegal grows and sales do not.

7.2.3 Benefits of Commercial Marijuana

The final law has not determined actual revenues for the towns that participate in commercial marijuana. Acton may or may not expect a substantial direct flow of tax money from Augusta. But that does not mean there will be none. Other sources:

- Property Taxes, License fees, Permits, etc. will all add to the coffers of Acton.
- A new legal, well run business is bound to help the local economy through taxes, employment potential, and the boost to local businesses as part of establishing and carrying out the operation’s day-to-day business.
- Direct tax revenue of commercial marijuana is undetermined at this point. Regardless of potential direct revenue, Acton will still benefit from the overall tax revenue the state brings in. A larger pot of gold in the general fund in Augusta will be shared with all citizens of Maine in a myriad of ways. Boosting needed programs, infrastructure improvements, and money for schools to name a few. Adding some opportunities in Acton to help that effort will help us all.
- While the higher property values in some locales cannot be specifically attributed to legal marijuana, it is apparent that legalization did not have a detrimental effect overall.

7.2.4 Application/Implementation

While we basically agree with the majority regarding the safeguards found in the committee report, Section 6.3.1, we feel that with armed private security in place, a town police force is not necessary. After all, Acton will have the power to limit the number of legal marijuana operations; therefore existing police enforcement is adequate. This view is based on the fact that there have been negligible problems at legal commercial operations in other states.

During conference calls, several municipalities recommended that in order to protect our town, creating stricter application processes, solid zoning ordinances and clear wording of ordinances will mitigate many problems their municipalities have encountered.

Legislative efforts in Maine are working towards stricter enforcement than other states' previously had with regards to all legal cannabis businesses.
Acton Commercial Marijuana Committee Report

7.2.5 Minority Recommendations

No Need to Hurry

- With a 180-day moratorium already in place, Acton does not have to be concerned if the state legislature allows their moratorium to lapse on Feb 8, 2018.
- We recommend the Board of Selectmen extend the existing local moratorium another 180 days. This will give the town time to construct solid ballots and ordinances to have in place when that second moratorium lapses.

Strict application and Zoning process

- Create clearly written ordinances laying out exactly what the town will expect from any legal marijuana applicant.
  - Specifically set strict rules regarding:
    - Information provided to town on application; i.e. background checks, business plan and what it needs to include, etc.
    - Ensure applicant has the finances to carry out its business plan
    - Applicants will need to provide a substantial bond to cover any clean-up costs. We recommend the bond be for double the estimated amount of that cost.
    - Ensure by ordinance appropriate sized lots for the operation

Phasing in process - should Acton approve commercial marijuana, an example would be:

- In the first year, allow only one operation in each commercial category sanctioned by the town.
- Wait two years before considering any new additions. This will give the town the time needed to assess the impact legal marijuana has on the town.

The Vote to Ban and its aftermath

- No matter whether the residents of Acton decide to ban commercial marijuana or embrace it, the town should continue to develop ordinances to protect the town should state law change in the future.
  - Changes at the state level in the state of Washington and Colorado have already created problems for municipalities that were not prepared.
  - Some State legislatures in states where marijuana is legal and some considering legalization have been discussing punitive measures they can use to nudge more towns that banned to reconsider and open up their towns to commercial marijuana.
    - One suggestion is to withhold all revenue from legal marijuana taxes from any town not involved with sales, growing, and manufacture.

Regarding the Citizen Vote

- The citizen vote should be carried out in two separate votes if needed.
  - The first vote should be a yea/nay vote on banning commercial marijuana in town.
    - Included in ballot would be wording that should the town embrace commercial marijuana, another vote would be needed to determine which of the 5 categories of commercial marijuana will be allowed to operate in town.
Acton Commercial Marijuana Committee Report

- The second vote, if needed, should clearly determine which aspect of commercial marijuana is allowed, specifically any section that is split into two or more subsections.
8 Appendix A: Interviews

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<td>I-2</td>
<td>Colorado Municipal League – October 11, 2017</td>
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<td>Colorado Marijuana Enforcement Division – October 14, 2017</td>
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<td>Maine Marijuana Sales Tax Analysis – October 20, 2017</td>
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<td>Office of Policy and Legal Analysis (OPLA), Maine Legislature – October 25, 2017</td>
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<td>Spokane Regional Clean Air Agency, WA – November 17, 2017</td>
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<td>Drug Enforcement Taskforce (La Plata County, CO) – December 5, 2017</td>
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<td>2nd Interview with Lieutenant Ryan Engle, La Plata County Sheriff’s Office – January 19, 2018</td>
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I had a 20-minute conversation with John Dougherty from the Municipal Research & Services Center (MRSC). Which is a nonprofit organization that helps local governments across Washington State better serve their citizens by providing legal and policy guidance on any topic.

He guided me to their Marijuana Regulation site that is a great resource (link). Among other things, it provides an interactive Map of Zoning Ordinances:

By hovering over the smaller dots you'll see the town's population. Green dots have permanent zoning Red Dots have prohibited commercial operations. Once we've identified towns of interest, there's a resource on the site where you can find their phone number and key contacts in the town. He indicated that he was a proponent of legalization and regulation form the very beginning. These are the highlights of what he shared, and he will happily assist us in the future. The following are the notes I took during our call:

---

[Links and references removed for brevity]
Washington took four years to settle down at the state level, which made it difficult for the towns to keep up.

The law in Washington requires strict security for every commercial operation. Which at a minimum requires camera based security, fence to obstruct view and for grow operation high fence surrounding the operation. No one except employees are allowed on the properties and retail outlets require a specific setup.

While he hadn't have crime statistics, he did mention a retail worker was kidnapped and killed last week for refusing to sell pot to an individual without ID. But he indicated that he was sure it had also happened at a liquor store.

While the commercial operation do generate job, the vast majority are minimum wage.

For outdoor grow operations some municipalities require a minimum of 5 acres and prohibit growth 200 yards from each home and property line.

For indoor grow operations most municipalities require carbon-based air scrubbers to eliminate fumes.

All commercial operations are regulated by the state Liquor & Cannabis Board (link) which also a good source of information.

With respect to Pesticides & Fertilizer -- only products approved for food are permitted. He implied that all products are tested in Washington, but I may be wrong about that. He told me that his son worked at 3 different grow operation and one was shut down for using illegal pesticide.

Many municipalities require that a local person is the primary investor.

Thanks,

Jerry Nulton

"Success is not final, failure is not fatal, it is the courage to continue that counts!" ~ Winston Churchill
Acton Marijuana Committee: 10/11/17 Conversation with Kevin Bommer - Director of the Colorado Municipal League

1 message

Jerry Nulton
Fri, Oct 13, 2017 at 2:17 PM

To: [redacted]
Cc: Richard Nass, Mike Macrum, Jenn Bird, Carol Long

All,

On Wednesday, October 11th, I had a conversation with Kevin Bommer, the Director of the Colorado Municipal League. Here's a summary of the key points we discussed:

- First, he strongly urged a "wait and see" approach at the local level until the State works the kinks out of its licensing process, its regulatory regime and its funding scheme. This took quite some time in Washington State and although Colorado learned lots of lessons it took a while there as well.
  - Early adopters at the local level have paid a heavy price as a result. In terms of having to write and re-write their ordinances, licensing, zoning and inspection regime.
  - Staffing at the local level for enforcement of these is essential.
- Second, don't expect any significant revenue from the State. In Washington state the revenue share is limited to $6M/year maximum. In Colorado, there isn't a revenue share it's up to the local municipality to levy a tax but it can't exceed 15%.
  - I mentioned that in Maine retail taxation at the local level has been prohibited and that while the legislature has been toying with opening it up for Marijuana it's far from certain. Kevin jumped at that and said: "If you are prohibited from levying a sales tax - DON'T BOTHER - even at 15% at the local level - staffing requirements locally is consuming all of the money collected at the local level." I indicated that I wanted to delve into that with those localities to understand the costs they're incurring and how that stacks up against the promise that commercial marijuana would be a "huge revenue source". -- This must be a key focus in our interviews with municipal leaders in both Washington and Colorado and we'll need to stack that up against how the law is finally resolved in Maine.
- I noted to Kevin that New Hampshire has decriminalized but has not legalized marijuana. As a border community, I am hoping that he would connect us to other border communities. He indicated that the issues of border communities are different and that influences the cost.
- I asked about the sheer number of marijuana retail locations - he indicated that they exploded due to communities not understanding the impact. However, he noted that they're beginning to fail due to competition.
- Another area of focus was whether the "state approach to regulation" would be enough to ensure that only "legal actors" were licensed and that those who are are complying with regulations. In Colorado, licensing and regulation falls under the Liquor and Cannabis Control Board which has staffed up and performs regular inspections of grow operations, production facilities, testing facilities and retail locations to ensure that there isn't leakage into the black market.
  - This is important to keep the Fed's out. He referred to two memo's from the DOJ that outline what a State must do in order to keep the feds out of their marijuana legalization regimes:
    - Ogden Memo (link) - October 19, 2009
    - Cole Memo (link) - August 29, 2013
  - Kevin noted that while these outline what's required - they came out of the Obama administration and there's no guarantee that the Trump administration will follow suit.
  - One big issue that concerns him is that the marijuana lobby was successful in overturning Colorado's law prohibiting "verticalization". This was key to Colorado keeping "bad actors" out of the business by making sure that if you're a grower, you can't be licensed as a producer or retailer. And vice versa. Since that was overturned, outside interests/money have become a factor and that's hurt those locals who were trying to make this work.
- Kevin suggested that we connect with Jim Burack, the head of Colorado's Marijuana Enforcement division for additional insight.
- In addition, Kevin will identify contacts at a few smaller municipalities some who have allowed commercial operations and others who haven't.
I look forward to our meeting tonight.

Thanks,
Jenny Nulton

"Success is not final, failure is not fatal, it is the courage to continue that counts" ~ Winston Churchill
Kevin Boomer referred me to Jim Burak (link) who is Chief of Colorado's Marijuana Enforcement Division. Rather than reply to my email, he unexpectedly called me this afternoon.

They employ 108 people, approximately half handle licensing, renewals and product tracking while the other half assist with state inspections. The majority of his team are former law enforcement.

Jim grew up on Jackson, NH and is roughly familiar with Acton's location.

Here are the highlights from our conversation:

- Jim was clear that he wasn't speaking on the record or in any official capacity. Further, he indicated that he could only address things from the State perspective and wasn't intimately familiar with the municipal impacts.
- From a law enforcement perspective data suggests that the State's commercial marijuana industry has significantly displaced the black market because people can buy tested products they can trust legally.
- That doesn't mean that the black market has entirely disappeared - there have been instances where they continue to grow in Colorado as if a legal operation with the intent to sell outside of Colorado - but Colorado is working hard to eliminate illicit trade.
- He is not seeing rampant criminal activity and he attributes that to tough regulations and tracking of products from "seed to sale" and the licensing and tracking of everyone involved in licensed commercial operations.
- Colorado requires surveillance cameras and recordings in and around all commercial operations.
- Jim remains skeptical that the income at any level (state or local) is covering the full costs let alone the social impacts. From his conversations across the state he's unaware of any towns making any significant money from Marijuana.
- Colorado has so far collected approximately $500M in sales tax so far - that is fully funding his department of 108 people, plus social programs, plus tracking programs, plus state police enforcement activities. The towns collect their own sales tax so there's no state share back to the municipalities.
- With respect to testing, Colorado has 17 testing facilities, which have sprung up specifically to support the industry. I mentioned that no one has yet expressed interest in Maine - he's confident that new operations will spring up because that's the key piece - people want to buy marijuana that's been tested and approved for toxins and potency. In his mind that's what differentiates commercial from black market.
- With respect to DUI - apparently there's research on an "oral fluids testing device" but for now blood tests are administered in major incidents to determine whether impairment is caused by marijuana, alcohol, other drugs or some combination. BUT NOTE: blood tests are only ordered under certain circumstances.

Jim's recommendations for Acton:

- Run the numbers carefully and understand exactly what money the town will see under various scenarios - including what will happen over time as other towns decide to participate and thus erode your market.
- Come out for a week and visit smaller towns, grow operations, manufacturing operations, testing locations & retail locations you'll leave with a different view of things - not saying it's right for your town, just that it's different than most people think.
- As a border town, understand the impacts of selling to people from New Hampshire and other states. It remains a federal crime to transport marijuana across state lines. You want to understand what liability might attach to the town and to the commercial operations.
- Ultimately, although Jim was very skeptical (as a former police chief) in the beginning, so far the sky hasn't fallen. On the other hand, it hasn't been a huge money maker either because of the costs associated with regulation and enforcement.
Thanks,
Jerry Nulton

"Success is not final, failure is not fatal, it is the courage to continue that counts" – Winston Churchill
Jerry Nulton (US - IFS)

Conversation with Eric Bergman, Policy Director at Colorado Counties, Inc.

From: Jerry Nulton
To: Carol Long, Carol Ward, James Cook, Mike Macrum, Richard Nass
Cc: Jenn Bird

Mon, Oct 16, 2017 at 8:38 PM

All,

Carol Ward and I had a conversation this morning with Eric Bergman, Director of Policy at Colorado Counties, Inc. (a non-profit, membership association whose purpose is to offer assistance to county commissioners, mayors and council members and to encourage counties to work together on common issues).

Carol - please feel free to augment or correct the points below.

We began by outlining what's going on in Maine, our geography and the recent actions by NH to decriminalize. Here are the key points from our conversation.

- Colorado Counties and rural municipalities have taken a variety of approaches to marijuana. However, 2/3's of the 64 counties have prohibited any commercial operations, one very conservative location has only allowed testing. But of those who have approved some form of commercial operations they have various restrictions including:
  - Limits on the number of commercial operations (for example they may limit the number of retail operations to 1 or 2)
  - Limits on the size of operations
  - Limits on location
  - Limits on which types of commercial operations
  - Requirements on ventilation for growth and manufacturing
  - Security requirements are set by the state - I didn't notice anything in our legislation or the citizen's initiative outlining security requirements - but I may have missed it - so we may want to, at a minimum, copy the Colorado State security requirements

- Revenue: Municipalities can charge both sales and excise taxes. In addition there's a 5% shareback of state sales tax which is 10% (so for every $100 in tax the locality gets $5) but that's in addition to the local sales tax and excise tax. The excise tax is typically placed on marijuana grown and sold to a manufacturer or on the manufactured products sold to a retail operation. In addition, Colorado is a dual license state so the locality is allowed to charge a license fee. Finally there are property taxes.

- On the plus side - there are 33,000+ occupational licenses in the state from "Bud tenders" to "Growers" to "Manufacturers" to "Retail Sales".

- Pueblo County, which has the city of Pueblo, has collected over $1M and is putting $400-$500K towards a new justice center.

- Law Enforcement issues:
  - Structure: Colorado has a combination of State Police, Colorado Bureau of Investigation, County Sheriff and some local police.
  - Police are focused on "Diversion" which involves diversion of legal product to (a) minors, (b) across state lines, (c) from Medical to the "grey market" or (d) illegal grow diverted across state lines.
  - Problem #1: Illegal Grows - there have been 30-50+ large scale seizures of illegal home grows. It's difficult for the police to determine what's legal and it's taking a lot of time. While the implementation has largely been successful, the issue of criminal grow organizations diverting product to other states has been an issue.
  - Problem #2: Homeless and Transients are a significant problem everywhere. Transients are setting up campers and grow operations "off-the-grid" on other peoples properties. Homeless have become a widespread problem and pan-handling has become common even in rural areas.
  - Unintended Consequence: The number of police at every level has not increased in any significant way. As such, these problems have diverted police attention from other issues including domestic abuse and regular everyday law enforcement.
I explained what I understand about the Maine implementation and revenue share and the prohibition against local sales tax. Eric, made it a point to indicate that unless we had the opportunity to charge local sales and excise taxes then he couldn't see how it would be in our best interests to pursue commercial operations. That's the reason I sent the email earlier today about what taxes we could impose locally and what % of the sales tax we'd see under either legislation or the citizen's initiative.

Thanks,
Jerry Nulton

"Success is not final, failure is not fatal, it is the courage to continue that counts" ~ Winston Churchill
Interview of HJ Staif, City Manager, Edgewater, CO

1 message

Jerry Nulton
Thu, Oct 19, 2017 at 5:29 PM
To: Carol Long
Jenn Bird
James Cook
Nass
Richard
Cc: 

All,

Here are my notes from our call today. Those of you who were on the call, if you'd like to offer any comments or corrections, please do so.

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Background:

Edgewater passed recreational marijuana by 73% to 27%, so the town was wide open to this. HJ Staif, the city manager, indicated that there have only been 2 robberies related to marijuana in 4 years (both robberies of customers exiting retail locations), beyond that, it's been net positive. The City Manager required a business plan from any aspiring retail owner, he rejected several on the basis of a poor business plan. The six retail shops have been operating for most of the past four years, most shops are owned by people with multiple shops in Colorado.

Municipal Income:

Six retail shops (no social clubs, grow operations, manufacturing or testing).
Local Sales Tax of 3.5% (on sales of anything in the town) generates $997,589 which implies retail sales of $28.5M (an average tax income of $160,000/shop annually - retail sales of $4.5M/shop), plus a state sales...
tax share of $396,000 for approximately $1.4M in income.

They do charge a licensing fee, HJ believes it's in the neighborhood of $5,000, but annual renewal is hundreds of $'s not thousands.

Costs:

No additional costs. The town has a police force of 17 which hasn't grown at all.

Limits:

The town of 0.7 square miles had six retail shops before anyone mentioned anything. The town now has a limit of 5 and will reduce the number if/when a shop goes out of business. They are a mixed residential/commercial area so there's nowhere for grow, manufacturing or testing. They use their standard C-1 commercial zoning to regulate the retail shops plus whatever state regulations are in place.

Employment:

As they're located approximately 4 miles from downtown Denver, their unemployment rate is around 2%. Each retail marijuana shop employs between 6-8 people. We didn't get any insight into what they're paid.

Real Estate:

Edgewater, known as "The Edge City" for its proximity to Denver, is experiencing a resurgence in their real estate values. They're at approximately 150% of their pre-2009 values, driven largely by gentrification and the employment market in Denver. Marijuana hasn't hurt their property values - keeping in mind they only allow retail sales.

Advice to Acton:

- Ask for a business plan from each owner
- Consider what "market" you want to serve. - Edgewater serves commuters on the way out of Denver and Denver residents after their shops close. They'd never sell $28.5M to their 5,323 residents - so their market is for commuters and Denver residents who look to buy after their shops close at 10PM (Edgewater permits sales till midnight). - Keep in mind that any business plan that "plans to serve NH residents" would run afoul of Federal and State laws.

Thanks,
Jerry Nulton

"Success is not final, failure is not fatal, it is the courage to continue that counts" – Winston Churchill
Quick question

1 me age

Jerry Nulton   Carol Ward <James Cook
Nass           Jenn Bird <Mike Macrum

Fri, Oct 20, 2017 at 8:11 PM

To: Carol Long

All,

I’m curious, how much would it cost to pave 5 miles of any town road? Any idea?

I ask, because I just did a little math...let’s assume the following (which isn’t at all realistic):

- Let’s assume we could sell $28.5M, like Edgewater, - they collect $997,000 based on a 3.5% local sales tax.
- Under the State scheme you laid out for retail, we would get 5% of the 10% the State collects - that’s the equivalent of 0.5% to us.
- If we could sell $28.5M - at 0.5%, Acton would see $142,428.57
- Obviously we couldn’t hope to sell $28.5M - so our real numbers would be far smaller.

With respect to the 1% share back of retail sales tax of 10% statewide - keep in mind that’s the equivalent of a Tax of 0.1% that goes to all municipalities (in an equal share) who are participating in commercial operations. If the State sold $400M annually, then the bucket to share equally among all municipalities involved would be $400,000 to be shared - assuming there’s at least 20 participating municipalities (and I suspect that’s very low), then that comes to $20K/town.

Clearly we need to do more work, but these retail numbers don’t seem particularly promising to me. We still need to look at the grow numbers. Let’s discuss next week.

Thanks,

Jerry Nulton

"Success is not final, failure is not fatal, it is the courage to continue that counts" ~ Winston Churchill
To all,
I just got off the phone with Dan, the man who wrote the new bill just passed in Augusta.

I initially called to ask for who to contact about specific aspects like environmental waste, and utilities the state was including with the bill. He definitely straightened me out.

Writing and passing the bill is but the first step in a long series of steps the state is going to go through before any state license can be issued.

Provided this law is not vetoed and becomes the law of the land, the parts of the bill that refer to creating specific rules set by the various agencies involved will be the next step. Optimistically he said it would be at least 4 to 6 months before these agencies had any rules written. Once they felt their end was covered, those rules would be submitted to the legislature for review, discussed and changes proposed. If any are, they will be tossed back to be included/excluded.

In other words, Dan figured it would be well into 2019 before the first license was ready to rock.

So at this point, all I have to work with are the rules in place regarding Medical Marijuana. I think they will give me a feel for what to expect in the broader picture. but still, unless there is specific language in the recent bill, it will be my best guess only.

If you would like to contact Dan, call OPLA at xxxxxxx.

Thanks for listening,

Mike Macrum

--
Spread Your Wings Whenever You Can - Ride Your Bike
# Liberty Lake, Washington

**Interview Date:** October 27, 2017  
**Subject:** Katy Allen, City Manager, Liberty Lake, Washington  
**RJ Stevenson, Finance Director**

**Committee Members:** J. Nulton, Mike Macrum, Carol Ward & Richard Nass

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<tr>
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<th>Acton, Maine</th>
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<tbody>
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<td>6.14 Square Miles</td>
<td>41.11 Square Miles</td>
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<td>Population:</td>
<td>8,906 (population from 1980 of 1,600 to today???)</td>
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<td>Density:</td>
<td>1,236.3/square mile</td>
<td>64.9/square mile</td>
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<tr>
<td>Location:</td>
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<td>9.8m NW of Sanford, ME - pop 21K 42.6m W of Portland, ME - pop 67K 23.1M N or Rochester, NH - pop 30K</td>
</tr>
</tbody>
</table>

**SOURCE:** Wikipedia

## Background:

When Marijuana was legalized in Washington state, the mayor and city council of Liberty Lakes wanted to ban all commercial operations. However, because of statements made by various state legislators they were concerned that they might lose liquor sales taxes if they imposed an outright ban. They also feared being sued by applicants.

So instead, they expanded locations where the 1,000 buffer zone would apply to include:
- Elementary or secondary schools, including school bus stop locations;
- Playgrounds;
- Recreational centers or facilities;
- Child care centers;
- Parks;
- Public transit centers, including transit bus stop locations;
- Libraries;
- Game arcades where admission is not restricted to person age 21 and older;
- Churches and religious facilities, or;
Access points for the Centennial Trail or other public trails within the city of Liberty Lake.

Since their tax maps showed very few locations where a commercial operation could operate they felt they had in effect put a ban in place. However, they received one application for a Social Club on one of the few applicable plots which they approved.

In the meantime, they realized that more than 90 of the 281 cities in Washington State had banned all commercial operations without any repercussions. So they updated their zoning and passed a ban.

The approved social club has yet to begin building. Their permit is good for five years, so it will likely be built at some point. As such they were unable give us a sense of the impact to their town.

Their original ordinance with the zoning and buffer zones is attached.

Advice to Acton:

- Use the moratorium - there’s no reason to rush.

Tools:

This [link](#) allows you to look at the 2016 Sales Tax collected from various retailers in counties, cities and unincorporated areas in Washington state.
Prosser, Washington

October 25, 2017 Conversation with David Stockdale - City Manager & Steve Zetz, City Planner
(Committee Members: J. Nulton, Mike Macrum)

<table>
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<tr>
<th>Interview Date:</th>
<th>October 30, 2017</th>
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<tbody>
<tr>
<td>Subject:</td>
<td>David Stockdale, City Manager, Prosser, Washington Steve Zetz, City Planner (and former Police Officer)</td>
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<tr>
<td>Committee Members:</td>
<td>J. Nulton &amp; Mike Macrum</td>
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<th>Town:</th>
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<th>Acton, Maine</th>
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<td>Square Miles:</td>
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<td>Population:</td>
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<td>2,504</td>
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<tr>
<td>Density:</td>
<td>1,272.6/square mile</td>
<td>64.9/square mile</td>
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<tr>
<td>Location:</td>
<td>Washington’s Wine Country - tourism helps Part of Benton County - the only city that permits retail so they get traffic from the following cities: 35 miles to the tri-cities of Pascoe, Richland &amp; Kennewick which have banned retail sales and have a combined population of approximately 206,000</td>
<td>9.8m NW of Sanford, ME - pop 21K 42.6m W of Portland, ME - pop 67K 23.1M N or Rochester, NH - pop 30K</td>
</tr>
</tbody>
</table>


Background:

When I-502 initially passed Prosser wasn’t going to regulate marijuana any differently than any other commercial business. However, after a year as the rules at the state level continued to change they began to adopt local regulations. Of the first 4 retail locations licensed in Washington, one was in Prosser, run by a local Chiropractor who has lived in the town for many years. With each year Prosser has adjusted their zoning to become more restrictive.

Prosser only permits indoor grows and as such has none. The growing is done in the surrounding areas of Benton County. Most of the non-edible production is also done by the growers who are joint grower/manufacturers.
Prosser, Washington

October 25, 2017 Conversation with David Stockdale - City Manager & Steve Zetz, City Planner
(Committee Members: J. Nulton, Mike Macrum)

Their highest sales day is Sunday, as the “wine-country tourists” head home. It’s isn’t a “bad element” that buys - you typically see BMWs and Mercedes in the lot. Also, since the tri-cities of Pasco, Richland and Kennewick banned sales we get a lot of their population coming across I-82 to buy.

Municipal Income:

The one local business “Altitude” has annual sales of approximately $1.25M/year and employs 14-15 people. It’s owned by a local Chiropractor, who is well known in town and has done it right.

Dave explained the Washington State tax system in greater detail. The State charges and Excise tax of 25% on all marijuana sales which they share back approximately 1% of the 25% to the local municipality. In addition, there’s a standard sales tax of 8.3% on top of that for sales of everything. Of which the local municipality get 1.9%. In addition, there’s a criminal justice tax of 0.3% (increasing sales tax to a total of 8.6%).

Totaled together, Prosser is only seeing about $40,000 in total from the $1.25M in sales. This is far less than they were let to expect when I-502 was being pushed.

Costs:

There have been no significant additional costs. The biggest is the annual time spent evaluating how the new changes to the laws will impact Prosser and determining how to respond to that.

Issues:

There have been no criminal issues. In fact, Steve Zett who is a former Police Officer indicated that legalization has overall been very positive as it has been pushing the gangs out of marijuana. He made the point that as a police officer he never responded to a domestic call where marijuana was involved, alcohol was the primary driver.

However, both Steve and Dave pointed out that having the wrong business partner can lead to real problems. They have one marijuana retailer just outside of the city limits that has had multiple violations on a consistent basis, including selling to minors, where the State hasn’t suspended the retailer.

Beyond that, their biggest issue is with the State. There’s little communication with the local municipalities and they don’t get to provide input. So things are constantly changing and they’re
forced to react. In one example, unlike Maine, the State licenses the retailer and then they can locate anywhere it isn’t prohibited. In this case, the Mayor, City Administrator, City Planner and Police Chief each wrote letters explaining that the town already had one retailer and another right outside of town and they couldn’t see how putting a 3rd nearby made any sense. The State licensed the retailer anyway. Ultimately, the retailer decided to move to another location - but the town’s wishes weren’t respected by the State.

In another case relating to signage, originally the state law limited signs to 6 square feet. Then without notice they approved 60 square feet - so now the town has a billboard facing I-82.

