

April 4, 2019



**By Email**

Mayor Martin J. Walsh  
One City Hall Square  
Boston, MA 02201

Re: Cannabis dispensaries in Boston

Dear Mayor Walsh:

Fenway Civic Association (“FCA”), the Fenway's oldest volunteer organization that accepts no public or developer funds, would like to comment on the city process for cannabis dispensary licensing and recent proposals for the Fenway community. We have read the city’s guide “*Establishing a Marijuana Business in Boston*”, reviewed the Cannabis Control Commission guidelines, and met with several businesses seeking licensing in the Fenway. We have also followed proceedings at City Council and the responses of communities across Boston to dispensary proposals. Last week, we facilitated a public meeting with three proposed dispensaries so that the Fenway community could review operator plans in a way that allowed for transparency around proposed locations and proximity to each other, review of proposed safety and quality of life concerns, and evaluation of dispensary equity practices, including ownership and mitigation measures.

It is our conclusion that the existing process contains several flaws, which must be remedied to license operators based on community context and need, better reflect equity and the City’s stated values of repairing harm done through the ‘war on drugs’, and to improve community review.

**Background**

In 2016, Massachusetts residents voted to legalize the recreational use of marijuana for people 21 and older. The Cannabis Control Commission (CCC) was established by Chapter 55 of the Acts of 2017 which operates as a state agency, establishing regulations with input from the Cannabis Advisory Board, stakeholders, and the public.

Boston’s six-step process for applicants seeking licensing consists of:

- Completing an online application with the city
- Applying to the Inspectional Services Department for a conditional use permit
- Proceeding through the Zoning Board of Appeal (ZBA) process, which includes a mandatory public meeting
- Creating a Host Community Agreement (following public meetings, but before the ZBA hearing)

- Proceeding with a state application through the CCC once conditional permission is granted through the ZBA, with notification from the CCC to the City once approval has issued
- Registering as a business in Boston once final approval from the state is granted.

Certain limits as conditions for approval have been identified by the City:

- By state law, marijuana establishment may not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12.
- Boston's zoning code requires a half-mile buffer zone between dispensaries, zoning language meant to follow the state's guidance and serve to help avoid clustering of establishments in certain neighborhoods.

## **Issues**

### *Neighborhood zoning and need-based licensing*

We believe that licensing decisions should respect existing neighborhood zoning, upholding regulations meant to identify use that is consistent with city planning. We believe that zoning should identify potential cannabis dispensary locations as appropriate only in areas where alcohol retail locations are also deemed appropriate. These permissions should respond to questions of need, asking whether the population's demand is matched to the proposed use. The current process which designates the citywide number of dispensary licenses based on a percentage of alcohol licenses does not allow for the community to ask the question "How many dispensaries do we need and want?"

### *Process-based challenges remove decision making from the community*

The six outlined steps pose problems to the city's regulating bodies. Since most applications will be denied at inspectional services and forwarded to the ZBA, and since applications are made on a 'first come – first served' basis, the ZBA is confronted with a difficult choice to either approve all applicants equally or to defer decisions to the state's CCC. Yet the state body is furthest removed from the constituency that is knowledgeable about and impacted by licensing, the communities who will be hosts to these businesses.

Similarly, host agreements are made on a one at a time basis, and do not need involve more than one single public meeting. If communities who host dispensaries are aligned with the city's goals to prioritize equity partners, they should have the ability to comprehensively review and select proposals that best reflect equity practices, whether in company make-up, hiring practices, or community benefits afforded through training or outreach efforts to communities harmed through the war on drugs.

At the same time, equity programs, meant to prioritize communities disproportionately impacted from previous drug enforcement laws are yet to be reflected in provisional licensing provided by the CCC. The first proposal to come before the city for the Fenway are defendants in an active legal suit. While the community should not discriminate

against operators, it should have the ability to communicate preference for operators that meet the cities identified goals for equity.

*Fenway-specific challenges*

Of the 48.28 miles contained in the City, the Fenway neighborhood comprises 1.4 miles. The Fenway's population was estimated in 2010 as having 40,898 residents (DND estimates), of which 11,001 were aged 15-19 (26.9%) and 16,674 were aged 20-24 (40.8%). The BPDA has since issued snapshots citing that, of the Fenway's young adult population, 40% are in school, and 15% in dormitories. In short, of the currently estimated 45,000 residents of our 1.4-mile neighborhood, a significant number of residents live in or are regulated by housing and campus smoking and drug consumption laws that make smoking or drug use illegal. These statistics must be weighed in ultimate decisions about how many dispensaries are needed by and appropriate for the neighborhood.

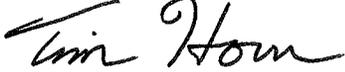
Of the three proposals we viewed, only one was sited in a manner that minimized impacts – the 120 Brookline Avenue proposal. In addition:

- The proposal at 62 Brookline Avenue and 1114 Boylston Street pose significant crowding and security issues. 62 Brookline Avenue's location along Lansdowne Street currently faces extreme congestion during concert and ball park events at House of Blues and Fenway Park. Future plans for Fenway Theater will increase these numbers. 1114 Boylston Street is identified with significant access challenges along a narrow sidewalk with limited fenced access; the footprint of the business does not clearly identify how internal queuing can be accommodated within a narrow lot.
- 120 and 62 Brookline Avenue are within half a mile from each other
- 62 Brookline Avenue is within half of mile of 1114 Boylston Street
- 1114 Boylston Street is within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12.
- 252 Boylston Street is within ½ mile of 1114 Boylston Street
- The current practice of allowing a new use to be licensed in a proximity closer than a ½ mile, due to the technical fact that another licensed use has not opened yet, is a violation of the intent of the law. Grammatical loopholes in the law should be firmly closed and all license reviews should consider the planned and licensed uses that have been licensed or are in the process of applying for a license.
- Bringing justice to the communities harmed by the war and drugs is best addressed by requiring dispensaries to give preference in hiring to those who were convicted and served time for non-violent Marijuana related crimes. These are the people that paid the price for the war on drugs and who remain for the most part underemployed or unemployable.

In closing, we remain concerned about the existing process, which restricts community review and input, pushes important licensing decisions away from the city, and

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imperfectly addresses priorities around buffer zones, safety, and quality of life for neighborhoods. We hope that until these processes are better resolved, that the City can impose a step back to evaluate the system, including a City Cannabis Control Commission, the creation of special zoning for dispensaries, and the expansion of review to better include communities who will be the hosts of these new uses.

Sincerely, 

Tim Horn,

President Fenway Civic Association

CC  
David Sweeney  
John Barros  
Joyce Linehan  
Jerome Smith