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Judge Could Block Los Angeles Medical Marijuana Crackdown

In a final-hour bid to stop a new Los Angeles medical marijuana ordinance, lawyers representing dispensaries and patients will ask a judge on Friday morning to issue temporary restraining orders to keep city officials from enforcing the ordinance when it takes effect Monday.

The city faces 16 lawsuits involving 64 dispensaries and one filed by medical marijuana patients in Los Angeles County Superior Court that seek to overturn the law. The ordinance, which took the City Council more than two years to draft, would force about 450 dispensaries to close.

Judge James C. Chalfant, who has been critical of the city's handling of the issue, will rule on the motions. In a hearing last month on similar requests from four dispensaries, he almost granted an order that would have barred the city from enforcing the ordinance against them.

But Chalfant ended up transferring the cases to Judge David P. Yaffe, who then denied the requests.

The lawyers appearing before Chalfant on Friday were scheduled to appear Thursday before Yaffe, but they used their right to a peremptory challenge to bump him from the cases. Eric Shevin, who represents a dozen patients who sued last week, is seeking an order that would keep the city from enforcing the ordinance against any dispensary, saying that it would unconstitutionally restrict access to medical marijuana.

"There's sick people that are suffering tremendous stress wondering if they are going to be able to get their medicine," he said.

But David Michaelson, a chief assistant city attorney, said the city will vigorously oppose the motions. He said that neither the collectives nor the patients will suffer irreparable harm, the standard required to obtain a restraining order.

"The people of Los Angeles will be irreparably harmed because this ordinance will be prevented from being implemented," he said.

The dispensaries are challenging the City Council's decision to prohibit all pot shops except those that registered with the City Clerk by Nov. 13, 2007, a procedure that allowed 186 to legally operate despite a moratorium on new dispensaries. City officials believe that 137 are still open. Those dispensaries will have six months to come into compliance with the ordinance.

In an earlier decision, Chalfant ruled that the City Council failed to follow proper procedures when it extended its moratorium, and declared the ban illegal. Dispensaries that opened after the ban have cited his ruling in challenging the ordinance. Chalfant has expressed skepticism about the council's use of the 2007 cutoff as a way to reduce the number of dispensaries.

Shevin also hopes to challenge the ordinance based on its restrictions on the location of dispensaries. “There will be no room in the majority of Los Angeles for any collective,” he said.

The ordinance bans dispensaries from locating within 1,000 feet of so-called sensitive uses, such as schools and parks. It also bans them from abutting residential property.

Critics say the City Council never examined how that residential restriction would affect available locations. The commercial property on most of the city’s major boulevards backs up to neighborhoods.

Shevin intends to present maps showing that 95% of the locations that city officials identified for dispensaries would be eliminated with the residential restriction. In the Wilshire, Hollywood and Westlake community plan areas, he said, there are just three suitable sites.