Advice to Acton:

- Don’t count on the state to regulate, the laws will continue to change, make sure your zoning covers you and make sure you remain up on how the law evolves. It’s been shifting sands for us and more of a job of managing it on a regular basis than we expected.
- Don’t expect this to be a gold mine, it isn’t unless you control taxation.
- Keep a clear and open line of communication with your residents, if you don’t one side or the other will feel you’re trying to pull a fast one.
- Establish strong objective criteria for approving & rejecting applicants so you can avoid lawsuits.
- You may want to require that your operators are local residents, that’s been essential to Prosser’s success.
- Expect any operators to constantly push the boundaries - so keep a tight reign on them - keep up your inspections and don’t let them cross the line.
- Keep an eye out for “Community Grows”. It’s a concept that keeps coming up like a farmer’s CSA (Community Supported Agriculture) where individuals join a cooperative that grows their 6 plants for them - it very quickly becomes an unregulated grow operation.

Next Steps:

Steve Zetz, the City Planner, will send us their local zoning ordinances and will put us in touch with the Planning Director for Benton County so we can get more information on their approach to zoning for cultivation, manufacturing, testing and sales. However, I believe they said that Benton has recently banned all future operations in the county.
Fwd: Looking to learn from the experience of Spokane County

All,

Very interesting email from the current Chair of the Board of Commissioners of Spokane County Washington. I'm working to set up a call as he suggested with the Director of Planning and the Executive Director of the Spokane Regional Clean Air Agency. I'll send the invitation as soon as we can find a time that works.

Thanks,
Jerry Nulton

"Success is not final, failure is not fatal, it is the courage to continue that counts" ~ Winston Churchill

--------- Forwarded message ---------

From: French, AI
Date: Wed, Nov 1, 2017 at 9:26 PM
Subject: RE: Looking to learn from the experience of Spokane County
To: Jerry Nulton
Cc: "Pederson, John" "Corkins, Karen" "Julie Oliver"

Hi Jerry

I am the current Chair and senior member of the Board of County Commissioners and have had to deal with this issue the longest so I have a comprehensive viewpoint. While I am not nor have ever been a user of the product our county did approve the initiative by a 52% margin when it was on the ballot. We have worked to meet the will of the voters while at the same time protecting property rights of adjacent owners and the public. We have adopted land use regulations that you can find on our website. These regulations are the latest iteration after having been amended a couple of times since their original adoption. It is fair to say that we are still trying to deal with the negative impacts of the industry while at the same time provide for a regulatory environment that will allow this industry to grow. Spokane County is one of the best counties in the state for outdoor production but with that comes some real challenges especially around odors.

Colorado for instance does not allow for outdoor grows and I believe that is a sound strategy and if we could adopt a similar approach it would address the negative impacts we are dealing with. When the plant goes to blossom, it emits
an odor that equals the scent of a whole family of really mad skunks. The odor is so strong that it has driven adjacent home owners out of their homes resulting in a drop in property values and subsequently property taxes.

The outdoor grows allow for investors to get into the industry with a minimal investment and the product is a better quality than what you would get from a greenhouse environment. The enclosed structures provide for better control of the odor problem with filtration systems that work pretty well.

I am going to give you the names of two individuals that can provide you with greater information than me. The first is John Pederson, our Director of Planning. The second individual is Ms. Julie Oliver, Executive Director of the Spokane Regional Clean Air Agency. I have copied them to this email for your convenience. If there is anything further that I can do for you please do not hesitate to contact me. Good luck.

Al French, Chair
County Commissioner

From: Jerry Nulton
Sent: Tuesday, October 31, 2017 6:04 PM
To: French, Al
Subject: Fwd: Looking to learn from the experience of Spokane County

---------- Forwarded message ----------

From: Jerry Nulton
Date: Tue, Oct 31, 2017 at 8:53 PM
Subject: Looking to learn from the experience of Spokane County
To:

Al, Josh & Mary,

I live in Acton, Maine a town of 2,447. Maine voters approved recreational marijuana last November and the legislature is working to put the rules in place. I'm on a committee in Acton evaluating whether we want to approve commercial operations in the town, on behalf of our selectmen. We need to determine whether we'll approve (a) grow operations, (b) production, (c) testing, (d) retail and (e) social clubs.

I originally was reaching out to towns in Washington State, but I've learned that most are under 8 square miles and for the most part only have retail operations. However, the Counties control what happens in the unincorporated areas where cultivation, production and retail occurs more frequently. In Maine, our town is 41+ square miles - so we stand to have any of the five types of operations above.

I've been looking to learn from the experience in Washington, both those who have approved and those who have prohibited operations.

I'm hoping to get insights into lessons learned, unintended consequences, ordinances, zoning, fire regulations, etc... Just so we don't reinvent the wheel.
11/20/2017

Mail - Fwd: Looking to learn from the experience of Spokane County

It was through the web and the Association of Washington Cities marijuana tax production web site that
I found my way to you.

Apologies again for the long lead in - can you
or a member of the county government
help
our Commercial Marijuana Committee
learn from your experience? Our town is as quintessential Maine as it gets - so we don't want to make any foolish
mistakes and disrupt that. If you'd be willing to talk with me or connect me with someone in your
county
who's familiar with your decision making and current views then please feel free to email me or call my home office
at

Thanks,

Jerry Nulton

"Success is not final, failure is not fatal, it is the courage to continue that counts" - Winston Churchill
Conversation with Ron Cook - Commissioner of Prowers County, CO

1 me age

Jerry Nulton

Thu, Nov 2, 2017 at 12:03 PM

To: Richard Nass, Mike Macrum, Carol Ward

Cc: Ron Cook (rcook@prowerscounty.net)<rcook@prowerscounty.net>

All,

Ron (copied above) called me earlier today and we spoke for about 30 minutes. [Ron, once again thank you for your time. Please feel free to reply-all to correct anything I might have gotten wrong or missed below.] While Ron is happy to have a conference call if we would like, I offered to write up our notes and share them with the committee.

Prowers County prohibits commercial marijuana operations. Their population voted 85% to 15% against the state referendum. Their population of 12,700 views marijuana as a gateway drug and they, like Maine, already suffer from a significant heroin and meth problem.

Their ordinance, attached for your convenience, addresses a number of limits on both personal and medical marijuana grows because lobbyists are pushing to increase the number of plants individuals can grow and because they are pushing to permit people to grow at a location that is not their primary residence. This is something I've heard from others about a push for "community grow" operations where an individual can sign up to be part of a cooperative and have someone else grow their marijuana for them "for a fee". The concern here and elsewhere is the advent of unregulated grow operations that aren't deemed "commercial grows".

Ron has also suggested that we connect with Las Animas County to hear their experience. I'll be working that angle later this week.

We can decide at our Friday meeting if we want to set up a call with Ron.

Thanks,

Jerry Nulton

"Success is not final, failure is not fatal, it is the courage to continue that counts" ~ Winston Churchill

Prowers County Colorado Ordinance No. 2017-1 Residential Marijuana.pdf

4899K
City of South Bend, Washington

November 6, 2017 Conversation with Dee Roberts - Clerk/Treasurer
(Committee Members: J. Nulton, Carol Ward, Richard Nass & Mike Macrum)

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<tr>
<th>Interview Date:</th>
<th>November 6, 2017</th>
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<tbody>
<tr>
<td>Subject:</td>
<td>Dee Roberts, Clerk/Treasurer, South Bend, Washington</td>
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<tr>
<td>Committee Members:</td>
<td>J. Nulton, Carol Ward, Richard Nass &amp; Mike Macrum</td>
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<th>Town:</th>
<th>Cowlitz County, WA</th>
<th>Acton, Maine</th>
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<td>Square Miles:</td>
<td>1,166 Square Miles</td>
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<tr>
<td>Population:</td>
<td>1,637</td>
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<td>Density:</td>
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<td>64.9/square mile</td>
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<tr>
<td>Location:</td>
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<td>9.8m NW of Sanford, ME - pop 21K 42.6m W of Portland, ME - pop 67K 23.1M N or Rochester, NH - pop 30K</td>
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Background:

The recession hit South Bend hard, the port buildings were all empty. So when marijuana was approved (overwhelmingly in the town 80% to 20%), the town leaders reluctantly decided to welcome any business to South Bend. They now have four indoor grow operations, a manufacturing facility and a retail location. Although the city council was worried, they’ve seen no significant issues beyond the following:

- Signage issues that caused an unexpected public reaction that caused the council to intervene
- Occasional odor issues from the manufacturer - but since the prior business was a shrimp cannery, the odor was actually less imposing and more pleasant, by comparison
- Two attempted break-ins, both unsuccessful and both caught on video

At the same time, like others we’ve talked to in Washington, they’ve also seen no significant income from the state.

They didn’t do anything with zoning, relying completely on the regulations imposed by Washington state for security, ventilation and setbacks.
Their one retail location, “Growers Outlet” has annual sales of around $500,000/year.

The businesses have increased employment, but it’s all in the $11-$15/hour range, however, given the lack of prior employment it’s been welcome.

When asked her overall reaction to the businesses, Dee said, “Overall, it’s done nothing for the town. We did it to generate town revenue - but we get maybe $5,000 from the state. But the buildings aren’t empty and a few more people have jobs.”

They’re too far from the Oregon border to have seen any significant business before Oregon legalized.
Cowlitz County, Washington

November 8, 2017 Conversation with Nick Little - Director of Building and Planning
(Committee Members: J. Nulton, J. Cook & M. Macrum)

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<tr>
<th>Interview Date:</th>
<th>November 8, 2017</th>
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<tr>
<td>Subject:</td>
<td>Nick Little, Director of Building &amp; Planning - Cowlitz County, WA</td>
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<tr>
<td>Committee Members:</td>
<td>J. Nulton, J. Cook &amp; M. Macrum</td>
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<td>23.1M N or Rochester, NH - pop 30K</td>
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Background:

Cowlitz County is a rural county with five cities and 90% of it’s population nestled up around I-5 which bisects the county from north to south. Outside of the cities, most people live on lots of 2-10 acres with wells and septic systems.

Unlike most counties in Washington state which are 100% zoned, Cowlitz county is 15% zoned, 85% unzoned. So zoning alone wouldn’t address commercial marijuana. So instead, the county decided to treat it as a “land-use”.

The county first put a moratorium in place to give them time. Then the County Supervisors, hoping to earn some money for the county formed a nine person committee (similar to ours) to develop “logical and enforceable” land use regulations.

The committee established a vision for the county:

- They weren't interested in large commercial grows (Tier 3 - 10,000-30,000 square feet)
- Did not want outdoor grows for the following reasons:
  - They didn’t want outdoor grows to challenge/convert other agriculture and timber land
Cowlitz County, Washington

November 8, 2017 Conversation with Nick Little - Director of Building and Planning
(Committee Members: J. Nulton, J. Cook & M. Macrum)

○ They didn’t want the security risks of kids or criminals trying to get into the outdoor grows
○ They didn’t want 10-15’ razor wire fences
○ They figured indoor grows would be out-of-sight-out-of-mind

● Wanted to make it easy for Tier 1 “micro-grows” (1,500 square feet) similar to micro-breweries who they expected would have less impact on the community
● Wanted to make it more difficult for larger Tier 2 growers (1,500-10,000 square feet) so they could actively manage their impact on the community
● They were ok with retail but wanted to confine them to the cities wand they wanted to eliminate the possibility of a Denver-like “marijuana mile” by limiting how close retailers could be to one another
● They separated processors into two tiers (although at the state level there’s only one license
  ○ Tier 1 - are processors who packaged buds or folded them into edibles - they were less restrictive with these
  ○ Tier 2 - are the manufacturers who extract THC chemically from the plant which involves industrial solvents and volatile organic compounds - they planned to be very restrictive with these
● They also wanted to ensure that what they approved around the cities was consistent with what the cities permitted to make sure they remained good neighbors

Their ordinance enacts standards for the following:

● Setbacks from homes
● How operations are screened from homes
● Required security lighting and how it’s screened from neighbors
● Parcel size limits (Tier 1 - no minimum, T2 - minimum lot size - T3 prohibited)
● No outdoor grows
● Parking requirements
● Access requirements
● Security Cameras - not permitted to video neighbors
● Odor management
● Retail separation (not closer than 300 feet from another retail location)

The result was an ordinance which laid out two permitting processes:

● Administrative Use - a very light touch for Tier 1 cultivation, Tier 1 production and retail in the areas where the county was ok with those operations. It was meant to be easy to encourage licensees to pursue operations of this type in these specific areas
Cowlitz County, Washington

November 8, 2017 Conversation with Nick Little - Director of Building and Planning
(Committee Members: J. Nulton, J. Cook & M. Macrum)

- Special Use - this is a more robust permitting process that includes public comment and is intended to be very difficult to achieve because it involves putting a Tier 2 cultivation, Tier 2 production or retail in areas where they’re unwelcome. An administrative “judge” would conduct the hearings and render a decision.

The biggest disconnects are with the State of Washington:

- The State approves licensees and while they claim to take the local government’s wishes into account, they rarely disapprove a licensee. So the county ended up with growers and retailers that opened before their permitting process was in place (in spite of the moratorium).
- They’ve seen very little tax income even though retail operations are driving approximately $4.5M/year - they have 3 locations so the average is $1.5M/location

County Experience:

Nick couldn’t comment on the criminal justice impact - but let’s assume that like other areas it hasn’t been significant.

They have had an unexpected community blow up where the citizens became very angry over a permitted grow operation. They took it to court but lost based on the logic of the permitting process.

The most disappointing problem is that they only have about 10% permitting compliance (90% of cultivation and manufacturing operations are unpermitted). Further, the county supervisors seem unwilling to drive enforcement so while they have a great process, there’s limited compliance. In theory they could impose fines, take them to court and shut them down, but not without the political will to do so.

Odor enforcement can be difficult. Their ordinance is written such that no detectable odor can be detected at the edge of the parcel. When they have a complaint, an independent 3rd party comes out to see if it is a nuisance. In theory they can revoke the permit - but that may not have any impact. The best way to handle it is to make sure that the ventilation is robust before the operation begins.
Marijuana Industry Group

November 10, 2017 Conversation with Kristi Kelly - Executive Director of MIG
(Committee Members: J. Nulton)

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<tr>
<td>Subject:</td>
<td>Kristi Kelly, Executive Director of Marijuana Industry Group, CO</td>
</tr>
<tr>
<td>Committee Members:</td>
<td>J. Nulton</td>
</tr>
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Background:

I was introduced to Kristi Kelly by Jim Burak the Directory of Marijuana Enforcement in Colorado. Kristi’s organization (link) represents growers, manufactures, testing facilities and retailers in Colorado.

Kristi called me this afternoon at Jim’s request. We discussed the progress Maine has made with legislation, Acton’s Marijuana Committee and the process we’ve been following. I expressed our interest in talking with responsible, independent commercial operators in all the categories including:

- Outdoor grower
- Indoor grow
- Manufacturing
- Testing
- Retail

As we discussed it - Kristi offered a few observations. Because of regulations, these businesses are very capital intensive and their profit margins are narrowing as competition intensifies and prices drop. If a business isn’t well run, it’s not likely to succeed. As we discussed Acton’s position and the nature of our town, she offered the following caveats:

- Outdoor cultivation - with our limited growing season you would only expect one crop per year, when you consider the costs of land, fencing, security, regulatory compliance and other costs it may make this cost prohibitive.
- Indoor cultivation- growers are typically looking for cheap, clean (critical), available industrial/commercial buildings that can be efficiently adapted with the appropriate climate controls. Towns with an inventory of available buildings will have an advantage.
- Manufacturing - the comments related to indoor cultivation also apply.
- Testing - typically want to be close to the majority of cultivation and retail operations as well as close to universities (ready access to chemistry graduates) and thus are generally closer to major population areas.
- Retail - virtually anywhere they can draw from a large enough population.
Kristi agreed to reach out to her members to identify representatives of these groups to speak with the committee.
Jason Trowbridge is a resident of Sanford, Maine, a realtor and a Medical Marijuana Caregiver. He attended our November 10th meeting to share his experience growing marijuana. Among other things, Jason shared the following:

- If he were to have an operation in Acton, given that we don’t have a full time police force, he would require physical on-site security 24x7 in addition to video surveillance.
- Retrofitting a house as a grow operation must be done right to ensure proper electrical support, ventilation to avoid mold problems, filtration to manage odor problems and security.
- An outdoor grow would require proper fencing and security.

In the Citizen’s Initiative, under definitions they define plant canopy as: “the area upon the licensed premises dedicated to live plant cultivation, such as maintaining mother plants, propagating plants from seed to plant tissue, cloning and maintaining a vegetative or flowering area. "Plant canopy" does not include areas such as space for storage of fertilizers, pesticides or other products, quarantine areas, office space, walkways, work areas and other similar areas.” Grow operations fall under the following tiers:

- T1 - Under 3,000 square feet of canopy
- T2 - Greater than 3,000 square feet of canopy

Jason explained that in a typical facility roughly half of the canopy is used for maintaining mother plants, propagating plants from seed while the other half is typically used for cultivating flowering plants. He estimated that in a 3,000 square foot indoor grow facility, the 1,500 square feet dedicated to flowering plants would, by his estimate, produce approximately 22.5 to 36 pounds of buds every two months, or 135 to 216 pounds per year. At a wholesale value of about $2,000/pound that’s $270,000 to $432,000/year. An outdoor grow facility would likely only produce flowering plants once or twice per year in our climate.
Spokane Regional Clean Air Agency, Washington

November 17, 2017 with Julie Oliver Exec Director of the Spokane County Clean Air Agency
(Committee Members: J. Nulton, R. Nass, J. Cook & M. Macrum)

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<tr>
<td>Subject:</td>
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<td>J. Nulton, J. Cook, R. Nass &amp; M. Macrum</td>
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Background:

The Spokane Regional Clean Air Agency is a “Special Purpose District”, meaning that while it overlaps Spokane County, it is not a county agency but rather an overlapping agency which enforces federal, state and local regulations to reduce air pollution. The state established their authority under the 1967 Clean Air Washington Act (RCW 70.94) and they became fully activated on January 1, 1969.

There are currently seven local air agencies established in some portions of our state. Where no local air agency is established, or the air agency cannot perform the statutory duties required under Washington law, the Washington State Department of Ecology has this authority to regulate and enforce issues related to air quality.

Spokane Clean Air’s Board of Directors believes that a fully funded, technically-capable, and locally-controlled air quality agency is necessary to the environmental and economic health of Spokane County.

Julie Oliver is the Executive Director.
Marijuana Experience:

Marijuana commercial operations have been a significant problem across Spokane County as evidenced by this table which appeared in an October, 2017 report from the agency. As you can see, the number of complaints is double the complaints of non-Marijuana operations.

The agency has a staff of five inspectors available to investigate complaints Monday-Friday, 8 AM to 4:30 PM. They accept complaints by phone, email and writing, however in order for a complaint to become a violation the following three conditions must be met:

1. An inspector must independently verify that the odor is at a level 2 or higher on a scale of 1-4. A level-2 odor must be “distinct and definite, any unpleasant characteristics recognizable” such that an inspector can identify specific characteristics of the odor. The scale goes to a level 4 where people don’t want to stay in the area. Given the limited operating hours and the limited number of staff, the agency isn’t able to investigate the majority of complaints in a timely manner. Further, since the inspectors are not commissioned law enforcement officers, if they can’t verify that an operation is licensed, they will not investigate and instead hand it over to law enforcement.
2. The inspector must be able to identify the specific source of the odor. This isn’t easy under the best of circumstances given the variability of wind speed and direction.
3. The complainant must be willing to go on the record in writing and agree to testify before any appeals that the commercial operation might request.

As such, you can imagine that very few complaints become violations. In fact, the agency has only had five violations out of 322 complaints. Other agencies have had roughly similar types of complaints and violations. (NOTE: The number of complaints and violations are different in other areas of the state. Spokane County is one of 39 counties in Washington and has approximately 15% of the producer licenses.)
Marijuana Odor problems:

The odor from Marijuana plants comes from the Volatile Organic Compounds (VOCs) emitted by the plant. All plants emit VOCs, it's just that the odor from Marijuana has a very distinctive smell often referred to as smelling like a “bag of angry skunks”.

With respect to health impacts, Julie indicated that there hasn’t been any significant research into the VOCs from marijuana since the 1970's because even research has been illegal. However, she pointed to studies recently published in the British journal of medicine called The Lancet and to a recent paper published by the American College of Allergy, Asthma, and Immunology that indicate that cannabis allergies are on the rise. Julie has heard of two or three situations where residents in Spokane County are so allergic that they carry Epi-Pens.

Recently her agency decided to do some original research. With the permission of several indoor grow operations, they took air samples and had them analyzed by a university using Gas chromatography-mass spectrometry. They identified specific VOCs. Nothing stood out of particular concern regarding toxicity.
Managing odor from outdoor growing operations:

Julie indicated that there is no setback that is adequate to manage odors from outdoor grows. This is because of the molecular weight of the Volatile Organic Compounds emitted by the Marijuana plant can drift for over a mile. Winds can carry them aloft only to descend some distance away. This significantly increases the difficulty in satisfying the second condition for issuing a violation outlined above. The agency deals with odor problems at a wide variety of commercial operations including a coffee roaster, asphalt plants, rendering plants, composters and waste management sites. She indicated that marijuana has rapidly become their number one source of complaints (as indicated in the graph on page one).

Managing odor from “other” growing operations:

Before talking about indoor operations, Julie called out a tricky problem that the agency and Spokane County Planning are facing. She referred to these “other” operations as “hoop houses”, the temporary Quonset hut style plastic greenhouses, or similar structures, which are neither “outdoor” nor “indoor” operations.

The problems from an odor perspective occur after the odor has been concentrated and the operator decides to roll up the sides. Then the concentrated odor wafts away and results in complaints. If producers vent the air from the structure through openings, this also concentrates the odor causing emissions. From a county planning perspective although they have some zoning in place, they haven’t set zoning requirements to address this problem, but they are working on it.

Managing odor from indoor growing operations:

Julie defined indoor growing operations as a permanent building with rigid walls, non-retractable roof, and doors/windows that are kept closed except for active ingress/egress with appropriate odor mitigation devices. She gave two examples of approaches that seem to work, when properly implemented:

- Carbon filtration: An air handler brings in fresh air and filters air using a carbon filter on the way out.
- Ozone filtration: Some producers have told Julie that they have success mitigating odor using Ozone generators. They told her that the air is treated after leaving the grow room and before exiting the building; some form of baffle is needed between the grow room and the ozone generator because ozone will kill the plants if it enters the grow room.

Systems designed to “mask” the odor are illegal in Washington as they typically make a bad smell worse.
From Julie's perspective, a good design upfront is key and indoor grows is the best way to go since it provides the best opportunity to capture, contain and treat the VOCs that cause the odor issues.

Impact of odor problems on Spokane County

“Nuisance” or real problem?

When asked whether the agency focuses on “nuisance” odors or “health” problems, she indicated that the agency is expected to address both because “nuisance” odors, unmanaged, can impact the use and enjoyment of property owned by others.

Marijuana related costs

The Spokane Regional Clean Air Agency incurred expenses in excess of $150,000 last fiscal year responding to complaints, investigations, appeals, research and regulation development and the cost is growing every year. Currently the agency doesn’t charge fees though they are proposing to do so. Per state law not all costs are recoverable. Further, they get no money from the state for this purpose. They can’t use their federal funding because marijuana remains illegal, and they can’t use their state money, because it is federal matching funds. As a result, they rely on money from the county and cities in Spokane County from local assessments.

Property tax implications

As troubling as the odor issue is, Julie indicated that at least two property owners appealed their tax assessment to the Board of Equalization on the basis of odor problems from a nearby grow operation. After a careful review, the board approved a 10% reduction in their assessment and resulting tax bill. Since then, at least one other was granted the same 10% reduction by the county without having to file an appeal with the Board of Equalization. You can assume that the resale value of the property has also declined.

Summary

When you consider Julie’s point that the odor can travel great distances, and that in her opinion there isn’t an effective outdoor setback for outdoor and “other” operations (as laid out above), without proper management, there could be an impact on our property tax base and as a result tax income for the town.
Kalama City, Washington
December 1, 2017 Conversation with Adam Smee - City Administrator
(Committee Members: J. Nulton, James Cook, Mike Macrum)

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<td>Subject:</td>
<td>Adam Smee, City Administrator, City of Kalama, Washington</td>
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<tr>
<td>Committee Members:</td>
<td>J. Nulton, James Cook, Mike Macrum</td>
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<td>Location:</td>
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Background:
Kalama has a population of 2,500 in the city and another 7,000 in the area surrounding them in Cowlitz county. They have a 6 person police force.

When Initiative 502 passed, which legalized marijuana in Washington State, the city (as we heard from other towns) didn’t believe they could ban commercial operations so they focused on zoning. As the City Administrator, Adam was concerned that a well funded and well motivated commercial operator would sue them until they capitulated so he wanted to make sure the zoning was completely buttoned up.

After careful review they decided to treat all commercial marijuana operations as “industrial” vs. “agricultural”. The town has an extensive area that is already zoned "industrial" but it’s primarily associated with their deepwater port on the Columbia River. After discussion with the port operator it was clear that the port operator would not permit commercial operations because they receive federal funding.

That left only one area in the town that they zoned industrial for retail marijuana. It was located behind a truck stop in very rocky terrain. The area had no services (water, sewer, power), no access roads. As such they considered it highly unlikely that anyone would try to operate in the area.
First experience

They were surprised when a grower secured a lease on a property that was zoned highway commercial and applied for a zoning change. They went through the process and the zoning change was approved. Unfortunately, due to a clerical error, not all of the adjacent property owners were informed and they were taken to court. So in trying to avoid a lawsuit, a clerical error exposed them anyway. They ended up in Federal court and their umbrella policy provided a good lawyer and they were able to get the suit dismissed with prejudice on the basis that the property owner had missed the 21 day window to file the suit.

While the town’s initial experience with the commercial grower was good, that didn’t last. Adam suspects they lacked the funding necessary to develop the property that they leased. In any case, though they were licensed by the state, they set up what Adam described as an “elk camp”. They had no power, no sewer, no potable water. They were growing pot but had no security, no secure storage. In essence, they hadn’t complied with any of the state or local laws as it related to commercial marijuana operations.

The town contacted the Washington State Liquor and Cannabis Board and though the local Enforcement Agent wanted the information, they didn’t have the resources to do anything about it and as such, the State was unwilling to pull their license.

So instead, Adam, the Mayor and the Police Chief went out to the site. What they found was worse than expected. There was garbage everywhere, the operator’s approach to security was to have weapons throughout the camp (which is illegal at the state level), and they had equipment for smoking (which is illegal in Washington and Colorado - it’s not clear if that’s illegal under the Maine citizen’s initiative). Because the LCCB was unwilling to take action, the town went through a 30-60 day process to get them evicted from the property. Unfortunately, the site still has garbage and other things all over and it requires cleanup.

Second Experience

Just as the first experience was coming to an end, a second operator, this time a retail operator, took a lease on an adjacent parcel. They’re associated with a grower in Spokane County. They’ve put a modular building on the site and have arranged power, water and sewer. But they lack an access road. The City has helped them secure rights to put a road in through a neighbor’s adjacent parcel. But they’ll need to put in a full city road with an 8” water main, storm drainage, fire hydrants every x feet and a sidewalk. At a minimum this will cost $1M. It isn’t clear if they have the funding to do this. The operation is owned by the Chinookan tribe.
Kalama City, Washington

December 1, 2017 Conversation with Adam Smee - City Administrator
(Committee Members: J. Nulton, James Cook, Mike Macrum)

Zoning

Adam mentioned that the zoning process was extremely contentious, more so than any experience in his 12 years in leadership in the city. Since they completed their zoning process other towns have instituted full bans and have weathered the lawsuits right up to the state supreme court. While he’d prefer a full ban, he’s not willing to reopen those wounds in the town for now.

