

# CITIZENS VIEW

Quality of Life  
Public Safety  
Property Values

Focus-Marijuana

SEPT  
2017



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## NOT IN MY NEIGHBORHOOD: RESIDENTS RALLY AGAINST POT DISPENSARY

### SAVE THE DATE



BY  
INVITATION  
ONLY

"I learned more in two days about marijuana than I ever did in my entire career on the bench as a Judge."

Dozens of residents and stakeholders, some wearing stickers that read "I live in Mt. Airy and I oppose this location," crammed into a Philadelphia zoning hearing Tuesday morning to lay out their concerns about a state-approved medical marijuana dispensary.

A defunct bank at 8319 Stenton Avenue near East Allen Lane would be converted into the facility, which would provide tinctures, oils and edibles to approved patients. The cannabis plant, itself, would not be grown or sold on the premises.

The building is in a residential neighborhood some worry could be exposed to crime, litter and crowding should TerraVida Holistic Center be allowed to operate there.

The dispensary owner, Christine Visco, was awarded a license by the state Department of Health in June, but lawyers representing mem-

bers of the community said TerraVida was not in full compliance at the time of permitting.

This is the proposed site of the



TerraVida Holistic Center at Stenton Avenue and E. Allen Lane.  
Photo credit: Google Maps

"This case has nothing to do with medical marijuana," TerraVida attorney Michael Phillips said. "This is a land-use issue."

Despite the understanding that Tuesday's hearing would be a referendum on Pennsylvania's medical marijuana program, residents questioned if drug dealers would be attracted to the area and worried the impact this facility could have on young children in the area.

A home daycare center currently

operates within 500 feet of the building, which would be in conflict with the city's ordinance to maintain at least that much distance from any child-serving institution. But TerraVida lawyers argued that the daycare center is not licensed by the city, only the state, and therefore not a concern for the dispensary.

Tensions rose throughout the first two hours of testimony as residents murmured, snickered and occasionally shouted.

At one point, an attorney representing opponents of the dispensary compared zoning issues to segregation in the 1960s.

The dispensary is proposed on the former site of a bank at 8319 Stenton Avenue. Neighbors opposed to the facility say it has no place in their residential community.



# NEIGHBORS CAN FILE RICO LAWSUITS AGAINST MARIJUANA GROWERS

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.*

See more at below link.

[https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/06/07/10th-circuit-neighbors-may-file-federal-rico-lawsuit-against-state-licensed-marijuana-growing-operation/?utm\\_term=.be0165885cca](https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/06/07/10th-circuit-neighbors-may-file-federal-rico-lawsuit-against-state-licensed-marijuana-growing-operation/?utm_term=.be0165885cca)

## OREGON COUPLE FILES RICO LAW- SUITE AGAINST POT GROWERS AND 42 DEFEND- ANTS

The pot production and "powerful and unmistakable skunk-like stench of marijuana" have curtailed enjoyment of their vegetable garden and flowerbeds, riding their four horses on their pastures and tending to their "beloved pets' grave sites" on their land, the suit says.

When the odor is particularly strong, it keeps the McCartys from being outside, entertaining guests, eating meals

on their deck or keeping their windows open, the suit says. They bemoan what they describe as noise from their neighbors' excavators operating until 3 a.m., diesel generators that disturb their peace, the loud barking of guard dogs that spooks their horses, trash along the road and a "jacked-up camouflage-painted" SUV that passes by with an "exceptionally loud engine."The McCartys and others have had to lock their doors, install surveillance cameras and erect "No trespassing signs," according to the suit.

The McCartys don't recognize Oregon law, created after voters in 2014 legalized recreational marijuana, insisting that the U.S Constitution is the "supreme law of the land" and voids any conflicting state law.

The suit names 42 defendants and seeks three times the damage amount to the McCartys' property and other financial awards. Rachel McCart, a lawyer, signed the lawsuit. She has her own legal firm called Equine Legal Solutions and declined to comment on the suit.

Two of the defendants, Angie Kopshy and her fiancée Jeff Simonson, said the McCartys have their facts wrong. Kopshy and Simonson are tenants on property beside the McCartys' land, and run medical marijuana-growing operations.

"The McCartys are attempting to undermine the decisions of the state of Oregon and its citizens to legalize and regulate medical marijuana," Kopshy said in a prepared statement. "The McCartys' federal complaint is premised on falsehoods and at odds with the true facts. It is disappointing that the McCartys are trying to use the legal process to intimidate us and other lawful participants in Oregon's ground-breaking marijuana industries."

