Marijuana Review

Cutting Through the Haze of Nearly Two Years of Legal Marijuana

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Types of Regulations
- Ban
  - Based on State Constitutional and Statutory Authority
  - Based on Federal Preemption?
- Various levels of new direct regulations
  - Zoning
  - Buffering
  - Building/fire/other codes?
- Use of existing regulations (comparable uses)
- Moratorium

Moratorium
- Temporary Regulation
  - Cannot use to effectively ban (continual roll-overs)
- Where are you headed?
  - Point is to give you time to develop appropriate regulations
- Procedural issues?
  - Public hearings
  - Emergency declaration
  - Factual basis

Current Legal Challenges
- City of Fife (ban)
  - Trial Court decision – already appealed
  - Affirmed ban based upon State Constitution and Statutory authority (tracked AGO Opinion)
  - Plaintiffs argued State law preempts City banning authority
    - What about reasonable regulations?
- City of Wenatchee (ban – reliance on Federal law?)
- City of Centralia (initially a moratorium, appears to now be a ban)
- City of Gig Harbor (moratorium)

Medical marijuana
- RCW 69.51A et seq.
  - Completely separate regulatory system – no Liquor Control Board regulation
  - Illegal – medical card allows affirmative defense (confirmed in City of Kent case)
- Types of Uses
  - Collective Gardens
  - Designated Provider
  - Delivery
- City of Kent (ban)
  - Appellate decision – Appealed to State Supreme Court
  - Affirmed City authority to regulate (up to complete bans)

Legislative Changes?
- Busy Session
  - Primary guiding issue will be McCleary decision and need for State to find funding for education
- Main issues
  - State preemption?
  - Revenue
  - Medical marijuana
- Stay tuned!
Industry Perspectives
- Compliance is key (Cole Memo 2, August 2013)
- Only well-capitalized groups are really getting to participate; there is already a lot of failure across the state
- Most industry participants want an open dialogue with their cities and counties to promote industry education and collaboration
- LCB – issues with licensing
  - Local authority notices
  - Local objections to licensees
  - Inconsistent application of stated policies/rules

Grey Areas
- Consumption Facilities
  - “Private” clubs
  - Smoking versus vaping
  - Other uses in conjunction (such as liquor sales/adult entertainment/gambling)
- Policy issues – do you want to regulate?
- Transportation
- Tourism
- Nuisances

Questions?