Other

- Law enforcement experience: The number of traffic incidents is up as is general "bad behavior" - however felonies are handled by the Cowlitz County Prosecutor and they have declined to put any energy into marijuana related prosecutions.
- Advice: This is very complicated and challenging. Take your time and do it right.
La Plata County, Colorado
December 4, 2017 Conversation with County Players
(Committee Members: J. Nulton)

Interview Date: December 4, 2017

| Subject: | Joanne M. Spina, County Manager, La Plata County Colorado
|          | Butch Knowlton - Building Inspection
|          | Marianna Spishock - Marijuana Licensing (County level)
|          | Dan Murphy - Planning Department
|          | Missed the call:
|          | Lieutenant Ryan Engle, La Plata County Sheriff’s Office

| Committee Members: | J. Nulton

| Town: | La Plata County, CO | Acton, Maine
| Square Miles: | 1,700 Square Miles | 41.11 Square Miles
| Population: | 54,688 | 2,504
| Density: | 30/square mile | 64.9/square mile
| Location: | On the border with New Mexico - most roads are dirt - not paved except in their one city (Durango) | 9.8m NW of Sanford, ME - pop 21K
|          | 42.6m W of Portland, ME - pop 67K | 23.1M N or Rochester, NH - pop 30K


Background:
The team on the call from La Plata County Colorado represented their full Marijuana Licensing/Compliance team. They walked us through their program in 3 pieces: Licensing, Land Use and Law Enforcement.

Licensing:

La Plata County has one person who handles Marijuana Licensing at the county level, it accounts for about 40% of her time. Responsibilities include:

- Keeping up with State licensing and compliance changes
- Meeting with applicants
- Tracking licensing applications and progression throughout the process
- Handling renewals
La Plata County, Colorado

December 4, 2017 Conversation with County Players
(Committee Members: J. Nulton)

- Conducting inspections of current licensees
- Adding and removing Business Owners
- Handling out-of-state owners
- Transferring licenses
- Developing required forms to manage the process
- Tracking licensing costs (to help justify local licensing fees)

At the local level, licensing involves four areas:

- Land Use Permitting
- Building Permits
- Fire Code Permitting
- Health Code Permitting

In their experience, most applicants are lax about following the licensing process. They tend to focus more on the State level licensing. Similarly, most underestimate the full costs of getting their property up to code in order to qualify for the business license.

As a result, they have moved to a new two-phased approval process.

- **Phase 1: Preliminary Determination**
  - Proof of the right to possess the proposed premises (in the form of a deed or lease for the duration of the license period);
  - A building plan;
  - A location plan and plot plan;
  - The applicable fee;
  - Corporate formation documents for the proposed licensee;
  - Material safety datasheets (for all chemicals proposed to be used in the marijuana operation);
  - Information for any proposed off-site storage facility;
  - A background check (fingerprint card);
  - A completed County Application form;
  - Any additional information the Local Licensing Authority requires in order to enable the Local Licensing Authority to determine whether a license should be granted.

- **Phase 2: Final Determination**
  - Proof of land use approval. In order to obtain final determination for a license, you must first receive approval for a Class II land use permit to operate the marijuana business for the proposed property location. IMPORTANT NOTE: The
land use permit process is a different and separate process from the marijuana licensing process.

- Building code approval. After receiving approval for the land use permit, you must then work with the Building Department to construct or remodel the proposed facility for marijuana business purposes. The proposed licensed premises must comply with all applicable building code provisions, have all necessary building permits, and been issued a certificate of occupancy before a final determination is made on the license.

- Electrical installation comments. Written comments or a letter from an inspector from the Colorado State Electrical Board (CSEB) that demonstrates the safety of the installation for the proposed premises must be received before a final determination on the license is made. These comments would be specific to new electrical work done for the proposed premises.

- Fire authority/district comments. Written comments or a letter from the appropriate fire authority/district demonstrating compliance with the fire code. The comments provided by the fire district may indicate that an inspection will not be conducted until after the business is operational.

- San Juan Basin Health Department approval. For retail marijuana products manufacturing facility licenses, proof of compliance with San Juan Basin Health Department health standards. Documents that demonstrate compliance with San Juan Basin Health Department health standards may include a copy of an initial/remodel inspection and compliance report; an executed letter from San Juan Basin Health Department demonstrating compliance with relevant health standards; or, confirmation from the San Juan Basin Health Department that its health standards do not apply. As with the fire district comments, the Health Department’s comments may indicate that an inspection will not be conducted until after the business is operational.

- County treasurer. Written comments or a letter from the County treasurer’s office that all property taxes have been paid and no tax liens exist on the property where the retail marijuana establishment will be located.

Given the very rural nature of the county (Durango is their only real town and that’s where all retail operations is located), the only operations they have in the county are grow operations. All are indoor and are purpose built buildings. They currently have six licensed grow facilities.

**Land Use/Planning (zoning):**

Their approach to zoning is based on water rights and access. They consider marijuana operations commercial rather than agricultural operations. When looking at an application, whether cultivation, manufacturing or retail their first two filters are water and access.
La Plata County, Colorado

December 4, 2017 Conversation with County Players
(Committee Members: J. Nulton)

Water is in very short supply in the county. So before approving cultivation, the operator must demonstrate they have ample water rights to support the operation.

Access is the second issue. The majority of the roads in the county are dirt. Thus, any commercial operation is required to “improve” the road if they hit a certain threshold of “average trips per day”. As a result, no one has successfully been licensed for retail in the county, all retail locations have been located in the city of Durango. Further, the cultivation operations have restricted their size so they can operate with on 3-5 employees in order to keep below the “road improvement threshold”.

From a building code perspective, they adopted codes from Medicino and Hubbard Counties in California for marijuana cultivation facilities. To avoid ending up with poorly converted residential units that become uninhabitable (“zombie residential units”), they require all cultivation to be done in purpose built buildings which conform to these standards. They require carbon filtration, but haven’t had any complaints because of the sparse population in the county.

Before issuing a license to build they require an exact floor plan, a full business plan of how they’ll operate and they use both in their inspections.

Electrical and fire codes are critical!

They suggested we watch manufacturing/THC extraction closely. They have had experience with this being a problem.

Law Enforcement:

Although their law enforcement contact couldn’t join the call they made the following points:

- The number one problem in the county is illegal grows. While they have 6 licensed facilities, at last count they had over 300+ illegal grows as identified by county overflights. The Sheriff’s department has applied for a grant to begin to address this problem.
- Proliferation of use is the second biggest problem - people are using in public and the police have been unwilling/unable to enforce the law.
- Anecdotally, the Code Enforcement Officer mentioned that the builders are complaining bitterly that they’re struggling to find people who can pass the drug test (for insurance).
Ryan Engle is the Drug Enforcement Task Force leader in La Plata County, Colorado. We discussed Maine’s situation and Acton’s location and approach to the issue. He offered the following observations.

**Law Enforcement Experience:**

Colorado has experienced many unintended consequences as a result of legalization. By taking a product that was illegal and creating a legal framework for it we did bring some illegal growers out of the dark and made them legal. But because of the legal protection and the it’s high value in states where it remains illegal we are struggling with:

- Diversion - people growing here and shipping to other states
- Armed Robbery - people from outside the state trying to rob cultivation and retail locations (we’ve had 3-5/year that we’re involved in - in Denver this is a daily occurrence)
- Murder - we’ve gone from a county with no murders to 1-2/year all marijuana related - and the numbers in other parts of the state track with this as well
- Illegal grows - 300+ and counting in the county right now and law enforcement doesn’t have the resources to deal with it - specifically...
  - Taking down an illegal grow requires 3-5 days x 3-4 police officers and $20,000 in cleanup costs. That’s before evidence storage - and they have to dry the
marijuana otherwise it molds or spontaneously combusts - let alone the headaches related to secure storage - because it becomes a target for theft.

- The small residential grows suddenly become much bigger because they see an opportunity for quick/easy money - but since they’re illegal they have to focus on diversion

- Collateral crime has also become a problem
  - DUI is absolutely up - but it’s underreported because it’s seen as “legal” we typically confiscate the marijuana and get them a ride home because the DA doesn’t want to prosecute - then we move on. When we do a proper DUI or drug stop, marijuana is always present including the majority of alcohol DUls.
  - Homelessness is way up (even here where we never had and you wouldn’t expect a homeless problem) and the property crimes that go with it to get money to buy marijuana

Advice to Acton, Maine

- Don’t set yourself apart by trying to become the local marijuana capital - it will backfire. Pueblo did that and it backfired horribly.
- If you do it, don’t do it for money, even with our $600-$1M in revenue from sales and licensing taxes we’re losing money on staff costs and time.
- Without a properly staffed police force and the ability to charge local sales tax, he wouldn’t see a reason to proceed.
This is our second interview with Ryan Engle is the Drug Enforcement Task Force leader in La Plata County, Colorado. James Cook had some follow up questions. Ryan offered the following observations.

**Question:** Can you give better insight into the 300+ grows you’re categorizing as illegal?

The first thing I’d like to be sure everyone understands is that other than DUI, the problem isn’t with the plant. The real problem is greed, people see it’s legal to grow for personal use and first they give some to a friend and before long they’re making money growing “legally”. But they’re not.

The 300 illegal grows are identified by size, a small grow which is permitted by state law wouldn’t be included in this. Of the 300, we believe the majority are simply individuals growing without realizing the state limits. So we conduct “knock and talks” with them. So far, out of hundreds of these only one has been a legal and fully compliant medical grow.

Of the 300, there are at any one time typically 3 very large scale black market grows and 3 medium size black market grows that are on our radar. So of the remaining 294, the majority are individuals growing a large number of plants out of compliance with either the personal limits for...
recreational or their licensed number of plants as an individual growing for medical purposes. We aren’t talking about medical care givers here who are licensed to grow for medical patients.

But ultimately, these people who are growing more plants than they consume legally are growing illegally whether they’re giving it away or selling it. We try to educate them and get them into compliance.

QUESTION: In our first conversation you referred to the concern about evidence storage - specifically around mold and spontaneous combustion. Many members found that laughable, can you elaborate on your concerns?

We had a case in which we seized 700 or so plants. We took each plant and placed them in burlap bags and stacked them in a Zircon. As you can imagine this was a large amount of bags full of fresh marijuana. We checked on the evidence periodically and noticed the bags were becoming abnormally hot as the plant material began to biodegrade (these are the same reasons why farmers don’t stack wet hay). Due to the large amount and the fact the plants were stored with other evidence items (many of which contained unknown materials/chemicals) we erred on the side of caution and removed he burlap bags and dried the bags out in an open air storage facility. After 30 days the bags still had some moisture content but we put them back in the zircon anyway as we felt comfortable with it. We now have a Zircon that is full of moisture and mold that we have to wear personal protective equipment when we go in and will eventually have to be professionally cleaned.

Now, I’m not a chemist but when you have a mound of burlap bags that are abnormally hot that will be in unattended storage for 18-24 months with other items of evidence it stands to reason we will error on the side of caution.

The point of the comment was not that marijuana lights itself on fire but that it is cumbersome and expensive to store for evidence. We have since change our policies to store only the plants needed for prosecution, take samples of the other plants and destroy the remaining plants. This is now standard operating procedure throughout Colorado as we don’t have the time or space to properly dry and process seized marijuana for proper storage as if we were a marijuana grow facility.
## 9 Appendix B: Web Research

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<td>W-2</td>
<td>Marijuana Grow Ops Part 2: Cleaning up a grow-operation</td>
<td>B-5</td>
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<td>W-3</td>
<td>5 Ways Marijuana Legalization affects real estate – Market Watch</td>
<td>B-7</td>
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<td>W-4</td>
<td>Marijuana Stink means property values sink – Aspen Times</td>
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Marijuana Grow-Ops Part 1: The Dangers Of A Former Grow-Op

It seems like every other day, the news has another story about an indoor marijuana growing operation (or grow-op) being busted. In 2010, there were 248 marijuana grow houses discovered in Toronto alone. That number is rising every year, and, since some grow-ops will never be discovered, it represents only a fraction of the total number out there. We spoke to one police officer who estimated that, walking around some cities, you pass by a marijuana grow-op every fifteen minutes.

The problem is, grow-ops result in terrible damage to a house – damage that can easily be concealed without being fixed, which puts future occupants of the house in danger. In today’s blog, we’re going to talk about the hazards created by marijuana grow-ops, and how to spot if a house you want to buy (or are currently living in) used to be one. Then, in Part 2, we walk you through the procedure of properly dealing with a newly busted grow-op house.

The first thing that should be mentioned about grow-ops is that they’re not where you expect them to be. Grow-ops have become popular because they’re discreet. From the outside, they look like any other house. So, a nice, new suburban home is just as likely to be the site of a former grow-op as an old run-down house in a poor neighbourhood – and may in fact be more likely, as people don’t tend to look for crime dens in nice neighbourhoods. They can also be in other types of buildings. Small grow-ops have been found in the closets of high-rise apartments, and one of the largest drug busts ever in Canada was a grow-op at the site the old Molson Brewery in Barrie ON, in 2004, where $30 million worth of pot was seized. Farms, which are already set up for agriculture, are also common sites.

Grow-Op Hazards

While everything may look normal from the outside, on the inside, grow-ops can do a truly incredible amount of damage to a house. Marijuana grows in humid environments, and the plants have to be watered consistently (some systems even use hydroponic growing, which uses even more water). And with all the grow-lights simulating sunlight running nearly 24/7, things get hot. When a house stays hot and humid for a long time, it causes wood to warp, drywall to collapse, and black mold to grow in incredible amounts. (Read

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more about mold in our past blog post on it.) Mold and moisture will permeate under carpets, into walls, and especially up into the attic, which is often used by growers for ventilation.

Ventilation is also a problem. It’s required to keep the temperature and humidity at least somewhat under control, and so growers will punch large holes in ceilings and walls to install large ducts and fans, which can cause structural problems. All this equipment also requires a huge amount of electricity. Growers will often set up their own wiring to bypass the hydro meter, because such unusually high power use would tip off the authorities. This means more holes in walls, and with jury-rigged wiring combined with lots of moisture, it can lead to electrocution and fires. According to the Canadian Association of Fire Chiefs, grow-ops catch fire almost twenty-five times as often as normal homes.

And there are other dangers: hazardous chemicals used in marijuana production (pesticides, fungicides, fertilizers, etc) can get into the air and embed themselves in walls. Since many of these grow-ops are run by criminal organizations, it can bring more crime into the neighbourhood. And some marijuana grow-ops have even been found with booby traps to fend off potential intruders.

Is My House A Former Grow-Op?

Unfortunately, once a grow-op is discovered and stopped, it’s relatively easy to cover up all these hazards without actually fixing anything or removing any of the dangers. Holes in walls and floors can be patched up or carpeted over, wiring can be quickly re-done (or hidden away in walls), and mold can be painted over. That’s exactly what happened to one woman profiled in a 2010 episode of CBC’s Marketplace (featuring special guest Mike Holmes). In the end, her house required over $100,000 in work to make it safe.

Thankfully, those days, the hazards of a grow-op are widely recognized. Because of this, there are procedures in place for after one is busted by the police that make it more likely things will get cleaned up properly (more on that in Part 2), but this is still no guarantee. Some houses still fall through the cracks of the system, and these procedures do nothing to deal with houses already on the market.

Realtors, for their part, are required to tell anyone looking at buying a house if it was a former grow-op – but there’s often no way for them to find out in the first place. Some municipalities (like Ottawa and London) keep their own registries of former grow-ops, but there’s nothing nationally or provincially. Home inspectors also have very little training in grow-ops or mold. That house from Marketplace had been passed by a home inspector, and another former grow-op in the same episode was passed by five different inspectors, none of whom saw the telltale signs of a former grow op.

So, courtesy the Canadian Real Estate Association (PDF), here are the signs to look out for to spot if the house you’re considering buying (or the one you’re already in) used to be a grow-op:

- Mold in corners where the walls and ceilings meet
- Unusual number of roof vents or signs of roof vents
- Fresh paint on window frames to cover damage caused by the high levels of humidity
- Painted concrete floors in the basement with circular marks where pots once stood
- Evidence of tampering with the electric meter (damaged or broken seals) or the ground around it
- Unusual or modified wiring on the exterior of the house
- Brownish stains on the underside of beams or arches that bleed down a wall
- Concrete masonry patches, or alterations on the inside of the garage
- Patterns of screw holes on the walls
- Fire place alterations
- Denting on front doors (from police ramming the door)

If any of these signs are present, you may be dealing with a former grow-op that hasn’t been properly cleaned up.
See Part 2 of this post to find out what ORS and the authorities do to clean up after a
grow-op is busted.

Posted on July 5th, 2013
Written by: ORS Admin
Filed under: Blog
Post tags: crime-scene cleanup • grow-ops • mold • real estate

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Marijuana Grow-Ops Part 2: Cleaning Up A Grow-Op

In last week's blog post, we talked a bit about indoor marijuana growing operations, or 'grow-ops.' These grow-ops are relatively easy to set up and to keep hidden — and they're also extremely hazardous, resulting in mold, fire hazards, structural problems, and more. To make matters worse, once these houses are discovered, they're very often cleaned up poorly or the mess is just hidden away, which can lead to problems years later. On today's blog, we're going to talk about another way things can go: specifically, what happens when ORS is called in to clean things up properly the first time around.

The First 48 Hours

ORS is rarely the first group to enter a grow-op — not by a long shot. These days, the dangers of a grow-ops are pretty well recognized, and so the procedures to deal with them are well in place. First, the police come to arrest the homeowner or whoever was involved in the grow. Search the house for evidence, and remove any plants, drugs, money, weapons, or anything else that's relevant to the case. Next comes the Electrical Safety Authority (ESA), who look for electrical code violations and shut off power to the house. Then comes the fire marshal or other city official, to put up a big, bright notice on the door stating that the home is unsafe to enter until it passes an air quality test.

Air quality tests measure how much mold is present in a house — and is incredibly strict. If the house had a leaky roof 20 years ago, the air quality test may still fail, even if the grow-op had no mold whatsoever. For the house to be deemed liveable again, all mold must be removed. The test is also quite expensive, costing anywhere from $1500 to $5000. That covers the 'before' test and one 'after' test. If the 'after' test fails, more work is needed, followed by $1000 or so for another 'after' test. This is part of the reason it's important to hire a professional cleaning company, even if it seems more expensive than doing it yourself. It means you know everything will be dealt with right the first time around, and there will be no additional costs down the line.

ORS Cleans A Grow-Op

At this point, it's ORS' turn. We've talked a bit about mold clean-up on the blog before, and once we get down to it, for ORS, grow-ops are primarily mold jobs. Mold isn't the most difficult thing we clean up (it generally comes up with a bit of soap and water), nor is it the most dangerous thing we clean up (as long as you don't breathe it in or have a sensitivity to it) — but it is among the most time-consuming and complicated. Scrubbing at mold spores puts airborne, and if those spores land on another surface in the house, they can start another colony. When working around mold, air must be pumped in from a clean area, through the affected area (picking up

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spores along the way), and straight out the front door. People working around mold (and any equipment/trash they’re carrying) also have to follow the same path to avoid tracking spores around the house.

Mold is also able to make its way under things (like carpets and flooring) and into things (like drywall). So, mold clean-ups involve a lot of trash and a lot of demolition. In fact, in some municipalities (Niagara, Hamilton-Wentworth, etc.), it’s now the law that any room used in the grow-op has to be fully gutted— even if there’s no visible mold whatsoever.

In addition to mold scrubbing, we often have a couple other responsibilities in these houses. We may have to deal with leftover grow-op equipment (lights, dehumidifiers, etc.), which aren’t illegal, but still have to be cleaned or disposed of. We may also have to deal with plant material. The cops remove all useable marijuana, but there may still be stems, leaves, and roots. And we’re also the ones to deal with the smell, too. Grow houses have a distinct odor: a combination of mold, vegetation, and, of course, pot. Removing the odor’s source (the mold and pot) is the most important part of dealing with the odor, but some chemical may be needed to treat any residual smells.

Grow-ops also have their own wrinkles not present on most jobs. Recall that, when we’re working, utilities are still shut off. Electricians won’t enter the house until air quality is guaranteed, which is after we’re done. So all the equipment needed for mold remediation—air scrubbers, HEPA vacuums, fans, etc.—must be run off generators (unless a kindly neighbor intervenes).

Grow-ops are also among the only mold jobs we work that involve the possibility of booby traps. These are houses where illegal and very valuable activities are taking place, so improvised anti-burglary methods, including electrified doorknobs, chemical sprays, and homemade bombs, do happen. By the time we arrive, these devices should all be gone, found by the cops during their investigations, but cops do miss things, especially since grow-op houses are often designed with hidden rooms and compartments to store cash, drugs, and guns (all of which we’ve found while working). When any of these are found, we drop everything immediately and call the cops, who will remove the items, and may have to re-open investigations, depending on what we found.

Hidden cash and drugs also lead to another problem: intruders. Grow-op busts are big stories on the news, and so it’s possible one of the owner’s associates (or their competitors) will come running, looking to pick through what’s left over. When they arrive at the house and only see an unmarked truck parked nearby, they may not expect anyone inside. A colleague of ours was once physically assaulted by a thug who came by while he was cleaning a grow-op.

By the time we’re done work, the house is safe to enter, but there’s still a lot of work to be done. The air quality inspector returns for his “after” test, followed by the ESA inspector to determine how much electrical work has to be done, followed by the electrician and a return visit from the ESA inspector, followed by a hydro worker to turn the power back on (at considerable expense), followed by construction workers, plumbers, and whoever else is required to fix the rest of the damage done by the grow-op. A marijuana grow-op wreaks incredible havoc upon a house, but by following the correct procedures and hiring reputable contractors, the house can be returned back to normal, and an ugly chapter in the house’s history can be put to rest.

If you haven’t seen it yet, check out Part 1 of our post on marijuana grow-ops, which goes into more detail about the dangers of living in a former grow-op, and discusses the problem of people buying former grow-ops without knowing it.
5 ways marijuana legalization affects real estate

By Amy Hoak
Published: Nov 25, 2014 9:20 a.m. ET

As marijuana becomes legal in more parts of the country, those in the real-estate industry are finding the new laws have implications for properties of every variety, from residential to industrial to retail.

Some of the issues pertain to the growing and processing of the plants; others pertained to the use of it in a rental property or one governed by a homeowner’s association. There are also some things that home buyers need to be aware of, to ensure they know what they’re purchasing.

At the same time, some real-estate professionals are using this as a business opportunity. For example, the 420MLS is a website where people can find and post marijuana business opportunities, commercial space for future “cannabusinesses,” and marijuana-friendly living spaces. Another listing site for Colorado is PotProp.com.

Twenty-three states and the District of Columbia have passed laws that permit the use of prescribed medical marijuana and three states permit recreational use, according to the National Conference of State Legislatures. But federal law prohibits use, possession or sale of all marijuana. The contradiction can make it a challenge for people to run a legal pot business.

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The following are five ways real estate is affected by the legalization of marijuana.

Increased industrial property explosions
One of the more popular marijuana products is hash oil, a more concentrated form of THC that you can ingest by putting it under your tongue or sprinkling it on food. Problem is, the process to make this oil involves butane (also required to make meth), and that is a big reason why explosions can happen during production, said Megan Booth, senior policy representative for the National Association of Realtors. In states including Colorado, Washington and California, property explosions have gone up dramatically, she said.

For that reason, if you’re an owner of an industrial property, you’d likely be extra careful before leasing to someone who intends to manufacture hash oil on the premises, Booth said.

Danger of civil asset forfeiture

Whether you’re the owner of a shopping center where a dispensary wants to open, you own an industrial property where marijuana could be grown or you’re a landlord renting an apartment to someone who uses or grows marijuana, you likely have at least some fear of civil asset forfeiture. That’s where the federal government can seize your property if it was used to conduct illegal activity (that was known or should have been known to the owner), or was purchased with the proceeds of an illegal activity, Booth said.

Since marijuana is illegal under federal law, property owners may forbid the growing or use of marijuana, just to steer clear of the possibility they’d lose their property because of it.

“Essentially, from the perspective of property managers, the challenge we have is trying to come up with the best practices for operating properties in an environment where we don’t have clarity about the enforcement or the interpretation of the laws,” said Fred Prassas, past president of the Institute of Real Estate Management and an assistant professor at the University of Wisconsin-Stout.

Harder for marijuana-related businesses to get mortgages

Banks are federally chartered, and because marijuana is illegal on a federal level, many lenders have no interest in approving a mortgage for someone interested in starting up some sort of marijuana-related business.

“It’s hard for these businesses to get loans,” Booth said. That’s why financing for these businesses is often done through private investors, she added.

Keeping smells and mold out

For landlords who have a non-smoking policy on their property, it’s likely not difficult to keep people from smoking pot (enforcing the rules is another story). But if people are vaporizing their marijuana, it often comes in sweet flavors like strawberry—and can soak through the drywall, and be hard to remove, Booth said.

Growing marijuana requires lots of water, which can contribute to mold issues—becoming a worry for landlords, homeowners associations and individual home buyers deciding whether to make a purchase.

Home buyers should search for mold problems in a home suspected to be a grow house; sometimes, odd wiring systems used for lighting the plants and strange ventilation systems could be tip-offs, Booth said. While growing marijuana is permitted in some places, there are often limits and restrictions.

Grow houses, dispensaries have stigmas

Even when it’s legal by state law, there’s often a stigma associated with houses where pot was grown.

“I showed a house that was in a beautiful location on the Puget Sound…that had been used for a grow operation,” said Kevin Lisota, a real-estate broker in Seattle. “The plant just permeated everything in the house and it sat on the market for a very long time, despite its sweet location,” he said.
There's certainly growing acceptance of marijuana use: Fifty-two percent of Americans said the use of marijuana should be legal in 2014, compared with 12% who said the same in 1969, according to the Pew Research Center. But that doesn't necessarily mean that people want it in their neighborhood, Lisota said.

Even having a dispensary nearby can be a negative, Lisota said. "I don't think it improves your home value to be located near recreational or medical dispensaries, in the same way you wouldn't want to be close to a liquor store," he said. "You don't need people coming three doors down to get their weed," he said.

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Residents: Marijuana stink means property values sink

June 10, 2015

The smells haven't gone away and neither will the marijuana greenhouse that produces them — at least for now.

Pitkin County commissioners gave a stern warning to the owners and operators of High Valley Farms in Basalt on Tuesday: Either eradicate the cannabis aroma that has infuriated nearby neighbors or don’t expect to be in business when the operation's annual license is up for renewal in September.

Commissioners will entertain the matter again at a meeting in mid-August. In the meantime, commissioners instructed High Valley Farms principals to extinguish the smells sooner than later.

High Valley Farms is licensed by the county for agriculture uses. It supplies Aspen-based Silverpeak Apothecary with marijuana for recreational and medical purposes. One condition of the license's approval is that the farm won't emit any smells to the detriment of the lifestyle of nearby residents.

But nearly a dozen neighbors appeared at the commissioners work session contending that their property values are sinking because of the stink.

Many of them had the ears of county commissioners at a March meeting (https://www.aspentimes.com/news/15636782-113/holland-hills-residents-marijuana-greenhouse-stinks-up-neighborhood) as well, leading to Tuesday's work session. "That smells like money to High Valley Farms," said Holland Hills resident Todd Emerson. "It doesn't smell like money to High Valley Farms — it smells like property devaluation."

He added, "I'd love to sell my house, but where am I going to find someone to pay $1 million for a house that smells like mar juana?"