# OREGON COUPLE FILES RICO LAWSUIT AGAINST ST POT GROWERS AND 42 DEFENDANTS

Marijuana grow site 24200 S. Highland Crest Beaver Creek, Oregon



[http://www.oregonlive.com/pacific-northwest-news/index.ssf/2017/07/beaver\\_creek\\_couple\\_files\\_racke.html](http://www.oregonlive.com/pacific-northwest-news/index.ssf/2017/07/beaver_creek_couple_files_racke.html)



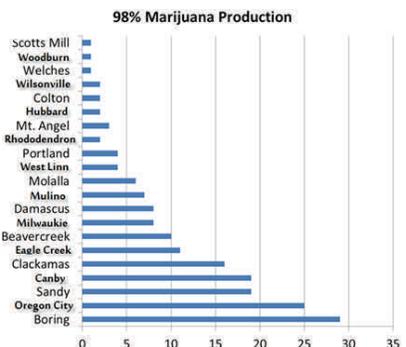
## QUALITY OF LIFE - 330 Commercial Pot Land Use Applications –Citizen Complaints

It is being touted that Clackamas County land use regulations are being used as a model for other counties, yet their land use regulations are the most liberal in the State and have opened up the door for commercial marijuana growing in almost every zone in the County. <http://www.clackamas.us/planning/marijuana.html>

Pot growers have little respect for the environment or the surrounding neighbors. Many are cutting down all of the trees and many of the properties are surrounded by smaller lot rural residential land owners who now will be greatly impacted by these large outdoor pot grows. Pot growers, wholesalers, proces-

sors and retailers are taking over complete areas in our rural residential communities. In Boring Oregon of the 188 marijuana land use applications over 20% has targeted various areas of our rural residential farming community to set up their pot industry. In a 3 mile radius 5 commercial pot grows many unknown medical marijuana grows, butane hash oil processing center and 2 marijuana wholesalers. Outrageous! As you can see from the chart, the unincorporated area of Boring has been overrun with pot production facilities impacting the communities, public safety, quality of life, and property values.

### CLACKAMAS COUNTY-OREGON





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**Consultant, Trainer, Speaker**

Building partnerships between citizens and government officials to help develop safe drug policies.

<https://www.youtube.com/watch?v=uTLLUKsbyaY&feature=youtu.be>

## CONNECTIONS

- **Monthly Connections**
- **Quarterly Citizen View Newsletter**
- **Quarterly Community Educational Forums –Focus Marijuana**
- **Annual Nat'l Safe Drug Policy Summit-Focus Marijuana –April 17-18 2018**
- **Web Trainings**
- **Small groups meetings**



We believe we are socially responsible for preserving public safety, quality of life, and protection of property values on behalf of our communities and for the legacy of our children.



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# OHIO

## Riverside getting pushback from residents WHO DON'T WANT medical marijuana operations

RIVERSIDE, Ohio (WKEF/WRGT) - Miami Valley communities are in uncharted territory, as many flirt with the idea of welcoming medical marijuana businesses to town.

But cities like Riverside are getting some pushback from residents living near the base.

Some are worried a growing operation built nearby will hurt the neighborhood, putting their safety and home values at risk.

The weeds poking through the pavement on a vacant lot, could soon be replaced by a more potent variety.

But not if Crystal Farris has anything to say about it.

"We don't need a medical marijuana in city of riverside period," Farris said.

She's fighting the city. They may let a medical marijuana business set up shop not far from her home and just across the street from Wright-Patt.

"It just makes the neighborhood go downhill," Farris said.

This has been an ongoing battle, but just this week her neighborhood got a small victory.

A park near the lot is now off the table for expansion due to a bike path.

"We have a beautiful park, we want our green space," Farris said.

Concerned residents visited city hall Thursday night. Many are worried about their property values and personal safety.

Some aren't totally against the idea, just don't put it in their neighborhood.

Riverside leaders are welcoming the idea, while other nearby communities are shunning it.

"It's a brand new experience for all of us and we are trying to deal with this," economic director Bob Murray said.

Murray said the city will have strict regulations, but hope business will boost the economy adding 50 jobs.

"Of course it's a legal business, it has a right to be here," Murray said.

Farris disagrees.

"Yes we need money in riverside, yes we need revenue but there are other ways of going about that," Farris said.

She plans to continue her fight with the city, until they take this property off the table.

"Don't put it here, take it away and put it some place else, we don't want it," Farris said