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Los Angeles finds only a quarter of registered pot dispensaries eligible to stay open

City clerk says 41 of 169 medical marijuana shops that registered in 2007 meet the new ordinance's requirements. Ousted operators express shock and outrage; city lawyers gear up for more litigation.

By John Hoeffel, Los Angeles Times

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Los Angeles officials announced Wednesday that only 41 medical marijuana dispensaries are eligible to stay in business under the city's restrictive ordinance, a number so low that the city will suspend the winnowing process and ask a judge to rule that it is legal.

"It was a surprise," said Jane Usher, a special assistant city attorney who worked closely with the City Council to draft the complex medical marijuana law and is defending it in court.

After a two-month review of dispensary records, the city clerk determined that three-quarters of the 169 dispensaries that applied to remain open did not meet the requirements in the ordinance. Some of the ineligible dispensaries are among the most reputable in the city.

Yamileth Bolanos, who runs PureLife Alternative Wellness Center and is one of the most politically active operators, found out her dispensary was ineligible when the city clerk posted The lis on its website. She rocked rapidly between anger and distress. "I'm not going to take this lying down," she said. "This is ridiculous. They have screwed up one thing after another."

Los Angeles experienced a dizzying increase in the number of dispensaries when it failed to enforce a pot-shop moratorium put in place in 2007. Hundreds of dispensaries opened with no city oversight, a trend that angered activists in many neighborhoods.

The city's ordinance, which took effect June 7, aimed to shut down an estimated 400 dispensaries. It made an exception for 182 that had registered with the city under the moratorium. But in order to stay open, those dispensaries were required to show that the owners and managers had not changed; that they had no major criminal records; and that the store was at its original location or had moved just once after being threatened by federal narcotics officials. Dispensaries deemed eligible would still have to complete a series of steps to gain final approval.

"We took a very strict interpretation of the ordinance and if it didn't match the ordinance exactly, then we declared them ineligible," said Holly Wolcott, the clerk's executive officer.

The clerk's office sent letters Wednesday to the dispensaries notifying them of their status. "I'm sure every one of them is going to call us," Wolcott said.

Rather than move ahead with a selection process that would clearly trigger a spate of new lawsuits by disqualified dispensaries, the city attorney's office plans to sue the ineligible outlets first and ask a Los Angeles County Superior Court judge to determine that the city's process was appropriate.

"We're trying to be proactive," Usher said.

Los Angeles is already tangling with about 85 dispensaries that have filed almost 30 lawsuits challenging the procedure the City Council adopted Jan. 26 to limit the number of dispensaries. Most of the dispensaries that have sued are among those that were ordered to close in June.

David Welch, an attorney who represents 56 dispensaries that have sued the city, said he has at least 16 other clients on the ineligible list. "I guess what the city has created is a race to a courthouse," he said. "I expect that all of my clients will file suit."

Judge Anthony J. Mohr is presiding over all the lawsuits and has already held numerous hearings. He has set a Sept. 21 hearing on constitutional issues. It is unclear how quickly Mohr might act on the city's lawsuit, which the city attorney's office intends to file Thursday.

"The judge has considered things very expeditiously to date," Usher said. "He seems to have a very keen awareness of the harm it causes to the community to leave this unaddressed."

Councilman Ed Reyes, who oversaw the drafting of the ordinance, stood behind it Wednesday, saying that the multiplying lawsuits were inevitable in a litigious society. "I'm just glad that we're at this stage of the process. It's been a long time coming. And 41 is better than zero," he said. "I'd rather start slow with a very low number that we can control."

Under the ordinance, if the number of medical marijuana dispensaries drops below 70, then additional dispensaries would be chosen in a lottery and the total would be capped at 70.

The city clerk's list does not indicate why the dispensaries were found to be eligible or not, leaving operators exasperated Wednesday. "There's never been any complaints against us. They're going to have to explain it to me," said Bolanos, who heads the Greater Los Angeles Collectives Alliance, which represents about 60 dispensaries that registered in 2007.

The city will not seek to shut down the disqualified dispensaries before Mohr considers the issue. "As of Tuesday," Usher said, "the entities that filed notices of intent to register and who fully comply with state law will not be prosecuted under the city's ordinance."