Emerson and other neighbors' comments came after Jordan Lewis, CEO of Silverpeak and High Valley Farms, explained that multiple sources of smell-mitigation technology are being employed. He said he's confident that the stenches will be removed within 45 days to two months, with the placement of three different approaches to mitigate the smell. The greenhouse facility's exhaust system has been plagued by pumps not getting the right amount of pressure, nozzles getting clogged and other setbacks, Lewis said.

"I fully acknowledge that this is not where we need to be," he said, "and I understand the community's concerns."

But that wasn't good enough for some of the neighbors in attendance as well as Commissioner George Newman, who was opposed to the grow facility when it received county approval in August 2013 to build a 25,000-square-foot greenhouse facility for cannabis cultivation. The grow center opened last year (https://www.aspentimes.com/news/13153162-113/lewis-county-greenhouses-facility).

"What I've heard is a lot of technical talk, trial and error and a learning curve involved, but the bottom line is throughout this entire process it's at the expense of the neighbors," he said. "I don't see how we can allow you to continue to operate at this level."

Residents said they can't enjoy outdoor barbecues or keep their windows open at night because of the smell.

"I think the madness needs to stop now," said Holland Hills resident Kent Schuler. Schuler suggested shutting down High Valley Farms and letting the smell-mitigation efforts be conducted elsewhere. Many neighbors and some commissioners likened the situation to lab work being done at their expense.

"But we are finished," Schuler said. "We've had it."

Commissioners Steve Child, Patti Clapper, Michael Owsley and Rachel Richards said they were willing to give High Valley Farms some more time, but the clock is ticking.

"You have a tremendous investment going forward on this project, but your neighbors have a tremendous investment in their homes," Richards said. "And for many of them, their home is their only investment. When people are saying this is affecting our property values and quality of life, that's a serious charge.

"You need to do everything you can if you're going to pass that threshold. There's nothing worse than over promising and under delivering. I know that's not your intent, but that's what's happening."

rcarroll@aspentimes.com (mailto:rcarroll@aspentimes.com)
MARIJUANA

Marijuana farm odor hurts neighbor’s property value near Cheney

Sun., Dec. 11, 2016, 5:45 a.m.

Patrick Bang, co-owner of Bang’s Cannabis Company smells the bud of a maturing organically-grown marijuana plant at a rural farm west of Spokane. Bang’s has been hit especially hard with complaints about the odor of growing pot. (Colin Ulvany / The Spokesman-Review)

By Chad Sokol

Roger Bertsch can’t stand the smell that wafts from his neighbor’s property. Sometimes it’s barely detectable in the afternoon breeze. But sometimes, he said, the skunky aroma is so penetrating he can’t keep the windows open, let alone enjoy a meal on his patio.

And because of the smell of his neighbor’s marijuana farm, the Spokane County Assessor’s Office recently took 10 percent off the value of Bertsch’s property on the outskirts of Cheney, the office of the Board of Equalization confirmed this week.

“Ever since they started growing cannabis, we’ve been getting a pretty intense skunk smell,” said Bertsch, who has lived in a house on West Washington Road with his wife for nearly a decade. Neither of them opposes marijuana on moral grounds – it just stinks, he said.

Their situation is one reason the Spokane County Commission voted unanimously on Nov. 29 to ban new outdoor pot farms – a move that drew the ire of local industry advocates. The ordinance is scheduled to last six months as commissioners gather public feedback and consider making it permanent.

Commissioner Al French, who introduced the policy unexpectedly during a public meeting, said local officials have been “inundated” with complaints about smelly grow operations. He also sits on the board of directors of the Spokane Regional Clean Air Agency, which has tallied more than 200 such complaints since July 2014.

Bang’s Cannabis has been hit the hardest, with nearly 60 formal complaints from the Bertsches and other neighbors. The business also has been fined on at least two occasions for violating Clean Air Agency standards. Other pot grows
Patrick and Lacey Bang, and their new business partner, Scott Kramer, insist they’re making good-faith efforts to mitigate odor. For example, they’ve installed several air purifiers in their greenhouses at a cost of more than $10,000.

“We’re not required to do it, but we’re doing it because we want to be good stewards,” said Kramer, an accountant who’s working to bring Bang’s into the black.

They also insist the smell is nonexistent beyond Bang’s property line.

“Everybody that comes here, we ask them, ‘Do you smell anything?’ And they always say no,” Kramer said. “Out at the street, you absolutely can’t smell it.”

That rang true when a reporter and photographer visited the farm on a brisk afternoon last week. Neighbors and Clean Air Agency officials say that’s part of the dilemma: The smell can be overpowering when a complaint is filed but vanish by the time an inspector arrives, making enforcement difficult.

“We are not a 24/7 agency, and odors can be very transient,” said Julie Oliver, the agency’s executive director.

The right place to grow pot?

Patrick Bang was a landscaper, and Lacey Bang worked for Providence Health and Services when voters approved Initiative 502 in 2012. Two years later, the couple was granted a license to grow recreational marijuana, and they set to work cultivating plants in their backyard.

Now they produce about 500 pounds per year. They say their plants are all organic, they reuse soil and other materials, and they plan to install windmills to power the grow lights.
“We’re a really sustainable brand, and I think a lot of people appreciate that,” Patrick Bang said.

Some neighbors would appreciate stricter zoning rules that keep pot farms out of residential areas, even rural ones where homes are farther apart.

“These things don’t belong anywhere near houses,” said Carl Caughran, who lives across from Bang’s on South Short Road. “I was there first for seven years. We try to get away from there now as much as we can. It’s just not enjoyable.”

Caughran and his wife have filed the majority of the complaints against Bang’s, but they insist they aren’t feuding. He said Patrick Bang “is not a bad neighbor, other than the smell.”

Kramer said Bang’s is in an appropriate location.

“One of our arguments is that we’re agriculture, and we’re in an agricultural zone,” he said. “It’s a crop. It’s a farm.”

Commissioner French has called the pot problem “a property rights issue.” He compared it to the stench that sometimes torments neighbors of the Baker Commodities rendering plant in east Spokane, where animal carcasses are processed into ingredients for cosmetics and pet food.

Flowering marijuana may reek less than simmering butcher scraps, but French said they both can infringe on a neighbor’s right to clean, odorless air. In 2003, when he was a Spokane City Council member, French pushed the city to sue Baker Commodities over odor violations, resulting in a settlement that officials said would mitigate the problem.

Tony Birch lives a half-mile north of Bang’s and said he still can’t escape the odor.

“In the summer, we have to keep the windows closed because the skunk smell just permeates the house,” he said.
Meanwhile, Laura Gardner lives just across the street from the farm and never catches more than a whiff.

“I don’t like it,” she said, “but it doesn’t bother me any.”

‘It’s not a toxic smell’

Some say the fragrance of unsmoked marijuana makes them nauseated, but Brian Smith, a spokesman for the state Liquor and Cannabis Board, said, “It’s not a toxic smell.”

The board handles permitting and ensures pot farms are up to code, but no state agency responds to odor complaints. Instead, they are forwarded to local entities such as the Clean Air Agency.

“It really is a patchwork across the state,” Smith said.

Julie Oliver, the Clean Air Agency director, said, “Under state law, odors are considered air contaminants.”

But some say the agency shouldn’t bother with marijuana producers.

“I would prefer that the Clean Air Agency would be spending their time with pollutants that cause global warming, and not worrying about how to stifle a new industry,” City Council President Ben Stuckart said last month.

This year, the agency organized a Marijuana Advisory Committee, but the agency doesn’t target pot farms. Oliver said inspectors also respond to complaints about more traditional farm odors, such as manure.

The county’s moratorium does not affect existing farms or those with pending applications. Currently, 39 producers in the county operate at least partly outdoors, according to Liquor and Cannabis Board data. Greenhouses without rigid walls don’t count as indoor facilities.
Patrick Bang believes his farm has been unfairly targeted and said the county commissioners likely received “bad information.”

“To hinder all the outdoor grows that don’t have any issues seems very unfair,” he said. “I think if you had any of the commissioners come out here and walk the property line, they might think differently about the problem they’ve got here.”

Editor’s note: This story was changed on Dec. 12, 2016 to correct an error relating to who confirmed that the Spokane County Assessor’s Office recently took 10 percent off the value of Roger Bertsch’s property. The office of the Board of Equalization confirmed that the assessor’s office lowered the value.

PUBLISHED: DEC. 11, 2016, 5:45 A.M.
Tags: marijuana, odor, outdoor farm, smell, Spokane County Commission, Spokane County government, spokane regional clean air agency

There are 51 comments on this story
On December 15, 2016, the recreational use of marijuana became legal in the Commonwealth of Massachusetts, after voters approved Ballot Question 4 The Regulation and Taxation of Marijuana Act. Driving down the Pike this morning on my way to Boston Housing Court, I did not see any “Cheech and Chong” scenes in vehicles. That said, the new law will no doubt affect the legal relationship between landlords and tenants and will likely result in disputes as to what can and cannot be done with respect to cultivating, growing and using marijuana in and around rental property.

What is Legal and Illegal Generally?

- Adults (21 or over) may possess up to 10 ounces of marijuana in their primary residence. A person may cultivate up to 6 marijuana plants for personal use, and up to 12 plants per household are allowed if more than one adult lives on the premises. Marijuana growing at home must be done discreetly and securely. Marijuana plants cannot be plainly visible from the street or any public area and must be cultivated someplace where there is a security device.
- Outside the home, adults 21 or over can possess up to 1 ounce of marijuana.
- Recreational marijuana cannot be sold in any form in Massachusetts without a retail license. A Cannabis Control Commission, yet to be named, will be responsible for issuing retail licenses.
- Marijuana cannot be possessed, purchased, grown or used by anyone under age 21 (unless they have a valid medical marijuana permit), and it’s against the law to give away marijuana to someone under 21.
- Using marijuana is illegal in any public place. You can’t, for example, walk down the street smoking a joint the way you would a cigarette. It’s also illegal to use marijuana in any place where tobacco is banned.
- Possession of any amount of marijuana remains illegal on school grounds, public housing, and government buildings.

Can Tenants Use or Cultivate Marijuana In Rental Property?

The key provision in the Act provides that it is illegal to:

“prevent a person from prohibiting or otherwise regulating the consumption, display, production, processing, manufacture or sale of marijuana and marijuana accessories on or in property the person owns, occupies or manages, except that a lease agreement shall not prohibit a tenant from consuming marijuana by means other than smoking on or in property in which the tenant resides unless failing to do so would cause the landlord to violate a federal law or regulation.”

As I read the new law, landlords have the ability through a lease agreement to regulate the smoking and cultivation of marijuana in rental property, except that landlords cannot prohibit the consumption of marijuana edibles or any other form of non-smoking consumption.
New Marijuana Lease Addendums Should Be Implemented

Now, here’s the rub. Most current leases in effect right now do not have specific provisions dealing with marijuana use. Some leases have anti-smoking and nuisance provisions, which would arguably prohibit pot smoking, but it’s not clear whether that would apply to the discreet growing of marijuana. Under general contract law, there must be some additional legal consideration to significantly amend a lease agreement and curtail a tenant’s rights. Thus, there is a question as to whether existing lease provision would apply to the tenant use/growing of marijuana. Courts will have to decide these issues going forward. I would imagine that most landlords would not want to take on the risk of hundreds of tenants each growing 12 marijuana plants in their apartments. As I explain below, it is incumbent upon landlords to get marijuana policies and lease riders in place now and going forward on new leases.

Practice Pointer: If you are a landlord and you want to have a strict marijuana use policy, you must act now and have your tenants sign a new lease addendum for recreational marijuana use. The addendum should, among other things, provide that smoking and growing of marijuana is strictly prohibited, while consumption of edibles is allowed, provided that it does not create a nuisance. There should also be indemnification language in the rider as well. My office can assist you with drafting a marijuana lease rider.

Marijuana consumption technology has come a long way since your college dorm room. I’ve been told that many serious users use vaping technology which heats and vaporizes buds, giving the user a much cleaner and less toxic high. A question which may come up is whether vaping is equivalent to smoking. Not being an expert on marijuana technology, I will leave that to the experts. My brief Google research says that vaping does still produce a slight odor of marijuana but far less than traditional smoking of a joint or pipe. I think it will all depend on how vaping impacts neighbors in an apartment building.

Utility/Water Usage

If a tenant begins growing and cultivating up to 12 marijuana plants as allowed under the new law, how will that affect utility and water usage? Under the State Sanitary Code, the landlord is obligated to pay for electricity and gas in each dwelling unit unless it is separately metered and there is a written document that provides for payment by the tenant. See 105 Code Mass. Regs. § 410.354. Concerning billing a tenant for water use, under the Tenant Metering Law, a landlord can only bill the tenant water usage if he satisfies many onerous requirements such as getting local certification and installing low flow faucets and shower heads. If you allow growing of marijuana in your rental property, make sure that the tenant does not hose you with a huge water/electric bill. Again, your new marijuana lease rider should address this issue, among other items.
If you need assistance with creating a new Massachusetts Marijuana Lease Addendum/Rider, please contact me at rvetstein@vetsteinlawgroup.com or 508-620-5352, and we would be happy to create a customized one for you!

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uchsery’s AMERICA

She thought she found the perfect renter for her home. Until she discovered the pot.

BY PETER HECHT
phecht@sacbee.com

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NATOMAS, CALIF. – Kelly Peterson thought she had found a model renter for a two-story home her family owned in Natomas. The man claimed to work in the restaurant industry. In 2014, he passed a credit and a criminal background check with a property management company and dutifully began paying rent under a two-year lease.

“He was like my best tenant,” Peterson said. “He always paid on the first of the month - and not a day later.”

But after Peterson, a video producer, and her husband, Chris Janusiewicz, a former pilot at Beale Air Force Base, moved out of state, the tenant began a decidedly unapproved renovation.

He punched holes in ceilings and the roof to install ventilation, ripped out a shower, boarded up windows and rigged the circuit box so he could illegally tap into outside electrical lines to power lights needed to grow marijuana indoors without detection from the power company.

Then last November, the man mysteriously missed a payment, just as Peterson was preparing to visit the house on a return trip to California. Later that month, the tenant, who was 34 years old, would turn up dead in a hotel in Los Angeles County. Coroner’s officials said it was investigating a possible accidental overdose, unrelated to marijuana.

When Peterson entered her house, she was taken aback. Dried-out marijuana plants were stacked in dirty heaps. The carpets were horribly stained, the walls soiled with sickly black mold. Makeshift duct work snaked in and out of rooms.

“I walked in and I was like, ‘Oh my gosh!’” she said. “I saw my home destroyed.”
Peterson had just experienced what has become a nightmare for many California landlords – a property-wrecking indoor marijuana operation. The gardens, frequently installed without property owners’ knowledge, can range from a few plants from legitimate medical marijuana patients to audacious whole-house grows by illicit cultivators.

Now property managers fear the passage of Proposition 64 – which allows California residents 21 and older to use recreational marijuana and grow six plants indoors for personal use – could bring increased horror stories of damage caused by reckless water use or illegal wiring.

Landlords retain the authority under the initiative to ban tenants from smoking or growing marijuana. And any indoor gardens must follow local building and safety standards and, ideally, should adhere to sensible cultivation practices.

But, fearing that renters may see Proposition 64 as a free pass to grow pot indoors, the Rental Housing Association of Sacramento Valley is encouraging landlords to specifically address marijuana in all leasing contracts.

“If you’re a property owner you can prohibit cultivation,” said Cory Koehler, senior deputy director of the association, whose members manage more than 80,000 rental properties from single-family houses to apartments. "We’re advising our members that when they have a new lease or a month-to-month (agreement) that they go over provisions with new tenants for smoking or growing marijuana."

Fears of property abuse come from stories from people such as Peterson, who said repairs to her rental home are expected to total more than $25,000.

They’re also stoked by criminal cases, such as one involving a Sonoma County renter who in March was ordered to pay homeowners $102,000 for black mold and extensive roof and flooring damage from illegal marijuana growing.
And they’re fanned by outrageous utility bills, such as the case of a south Modesto family that got a $23,000 collection order from the Turlock Irrigation District for unpaid electricity use after a pot-growing and power-stealing renter was raided by authorities.

Some property managers say problems associated with indoor marijuana growing were actually worse several years ago than they are now. They say the situation has improved as cities and counties have enacted policies for indoor gardens for medical marijuana patients and landlords have tightened up property inspections.

But legal recreational marijuana is stirring new worries.

“My biggest concern about Proposition 64 is that it will be misconstrued and that illegal modifications to properties can cause fire danger and houses catching on fire or roofs leaking,” said Chris Airola, CEO of Roseville-based Rent Pros Property Management, which oversees approximately 1,000 rental properties in Northern and Central California. “And then there’s the smell” left by growing.

Richard Miller, Sacramento co-director for the medical marijuana advocacy group Americans for Safe Access, said growers responsible for severe property damage are often cultivating illegally for criminal markets.

Miller argues that most medicinal users, as well as those who may soon grow for personal recreational use, are far more likely to respect properties – and living environments – by using responsible practices to control water use, humidity and odor. They’re also more likely to pay for and use electricity responsibly, he said.

He recommends that tenants who want to grow marijuana “get a signed statement from your landlord that you can do it” to avoid any misunderstandings. “And don’t leave black mold for the next tenants,” he said.
Uniting States of Marijuana: the country’s evolving laws on cannabis

Results from the 2016 election brought about new rules on the use of recreational and medicinal marijuana in several states, with more than half now allowing for the later. Federal government leaders including president-elect Trump have voiced their opinion on the changing state of mind around marijuana. Is this the beginning of the end of marijuana prohibition?

Cristina Rayas / McClatchy

In Sacramento, City Councilman Jay Schenirer said police recently estimated there may be as many as 400 large-scale indoor growing operations in the city based on surveys of excessive electricity use, an indicator of people growing pot for profit.

At least 200 of the operations were in warehouse or industrial zones, where the city is planning to impose fees and issue permits for licensed commercial cannabis production under new California marijuana industry laws.

But Schenirer said there are likely scores of illegal gardens being grown in private homes - with plant numbers far more than the six permitted under Proposition 64 or the 400 residential square feet the city allows for medical marijuana patients.

Airola, the property management CEO, says the worst pot-growing episode he encountered was in 1998, when a rental home in Fresno was discovered to be fully converted into a pot greenhouse, complete with indoor sprinklers and not a square foot for human habitation. Construction alterations and water damage were so bad the entire house had to be torn down.

“That’s the one that I will always think about,” Airola said. “I hope I never see that again.”

Kelly Peterson doesn’t want to either. If she ever rents the three-bedroom Natomas house again, she said there will be contract specifying “absolutely no growing marijuana inside the home.” She urges other landlords to conduct frequent inspections of their properties. But, unable to collect for damages, she doesn’t think she will bother with another renter at the house.

“What do you do, especially in my case?” she said. “The tenant is dead. I can’t do anything except fix up the house and probably sell.”

Peter Hecht: 916-326-5539, @phecht_sacbee
Remodeling the Marijuana Grow House Back To Normal

BY LEE WALLENDER | Updated 02/15/17

Marijuana Grow House: Renovating Back to Normal

https://www.thespruce.com/remodeling-the-marijuana-grow-house-1822333
As a landlord or proud new house buyer, you may also find yourself the not-so-proud owner of a former marijuana grow house.

After walking the rooms and assessing the situation, you may wonder what you got yourself into. If you think this will be a typical home remodel, you are in for a brutal shock.

What Is a Marijuana Grow House?
A grow house is typically a single-family detached home that is used to illegally grow marijuana--completely indoors.

Even in states such as Washington where growing marijuana is legal, it may be illegal to grow marijuana outdoors. Unable to afford commercial spaces or stymied by efforts to secure a producer/processor license, many small-scale growers are driven back indoors.

Before moving in and setting up operations, a few things that growers like to have:

- **Ample Parking:** Commercial scale growers usually work in groups.
- **Garage:** Essential for loading and unloading marijuana without being seen by neighbors.
- **Yard:** Space around the house provides a buffer zone, out of reach of nosy neighbors.
- **Unimpeded Indoor Space:** Large open areas, like basements, provide growers with ample room for setting up plants, lights, and irrigation.
- **Electric Meter Hidden:** Growing lights use a lot of electricity. Nosy neighbors can get a sense of growing operations by checking the electric meter to see much power is burned up every month. It helps growers if the meter is more difficult to access--behind a gate, for instance.
- **200a Service Panel:** Standard for most homes today, a 200 amp service panel (circuit breaker board) has more opening slots that allow for more wires to be run
01 Growers either move into the house legally (as tenants or owners) or illegally (as squatters on foreclosed properties).

02 They quietly set up growing operations behind closed curtains.

03 Growing lights, seeds, soil, planter boxes, hoses, and all the implements needed to grow marijuana indoors are usually brought in under cover of night.

04 Pot plants will be situated all throughout the house, though typically the front rooms are left normal--just in case someone happens to look in.

05 Infrastructure is remodeled for the sake of the almighty weed, but you can be certain that remodels are not made up to code or done by licensed professionals.

06 Water lines are tapped to provide irrigation.

07 Electric wires reconfigured to power the juice-hungry growing lights.

08 Thick plastic, hopefully, covers floors. Plastic might be stapled or nailed around walls.

In short, the house becomes one big enclosed marijuana field, everything given over to the mission of growing weed.

**Why Is This So Bad For a Building?**

Most problems stem from the fact that agriculture products are not meant to be produced in enclosed residential living spaces.

Other problems come from the fact that, unless they own the house, most illegal growers simply do not care that they are destroying the home.

Ownership of a former grow house is devastating for any owner or landlord, whatever your views on cannabis legalization may be.

Even the most free-wheeling proponent of weed can still find him/herself a very unhappy and potentially bankrupt owner of a grow house.

01 Huge amounts of debris are left behind.

02 Highly unsafe electrical wiring.
05 Interior walls removed to make larger growing space.

06 Floor coverings, subfloors, joists, and studs ruined by water damage.

07 Many nail and staple holes in walls and ceiling.

08 Holes cut in ceilings and walls to accommodate ventilation needed to circulate air, so that plants can grow.

09 General damage (broken doors, windows, drywall, etc.)

**Fixing It**

Be prepared for the price: the cost will be astronomical. Repair and remodel bills for grow houses easily start in the tens of thousands and quickly scale upward. It's not unusual at all to spend $50,000 to $75,000 to bring a grow house back to normal condition.

Moisture is the biggest culprit. Water leaking from the hydroponic lines, as well as humidity build-up, can work deeply into the core of the house.

**Inspector:** First of all, get an overview of the severity of the problem from a home inspector who is well-versed in dealing with grow house inspections. They can check the house with moisture meters to assess humidity levels; look in unusual place for mold and mildew; pull up floor coverings; etc. Not all home inspectors are capable of doing this. Make sure that they have done this kind of work before.

**Electrician:** An electrician needs to come in and assess the extent of electrical damage. It's almost certain that the growers have opened up new circuits in the service panel or re-routed existing circuits to feed the high demands of the growing lights. If there is a lot of standing water, have the power company shut off the power. If there is actively running water that you cannot shut at the source, shut off the house's entire supply at the street.

**Plumber:** Plumbers may be needed to shut down auxiliary water lines; cut them off; and get water supply and drainage working as normal.

**Hauling:** You will need a large roll-off bin to accommodate the debris. You may need to...
Mold Inspection and Abatement: Former pot growing houses are a textbook case for calling in the mold inspector and the mold abatement company: there will be mold, guaranteed. I would not attempt to mitigate these levels of mold myself.

Demolition: How far does the damage extend? The answer to this will tell you how much of your house you need to rip out and replace.

At the center of the growing operation, where moisture is most prevalent, you may need to remove drywall, insulation, and even studs. In other parts of the house, the mold abatement company may be able to mitigate the mold enough so that you don't have to remove drywall.

General Carpentry; Insulation; Drywall: Studs may need to be replaced by new studs, either wood or metal. Insulation affected by mold is a "goner"; you will need to replace it.

Flooring: Unless you have bare concrete or tile, the floor covering will need to be replaced in the growing area. If your house rests on joists (basement or crawlspace), inspect the joists and sub-floor for damage and replace accordingly.
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Should You Remodel or Rebuild
Neighbors of York medical marijuana facility raise odor, groundwater, lifestyle issues

By Deborah McDermott
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Posted Apr 11, 2017 at 7:35 PM
Updated Apr 12, 2017 at 3:20 PM

YORK, Maine — A group of neighbors near a medical marijuana grow facility on White Birch Lane said they are frustrated by the anonymity of the owners and tenants, a situation that creates a sense of unease in the neighborhood dating back years. They don’t know who to talk to about overarching concerns with odor, but also possible groundwater overuse. And they worry about the values of their homes — particularly if a recreational grow facility is created there.

Meanwhile, a principal in the real estate holding firm that owns the property, Eric Owens, said he is “more than willing” to work with the town to address the smell coming from the facility, after it was cited last month with an odor violation. Owners are also embarking in the spring on a number of corrective actions required by the town in 2015, including erosion control measures and vegetative buffers.

Four people who live in the vicinity of the grow facility talked recently about their concerns with the property. They began by saying they are not opposed to medical marijuana and in fact one neighbor, Grace Owen-Smeltzer, said she’s a nurse and has seen the curative properties of cannabis.

But that does not negate what they see as a facility shrouded in mystery and a town government that has an uneven track record of dealing with the owners. They admit some of the issues early on, such as traffic coming at all hours of the day and night, has largely disappeared. But the underlying anonymity is a concern.

“We have no idea what is going on there. Is there a danger? We don’t know,” said Birch Hill Road resident Louise Eaton. “We have no idea if DHHS (the Department of Health and Human Services, charged with enforcing medical marijuana regulations) is coming out there.”

“If it’s so legal and nice and fine, how come it’s so hidden?” added Pat Randby of David Drive.
The property, which contains two large buildings, is owned by Owens and Sanborn, LLC, a real estate holding company. According to the Maine Secretary of State, the company is active and in good standing with the state.

The neighbors’ overriding complaint concerns the odor from the facility — a skunk-like smell they say is sometimes so strong it curtails their use of their own property.

“That smell — it’s a skunk smell,” said Owen-Smeltzer, who lives at the corner of Birch Hill Road and White Birch Lane. “It gets in my house and can take over. In the summertime, during barbecue season, the windows are open or you’re outside enjoying a meal, and it stinks. You can’t enjoy your own property.”

“Based on the direction of the wind, it depends who gets it,” Eaton said. “When we have company over, people say, ‘You must have skunks around.’ We say, ‘No, it’s the pot.’ But when police come out they say they can’t smell anything. I’m frigging sick of complaining.”

The town has become involved recently in finding a solution to the odor complaints. Code Enforcement Officer Amber Harrison sent a notice of violation for 17 White Birch Lane to Owens and Sanborn March 6, citing 35 odor complaints “received and processed through the police and code enforcement office” since 2013.

According to an offer by attorney Lynne Williams to settle a lawsuit filed against the town by caretakers, only nine of those complaints were substantiated.

Harrison last week was invited onto the property, but taken only to one of the buildings, not both. According to Harrison, the owners told her the address of the second building, where most of the grow operations appear to be located, is 19 White Birch Lane. Assessing records include both buildings in the same 17 White Birch Lane parcel.

The one building she did see had “one large growing facility in the middle of the building.” For that grow operation, the owners had installed a charcoal filter system to eliminate odors. She said she now has to dig into the town file, particularly 2014 Board of Appeals records that allowed the grow operation to continue, to build her case that she needs access to both buildings. “My only goal is to address the odor complaints and reduce the noxious odor.”
Eric Owens said he is “trying to have an open relationship with the neighbors. We’re trying to be good neighbors. Since we received the notice of violation, we complied with Amber Harrison’s request. “Some people are just outright unhappy with what we’re doing and said they don’t want this in their back yard. Some have been very receptive,” he said.

At least one neighbor, Emus Way resident Chuck Ott, said in separate interview he has no issues with the facility. “They’ve been great neighbors. I have no objections to what those folks have been doing. I do have neighbors concerned about smell, and I believe the people who say they do, but I do not smell it,” he said.

The other neighbors, however, remain deeply concerned and say they feel a new urgency since the state passed a recreational marijuana law last November. One of the medical marijuana caretakers at the grow facility, Ron Fousek, has said he would like to convert the property into a recreational manufacturing facility, with an outdoor farming component.

Fousek said he has no intention of selling pot at the property, and instead would set up retail stores in nearby towns.

Neighbors say they aren’t convinced. “I don’t believe them,” Eaton said. “My concern is that if it goes retail, everyone coming up to York will be stopping by on their way through.”

Ott, even though he finds the medical marijuana caregivers to be good neighbors, said he would be “alarmed” about a more intensive recreational retail sale use there. “That would not be right,” he said.

The neighbors said they intend to become more vocal in the next month or so, in favor of an article on the May 20 ballot that would ban all retail operations in town – including a manufacturing operation like Fousek contemplates.

“I don’t like my neighborhood being lost,” Randby said. “It’s a helpless feeling.”
The number of clandestine indoor marijuana grow operations (CIMGOs) in the United States and Canada has exploded in recent years. With the ongoing legalization of medical and recreational marijuana use in many U.S. states, as well as in Canada, which legalized medical marijuana use nationwide in 2001 and reportedly may legalize marijuana altogether in 2018, the trend is expected to continue.

The U.S. Drug Enforcement Agency’s recent report Residential Marijuana Grows in Colorado: The New Meth Houses? described how the legalization of marijuana in Colorado has led to the proliferation of indoor marijuana grow operations in “hundreds of homes throughout the state.” The report noted that “marijuana grows often cause extensive damage to houses where they are maintained,” and “much like the ‘meth houses’ of the 1990s, many of these homes will ultimately be rendered uninhabitable.”

One reason CIMGOs are kept secret is that they are frequently operated in leased properties, ranging from small apartments to uses and commercial properties. Unsuspecting property owners often do not discover that their properties have been used for CIMGOs until after extensive damage has occurred and the operators have disappeared.

The most significant type of property damage caused by these operations is moisture intrusion in ceiling, wall and flooring materials. This promotes widespread mold growth. The moisture intrusion is driven by a variety of factors, including water spilled during the irrigation of plants, irrigation water that leaks from plant pots, and water that onto interior surfaces from the humid air of the greenhouse-like environments.

Other damage caused by these operations include damage to kitchens, bathrooms and plumbing in heavy use and drainage system back-ups, due to potting soil and plant debris being flushed down toilets and drains. These properties are also damaged by contamination from plant fertilizers and insecticides as well as rodent, termite, cockroach and/or bedbug infestations promoted by wet conditions. There
may be modifications to buildings, such as plastic sheeting stapled onto walls and floors, and holes cut into ceilings and walls for the installation of supplementary ventilation systems to manage heat from grow lights. Sometimes electrical system alterations are made to bypass power company meters and avoid paying for the extensive use of electricity for grow lights and supplementary ventilation systems. Fires from exploding grow lights and overloaded transformers can also occur.

The moisture intrusion, mold and other damage caused by grow operations can eventually render properties uninhabitable. Operators of CIMGOs in leased properties will often then pack up their plants, equipment and supplies, and disappear before they are discovered. Because the property damage caused by larger operations (which can have hundreds of plants) is obvious and easily related to growing marijuana indoors, property loss insurers may determine that, based on the conditions of the policy, the damages are not a covered loss. This leaves property owners responsible for the significant expense of remediating and restoring the property.

Operators who have only a few plants sometimes try to remove as many signs of their operation as possible, then blame the property owner for the remaining moisture intrusion or mold damage and rodent or insect infestation. Some of these operators have even sued property owners for habitability issues and personal injury. Property loss insurers and owners of leased properties should thus always consider whether these types of claims are possibly related to growing marijuana indoors.

If the signs of a smaller CIMGO have been largely removed by the operator, it can be tricky for property owners to determine the cause of the damage. But even the best attempts by growers to cover their tracks usually leave behind some of the characteristic signs of indoor marijuana-growing, which can be documented by environmental investigation. Such signs include:

- Moisture intrusion or mold damage that cannot be related to any plumbing, water utility or building envelope leaks
- Extensive condensation of water (often accompanied by black Cladosporium mold growth) on window systems and exterior walls
- A history of numerous kitchen and bathroom drainage system backups, and heavy wear and tear on kitchen and bathroom water utilities, sink cabinets and floors
- Dark staining on carpeting and underlying flooring from spilled potting soil and/or water draining from the holes in the bottoms of plant pots
- An excessive number of HVAC, kitchen, bathroom and portable fans left running and/or the extensive use of deodorizer, as these may have been employed to air out or cover up the telltale smell of marijuana
- Locke boxes, which are used as nurseries for young plants, that have been left behind
- Bags of potting soil and containers of plant fertilizers or insecticides
- Higher than usual electric and water utility bills

A few of these signs together may be enough to determine that a property was used for growing marijuana indoors. If additional evidence is required, interior surfaces can be sampled for tetrahydrocannabinol (THC), the main psychoactive chemical compound in marijuana.

In a 2013 study Colorado State University Department of Environmental Health Sciences assessed the exposures of first responder law enforcement personnel to the contaminants often found in indoor grow operations. Researchers conducted environmental sampling in 30 grow operation sites for a variety of the potential, including airborne mold spores, fertilizers, insecticides and THC. High levels of airborne mold spores were the most significant hazard, thus, they recommended, first responders should wear respiratory protection when entering grow sites.

http://www.mmmagazine.com/2017/05/01/the-danger-of-marijuana-grow-operations/
The researchers also detected THC on surfaces in 70% of the grow sites studied, but they concluded the concentrations were not high enough to present a significant exposure hazard. These results did demonstrate, however, that surface sampling for THC can be a useful tool for environmental investigators to help document that a building has been used to grow marijuana.

Owners of leased properties should consider proactively prohibiting indoor marijuana-growing in their lease agreements. Although Canada and the U.S. states that have legalized marijuana currently permit growing marijuana indoors, the property damage and health hazards more than justify its prohibition in leased properties.

Property owners should also educate their maintenance staff on the signs of indoor marijuana-growing and perform regular proactive inspections to look for such signs. If a potential CIMGO is discovered, property owners will need an environmental investigator, such as a certified industrial hygienist, to perform a thorough assessment for moisture intrusion or mold and other associated health hazards to determine whether any remediation is necessary to restore the property to a habitable condition. Guidance on assessing and remediating grow operations can be found in publications from the American Industrial Hygiene Association and Canada’s National Collaborating Centre for Environmental Health.

CIMGOs are a rising challenge for property loss insurers and property owners. Better awareness of this issue and understanding the proactive and investigative measures that can be brought to bear are the keys to addressing and mitigating this emerging risk.
Marijuana has been decriminalized and regulated by various states, but it remains forbidden by federal law. This means that state-legal marijuana growers might still face federal charges, though federal prosecutors could choose not to enforce the federal ban in such situations.

But it also means that private citizens (here, a couple named the Reillys) could sue neighboring marijuana growers under the federal RICO statute, on the theory that the growers are interfering with the neighbors’ use of their land — as the U.S. Court of Appeals for the 10th Circuit just held Wednesday in Safe Streets Alliance v. Alternative Holistic Healing, LLC . And this would not be affected by a Justice Department policy of not enforcing the criminal ban on marijuana production and distribution in those states that allow marijuana. The decision thus further highlights the precarious status of marijuana in Colorado, Washington, California and other such states, so long as Congress declines to officially allow such state legalization.

The federal Racketeer-Influenced and Corrupt Organization Act (RICO) lets people sue “racketeering” enterprises that injure the plaintiff’s “business or property.” Drug growing or distribution that is a felony under federal law qualifies as racketeering activity.

And, the 10th Circuit concluded, injuries to “property” include some examples of what property law calls “nuisance” — serious interference with the enjoyment of property, often accompanied by decline in property value. In particular, plaintiffs alleged that the marijuana enterprise produced “noxious odors” that wafted onto their property; such an “odorous nuisance” could qualify as an injury to property, assuming plaintiffs could show that the interference with their property was substantial enough.

Plaintiffs also alleged that “the open operation of the Marijuana Growers’ criminal enterprise has caused the value of their land to decline, independent of the harms attending the nuisance”; that too could be a sufficient “injury to property,” the court concluded, if the decline in value could be shown. Perhaps “the value of the Reillys’ land” has actually “increased because of
the now-booming market in Colorado for land on which to cultivate marijuana," but that is a factual question to be determined later — for now, the Reillys’ claim can go forward:

At this stage in the litigation, we conclude that it is reasonable to infer that a potential buyer would be less inclined to purchase land abutting an openly operating criminal enterprise than she would be if that adjacent land were empty or occupied by a lawfully-operating retailer. Based on the Reillys’ assertion that the Marijuana Growers’ operation is anything but clandestine, the Reillys’ land plausibly is worth less now than it was before those operations began. Therefore, we conclude that the Reillys pled a plausible diminution in the value of their property caused by the public operation of the Marijuana Growers’ enterprise.

In principle, this same claim could be made by neighbors of a wide range of marijuana growers and distributors, assuming they could show substantial interference with enjoyment of land or decline in property value. And while some such claims could have in any event been brought under state nuisance law in state court, RICO provides much better remedies — potentially, a recovery of three times the actual damages plus a reasonable attorney’s fee — and likely isn’t subject to any state law defenses (as there might be against some nuisance claims brought against licensed, regulated businesses). So the decision is bad news for marijuana businesses, and for the uneasy coexistence between state legalization regimes and the federal marijuana prohibition.

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Civil Challenges to Cannabis Businesses in Legal States

July 28, 2017  |  Articles

California Lawyer
Josh M. Heinlein and Jacob A. Ayres

A recent Tenth Circuit decision shines light on a new avenue to challenge cannabis businesses, even in states where medical and recreational marijuana is legal.

Although the potential federal criminal threat to cannabis businesses in states that have legalized medical or recreational cannabis has been relatively well-discussed, the potential civil threat has received little attention. In Safe Streets Alliance v. Hickenlooper, 859 F.3d 865 (10th Cir. June 7, 2017), the Tenth Circuit reversed the dismissal of civil Racketeer Influenced and Corrupt Organizations Act (RICO) claims against a cannabis growing operation in Colorado, leaving open the possibility of future civil challenges to cannabis businesses.

Using RICO

Although commonly associated with anti-mob criminal prosecutions, RICO contains a provision that creates a federal civil private right of action that “vests a private citizen with substantive rights to avoid ‘injuries’ to ‘his business or property’ caused by a pattern of racketeering activity.” Safe Streets, slip op. at 15 (quoting 18 U.S.C. § 1964(c)). The plaintiffs in Safe Streets, Michael and Phillis Reilly, used precisely this mechanism to pursue federal civil claims against a cannabis cultivation operation that neighbored the Reillys’ property. Id. at 10. (The defendants in the case were a somewhat loosely affiliated group of individuals and entities, including 6480 Pickney, LLC, Alternative Holistic Healing, LLC, Camp Feel Good, LLC, Jason M. Licata, Joseph R. Licata, and Parker Walton. Id. at 12.)
The Reillys owned a piece of land in Pueblo County, Colorado, where they did not live but occasionally used for recreation such as horseback riding. Id. at 10-11. Defendants operated a cannabis cultivation operation on the neighboring property. Id. at 11. Amendment 64 to the Colorado Constitution legalized recreational cannabis, including its cultivation. Id. at 5; see also Colo. Const, art. XVIII, § 16. Reillys alleged the defendants’ operation caused a “distinctive and unpleasant marijuana smell” to waft onto their property. Id.. Reillys filed a federal RICO lawsuit in Colorado, but the trial court dismissed their complaint. The Reillys then appealed to the Tenth Circuit.

RICO requirements

Under the citizen suit provision of RICO, a plaintiff must prove (1) a violation of RICO section 1962; (2) that his or her business or property has been injured; and (3) that the RICO-prohibited activity caused the injury. Id. at 15 (citing RJR Nabisco, Inc. v. European Cmty., 136 S. Ct. 2090, 2096 (2016)). The court concluded the Reillys plausibly pled the defendants’ cannabis cultivation operation constituted a violation of RICO section 1962. Id. at 22. The court reasoned that racketeering activity defined under RICO expressly includes dealing in a controlled substance, which is illegal under federal law, and therefore a cannabis cultivation operation was racketeering activity conducted by an association in fact. See id. at 20-22.

Analyzing the harm

Most interestingly, the court concluded the Reillys may be able to prove the cannabis cultivation operation harmed their property interests by (1) substantially reducing their use and enjoyment of their property due the “noxious odor” of the cannabis—i.e. a nuisance; (2) reducing the value of their property due the cannabis smell nuisance; and (3) reducing the value of the property by having a neighbor that is “openly operating criminal enterprise.” See id. at 24-29. In doing so, the court also concluded that the causation requirement had could likely be met, as it was folded into the analysis of the harms themselves.

At the same time, the court rejected more vague injuries asserted by the Reillys, such as claims they were “injured each time they look[ed] to the west and observe[d] the Marijuana Growers’ facility because the structure itself is a constant reminder of the crimes occurring therein.” Id. at 29-30. The court ruled these “emotional, personal, or speculative future injuries” were not compensable under RICO. Id. at 30.

Potential implications
The portion of the opinion discussed immediately above has potentially far-reaching implications for cannabis-related businesses. First, it opens the door for federal RICO civil suits premised upon nuisances. Ordinarily, a claim based upon a neighbor’s property’s “noxious odor” would be dealt with in state court, as a classic common law property action. Perhaps fearful of a cannabis-sympathetic Colorado state bench, the Reillys managed to transform their state law nuisance cause of action into a federal RICO action, by virtue of the fact cannabis cultivation is still illegal at the federal level under the Controlled Substances Act (CSA).

Second, it provides two methods by which neighboring civil plaintiffs may legally challenge cannabis businesses: (1) via claims of nuisance and (2) via property value reduction due to criminal activities.

Although the transmutation of a state law nuisance claim into a RICO claim is somewhat eyebrow-raising, the true revelation in this case is the ratification of the “criminal activities property value reduction” RICO claim. For example, a cannabis business can insulate itself from nuisance or nuisance-based RICO claims by taking precautions—whether by operating indoors with proper HVAC or by operating in commercially or agriculturally zoned land. However, even a cannabis business that emits no odors or other nuisances—for example, a refining lab that uses cannabis to create CBD oil for treatment of epilepsy—could still be subject to a RICO claim purely based on the theory its very existence and operation in the plaintiff’s neighborhood lowers the plaintiff’s property value.

Possible solution?

The way the court framed this type of property injury suggests a solution for cannabis businesses. The court reasoned that “it is reasonable to infer that a potential buyer would be less inclined to purchase land abutting an openly operating criminal enterprise than she would be if that adjacent land were empty or occupied by a lawfully-operating retailer.” Id. at 29 (emphasis added). The court went on to state “[b]ased on the Reillys’ assertion that the Marijuana Growers’ operation is anything but clandestine, the Reillys’ land plausibly is worth less now that is was before those operations began.” Id. (emphasis added). Both of these lines suggest if a neighboring cannabis business is operating discreetly, the argument that there is property value reduction falls apart.

In this regard, the Safe Streets case is a cautionary tale for cannabis businesses in states that have recently legalized recreational marijuana.
Cannabis entrepreneurs, emboldened by state-by-state decisions to legalize recreational marijuana, can be tempted to jump in with both feet and operate their business openly, assuming the recent legalization effectively operates as a mandate for their business. However, enthused the majority may be in a given legal recreational marijuana state, there may still be a minority that may oppose the direction their state has taken. As such, cannabis businesses can take precautions to avoid upsetting their neighbors and risking nuisance and/or RICO claims. First, as mentioned above, a cannabis business can design its property to avoid the dispersion of the “noxious odors” at issue in Safe Streets. Second, a “cannabis business” can choose to locate in an agriculturally or commercially zoned area, or better yet, in an area surrounded by other cannabis businesses. Third, a cannabis business can operate discreetly—or, to borrow the words of the Tenth Circuit, “clandestinely”—to avoid the “criminal enterprise” property value reduction discussed above. By operating indoors or not broadcasting the nature of their business, a cannabis business gives its neighbors less ammunition to supply a potential RICO lawsuit.

We pause to emphasize that we are using the term “cannabis business” to refer to businesses that handle the actual cannabis plant or its derivatives. The “cannabis ancillary” business market—which provides services and goods to aid those who directly handle physical cannabis or its derivatives—is by nature more naturally insulated from these concerns, and is also beyond the scope of this article.

Additional facets to the Safe Streets decision

The Safe Streets appeal also involved several parallel threads that bear mention.

Equity Action

In addition to their suit against their neighbors, the Reillys also brought suit against Colorado and Pueblo County in an “equity” action in which they requested a judgment declaring that the federal Controlled Substances Act entirely preempted Amendment 64, along with statewide injunctive relief blocking enforcement of Amendment 64. Id. at 35. However, the court concluded the CSA provided no private right of action to civil plaintiffs, and as a result the Reillys could not bring a suit demanding preemption under the CSA. Id. at 58–59. Although this analysis clearly takes a backseat to the RICO claims, it eliminates a potential path by which private civil plaintiffs can challenge the legalization of cannabis at a state level. Although the
conflict between the CSA and the laws of the states that have legalized cannabis, whether medical or recreational, is well-documented, the *Safe Streets* decision confirms private plaintiffs cannot force a resolution of this conflict themselves.

**Law Enforcement Officers Action**

The *Safe Streets* court also ruled on a parallel appeal not involving the Reillys. That case, *Smith v. Hickenlooper*, involved “a group of county attorneys and sheriffs from Colorado, Kansas, and Nebraska” which took a path similar to the one followed by the Reillys: they sued Colorado to preempt enforcement of Amendment 64 under the CSA. The plaintiffs argued Amendment 64—and, for the non-Colorado plaintiffs, the attendant influx of “Colorado-sourced marijuana”—inhibited their ability to enforce the CSA. *Id.* at 63–65. For the same reasons as the Reillys, the Tenth Circuit held that the law enforcement officer plaintiffs had no substantive rights to enforce under the CSA or the Supremacy Clause of the United States Constitution. *Id.* at 68.

**Nebraska and Oklahoma Action**

The final appeal addressed by the Tenth Circuit dealt with a complaint filed in the United States Supreme Court by Nebraska and Oklahoma against Colorado. *Id.* at 69. Nebraska and Oklahoma also sought to enjoin Amendment 64 by virtue of its preemption by the CSA. *Id.* The Supreme Court declined to hear the matter. *Id.* Afterward, Nebraska and Oklahoma moved to intervene in the *Safe Streets* appeal, requesting that the Tenth Circuit exercise jurisdiction over their claim. *Id.* at 70. However, because the Supreme Court has exclusive jurisdiction over disputes between the states, the Tenth Circuit was “forbid[den] from deciding” the alleged controversy between the states. *Id.* at 76. The Tenth Circuit’s reasoned but efficient disposal of this aspect of the litigation shows that until the Supreme Court is willing to hear a dispute between a state that has legalized marijuana and one that has not, those cases will die on the vine.

**What’s next?**

The legalized cannabis civil lawsuit developments in *Safe Streets* naturally point the spotlight back to the criminal side of the ever-evolving landscape of cannabis law. In April 2017, comments from Attorney General Jeff Sessions and then-Presidential Press Secretary Sean Spicer created some uncertainty over the fate of the Rohrabacher-Farr amendment, now called the Rohrabacher-Blumenauer amendment, a Congressional

After two short term extensions, the Rohrabacher-Blumenauer amendment was signed into law as part of a Congressional appropriations bill on May 5, 2017. H.R. 244, P.L. No. 115-31 – Consolidated Appropriations Act (May 5, 2017); *Resolution Extends Rohrabacher-Blumenauer Amendment,* Culture Magazine (Apr. 27, 2017), http://ireadculture.com/resolution-extends-rohrabacher-blumenauer-amendment/. However, in his signing statement, President Trump said he would “treat this provision consistently with my constitutional responsibility to take care that the laws be faithfully executed.” *Statement by President Donald J. Trump on Signing H.R. 244 into Law,* The White House (May 5, 2017), https://www.whitehouse.gov/the-press-office/2017/05/05/statement-president-donald-j-trump-signing-hr-244-law.


Regardless of odor, the smoke surrounding the movement to legalize marijuana continues to swirl. The decision in *Safe Streets* proves that the
legal developments in this area bear continuing scrutiny.

Resources

Civil Challenges to Cannabis Businesses in Legal States

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Marijuana grows leaving more Colorado homes filled with mold

Denver police Det. Brian Matos estimates that marijuana is grown in one of every 10 homes in the city.

At least 230 plants in various stages of growth were found growing in the home and two outbuildings on a property in Eastern Pueblo County in January 2017.

By TOM MCGHEE | tmcghee@denverpost.com | The Denver Post
PUBLISHED: July 31, 2017 at 6:00 am | UPDATED: July 31, 2017 at 11:21 am
A photo from one of the homes where illegal marijuana grow operations were discovered by Pueblo County Sheriff’s Narcotics Investigators.

David and Christine Lynn paid $398,000 for a home in rural Douglas County before discovering that the previous occupants had diverted an electrical line to avoid paying the high cost of power needed to turn the residence into a marijuana grow house.

“They called the electric company and found out the wattage for that house had been huge for the previous two years,” said Rolf von Merveldt, a lawyer who is handling the lawsuit they filed against the previous owner.

Things got worse from there. They found thousands of square feet of mold beneath rugs and drywall in the basement, and a subsequent inspection determined that walls that had absorbed the pungent smell of pot had been covered with Kilz, a primer that can block odors.

Mold in some parts of the home covered drywall from the floor to ceiling, suggesting that the moisture causing it didn’t come from outside the home, von Merveldt said.

No one really knows how many homes throughout Colorado are being used to grow weed, and not all of them suffer the extensive damage that the Lynns found. But law enforcement authorities say they’re seeing more and more houses that have been left with thousands of dollars in damage from marijuana grow operations.
Denver police Detective Brian Matos estimates that marijuana is grown in one of every 10 homes in the city — “everywhere from one plant to 1,000 plants.”

Colorado law bars growing marijuana outdoors in most circumstances, so even those growing a small number of plants legally must do so inside.

Gangs that grow weed illegally in Colorado, then sell it outside the state, grow the product in commercial warehouses, but they also use private and, frequently, expensive properties in upper-middle-class, high-income neighborhoods, according to the federal Drug Enforcement Agency.

Often the plants are tended by people who have little or no experience in horticulture and don't realize the damage that water and humidity can do to a home.

Some growers know what they're doing and just don't care. They take an irresponsible approach to cultivation, punching holes in walls and ceilings to provide ventilation, jerry-rigging electrical wiring, removing walls and rerouting water lines.

“We see mold issues, fire hazards. You need more power, so they try to set up their own electrical systems,” Matos said. “Breakers are popping, transformers are blowing out, power cords are sitting in standing water. They try to do this in their basement. How many people try to grow tomatoes in their basement?”

Matos said home meth labs, once fairly common in the state, have been put out of business by cheaper methamphetamine that flows across the border from Mexico.

But remediation of damage from meth is often cheaper than the cost of repairs needed to a home where pot is grown, said Timothy Gablehouse, a lawyer who handles environmental contamination cases.

Since labs are smaller now, contamination from meth is usually confined to small areas of the home where it was smoked, Gablehouse said.

The biggest environmental danger in homes where weed is grown is mold caused by the amount of humidity growers inject into the home. People with asthma and other respiratory problems can be severely affected by mold.

In 2012, a research team from National Jewish Health working with law enforcement entered 30 illegal grow operations and evaluated them for potential hazards including mold, pesticides and fertilizers.
The study concluded that “airborne levels of mold spores that we found inside these structures may subject the occupants, emergency personnel and other individuals to significant health hazards, especially allergies, asthma, hypersensitivity pneumonitis and other respiratory diseases.”

Each illegal grow contained between 11 and 670 plants.

“Because grow operations are often concealed in residential properties to evade law enforcement and/or thieves, they are not designed for extensive greenhouse-type operations, especially lacking in ventilation and proper electrical wiring,” National Jewish said.

“If the mold has grown into the floor joists, it can do enough damage to the wood that the house can't be saved,” Gablehouse said.

He has seen few homes that badly damaged, however.

Illegal growers also sometimes dig into the foundation to tap a power line before the line can reach the meter to ensure they don't have to pay for the electricity they are using, or to evade law enforcement. “They cap the power line, and how they do it without getting electrocuted has always been a mystery to me,” Gablehouse said.

But mold smells, and the smell of weed clings to a home's interior. A prospective buyer can often see the damage caused by a grower.

“Mold is a huge cleanup problem, but most people can figure out there is something wrong fast,” Gablehouse said. “They can smell it.”

Judy Sawitsky, of Weecycle Environmental Consulting, doesn't believe there are that many homes dramatically affected by marijuana grows.

“I think it is a problem, but I personally haven't seen a large influx of testing for grow houses,” Sawitsky said. “If I was to compare them, I would have nine meth houses and one grow house that someone would want us to test.”

Colorado requires sellers to disclose if a home has been contaminated by meth, unless it has been cleaned up.

State regulators should also require that sellers disclose when marijuana has been grown in a home, von Merveldt said.

“I think the real estate commission has really dodged the issue,” he said.
Colorado's Brokers Relationship Act requires real estate brokers to disclose known adverse material facts about a home, including mold and other problems that can result from growing pot, said Marcia Waters, director of the Division of Real Estate.

A home where only a few plants were grown is unlikely to have serious problems, she said.

After recreational marijuana became legal in 2014, Waters said, some brokers believed they wouldn't have to disclose that marijuana had been grown.

As a result, in 2015, the commission issued a position statement reiterating disclosure rules for adverse material facts. The position statement doesn't mention marijuana.

“We decided that rather than do one on marijuana, we would do one on the broader issue,” Waters said.
FAIRBANKS — Neighbors offended by the smell coming from a Two Rivers pot farm have gone to the state and the borough looking for relief. They have found none.

The business is Herbal Instincts, an outdoor marijuana growing operation on Ream Lane, about 15 miles down Chena Hot Spring Road.

The pot farm is on property zoned for agricultural use.

“We can’t open windows in our house because the stench is so bad,” Ole Christenson, who lives near Herbal Instincts, told the Borough Assembly on Thursday.

His neighbor, Jacqueline Bock, said the smell gives her headaches. Her husband, Ron, said it smells like a skunk.

Heidi Christenson, Ole’s wife, said she would prefer to smell manure.

They sought to have the assembly protest Herbal Instincts’ license, which is up for renewal soon before the Alaska Marijuana Control Board.

The assembly voted 5-3, deciding not to protest the license.

“If you can’t allow a cultivation business on agricultural property, I don’t know where you can allow it,” Assemblyman Van Lawrence said.

In July, a complaint about odor at the pot farm was made to the state.

The business, owned by Cristopher Konopka and Jessica Huff, was issued an “advisory notice” that no violation of state regulation or laws warranted action by the Marijuana Control Board.

State rules say little about odor from marijuana businesses. Even less is said in the local code of ordinances.

Under Alaska Administrative Code, marijuana cultivation facilities must ensure that marijuana “does not emit an odor that is detectable by the public from outside the cultivation facility except as allowed by a local government conditional use permit process.”

The borough has no conditional-use permits on marijuana odor.

Whether a bad smell is coming from the farm is disputed.

Friends and supporters of Konopka and Huff told the Borough Assembly that they have visited the property, and they noticed no strong smell.

Konopka said in an interview that the smell is during flowering and lasts about three or four weeks.

“We are zoned for agriculture. We could have a horse farm. We could have a pig farm,” he said.

Under the plan for the business that was approved by the state, Konopka is allowed to permeate the odor outdoors.

“There is no grow that you can’t smell. It’s part of the business,” he said. “We are following all state law and regulations.”

James Hoelscher, chief investigator for the state of Alaska Alcohol and Marijuana Control Office, said Herbal Instincts is doing more than what state rules require for dealing with odor.

The grower reportedly has placed fans on the greenhouses to try to vent the air away from neighbors.

Hoelscher said the advisory notice is like a fix-it ticket or a warning to address the problem.
"If we get more complaints about the odor and the odor is not dissipating as per their operating plan, we will have no choice but to write up a violation and bring it to the board," Hoelscher said.

Contact staff writer Amanda Bohman at 459-7587. Follow her on Twitter: @FDNMborough.
If a marijuana grow warehouse opens nearby, will your home value suffer?

BY HUDSON SANGREE
hsangree@sacbee.com

SEPTEMBER 17, 2017 03:55 AM
UPDATED SEPTEMBER 18, 2017 09:44 AM

Dozens of large-scale pot growers are hoping to reap profits in the city of Sacramento soon, but their gains may mean losses for neighboring homeowners.

The value of homes close to legal cannabis-growing operations could suffer, and sellers may have to disclose to would-be buyers the presence of cannabis cultivation sites in their neighborhoods, some experts contend.

Right now, the real estate situation is murky, with little direction from governments or trade organizations.

“This is a can of worms that is going to take us two to three years to figure out,” said Steve Galster, a real estate broker with The Galster Group of Weichert Realtors in Fair Oaks.

The commercial production and the sale of recreational marijuana will be allowed in California starting Jan. 1, and the city of Sacramento – with its ample supply of cheap industrial real estate and proximity to the San Francisco Bay Area – is a prime market for the so-called “green rush” of businesses eager to profit from growing legal weed indoors.

More than 100 businesses were seeking special permits from the city to run indoor marijuana growing operations as of July. (If the city approved them all, there would be more legal marijuana growers in Sacramento than McDonald’s and Starbucks combined.)

Many of the proposed locations are far from housing, notably in the industrial section of the city east of Power Inn Road and south of Jackson Road.

But about one-third of the sites are in neighborhoods – including North Sacramento, Curtis Park and South Land Park – and close enough to houses to potentially cause headaches for homeowners and homebuyers.

Regulations call for pot growers to implement odor-control and security measures, but whether the new rules will control the pungent smell of marijuana or prevent crime remains to be seen.

Real estate appraiser Ryan Lundquist said such drawbacks could dissuade sellers and lower the price of homes.

“If it did end up being a problem with crime or a stigma associated with the cultivation of cannabis, that could be an issue,” Lundquist said. “Or if it really smelled that could be something people don’t want to live next to.”

Lundquist was recently asked to estimate the value of a house in the city’s Hagginwood neighborhood. The home is in an area where small, older homes sit across a tree-lined street from a tire shop, a metal-products manufacturer and other businesses that occupy light-industrial buildings made of concrete and corrugated metal.

Lundquist discovered that three marijuana growers had filed applications with the city to occupy several of the industrial structures. In his Sacramento Appraisal Blog, Lundquist said he had to ask himself whether the pot-growing operations could diminish the value of neighboring homes.

“Does it matter for value if there are a few legal marijuana grow operations in the neighborhood? That’s not really a question we asked much in the past, but it’s definitely a reality in many portions of California now since recreational marijuana was approved at the ballots last year,” Lundquist wrote.

The appraiser said he chose only to disclose his knowledge of the cannabis cultivation permits but not to use it as a factor in his estimate of the Hagginwood home’s value. Other real estate professionals will have to decide if nearby pot businesses need to be disclosed when a house goes on the market, he said.
“That’s something the real estate community has to grapple with, and not everyone will have the same answer, but asking the questions is very, very important,” he said.

Reporting on the effects of pot legalization on Colorado home prices, Realtor.com said, “homes within a half-mile of a marijuana business often have lower property value than homes in the same county that are farther out” and that “neighborhoods with grow houses are the least desirable, with an 8.4 percent price discount.”

Neither the California Association of Realtors nor the Sacramento Association of Realtors has taken an official position on the disclosure issue, spokespeople for the organizations said.

In a legal question-and-answer paper, CAR did recommend to agents that they disclose marijuana growing on properties next door to listings because marijuana cultivation still violates federal law, and “the buyer may have concerns or may wish to investigate if the activity is being lawfully or unlawfully done.”

Galster said he thinks the issue of whether to disclose a marijuana operation is a no-brainer. “If you even have to talk about should something get disclosed, it ought to get disclosed,” he said.

The broker compared the pot situation to the Megan’s Law notice that homebuyers receive. It tells them there’s a state database showing where registered sex offenders live, but it doesn’t require sellers or agents to disclose that sex offenders live nearby.

Homebuyers have to do their own research on the Megan’s Law database, and they may also have to do their own due diligence with regard to pot businesses, Galster said.

“Sex offenders are in every neighborhood,” he said, “and marijuana will be too, I guess.”
Employment and Wage Earnings in Licensed Marijuana Businesses

Revised June 29, 2017 for technical corrections

In November 2012, Washington State voters passed Initiative 502 (I-502) which legalized recreational marijuana sales to adults and mandated the Washington State Liquor and Cannabis Board (LCB) to oversee the recreational market. The initiative also directed the Washington State Institute for Public Policy (WSIPP) to evaluate the impact of the law on Washington’s population and economy. WSIPP is required to produce reports for the legislature in 2015, 2017, 2022, and 2032. The next required report, due September 1, 2017, will contain the preliminary results of outcome analyses.

In April 2017, WSIPP’s Board of Directors approved a contract between WSIPP, the LCB, and the Washington State Employment Security Department (ESD) to complete an analysis of employment in state-licensed marijuana businesses. This supplemental report, produced in advance of the required 2017 report, describes employment in Washington State businesses that have been issued marijuana licenses.

This report is organized as follows: Section I provides background information on licensed marijuana businesses, Section II describes our methodology, Section III presents our findings, and Section IV notes limitations of this report.

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Summary

The Washington State Institute for Public Policy is directed to conduct an evaluation and benefit-cost analysis of the implementation of I-502, which legalizes recreational marijuana use for adults within the state. As a supplemental step, we analyzed employment and wage data for employees in marijuana businesses.

We used data from The Washington State Liquor and Cannabis Board (LCB) combined with Unemployment Insurance (UI) wage data from the Washington State Employment Security Department (ESD) to analyze employment in Washington State businesses that have been issued marijuana licenses.

Findings: Overall, 53% of licensed marijuana businesses reported paying UI-covered wages in at least one calendar quarter between 2014 and 2016. Over that period, licensed marijuana businesses reported employing an increase in employees equivalent to 6,049 full-time (FTE) positions and paid total wages of $286.1 million in inflation-adjusted dollars.

There has been considerable growth in employment and wages for licensed marijuana businesses over this period, with nearly 20% of total wages paid in the three years since market inception falling in the last quarter of 2016. The median hourly wage in Q4 2016 was $13.44.

Employment and wages vary by the type of licensed marijuana business, the size of the business, and by county within Washington State.

There are several limitations to this report, and figures should be interpreted with care. We have taken a conservative approach to estimation wherever possible.

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I. Background

Initiative 502 was passed on November 6, 2012, and took effect on December 6, 2012. The initiative directed the LCB to develop rules to regulate the new legal marijuana supply system. In October 2013, the LCB adopted the first set of rules regarding licenses for different types of businesses in the legal system, the application process, requirements, and reporting. These rules capped the number of retail licenses for the state at 334, with specific allotments for each city and county based on estimates of cannabis demand. Producer and processor licenses were not similarly apportioned—the LCB determined that the market would drive the number of non-retail licensees.

Initial license applications were accepted from November to December 2013. The first producer and processor licenses were issued in March 2014. The first non-medical marijuana retail store opened on July 8, 2014.

The 2015 Legislature passed legislation to regulate medical cannabis through the newly established non-medical cannabis regulatory structure. Subsequent rulemaking added 222 retail licenses to the statewide cap, for a total of 556 possible licensed retailers. Given the number of licensed producers who were still engaged in the licensing process, the LCB determined that there was no need for additional plant canopy. LCB opened a new application window for retailers from October 2015 to March 2016 and issued the first licenses in December 2015. Unlicensed dispensaries had to close by July 1, 2016.

License types and tribal compacts

This report focuses on four types of marijuana business licenses offered by the LCB.²

Producer licenses permit businesses to “produce, harvest, trim, dry, cure, and package marijuana into lots for sale at wholesale to marijuana processor licensees and to other marijuana producer licensees.”³

Processor licenses permit businesses to “process, dry, cure, package, and label usable marijuana, marijuana concentrates, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers.”⁴

Retailer licenses permit businesses to “sell only usable marijuana, marijuana concentrates, marijuana-infused products, and marijuana paraphernalia at retail in retail outlets to persons twenty-one years of age and older.”⁵ Retail licensees may also obtain a medical marijuana endorsement which allows them to sell Department of Health (DOH)-compliant products to qualifying patients and designated providers.⁶ Note that retail licenses may not

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² The LCB also offers cooperative registrations and research licenses, neither of which employs people by definition. They are not considered further in this report. Cooperative registrations permit marijuana cooperatives, which replaced collective gardens. Marijuana cooperatives allow up to four qualifying patients to grow marijuana when they do not live within one mile of a marijuana retailer. Research licenses permit licensees to produce, process, or possess marijuana to conduct scientific research on marijuana and marijuana-derived products.

³ WAC 314-55-075.

⁴ WAC 314-55-077.

⁵ WAC 314-55-079.

⁶ WAC 246-70. Endorsements were not effective until July 1, 2016. Businesses with the added medical marijuana
be held in combination with any other type of marijuana license.

Transportation licenses permit businesses to transport marijuana from one licensee to another. Transport licensees are not permitted to maintain a marijuana inventory and must complete all deliveries within 48 hours. A transportation licensee may not produce, process, or sell marijuana.

A business may hold multiple marijuana licenses, subject to certain restrictions. Specifically, at any point in time a business may hold:
- up to three retail licenses; or
- up to three processor licenses, alone or in combination with a producer license.

Note that "a currently licensed marijuana producer may submit an application to add a marijuana processor license at the location of their producer license providing they do not already hold three processor licenses." These licenses are listed as producer/processor in the data provided by the LCB.

Marijuana licenses are associated with a physical location. In order for a licensed marijuana business to move to another physical location, that business must apply for a marijuana license of the appropriate type for the new location.

Washington State also held separate tribal compacts in lieu of licensure in 2016. The tribal compacts govern the production, processing, purchase, and sale of marijuana on the Tribe’s land, while recognizing the sovereignty of the Tribes. The LCB has completed negotiations with three Tribes and is in the negotiation process with several others. For ease, we refer to tribal compacts as "licensed businesses" throughout this report.

Licensed marijuana businesses

As of April 11, 2017, the date data were extracted to conduct this analysis, a total of 2,020 licenses have been issued to 1,703 unique businesses (summarized in Exhibit 1 below).

### Exhibit 1
Number of Marijuana Licenses Ever Issued to Businesses (as of April 11, 2017)

<table>
<thead>
<tr>
<th>License type</th>
<th>Licenses</th>
<th>Businesses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>2,020</td>
<td>1,703</td>
</tr>
<tr>
<td>Producer/processor*</td>
<td>1,438</td>
<td>1,268</td>
</tr>
<tr>
<td>Retail</td>
<td>572</td>
<td>425</td>
</tr>
<tr>
<td>Transportation</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>Tribal compacts</td>
<td>3</td>
<td>3</td>
</tr>
</tbody>
</table>

Note:
*Includes 1) businesses that held a producer only license, 2) businesses that held a processing only license, 3) businesses that held a producer and processor license for operations in separate physical locations, and 4) businesses that held a dual producer/processor license for operations that take place at the same physical location. Grouping all businesses with a producer and/or processor license together allows us to present more granular information throughout the report.

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7 WAC 314-55-081 (3).
8 WAC 314-55-077 (14).
9 WAC 314-55-077 (13). WAC 314-55-075 states “any entity and/or principals within any entity are limited to no more than three marijuana producer licenses.” However, interim Policy BIP-02-2014 limited “any entity and/or principals within any entity to one marijuana producer license”.
10 WAC 314-55-077(13).
11 WAC 315-55-125.
II. Research Methods

This report is designed to provide descriptive information only. It is not designed to answer questions about the net effect of legal marijuana on jobs or on the Washington State economy as a whole. We limit our analysis to those businesses that have received a marijuana license and describe their employment and wages paid over time.

In particular, we examine how large these businesses are, how many jobs they have created, how many employees they have, and how much these employees are paid. We also explore the above separately for each type of licensed marijuana business and each county, to the extent we can do so while protecting the privacy of individuals and businesses.

To answer these questions, we use data from the LCB to identify all businesses that have been issued a marijuana license, which type of license(s) they have been issued, and the physical location associated with each license. These data are combined with ESD Unemployment Insurance (UI) wage data covering the period between January 1, 2011 and December 31, 2016.

The resulting combined data set allows us to identify, by calendar quarter:
- The number of businesses that reported UI-covered employees and wages;
- What type of license(s) each business had;
- The location of each business;
- The number of people each business employed;
- The number of hours each individual worked; and
- The total quarterly wages that each business reported paying each employee.

Scope of analysis

We describe the reported employment-related activity for all businesses that have had a marijuana license at any point in time. Our primary period of analysis is the period in which these businesses could have had a marijuana license—January 1, 2014 through December 31, 2016, which is the most current data available. In order to give our best approximation of the current state of employment-related activity for marijuana-licensed businesses, we provide detailed descriptions of employment and wages for these businesses in the final quarter of 2016.

To capture changes in employment that take place since licenses were first issued, we compare total reported activity in the last quarter of 2013—the quarter before the
first marijuana licenses were issued—to the last quarter of 2016.\textsuperscript{15}

In addition, some licensed marijuana businesses may have been active\textsuperscript{16} before they received a marijuana license—for example a producer may have been growing another crop prior to entering the marijuana market. For comparison purposes, we describe the employment-related activity of these businesses for calendar years 2011-2013.

All businesses that have employees are required to report wage information to ESD under the UI program. However, there are a few exceptions. Notably, small-farm operators with a quarterly payroll of less than $20,000 and fewer than ten employees do not report their spouse, children under 18, or student workers; business owners do not report themselves; and sole proprietors do not report themselves, their spouses, or their unmarried children under 18. In addition, certain types of employees may not be eligible for unemployment benefits, and therefore may not be reported— including independent contractors, self-employed individuals, and certain commissioned salespeople.\textsuperscript{17} Data on these types of businesses and individuals are not captured in this descriptive analysis.

Our report is based on businesses that have received at least one marijuana license. Some of these businesses have multiple physical locations, and some of these businesses may also conduct activities that are not related to legal recreational marijuana. We include all reported employees for these businesses, regardless of where the employees work or what they do.

Because our report is limited to licensed marijuana businesses and their reported employees, our data and analysis exclude secondary and/or ancillary industries;\textsuperscript{18} wages earned in the black market or under-the-table; and other unreported activities.

This report does not establish a cause-and-effect relationship between the legal marijuana industry and employment or wages. Rather, the data we present describes the reported employment-related activity of businesses that have received a marijuana license and provides contextual information on the employment-related activity of those businesses before it was possible for them to have received a marijuana license. Further, this analysis does not inform us about if or how the legal marijuana industry has affected the overall state economy.

Wages have been adjusted for inflation to 2016 dollars based on the U.S. Implicit Price Deflator for Personal Consumption Expenditures.\textsuperscript{19} For reference, wages are presented in nominal dollars in the appendix.

\textsuperscript{15} It was not possible to limit our analysis to the reported activity for each business based on the quarter in which they received a marijuana license due to data quality limitations.

\textsuperscript{16} A business is considered “active” if it reported paying any employees any wages in a calendar quarter.

\textsuperscript{17} “Unemployment Insurance Tax Information: A handbook for Washington state employers,” October 2014, Employment Security Department. https://www.esd.wa.gov/employer-taxes#reporting. This is not an exhaustive list of exemptions. Additional information regarding the Unemployment Insurance program in Washington State is available from ESD.

\textsuperscript{18} This includes, but is not limited to, security, consulting, legal, and other contracted activities.

\textsuperscript{19} U.S. Bureau of Economic Analysis, Personal consumption expenditures (implicit price deflator) [DPCERD3A086NBEA], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/DPCERD3A086NBEA, June 14, 2017.
Geographical definition

For the county-level descriptions, we assign business location based on their physical address in LCB data in the final quarter of 2016. Businesses with licensed operations in multiple counties are discussed separately. These businesses account for 7.5% of active marijuana businesses in Q4 2016. We do not allocate the wages or employees between the affected counties, as we do not have a satisfactory empirical basis on which to do so. Thus the actual wages and employment in a given county may be higher than the figures reported in the county-level tables.

Calculated statistics

*Employees and FTE.* UI data are measured on a quarterly basis, so it is not possible to determine how wages paid and hours worked are distributed throughout the quarter. It is not possible to determine if an individual with the equivalent of half-time employment for the quarter actually worked half time over the entire quarter or if they worked full time for half the quarter.

To address this limitation, we report both the total number of individuals who worked any number of hours in the quarter at each business (i.e. “employees”) and the full time equivalent (FTE) of the total hours worked by all employees in a quarter. The FTE calculation assumes a typical 40-hour work week, which comes to an approximate average of 520 hours per quarter. For annual time periods we report annual FTE—which is calculated in the same manner as the quarterly FTE, but over the entire year.

In cases where the same individual worked for multiple businesses in a given quarter, we count that individual as an employee at each of the businesses. Thus the number of unique individuals who have worked for any licensed marijuana business is likely less than the total number of employees we report for all licensed marijuana businesses.

The FTE calculation is a more conservative estimator of business size and growth. For this reason we prefer to rely on FTE when calculating business size.

*Job creation/loss.* We present two figures to estimate job creation or loss for licensed marijuana businesses: the net change in the number of employees who worked in the businesses between Q4 2013 and Q4 2016, and the net change in FTE over the same period. This method captures the net change in employment and FTE that occur between January 1, 2014 and December 31, 2016, which is the primary period of our analysis. These figures are not comparable to official net job creation statistics, which are calculated based on the number of employees reported in the final month of each quarter and use a different data source.

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20 Licensed operations include all locations with an unexpired license in the final quarter of 2016.
**Business size** reflects the calculated FTE for the business. This produces a conservative estimate of business size and is not comparable to official statistics, which are based on the number of employees reported in the final month of each quarter and use a different data source.

**Total wages** are the sum of all wages paid during the identified period.

**Total quarterly wages** are the sum of all wages paid by the identified businesses during the identified quarter. Quarters are calendar quarters: Q1: Jan-Mar; Q2: Apr-Jun; Q3: Jul-Sep; and Q4: Oct-Dec.

**The hourly wage rate** is the total wages paid to an employee in a quarter, divided by total hours worked by that employee in the same quarter.

**The median hourly wage** is the 50th percentile of the hourly wage rates calculated above. Half of all employees received an hourly wage of less than or equal to the median and half received a wage that was more than or equal to the median.

**The average hourly wage** is computed by dividing the total quarterly wages by the total hours worked in the quarter.
III. Findings

We present findings for all Washington State businesses that have received a marijuana license in Subsection A. In Subsection B we present findings for each type of licensed marijuana business. County-level figures may be found in the Appendices, as applicable.

In each subsection we first present our findings for the number of jobs created and wages paid by licensed-marijuana businesses between January 1, 2014 and December 31, 2016.

Not all businesses that hold marijuana licenses were active during the period of analysis. There are multiple potential reasons for this, including: 1) a business may be in active operation but not employ UI-covered individuals (e.g. a sole proprietorship that does not employ anyone other than themselves and/or their spouse); 2) a business may have received their license but not yet completed their start up activities to enter complete operations; or 3) a business could have failed to report UI-covered employees.

Just over half of businesses that have received a marijuana license reported employing at least one UI-covered employee. Exhibit 2 summarizes the number of businesses that have received each type of license and how many were active in at least one quarter between January 1, 2011 and December 31, 2016.

Exhibit 2

<table>
<thead>
<tr>
<th>License type</th>
<th>Licensed businesses</th>
<th>Active businesses^</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>1,703</td>
<td>904</td>
</tr>
<tr>
<td>Producer and/or processor</td>
<td>1,268</td>
<td>602</td>
</tr>
<tr>
<td>Retail</td>
<td>425</td>
<td>299</td>
</tr>
<tr>
<td>Transportation</td>
<td>7</td>
<td>*</td>
</tr>
<tr>
<td>Tribal compact</td>
<td>3</td>
<td>*</td>
</tr>
</tbody>
</table>

Notes:
Includes all businesses that ever received a marijuana license and reported employing at least one UI-covered employee between Jan. 1, 2011 and Dec. 31, 2016.
*Information redacted to protect the privacy and confidentiality of individual businesses and/or tribal compacts.
Given that some of these businesses were in operation prior to receiving marijuana licensure, we also report employment and wage information for these businesses for the three preceding years (2011-2013) for context.

We then describe reported employment and wages for active licensed marijuana businesses in the most recent quarter—the final quarter of 2016.

A) All Licensed Marijuana Businesses

As of April 11, 2017, a total of 1,703 businesses had received at least one marijuana license. Of these businesses, 904 were active in at least one calendar quarter between 2011 and 2016.

Of the 904 active businesses, 52 were active in the quarter prior to the issuance of the first marijuana licenses. In the final quarter of 2013, the quarter immediately preceding the issuance of the first marijuana licenses, these businesses had 480 employees, the equivalent of 177.68 FTE, and paid $1,772,050 in wages.

Overall, 693 licensed marijuana businesses were active in Q4 2016. These businesses had 10,894 employees in Q4 2016, the equivalent of 6,227.06 FTE. This is an increase of 10,414 employees (the equivalent of 6,049.38 FTE) during the analysis period.

Exhibit 3 below displays the total active businesses, by quarter between January 1, 2011 and December 31, 2016. Exhibit 4 on the following page displays the annual FTE for these businesses.
Between January 1, 2014 and December 31, 2016 licensed marijuana businesses paid the equivalent of $286,135,696 in wages. Exhibit 5 displays the total wages paid by these businesses, by quarter between January 1, 2011 and December 31, 2016. Appendix Section I contains historical data, by quarter, on the number of active businesses, employment, and wages.
Employment and wages in Q4 2016

As illustrated in Exhibits 3 through 5, licensed marijuana businesses have grown considerably over the analysis period. For example, licensed marijuana businesses employed 66% more FTE and paid 63% more in wages in the last quarter of 2016 than in the first quarter of 2016.

In the final quarter of 2016, licensed marijuana businesses had 10,894 employees, the equivalent of 6,227.06 FTE, and paid $53,250,842 in wages. Exhibit 6 summarizes the variation in employment and wages in Q4 2016 by business size.

Employees were paid an average wage of $16.45 per hour. The median wage was $13.44. The average wage is higher than the median wage because a few highly paid workers lifted the average above the median.

On average, licensed marijuana businesses employed the equivalent of 8.99 FTE in the final quarter of 2016. Over one-third of businesses had fewer than 4 FTE. Roughly one third of businesses employed more than 9 FTE, and these businesses account for nearly three-quarters of the total FTE employed.

### Exhibit 6

Employment and Wages for All Active Businesses, by Business Size
(Fourth Quarter of 2016)

<table>
<thead>
<tr>
<th>Business size (number of FTE)</th>
<th>Number of businesses</th>
<th>Number of FTE</th>
<th>Number of employees</th>
<th>Average hourly</th>
<th>Wages Median hourly</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total*</td>
<td>693</td>
<td>6,227.06</td>
<td>10,894</td>
<td>$16.45</td>
<td>$13.44</td>
<td>$53,250,844</td>
</tr>
<tr>
<td>0-4.00</td>
<td>264</td>
<td>499.43</td>
<td>1,546</td>
<td>$17.14</td>
<td>$13.00</td>
<td>$4,450,718</td>
</tr>
<tr>
<td>4.01-9.00</td>
<td>193</td>
<td>1,223.20</td>
<td>2,291</td>
<td>$15.64</td>
<td>$13.10</td>
<td>$9,950,194</td>
</tr>
<tr>
<td>9.01-19.00</td>
<td>171</td>
<td>2,188.72</td>
<td>3,659</td>
<td>$17.07</td>
<td>$13.85</td>
<td>$19,428,487</td>
</tr>
<tr>
<td>19.01+</td>
<td>62</td>
<td>2,293.10</td>
<td>3,367</td>
<td>$16.07</td>
<td>$13.47</td>
<td>$19,158,486</td>
</tr>
</tbody>
</table>

**Note:**
* The sum of the businesses sizes is less than the total. Tribal compacts and businesses with a transportation license have been excluded from the breakouts in order to protect privacy and confidentiality.
B) License Type

We now present subgroup findings for businesses with a retail license and for businesses that have a producer and/or processor license. In Appendix AII we present county-level figures for these two groups (to the extent that we are able to do so while protecting the privacy and confidentiality of individual businesses).

The vast majority of businesses that hold a producer and/or processor license have either a producer/processor license or both a producer license and a processor license. Grouping all businesses with a producer and/or processor license together allows us to present more granular information.

In order to protect business privacy and confidentiality, we do not present separate findings for transportation-licensed businesses or data for tribal compacts.

Producers and/or processors

Of the 1,268 businesses that received a producer and/or processor license, 602 were active in at least one calendar quarter between 2014 and 2016.

Exhibit 7 below displays the FTE employed by these businesses, by year between 2011 and 2016.

Exhibit 8 on the following page displays the total active businesses, by quarter between January 1, 2011 and December 31, 2016.

Exhibit 9 on the following page displays the total wages paid by these businesses, by quarter between January 1, 2011 and December 31, 2016.

Exhibit 7
Total Annual FTE: Producers and/or Processors (Calendar Years 2011-2016)
Exhibit 8
Active Businesses, by Calendar Quarter
Producers and/or Processors
(Calendar Years 2011-2016)
Exhibit 9
Reported Quarterly Wages: Producers and/or Processors
(in millions, inflation-adjusted to 2016 dollars)
(Calendar years 2011-2016)
**Employment and wages in Q4 2016**

As illustrated in Exhibits 7 through 9, licensed marijuana businesses with a producer and/or processor license have grown considerably over the analysis period. For example, these businesses paid 65% more wages in the final quarter of 2016 than they did in the first quarter.

In the final quarter of 2016, 437 producer and/or processor businesses were active; employed 6,885 people, the equivalent of 3,833.30 FTE; and paid $32,440,635 in wages. Exhibit 10 summarizes the variation in employment and wages by business size.

Employees were paid an average wage of $16.27 per hour. The median wage was $12.98. The average wage is higher than the median wage because a few highly paid workers lifted the average above the median.

Most producers and/or processors are small businesses. These businesses employed an average of 8.77 FTE in the final quarter of 2016. Nearly half of these businesses employed four or fewer FTE. Roughly 30% of producers and/or processors employed at least 9 FTE, and these businesses employed 75% of the total FTE employed by producers and/or processors. While on average producers and/or processors are smaller than businesses with a retail license, the largest licensed marijuana businesses are producers and/or processors and there is a wider range of business size in this category.

**Exhibit 10**

Employment and Wages for Producers and/or Processors, by Business Size  
(Fourth Quarter of 2016)

<table>
<thead>
<tr>
<th>Business size (number of FTE)</th>
<th>Number of businesses</th>
<th>Number of FTE</th>
<th>Number of employees</th>
<th>Average hourly</th>
<th>Median hourly</th>
<th>Wages Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>437</td>
<td>3,833.30</td>
<td>6,885</td>
<td>$16.27</td>
<td>$12.98</td>
<td>$32,440,635</td>
</tr>
<tr>
<td>0-4.00</td>
<td>213</td>
<td>373.04</td>
<td>1,237</td>
<td>$17.41</td>
<td>$12.99</td>
<td>$3,376,902</td>
</tr>
<tr>
<td>4.01-9.00</td>
<td>92</td>
<td>572.68</td>
<td>1,175</td>
<td>$15.96</td>
<td>$12.99</td>
<td>$4,752,282</td>
</tr>
<tr>
<td>9.01-19.00</td>
<td>92</td>
<td>1,213.00</td>
<td>2,104</td>
<td>$16.67</td>
<td>$12.85</td>
<td>$10,516,389</td>
</tr>
<tr>
<td>19.01+</td>
<td>40</td>
<td>1,674.58</td>
<td>2,369</td>
<td>$15.84</td>
<td>$13.00</td>
<td>$13,795,061</td>
</tr>
</tbody>
</table>
Retailers

Of the 425 businesses that received a retail license, 299 were active in at least one calendar quarter during the analysis period.

Exhibit 11 displays the total FTE employed by these businesses, by year between 2011 and 2016.

Exhibit 12 below displays the total active businesses, by quarter between January 1, 2011 and December 31, 2016.

Exhibit 13 on the following page displays the total wages paid by these businesses, by quarter between January 1, 2011 and December 31, 2016.
Exhibit 13
Reported Quarterly Wages: Retailers (In Millions, Inflation-adjusted to 2016 Dollars) (Calendar Years 2011-2016)
Employment and wages in Q4 2016

As illustrated in Exhibits 11 through 13, licensed marijuana businesses with a retailer license have grown considerably over the analysis period. For example, these businesses paid 60% more wages in the final quarter of 2016 than they did in the first quarter.

In the final quarter of 2016, 253 retail businesses were active; had 3,978 employees, the equivalent of 2,371.15 FTE; and paid $20,547,250 in wages. Exhibit 14 summarizes the variation in employment and wages by business size.

Employees were paid an average wage of $16.66 per hour. The median wage was $14.05. The average wage is higher than the median wage because a few highly paid workers lifted the average above the median. On average, retailers paid a higher median hourly wage than businesses with a producer and/or processor license.

Most retailers were small businesses; 60% employed 9 or fewer 11 FTE, accounting for roughly a third of total retail FTE. Retailers employed an average of 9.37 FTE in the final quarter of 2016.

Exhibit 14
Reported Employment and Wages: Retailers
(Fourth Quarter of 2016)

<table>
<thead>
<tr>
<th>Business size (number of FTE)</th>
<th>Number of businesses</th>
<th>Number of FTE</th>
<th>Number of employees</th>
<th>Average hourly</th>
<th>Wages Median hourly</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>253</td>
<td>2,371.15</td>
<td>3,978</td>
<td>$16.66</td>
<td>$14.05</td>
<td>$20,547,250</td>
</tr>
<tr>
<td>0-4.00</td>
<td>51</td>
<td>126.39</td>
<td>309</td>
<td>$16.34</td>
<td>$13.10</td>
<td>$1,073,816</td>
</tr>
<tr>
<td>4.01-9.00</td>
<td>101</td>
<td>650.51</td>
<td>1,116</td>
<td>$15.37</td>
<td>$13.28</td>
<td>$5,197,912</td>
</tr>
<tr>
<td>9.01-19.00</td>
<td>79</td>
<td>975.72</td>
<td>1,555</td>
<td>$17.57</td>
<td>$14.98</td>
<td>$8,912,097</td>
</tr>
<tr>
<td>19.01+</td>
<td>22</td>
<td>618.53</td>
<td>998</td>
<td>$16.68</td>
<td>$14.56</td>
<td>$5,363,425</td>
</tr>
</tbody>
</table>
I. Limitations

This descriptive report is limited to businesses that 1) received at least one marijuana license and 2) reported the number of people they employed and the wages they paid to the Washington State Unemployment Insurance (UI) program. This method may either undercount or overcount legal employment and wages in licensed marijuana businesses.

Due to the nature of the data, we do not capture multiple types of legal employment that may be occurring within the legal marijuana industry, which would result in an undercount of legal employees and wages in licensed marijuana businesses. It is also important to note that the reported wages include tips that are reported for federal income-tax purposes but do not include other forms of earnings or compensation—e.g., earnings for independent contractors, employee-exercised stock options, or health care benefits.

Similarly, due to data limitations we were not able to compare employment and wages paid by individual businesses before they received a marijuana license to employment and wages paid by the same business after it received a license. Nor were we able to examine if employment and wages changed for an individual business if its marijuana license closed. If businesses employed people or paid wages during these periods, those figures are included in our numbers. This may represent an overcount of legal employment in licensed marijuana businesses. Given that most licensed marijuana businesses were new businesses during the analysis period, we think that this effect is likely negligible.

This report is not an analysis of the legal marijuana industry. We were unable to distinguish if a licensed business conducted an activity unrelated to the marijuana industry or for which part of a business an employee worked. If a business conducted an unrelated activity, the employment and wages associated with that unrelated activity are included in our figures.

On the other hand, we do not include many forms of legal employment and wages that may be associated with the legal marijuana industry, such as jobs and earnings associated with secondary or ancillary markets. Similarly, this report does not attempt to disentangle interactions with the black market.

This report provides descriptive information only. It is not designed to answer questions about the net effect of legal marijuana on jobs or on the Washington State economy as a whole. The report does not establish a cause and effect relationship between licensed marijuana businesses and employment or wages paid. It is possible that these businesses would have operated some other form of business instead, had there not been a marijuana industry to operate in.

Finally, the employee figures should be interpreted with care. They should not be interpreted as the total number of people who have ever worked in a licensed marijuana business. Some individuals worked for multiple licensed marijuana businesses. The number of individuals who have ever worked for one of these businesses will be lower than the total employee figures.
Similarly, these employee figures should be interpreted with care when considered as a proxy for job creation. Few individuals worked for two consecutive quarters in the same licensed marijuana business and even fewer worked three consecutive quarters for the same business. This may be indicative of the rapid pace of growth in these businesses. However, it may also indicate substantial employee-level churn in these businesses rather than the creation of new jobs. For this reason, we prefer to rely on the more conservative FTE figures when calculating business size.
Appendices

Employment and Wage Earnings in Licensed Marijuana Businesses

Appendix
I. Historical Employment and Wage Data.................................................................22
II. Geographic Distributions......................................................................................24

I. Historical Employment and Wage Data

Exhibit A1
Annual Wages and Employment: All Active Businesses

<table>
<thead>
<tr>
<th>Year</th>
<th>Active businesses</th>
<th>Annual FTE</th>
<th>Total wages (in nominal dollars)</th>
<th>Inflation adjusted wages*</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>35</td>
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<td>$2,294,489</td>
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<tr>
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<tr>
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Notes:
Includes all license types and tribal compacts.

* A business is considered “active” if it reported paying any employees any wages in a calendar quarter.
* Total wages were adjusted to constant-dollar (2016) wages using the U.S. Implicit Price Deflator for Personal Consumption Expenditures (U.S. Bureau of Economic Analysis, Personal consumption expenditures (implicit price deflator) (DPCERD3A086NBEA), retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/DPCERD3A086NBEA, June 14, 2017.).
## Exhibit A2
Quarterly Wages and Employment: All Active Businesses

<table>
<thead>
<tr>
<th>Year</th>
<th>Quarter</th>
<th>Active businesses&lt;sup&gt;*&lt;/sup&gt;</th>
<th>Total employees</th>
<th>Total FTE</th>
<th>Total wages (in nominal dollars)</th>
<th>Inflation adjusted wages&lt;sup&gt;*&lt;/sup&gt;</th>
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<tr>
<td>2011</td>
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<tr>
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<td>Q4</td>
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<td>Q2</td>
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<td>$11,991,950</td>
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<td>$33,601,033</td>
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<td>$53,250,842</td>
<td>$53,250,842</td>
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</tbody>
</table>

**Notes:**
Includes all license types and tribal compacts.

<sup>*</sup>A business is considered “active” if it reported paying any employees any wages in a calendar quarter.

<sup>*</sup>Total wages were adjusted to constant-dollar (2016) wages using the U.S. Implicit Price Deflator for Personal Consumption Expenditures (U.S. Bureau of Economic Analysis, Personal consumption expenditures (implicit price deflator) [DPCERD3A086NBEA], retrieved from FRED, Federal Reserve Bank of St. Louis; https://fred.stlouisfed.org/series/DPCERD3A086NBEA, June 14, 2017).
II. Geographic Distributions

County-level variation. The majority of employees and wages paid by marijuana licensed-businesses in Q4 2016 are located in counties with the largest populations. Exhibits A3 through A6 below illustrate the geographical distribution of employees, wages, average business size, and median wages for businesses that are wholly located within a single county. Additional county-level data is included in Exhibits A7-A9.

Several businesses have licensed operations in multiple counties. These businesses account for approximately 7% of all active businesses and 8% of all employees in Q4 2016. A greater percentage of active businesses with retail licenses have operations in multiple counties compared to businesses with producer and/or processor licenses, 11% and 5% respectively.

Exhibit A3
Total FTE, by County
Retailers, Producers, and/or Processors
(Fourth Quarter of 2016)

Exhibit A5
Total Wages Paid, by County
Retailers, Producers, and/or Processors
(Fourth Quarter of 2016)

Exhibit A4
Average Business Size, by County
Retailers, Producers, and/or Processors
(Fourth Quarter of 2016)

Exhibit A6
Median Wage Paid, by County
Retailers, Producers, and/or Processors
(Fourth Quarter of 2016)
### Exhibit A7

**Businesses Characteristics for All Retailers, Producer and/or Processor, by County**  
(Fourth Quarter 2016)

<table>
<thead>
<tr>
<th>County</th>
<th>Active businesses</th>
<th>Average business size</th>
<th>Employees</th>
<th>FTE</th>
<th>Wages Total</th>
<th>Average hourly wage</th>
<th>Median hourly wage</th>
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<td>*</td>
<td>*</td>
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<td>*</td>
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<td>**</td>
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<td>*</td>
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<td>*</td>
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**Total**  
690  
8.99  
10,863  
6,204.45  
$52,987,884  
$16.42  
$13.42

**Notes:**  
* Information redacted to protect the privacy and confidentiality of individual businesses.  
** No marijuana licenses were issued to businesses in this county.  
* A business is considered “active” if it reported paying any employees any wages in a calendar quarter.  
** Business size determined by the business’s total FTE in the quarter.
### Exhibit A8
Businesses Characteristics for Producers and/or Processors, by County
(Fourth Quarter 2016)

<table>
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<th>County</th>
<th>Active businesses</th>
<th>Average business size</th>
<th>Employees</th>
<th>FTE</th>
<th>Total</th>
<th>Average hourly wage</th>
<th>Median hourly wage</th>
</tr>
</thead>
<tbody>
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<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
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<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td>Benton</td>
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<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td>Chelan</td>
<td>17</td>
<td>10.47</td>
<td>379</td>
<td>178.07</td>
<td>$1,436,118</td>
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<td>35.65</td>
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**Notes:**
* Information redacted to protect the privacy and confidentiality of individual businesses.
** No marijuana licenses were issued to businesses in this county.
* A business is considered "active" if it reported paying any employees any wages in a calendar quarter.
** Business size is based on the business's FTE in the quarter.
### Exhibit A9
Businesses Characteristics for All Retailers by County
(Fourth Quarter 2016)

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**Total**

|                   | 253              | 9.37                      | 3,978     | 2,371.15 | $20,547,250 | $16.66       | $14.05         |

**Notes:**
* Information redacted to protect the privacy and confidentiality of individual businesses.
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** Business size is based on the business’s total FTE in the year quarter.
Testing for Tainted Marijuana Challenges States

December 21, 2017  By Sophie Quinton

A medical marijuana provider helps attendees at the High Times Cannabis Cup in San Bernardino, California. Last month California released emergency regulations that address everything from dispensary licensing to laboratory testing requirements.

Richard Vogel, The Associated Press
People don’t just smoke marijuana. They vaporize it, bake it into brownies, use it in eye drops, and rub extracts of it onto their skin. Some people use the drug as medicine, others for the fun of getting high.

In states that have legalized pot, regulators have struggled to make sure the bewildering array of products on dispensary shelves are safe to consume. States where the drug has been legally sold for several years such as Colorado, Oregon and Washington are still trying to figure out standards and laboratory testing rules for potential toxins such as pesticides, solvents and mold.

“The big challenge with this industry is the speed at which it innovates and evolves,” said Danica Lee, director of public health inspections for the city of Denver. “It continues to be a bit of an adventure.”

The link between illness and tainted marijuana isn’t well established. But anecdotes have emerged of vulnerable consumers, such as cancer patients, contracting dangerous infections after smoking bad weed.

States and cities are trying to head off a health crisis before it can happen. They’re balancing public safety concerns against some marijuana growers’ and manufacturers’ reluctance to pay for testing that’s expensive and not proven to improve safety, and some laboratories’ eagerness to run additional tests.

Lori Ajax, California’s chief of cannabis regulation, said earlier this year that writing regulations for lab testing was probably the biggest challenge her team faced in writing medical marijuana regulations. The medical marijuana rules have since been folded into rules for the adult use market, which opens Jan. 1.

State regulators have had no guidance from the federal agencies that usually set health and safety standards for agriculture, food and medicine because the federal government considers marijuana to be illegal. They have been hampered by the fact that there’s little research on how marijuana tainted with potential toxins affects humans, partly because the federal government funds limited marijuana research.

And they’ve also had to adjust testing regulations to reflect the costs and amount of tests fledgling legal marijuana markets can handle.

In Oregon, for instance, initial rules rolled out in October 2016 for marijuana testing and laboratory accreditation contributed to backlogs at laboratories and shortages of product on dispensary shelves. Regulators, seeking to ease the pressure on the market, issued new rules that December that reduced the number of times a harvest, or a batch of chocolates or candies, would have to be tested.
Donald Morse, a dispensary owner and chairman of the Oregon Cannabis Business Council, a trade group, said too much testing would have raised the price of marijuana too far. “It would have been out of reach to most people, and they would end up going back to the black market.”

**Choosing the Testing Menu**

States have adopted a range of testing requirements and standards for marijuana, from testing medical marijuana like a medicinal drug in Massachusetts to not requiring medical marijuana to be tested at all in Arizona.

“Some states are regulating it as if it’s a pharmaceutical, and some states are regulating it as if it’s an agricultural product,” said Julianne Nassif, director of environmental health for the Association of Public Health Laboratories, a membership organization based in Maryland. Her organization hosts a monthly conference call on marijuana issues for officials who work in state public health, environment and agricultural labs.

In general, Nassif said, states have come up with a menu of substances for which to test medical marijuana, including heavy metals, dangerous pesticides and microorganisms, such as E. coli. As they expand to also permit all adults to buy the drug, many are including the same requirements for all kinds of weed.

Under California’s new rules for pesticides, for instance, marijuana that tests positive for some pesticides and over a set limit for others cannot be sold.

States also typically require testing for major cannabinoids — such as tetrahydrocannabinol, or THC, the chemical compound that gets you high — for both medicinal and recreational marijuana, so consumers know what they’re about to smoke.

The first states to regulate cannabis made their testing rules more or less on the fly, based on what scientists know makes people sick.

For instance, foods generally need to be refrigerated and processed properly to avoid developing dangerous bacteria such as botulism. So Denver, one of the first cities to begin food safety inspections of pot products, requires dispensaries to refrigerate many edibles and hash oils at 41 degrees or less.

Other safety questions are harder to answer. Take pesticides: There’s hardly any research on what pesticides are safe to use on cannabis plants, which are processed and consumed in multiple ways. Concentrating cannabis to create oils, waxes and tinctures may concentrate pesticide residue.
Denver has erred on the side of caution by recalling products that test positive for pesticides the state department of agriculture has not approved for use on cannabis. The city public health office’s recall notices all include a disclaimer: “The possible health impact of consuming marijuana products with unapproved pesticide residues is unknown.”

Or take bacteria and fungi: Some organisms, like the fungus aspergillus, have been found on marijuana plants and can lead to dangerous infections in people with compromised immune systems. States such as California have erred on the side of caution and required testing for the organism.

Denver’s Danica Lee said her office often gets calls from public health officials in other states who want advice. She can’t offer easy answers, because marijuana growing and processing practices are so varied. “There are probably as many ways of making a concentrate as there are businesses making concentrates,” she said.

Instead, she advises other officials to ask questions until they understand the processes local businesses are using. Denver issued its first marijuana recall, for instance, after food safety inspectors found an edibles business was using a clothes washing machine to extract THC from weed. Although nobody got sick from eating the resulting brownie mixes, blondie mixes, rice crispy treats and candies, regulators were concerned about the choice of equipment.

**Creating Testing Standards**

The question of how to test marijuana for cannabinoids and toxins is almost as thorny as the question of what to test.

In many states that have legalized marijuana, a new industry of cannabis testing labs has sprung up. In these licensed labs, white-coated scientists run samples of marijuana plants and products through liquid and gas chromatography machines or swirl them with solvents to extract pesticide residue.
Connor Hellings and Jonathan Rupp work on marijuana samples at CannTest, a commercial marijuana testing laboratory in Alaska. The state’s two laboratories have generated conflicting test results.

Dan Joling, The Associated Press

But labs in a given state may come up with wildly different results. “There are no accepted, standard procedures for all test types,” said Jeff Raber, founder of the Werc Shop, a cannabis research center and testing laboratory based in Monrovia, California. It’s not like testing aspirin, where there’s one set process to follow, he said. “We don’t have anything like that in cannabis yet.”

States have found they need to write detailed rules and standards for laboratories to follow. In Alaska, cannabis regulators are convening next month to rethink their testing regulations because the state’s two privately owned cannabis testing labs are producing wildly different THC content results.

Consumers often go looking for pot with a high THC rating, which gives cultivators an incentive to seek out labs that find lots of THC in their product, and gives labs an incentive to goose the numbers.

Jedediah Smith, a local government specialist at the Alaska Alcohol and Marijuana Control Office, said testing regulations may be too vague. “There need to be consistent methods across all of the labs,” he said. The current regulations don’t specifically say “this is the method that’s been proven
and needs to be used.”

Sampling could be an issue, he said, as in Alaska where growers select samples of marijuana plants and bring them to labs themselves. In other states, such as Oregon, laboratories do the sampling, which may lead to a more representative, randomized result.

In addition to its sampling rules, Oregon requires cannabis labs to be accredited by a state environmental laboratory program, which has helped standardize lab results. “However, we still have issues with consistency between labs,” said André Ourso, administrator of the Center for Health Protection at the Oregon Health Authority’s Public Health Division. Ourso said labs may need additional oversight after they’re accredited.

Alaska’s laboratories are not certified by a state agency, although they are inspected by the American Association for Laboratory Accreditation, a nonprofit, Smith said.

Oregon’s regulations have evolved to reflect the level of testing that the state’s labs, and cannabis industry, can handle. “The industry, at first, was probably taken aback by the cost of testing,” Ourso said.

Under current rules, samples must be taken from each 15 pound batch of harvested usable marijuana. Morse says that gives large operators growing hundreds of pounds of marijuana plants an advantage over small operators growing three or four plants, because the large growers can move the maximum amount of the drug through the testing system.

“It’s simple economics, it’s economies of scale,” he said. For a large operator, testing costs about 35 cents per gram of marijuana, he said, and given that a gram sells for $3 to $12, that’s not too expensive.

California’s latest regulations also roll back the amount of testing required. Officials initially proposed testing a sample from harvested batches of up to 10 pounds of medical marijuana, for instance. They estimated that each test under the proposed regulations would cost $1,375.

The sample size went up to a 50-pound maximum in the final regulations, which apply to both medical and recreational cannabis.

Hezekiah Allen, executive director of the California Growers Association, a trade group, said his organization supported the 10-pound proposal but it would have created too many samples for the state’s limited number of cannabis laboratories to manage. “It was just too much volume,” he said.
Reggie Gaudino, vice president of scientific operations and director of intellectual property for Steep Hill Labs, a cannabis laboratory company based in Oakland, California, said the larger batch size will lead to a less detailed analysis of the product.

He said that fundamentally, states have been going about their marijuana testing regulations the wrong way. Steep Hill has proposed to California that there should be different testing regulations for medical and recreational patients, who can withstand different levels of toxins. “States are not actually building regulations that are effective for all aspects of the constituency,” Gaudino said.

Testing regulations are getting better over time as states learn from each other, Raber of the Werc Shop said. “California has the benefit of looking at all the other states.” But even in the Golden State, it may take a couple of years of adjustments before the state finds the right balance for its legal cannabis market.
Stateline provides daily reporting and analysis on trends in state policy.

About

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As Towns Ban Pot, States Withhold Legalization's Profits

BY: Liz Farmer | October 13, 2017

Whenever a state legalizes recreational marijuana, there's always a local backlash. Have your drugs, towns and cities say, but keep them away from us. If a municipality bans pot, though, should they reap the financial benefits of it being legal?

Some states just say no.

Oregon has already started keeping marijuana tax revenue from localities that effectively ban the substance. California plans to withhold pot-funded law enforcement and health grants from places with a commercial marijuana ban. And now, an effort is underway in Massachusetts to reduce the amount of money that cities and towns with bans and other restrictions on operations get from the state's 17 percent tax on marijuana sales.

Massachusetts was one of four states that legalized recreational marijuana by popular vote last year. The 2016 election season doubled the number of states with legal weed to eight plus the District of Columbia. The drug is now legal in Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon and Washington state.

No hard count exists, but it's not unusual to see about one-third of localities imposing some kind of ban on pot production and sales in any of those states.

By withholding revenue, states are hoping cities will abandon their bans. But it's unclear whether the approach will work.

Initial figures from Oregon's tax revenue distributions suggest the financial hit these cities and towns will take is very small. For starters, the withholding wouldn't affect education aid because 40 percent of marijuana tax revenue in Oregon goes directly to the schools. And, after all the other disbursements of the $84 million in revenue so far, the total left to divvy up between 241 cities was just $8 million -- or $2.85 per person, according to the Oregon League of Cities.

Now that the state has imposed its restrictions on that revenue, pro-marijuana places will see a bigger check. But localities with bans likely won't lose enough to incentivize any policy changes, says the league's lobbyist, Wendy Johnson. She thinks allowing for a higher local tax rate, however, could spur changes.

In Massachusetts, observers aren't even sure the approach could be implemented. Geoff Beckwith, executive director of the Massachusetts Municipal Association, says it would unfairly punish jurisdictions for exercising their local control. But either way, figuring out just how much to cut from those localities would be "extremely difficult," he says. "The idea that funding for public schools would be negatively impacted by a community's decision not to allow pot shops," says Beckwith, "is in itself, a laughable solution."

That's because, unlike most other states, Massachusetts' ballot measure didn't earmark large swaths of the potential pot revenue. Whatever marijuana sales tax revenue isn't spent on the cost of regulation and administration is likely to be sent to the state where it will be mixed with general sales tax revenue. It would then be redistributed to localities for spending on things like education and roads.

But there's still time to change that.

Oregon, for one, made major legislative changes to its marijuana tax structure after voters approved legalization in 2014. Cities and counties each were supposed to get 10 percent of the total revenue collected. But the state altered the distribution formula so that localities that limit or ban marijuana sales or production don't receive their portion of that 10 percent slice after July 1 of this year.

Massachusetts could do something similar, says Kamani Jefferson, president of the Massachusetts Recreational Consumer Council, which is pushing the effort to withhold pot tax revenue. He believes the current incentive for localities -- the ability to levy their own tax of up to 3 percent on marijuana sales -- isn't enough.
“That 3 percent is just not enticing enough for them when they can already get [money] from the state,” he says. “If they get no money or a very limited amount of money, then they’d be much more open to saying yes.”
A Fast, Effective Path to Marijuana Regulation

How integrated, scalable technology simplifies local marijuana licensing, revenue collection and enforcement for local governments.
Denver officials made several updates to their regulations and licensing processes to better serve the market as it developed and solidified, requiring city departments to adjust quickly.
establishments in the future, can quickly overwhelm staff, especially for agencies using paper-based processes.

Because marijuana legalization is a controversial issue, governments also encounter a great deal of pressure to get regulation right. The program that a city or county implements must be fair and cost effective, and align participants with tax revenue guidelines. It must also ensure that marijuana-based businesses don’t endanger public safety or reduce property values. While working toward those goals, local governments must make themselves accountable to the public and make their activities transparent. They need to demonstrate that: license recipients meet all requirements; marijuana establishments comply with zoning, health, safety and environmental laws; taxes are collected correctly; and the program is operating suitably in every other sense.

Citizens and local media will be paying close attention. They will ask questions and watch for problems and irregularities. In this environment, agencies will need efficient processes to communicate with the public. And to minimize the impact of new burdens on staff, they will require automated solutions to generate reports and publish information.

Once a government establishes its processes, it must be prepared to modify them over time. Legal marijuana is a new industry, and not only are state and local governments still figuring out what they require in the way of regulation, but regulatory approaches are likely to evolve as well.

“There aren’t a lot of people to rely on for best practices or lessons learned,” says Judy Steele, former deputy director of excise and license for the City and County of Denver, now a consultant who helps state and local governments with marijuana and liquor regulation. “Governments start with a basic framework, and then things evolve as they get their boots on the ground.”

The information technology that supports the regulatory program must be flexible enough to accommodate those changes.

Lastly, local governments face the challenge of siloed operations. With numerous agencies involved in regulation — licensing, community development, finance, police, fire, health, code enforcement, city attorneys and more — it’s critical to make sure everyone can share data as needed, and to develop orderly workflows. At the same time, agencies must maintain the integrity of their own processes, ensuring each department involved in regulation gains access only to the data it needs.

DIGITAL SUPPORT FOR CITIES AND COUNTIES

To help with the many challenges they face, some cities and counties have implemented integrated digital technology to manage their marijuana licensing programs. Several of them rely on regulatory solutions developed by Accela of San Ramon, Calif. Accela’s solutions:

- Help governments manage unlimited license types, including licenses for growers, manufacturers, dispensers, transportation companies and others. Jurisdictions can assign different business rules to each type of license.
- Provide separate processes to regulate medical and recreational marijuana. In most governments, different departments (e.g., public health vs. licensing) regulate those two markets, and their programs have different goals. While most regulation of medical marijuana falls to states, local governments play a role for functions such as zoning and permitting for construction, and some local governments require business licenses for medical cannabis dispensaries, in addition to the state license. A licensing platform must support any combination of processes a government requires and be able to add new ones as needed.
- Offer customized data screens and search fields, making it simple to locate any data specific to establishments tracked in the system.
- Allow secure access to license applications, fingerprint applications and other critical files.
- Integrate with geographic information systems (GIS), giving staff access to geospatial information on all land use, zoning and enforcement data associated with a property or license.
- Integrate with IT systems at other local agencies and with state government, for the exchange of data.
- Include a web portal that enables electronic submission of applications, renewals, service requests, payments, complaints, documentation and other transactions. The web portal also provides status updates, letting users know where a transaction stands as it moves through the regulatory review process. In addition, the portal facilitates communication between the submitter and the agency. These features save time; they also reduce labor costs and stress on office staff.
- Provide automated data publishing and reporting. The system pushes out information the public and media might want to know, such as what kind of businesses have been licensed, and how many, where and what code violations have been linked to them. It also automates reporting to agency officials, elected officials and other internal stakeholders, to track the progress of the regulatory program, revenues and other important metrics.

THE DENVER EXPERIENCE

Colorado’s retail market for marijuana opened in 2014, about three years after the state began allowing sales of cannabis for medical purposes. Denver’s experience in opening, licensing and regulating the retail marijuana market within the city/county jurisdiction shows how complex this task can be for local governments.

In Denver, a business involved with either medical or retail marijuana must obtain a license from both the state and the city/county government. In addition, every person who
works in a controlled area within a marijuana establishment must obtain an individual license from the state. When Colorado’s retail market first opened, a business in Denver could receive a license for the retail market only if it already had a medical marijuana license. The government phased out that requirement, but capped the number of licenses it would issue at 1,000. The city/county also restricted where those businesses could operate.

“The restriction for cultivation is proximity to residential areas,” Steele says. Storefronts and other retail establishments must be at least 1,000 feet from certain other kinds of locations. “They can’t be next to day care centers, schools or rehabilitation facilities, or next to one another.”

The Department of Excise and Licenses decided that five agencies would have to inspect and sign off on a facility before the department approved any license. “That became problematic, because we weren’t exactly sure what they needed to inspect and sign off on,” Steele says. Agencies met regularly to discuss their needs and coordinate their efforts. “We made sure we weren’t inspecting for the same things, and that all the bases were covered.”

Early experience also pointed to the need for strong data management and reporting capabilities. “When the City Council asked us how many locations were going to be licensed within the city, we struggled with that,” Steele says. “We had to work closely with an Accela partner to do some reconfiguration of our records, so we could track that information.”

Denver was already using Accela’s licensing technology when the retail marijuana market opened. Compared with the technology previously used by the Department of Excise and Licenses, Accela’s solution provided tremendous benefits, says Steele. For one thing, the software let the department create a record for each licensing case that included the correct workflow for that specific type of license.

Linking the workflow to the record creates a more orderly process. For example, when a business applies for a license to sell marijuana, that business must take part in a public hearing. It also must obtain a zone use permit, a certificate of occupancy and other authorizations.

“With its workflow, Accela provides the ability to track those many, many steps, ensure that the first steps are completed before the next step begins, and make sure that they are completed accurately and correctly,” Steele says.

Accela’s technology enables Excise and Licenses to share records with other agencies that touch the licensing process. “Even the city attorneys can access the records electronically and review a complete file for a license,” Steele says.

Attorneys don’t have to wait until agency employees pull together a file for their review. Individuals at each agency gain access to information based on permissions established in the system.

When government inspectors use Accela’s technology, the system provides lists of requirements to check off as they perform their work. “As those requirements change, Accela allows you to go in and change the records, so that every record you create from that point forward includes those requirements,” Steele says.

When an inspection is done, the system lets the applicant know that the business passed, or explains why it failed and what corrections the business needs to make before a repeat inspection.

“That workflow also guarantees that all the necessary steps are completed before the agency issues a license,” Steele says. “It has shored up business requirements for us, made a much better process and provides data quickly. When our City Council asks for new metrics, the department can report that information to them within days instead of weeks.”

CONCLUSION

Establishing and regulating newly legalized marijuana markets is a high-stakes and high-visibility issue for local governments. Cities and counties will need to show they can operate efficiently, effectively and transparently. Integrated digital technology to support these activities already exists, and legalization offers local governments the perfect opportunity to shine.
REAL ESTATE NEWS

Is Legalization of Marijuana Good or Bad for Home Values?

By Lisa Davis | Oct 13, 2015

Denver’s housing market has been hot, hot, hot this year; in some months, prices have risen more steeply there than in any other city.

We've often attributed that to the rise of the tech sector there. After all, those jobs tend to pay very well and, generally speaking, the higher paying the jobs, the more meteoric a market's rise.

But perhaps there's a more "homegrown" reason for the rise. According to the New Republic, a cannabis boom may be responsible for an outright housing availability crisis.

"In 2014, Colorado marijuana sales totaled $700 million, and the state expects to collect $94 million annually in cannabis taxes by 2016," the New Republic reported. "But economic analyses about weed’s success never mention skyrocketing housing prices in Denver, a city that’s rapidly becoming unaffordable for all but the wealthy."

Early on, the pot business was seen as a boon for Denver real estate.

"There has been a huge bump in real estate prices due to the legalization of marijuana," James Paine, managing partner at West Realty Advisors, told CNN Money in June. "It's massively pushed up raw land and industry prices."

But, they said back then, it was still "relatively affordable."

And what about now? The median home price in Denver, $350,500, is up 15.9% from this time last year. Vacancy rates in all sectors—residential, commercial, industrial—are all down, and so is unemployment. Home sales are up 3.1% from last year.

Coincidence? Maybe, maybe not—it's hard to separate the boom in pot from the growth of other industries in Denver.

What's for sure is that the city's economic health has led to a serious increase in home values. While some folks are worried about the city's affordability, others are basking in the glow of a market that has gotten very ... high.


Follow @lisaselindavis
Check Out These 8 Surprising Predictors of Housing Prices

By Yuqing Pan | Dec 14, 2015

Like investors in the stock market, 1933 Saint Gaudens Double Eagle coins, or orange juice futures, home buyers and owners want to know which way prices are heading. Are valuations heading up, up, up, making it the perfect time to buy? Or are they beginning a precipitous decline from their peak—making it high time to sell? To read the tea leaves, they might focus on the latest jobs reports, check out what's going on in other markets, or scrutinize the writings of economists.

But when it comes to nailing the best deal in real estate, you can get a jump on the competition! Inside-track insights can be found in the most unusual places—such as on a grocery run, or at the gas pump. We've rounded up eight surprising indicators of change in home prices. Do they play a role in pushing the numbers skyward or down into the dirt? Or are they false prophets? We're here to help you sort it out!

1. Gas prices

Sure, it feels fantastic to fill up your car with gas for just $35 when it used to cost almost $50. But if you're looking to buy a home, the financial benefit of cheap gas might be overrated—as gas prices fall, home prices inevitably go up. And homes sell faster, too, which takes a toll on available inventory.

For every $1 decrease in gas prices, home prices increase by roughly $4,000 and the average time to sell a property decreases by 25 days, according to a study by Longwood University and Florida Atlantic University.

Lower gas prices lead to increased consumer confidence and more disposable income for potential buyers, Longwood professor Bennie Waller explains. In addition, the listing broker—who has to travel between properties—is more likely to market more aggressively and have more showings when gas is cheap.

2. Trader Joe's vs. Whole Foods

When it comes to healthy eats, cost-conscious gourmet market Trader Joe's and pricey, environmentally conscious Whole Foods each have their own massive cult following. But it turns out, if you're seeking a neighborhood where homes are worth more—and gaining in value—you'd better know which store to look for.

Homes near the two foodie superstores significantly trump the national average home value, but homes near a Trader Joe's are worth 5% more than homes near a Whole Foods, according to RealtyTrac. So close, Whole Foods!

Homes near a Trader Joe's also appreciate faster, with an average appreciation rate of 40% from the time of purchase. Meanwhile, homes near a Whole Foods appreciated 34%, the same as the national average. So even if

you do tend to shop at "Whole Paycheck," you'd probably do better to buy a home near TJ's—and load up on some Two-Buck Chuck while you're at it.

3. Sports facilities

Walking distance to the big game? Score! Living near a stadium clearly is not a hard sell for sports fans, but even those without an obsessive rooting interest in the local teams should pay close attention if there's a major sports facility nearby.

Moving a residential housing unit one mile closer to a professional sports facility increases its value by $793. But the effect disappears after four miles, according to researchers at the College of William and Mary and University of Alberta, who extracted property data within 5 miles of every NFL, NBA, MLB, and NHL facility in the U.S. So sidle up to that stadium—just be sure you have a dedicated parking space.

4. Marijuana

The legalization of marijuana was predicted to have a major impact on state tax revenues, and with people relocating to take advantage of its medical benefits or just because they enjoy a regular toke, some have suggested that legal pot might also push up real estate values.

Marijuana's impact on housing is a tale of two states: Colorado and Washington, the only ones that have legalized the sale of recreational marijuana.
The buzz is felt more in the real estate market of Colorado. Since the doors opened for recreational sales in January 2014, housing prices have appreciated 20.4%, much higher than the 15.2% across the country over the same period.

Marijuana sales in Washington are more modest, and so is the real estate growth. The state's housing prices have risen by 7.3% since it launched its legal marijuana market in July 2014—the height of the yearly housing market—while at the national level, they increased 6.5% over the same period. (Keep in mind that housing prices are generally lower in the winter and higher in the summer, the purpose is not to compare the numbers of Colorado to Washington).

Of course, it's hard to say whether the legalization of marijuana is really driving those numbers. After all, both Denver and Seattle are hubs for tech businesses that are fueling employment, which in turn fuels the housing market. But if you already own a home in Colorado or Washington, you've got plenty of reasons to be mellow and to listen to "Dark Side of the Moon" on a continuous loop.

5. Temperature change

Global warming affects not only nature, but also our daily lives and housing decisions. The National Association of Realtors® looked at home prices and temperature change over the past four years and found what seemed to be a negative correlation between temperature increase and housing prices.
Association of Realtors

Out of the 82 markets studied, those with the highest gains in housing prices typically had a small increase in temperature (up to 2 degrees Fahrenheit). For example, in Atlanta, GA, the temperature increased 1 degree while house prices increased 78%. But markets where the temperature rose more than 3 degrees did not experience significant price gains, such as Little Rock, AR.

6. Casinos

Part of Las Vegas’ legendary success story is that casinos brought wild prosperity to a barren desert area. But in fact, Sin City is an American anomaly in just about every way imaginable, not the least of which are real estate valuations. The truth is, casinos across the country, from riverboats to
Native American reservations, usually have a negative impact on surrounding home values—by 2% to 10%, according to various studies.

One case study showed that in Henderson, NV, properties within a mile of a proposed large-scale casino would see their values fall by $9,200. Snake eyes!

7. Highways

Is it a good idea to live close to the highway? Yes ... and no. It depends on just how close we're talking.

A case study of the Superstition Freeway (U.S. Route 60) corridor in Mesa and Gilbert, AZ, showed that single-family homes within 0.5 miles of the freeway were adversely impacted. But the negative impacts were more than offset by housing price appreciation in the surrounding areas. Average sales price appreciation for homes within 5 miles of the freeway (including negatively affected properties) was higher than the whole metropolitan area. So while you probably don't want to buy right by an exit ramp, easy access to a transportation corridor is definitely a strong selling point.

8. Trees on the street

Everyone knows that stately old-growth trees add major charm to a neighborhood—and are probably an indicator of more expensive homes. But did you know just how expensive? A recent study found that houses on streets where there were trees fetched an average of $7,130 more than houses on treeless streets. Maybe it's time to consider branching out.

Yuqing Pan, a Stanford graduate with a multimedia journalism background, writes data-driven stories for realtor.com.

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Will Legal Marijuana Give Home Prices a New High?

By Yuqing Pan and Clare Trapasso | Nov 7, 2016

Jeffrey Rotman/Getty Images
If the craziest and most contentious presidential election in modern history is making you feel somewhat lightheaded, a little disoriented, maybe even a tiny bit *stoned*, well, just you wait.

Lost amid the endless (and sometimes endlessly entertaining) stream of insults, scandals, and outright atrocities of the 2016 campaign is the fact that it isn't just the leadership of the free world at stake on Nov 8. Voters in California, Massachusetts, Maine, Arizona, and Nevada will also decide whether to legalize recreational marijuana—and it looks like most will vote yes although Nevada is still iffy. (*Update: The measures passed in every state but Arizona.*)

They'd be joining Alaska, Colorado, Oregon, and Washington, which permit the recreational use and sale of marijuana. Washington, DC, allows recreational use but not retail sales.
Why should everyone, even cannabis abstainers, care? Because when it comes to housing, economics, and lifestyle, this could be a national game changer.

If these ballot initiatives pass on Tuesday, some form of legal marijuana will be available in about half the states in the nation—not only making stoners happy but potentially creating more than 100,000 new jobs and billions of dollars in new tax revenues. California, the most populous state in the U.S., boasts the sixth-largest economy in the world. (The Golden State was also the first to legalize medical marijuana, in 1996.)

Although marijuana remains a Schedule 1 drug that is illegal under federal law, state legalization opens the door to new, above-board industries, adding jobs and tax revenue, while toking tourists in the communities where it will be sold. (Sales of the green stuff might be allowed in a state, but not in every municipality.)

And yes, legalization of recreational marijuana is likely to have a big impact on home buyers, owners, and sellers. Home prices have already risen in the four states where it's legal.

But that doesn't mean that all homeowners in states getting the ganja go-ahead will benefit equally. The realtor.com® data team analyzed residential real estate in the recreational marijuana states and found that certain kinds of cities typically benefit more than others.

Also, a home's proximity to a marijuana business affects its value—although not always in the way you'd think.

So let's light this up, shall we?

How pot gets home valuations higher

The prospects of employment—as well as the desire to legally grow, buy, enjoy, and otherwise self-medicate with weed—have led to an increased demand for housing. Simply put, more people seem to move to states with legalized marijuana, boosting home prices.

"The legalization affects both the demand and the supply in the residential housing market," says University of Mississippi economics professor Cheng Cheng, one of the authors of a study on how legalizing retail marijuana in Colorado has given a lift to local real estate. Areas where it's legal are "going to attract more home buyers, including marijuana users as well as entrepreneurs and job seekers."

Legal marijuana draws transplants to Colorado

The state of Colorado provides the best data on what happens when recreational marijuana is permitted, since it has been legal there the longest. The Centennial State legalized medical marijuana in 2000 and then medical dispensaries in 2010. Two years later, voters approved recreational sales of the green stuff. (Check realtor.com economic portal for Colorado home price).
Since the first shops opened their doors on Jan. 1, 2014, the median home sale price in the state has shot up from $248,000 in the first half of 2014 to $298,000 in the first half of 2016, according to the realtor.com analysis.

That's partly due to the state's population surge, rising 1.9% from July 1, 2014, to July 1, 2015, according to the U.S. Census. That makes it the second-fastest-growing state in the nation, just behind North Dakota. There's no direct evidence tying the legalization of the drug to the population boom, but real estate agents say more of their clients are relocating to the state because of it.

"About 60% to 70% of my clients are buyers coming in from out of state," says real estate broker Rona Hanson, of Need Room to Grow Realty in the Denver suburb of Lakewood, CO. She specializes in selling homes where buyers can grow their own cannabis.

The Clinic, one of the larger marijuana retailers in Denver.

John Leyba/The Denver Post via Getty Images

Of course, marijuana isn't the only lure. The state has a reputation for being an outdoorsy paradise, and many tech, financial, and other large companies are expanding operations there. It's also receiving refugees from more expensive cities such as San Francisco and New York.

For many Colorado transplants, the ability to pick up a bag of legal weed or some cannabis-laced edibles is "an added bonus," says Boulder-based Realtor® Jennifer Egbert of Re/Max Alliance Downtown. But she adds that many marijuana-using transplants fall in the medical category.

Home prices tend to be higher in the roughly 60 Colorado cities and towns where cannabis is legal than the more than 200 where it's not.

For example, where cannabis is legal, the median sold price was $302,500 in the second quarter of 2016, according to the realtor.com analysis. That's 13%
higher than the $267,200 median sold price in the more than 200 localities where the green stuff is illegal.

In addition, homes have been appreciating by 12% annually since 2014 where it's legal. That's compared with just 9% in areas where it's illegal.

But some marijuana businesses are bad for local home values
So it's nothing but green, resin-coated pastures, right?

Not so fast. Within the areas that have legalized marijuana, there's a bit of a cannabis caste system.

Colorado homes within a half-mile of a marijuana business often have lower property value than homes in the same county that are farther out. But not all marijuana business are a buzzkill for home values.

Neighborhoods with grow houses are the least desirable, with an 8.4% price discount. But retail shops, especially with the rise of the new generation of stylish pot boutiques, have almost no negative impact.
Just look at Denver's marijuana business locations in the map below. Grow houses (blue dots) tend to bypass the most desirable, upscale neighborhoods and find their way into more inexpensive ones. The places with the highest number of marijuana businesses per capita are Elyria Swansea, Globeville, and west Northeast Park Hill, according to the Denver Post. All three are low-income neighborhoods.

Perhaps that's partly due to the literally stinky business of growing cannabis—even with the use of air purification systems, the odor tends to permeate the immediate area, so many folks don't want to live near large grow sites.

"I believe what we are seeing is that the marijuana industry is buying up real estate. And in Denver, those three neighborhoods are really the cheapest you can buy," says Candi CdeBaca, a longtime resident of Globeville whose home faces a large marijuana grow operation.

Since the areas are cheap to begin with, there is more potential for home price growth—CdeBaca says her property taxes have been soaring.

There wasn’t enough data available to run similar analyses in Alaska and Oregon, where recreational shops only opened last month. Our data team didn’t include Washington state because the list of cities that permit sales was murky, as some cities where it was legal have now issued a moratorium on sales licenses.

Ajoya is a new marijuana dispensary in Louisville, CO, designed by Roth Sheppard Architects.

Cyrus McCrimmon/The Denver Post via Getty Images

Why small towns can get the biggest highs

But while marijuana businesses themselves may be associated with lower home values, they can give sorely needed economic support to struggling small towns.

In Colorado's rural Clear Creek County, a local mine that has provided the bulk of the county's tax revenue plans to close within the next few years. However, some of that money is being replaced by the marijuana industry, which kicked in more than $125,000 this year through August, according to the state's Department of Revenue.

"We have more tax revenue for schools," says area Realtor Joshua Spinner, of Clear Creek Realty Colorado. "There are people moving to our county because it is more rural and they do want to grow."

Another big beneficiary is Edgewater, just 15 minutes outside Denver. The tiny town has about a half-dozen dispensaries that stay open hours later than those in Denver. Could it be a coincidence that median sold home prices in Edgewater have jumped 18% annually since 2014, compared with 13% in Denver?

The new green economy may not be all it's cracked up to be

Many of the jobs created by legalized marijuana are lower-paying positions, like store clerks. Jeffrey Rotman/Getty Images

However, it's not all peace, love, and high home prices. Many of the jobs created by the marijuana industry tend to be menial, like shop clerks, drivers, and agricultural workers.

In Oregon, for example, the more than 2,100 jobs created by the cannabis industry are expected to earn about $46 million in 2016, according to the Oregon Cannabis Jobs Report. But only about 1,300 of those employees work full time. And many of them, such as bud tenders and managers, make only $11 to $25 an hour—which is just $22,880 to $52,000 a year.

Those lower salaries can make buying a home, let alone paying rent each month, quite a challenge.

Still, as more lenient attitudes toward marijuana take hold across the nation, it may benefit an area's image to get on the legalization bandwagon.

"We see a lot of people looking to move to Portland, and one of the attractions is the fact that we have legalized marijuana," says real estate broker Lathen Gorbett of M Realty in Portland, OR, adding that many of these folks aren't even smokers.

"They see that we are a liberal, forward-thinking city."
Legalized Marijuana: What It Could Mean For California Real Estate

WRITTEN BY JAYMI NACIRI
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If you happened to be among the first customers at San Diego's Mankind Cooperative on January 1, you got a little something extra with your newly legal recreational marijuana purchase: a "commemorative T-shirts showing astronauts on the moon and the phrase ‘A giant leap for mankind,'" said The Los Angeles Times.

The celebratory attitude extended up and down the coast of California on this, the first day of legalized recreational pot. But legalization is not just a boon for those looking to get high. In other states that preceded CA, it's been high times for tax revenue, too.

"Californians voted to legalize recreational marijuana in 2016, and the historic law permitting such businesses took effect New Year's Day - creating the largest legal pot market in the country," said the Ventura County Star. "In the coming year, legalization is set to raise hundreds of millions of dollars in taxes, to alter law enforcement practices and to shift the center of gravity for the five other states that allow adults to purchase pot."

Despite the legalization, "There are still many regulations that are being sorted out by various cities in California," said HML Investments. "In San Jose, for example, local governments have completely banned the sale of recreational marijuana. Other cities are working out regulations such as the cannabis businesses must be a specified distance from schools."

But that hasn't stopped commercial and residential real estate prices from rising, particularly in industrial areas where warehouses are tempting enterprising folks. Aaron Johnson, a real estate lawyer in Monterey County, CA, has seen the impact firsthand. "Literally within a period of two weeks I saw the prices go from $50,000 an acre for undeveloped industrial land to about $300,000 an acre," he said on HML Investments.

Where will the money go?

"In Nevada, revenue from a 15% tax on wholesalers gets funneled into the state's education budget, while a 10% tax on retail sales gets put into the state's rainy day fund," said FORTUNE. Much of Oregon's revenue is earmarked for education, law
enforcement, and treatment of addictions. Colorado, the model for recreational marijuana as the first state to legalize sales, "has raised more than $500 million in tax revenue since January 2014. This comes from a 2.9% state tax on all marijuana sales along with an additional 15% excise tax and 10% special tax for adult-use weed sales," they said. Those taxes have largely been directed back into infrastructure in the way of schools, roads, and city budgets.

Realtor.com reports that legalized marijuana could potentially create "more than 100,000 new jobs and billions of dollars in new tax revenues. California, the most populous state in the U.S., boasts the sixth-largest economy in the world.

It remains to be seen what will be done with pot revenues in California; thus far, there has been no indication that any of it would "be dedicated to the general operations of local governments or schools," said The Cannabist. Although, "an estimated $1 billion in new tax revenue would be directed toward specific new or expanded programs such as drug use prevention and treatment, helping at-risk youth, law enforcement, environmental clean-up and research," they said.

Who will be the big winners?

Not surprisingly, landlords will be among the biggest winners - both those who have factories and warehouses and those with rental property in CA and other states where marijuana has been legalized.

"Factories and warehouses near Portland (Maine) that once produced and stored parts for model homes, steel beams and tires are already filled with budding marijuana plants," said the New York Times. "These are factories that were sitting empty," Drew Sigfridson, a local broker with the Boulos Company told them. "Chuck Allen, a commercial broker with Keller Williams Realty who works in Monterey, said that in the last few years, more than 20 major transactions worth roughly $100 million have closed, and prices are on the rise."

Realty Times wrote about the impact of legalized weed in 2016, and, especially, the impact on the real estate market in Denver, which has been marked by skyrocketing prices, dwindling inventory, and all-cash purchases.

"Denver is the model that's widely used when taking a look at the relationship between legalized marijuana and real estate, and for good reason," said BeSmartee.

"For almost three years, the housing market in Colorado has been on the upswing, but has this been due to the legalization of marijuana? Many think so. As one of the hottest housing markets in the country, home prices in Denver have increased by double digits and outstanding inventory has fallen for homes. Multiple offers frequently drive up the prices of homes and lead to bidding wars. Just within the last year, Denver median sales prices increased $32,500 (11%). The average price per square foot for this same period rose to $308, up from $276."

The problem that creates: "The rising home prices are out of reach for most middle income families," they said. With California prices already so high, the dreams of those looking to relocate for legal weed may be up in smoke.
And then there is location issue. In Colorado, proximity to some marijuana businesses is not necessarily a positive. "Colorado homes within a half-mile of a marijuana business often have lower property value than homes in the same county that are farther out. But not all marijuana business are a buzzkill for home values," said Realtor.com. "Neighborhoods with grow houses are the least desirable, with an 8.4% price discount. But retail shops, especially with the rise of the new generation of stylish pot boutiques, have almost no negative impact."
Study Links Marijuana Shops With Rising Home Prices in Denver

THOMAS MITCHELL | SEPTEMBER 28, 2017 | 8:51AM

Colorado's decision to legalize recreational cannabis has taken the blame for several changes to the state's rapidly changing landscape, specifically in Denver. Pot has been accused for the rise in population, the rise in homelessness and the rise in housing costs...and now one study believes it has found a solid connection to the increased cost of homes.

Researchers from the University of Wisconsin Madison found that Denver home prices in the immediate vicinity of a recreational marijuana dispensary have risen at a fast pace since retail sales were legalized. By comparing Denver home prices from 2013 with home prices in 2014, the first year of retail pot sales, researcher Moussa Diop and her team determined that single-family homes within 0.1 miles of a dispensary saw an 8.4 percent increase in price. Homes in Colorado municipalities that had legalized retail sales saw a 6 percent increase in the same time frame.

“The presence of retail marijuana establishments clearly had a short-term positive impact on nearby properties in Denver,” says Diop, an assistant professor of real estate and urban land economics at UW Madison. “This suggests that in addition to the sales and business taxes generated from the retail marijuana industry, municipalities may experience an increase in property taxes. It’s an important piece of the puzzle as more and more voters and policy-makers look for evidence about the effects of legalizing recreational marijuana.”

The average property-value increase for homes within 0.1 miles of a dispensary was $27,000 higher after legalization, according to the study. However, it also identified some underlying factors that may have increased property values in vicinities closest to dispensaries, including lower crime rates, additional amenities nearby and a surge in housing demand because of Denver's growing marijuana

sector. A study by Leafly found that Colorado's marijuana industry had created 23,407 full-time jobs as of January 2017, and Denver crime as a whole decreased by 6.9 percent from 2013 to 2014 (though it's risen every year since). A local real estate broker and data analyst thinks the underlying factors actually increased home prices more than the excitement of living next to a pot shop did. Greg Eckler founded his real estate agency, Denver Realty Experts, in 2013, the same year chosen for the start of the study of Denver home prices. He thinks many homebuyers in Denver's hot neighborhoods move there for something he calls the "Starbucks effect," which is when people move to an area for a coffee shop, strip of restaurants or other specific amenities. Eckler doesn't believe a dispensary carries the same pull, however.

"Let's say rises were 6 percent, and a dispensary comes in, and the rise goes to 8 percent – I don't think you could prove a direct connection," he says. "I've had people ask about living next to shopping, restaurants and coffee shops, but I've never had people ask to live next to a dispensary."

Based on his experiences with friends and clients, Eckler says home buyers in areas like Bonnie Brae, Lower Highland and West Washington Park still largely prefer to keep their cannabis consumption discreet, and don't necessarily want a dispensary nearby. "Take the five highest-priced neighborhoods in Denver – West Washington Park opened its doors in the West Washington Park neighborhood in April, and many residents haven't been happy about its presence. Lindsey Bartlett

Park, Bonnie Brae and so on. If you throw a dispensary in there, you'd have an uproar. In Stapleton, you'd have the same thing if you put one in the town center. People of high income don't want it next to their kids; there's still a stigma attached to it."

Along with Portland and Seattle, Denver consistently led United States metro areas in annual and monthly home-price increases even before legalization in 2014, and the rate hasn't slowed down much since, even as more states legalize recreational marijuana. According to a joint announcement from property assessors in metro Denver, home prices rose by 20 percent from April 2016 to April 2017 in a majority of the municipalities around Denver.

"It's kind of a self-fulfilling thing. The neighborhood prices were already rising," Eckler explains, pointing to a supply shortage in Denver real estate as the real cause for the city's rising home prices. "Out of sight and out of mind is a good thing in real estate. In east Stapleton, [a home] is worth less if you can see the jail out there than if you can't. Same thing goes for a dispensary or the rough parts of Colfax."

Still, at least some of those 23,407 new full-time jobs were given to people who didn't previously live in Denver, and Eckler doesn't discount that. Denver County's population grew by nearly 50,000 people from 2013 to 2016, according to the U.S. Census Bureau.

"I think marijuana as a whole has raised prices on different fronts," Eckler concludes. "People are moving here in droves. Some were going to move here anyway, while others are moving here because of marijuana."

Thomas Mitchell has written about all things cannabis for Westword since 2014, covering sports, real estate and general news along the way for publications such as the Arizona Republic, Inman and Fox Sports. He's currently the cannabis editor for westword.com.
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