

Cannabis Business!

Where to Start?

The 8 Mandates to Consider Before You Sign Anything!

Don't Sign That Commercial Cannabis Lease Without Using the Smart Cannabis Addendum™

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New Issues Facing Cannabis Businesses: With the ever-changing regulations and conflicting laws, starting a Cannabis business is complex. However, there are several key issues that must be addressed prior to signing a lease or making an application for a license.

First, Law Conflicts: The new California laws made medical and recreational marijuana use legal, and lawful, effective January 1, 2018. However, federal law regards it as illegal. There is a conflict in law. This cannot be ignored. Therefore, you should not even consider signing a lease without understanding all the risks, possible safeguards, and possible protections that may take form in language, structure and or substance.

Second, Entity Structures: The entity structures must be determined. Whether you form a Collective, Cooperative, Non-Profit Mutual (Public) Benefit Corporation, Limited Liability Company (LLC), Limited Partnership (LP), or Corporation, you need to consider the operational, liability and taxation aspects as well. Also, you must ascertain how you will conduct banking and how you will lawfully realize profits from the business, and your retirement.

Third, Taxation: As a result of the federal law conflicting with state law, you must not assume that normal business accounting and or taxation methods and standards apply. They do not! For example, pursuant to federal law IRC 61, all income is taxed whether legal or illegal. Under IRC 162, all necessary and appropriate expenses are generally deducted from gross income. However, under IRC 280E, federal law regards such activity as "listed" and illegal, prohibiting such expenses from income. This will result in unexpected and possibly substantial tax bills. However, certain deductions may be allowed for Cost of Goods Sold. Having a proper lawful accounting allocation system is key.

Fourth, Lines of Business: However, the federal law does not prohibit expenses and deductions attributable to federal lawful activities. Therefore, you need to plan and structure your business so that lines of business are delineated as lawful, separate from the sale of Cannabis.

Fifth, Design: The very architectural design of the Premises must be structured in a particular manner, so favorable floor, storage, and entry designs allow for lawful and more efficient business, accounting and taxation methods.

Sixth, Construction Build-Outs: Even the very construction should not begin unless it is structured for use of particular materials and methods, so it favors business, accounting and taxation methods. This includes floors, ceilings, storage, special Cannabis systems, walls, lighting, etc.

Seventh, License(s): The new regulations lay out the different licenses and the requirements. The week of December 11, 2017 started with the opening of the online California license registration system. You should learn the options, prohibitions and requirements. For example, you may obtain a Microbusiness License which allows for or mandates three licenses. Keep in mind that an executed Lease is required before you can apply for a license. Existing Cannabis businesses may need to obtain a temporary license as an interim measure, if same is in compliance with local laws.

Eighth, Lease: Finally, we get to discuss the commercial lease. The lease is one of the most important documents you will sign. Federal law regards Cannabis sales as illegal but California law does not. You must understand your risks. The Landlord and the Tenant have the risk that the federal and or a federal/state government unit may investigate, seize or seek forfeiture. A lease may be able to set a foundation for compliance with all laws. Also, a civil RICO action may be brought against the Landlord and or Tenant as well. These cases are also making their way through the (Colorado) system at this time. However, there are many aspects of lease risk which can be safeguarded. An attorney experienced in litigation as well as real estate and business should be retained for help in your lease matter.

Smart Cannabis Addendum™: But what can an attorney do to protect interests which conflict with the federal government? An attorney along with the help of a commercial real estate broker can fashion an Addendum which establishes the lawful and factual foundation upon which a client may legally enter the lease safely, and in cases of the tenant who is a prospective Cannabis licensee, ensure that the terms and conditions do not violate the vast new Cannabis licensing regulations proposed November 17, 2017 and Cannabis tax regulations proposed November 19, 2017, as well as set the foundation and mechanisms for a lease that complies with federal and state law.

Commercial Real Estate Practices Conflict with Cannabis Regulations: Common commercial real estate best practices conflict with the new acceptable Cannabis regulations (MCRSA and AUMA ("MAUCRSA")). AUMA stands for The Adult Use of Marijuana Act (AUMA) (Proposition 64), and MCRSA stands for the Medical Cannabis Regulations and Safety Act. Combined they stand for the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRS). A lease which violates the many traps contained therein will be vulnerable to attack by the Landlord and Tenant and or by the governments (federal, state and local). Attack of a lease, which is a written contract in California, may include rendering it void or subject it to rescission - with all monies paid on the lease, now due and owing to the other side! That can be very costly. Additionally, the licensee may lose the license and or the landlord and tenant may become de-facto partners by ownership, control or access. This is a very serious matter. But it can be solved by the smart cannabis Addendum.

Conflicts Which Must Be Addressed & Knowingly Waived by Client: The commercial real estate broker must know the conflicting issues and obtain a knowing waiver from client. The broker must also know

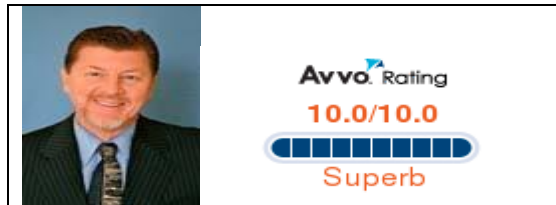
how to steer around the license and regulation traps of the tenant Cannabis licensee. For example, is the tenant seeking licensure for Cultivation, Manufacturing, Distribution, Testing, Dispensary, or Transportation, and any variations including the Microbusiness license. If these traps are not avoided, the tenant (and or landlord) may be injured or damaged in the process. Some of the topics which must be addressed in the Addendum (as well as the body of the agreement) include but are not limited to:

1. Federal law may prohibit key tax deductions or expenses to both the Tenant and Landlord;
2. The Tenant may need to understand that certain unique build-out issues exist which may also require permissions by the Landlord in the Lease, prior to signing;
3. What are the new proper entity structures available for Cannabis tenants;
4. What percentage ownership/control require licensure and Tenant/Landlord approval;
5. How can we deconflict California and Federal law, if at all;
6. How can we address Nuisance Breach/Defaults;
7. How can we address Illegal Unlawful Breach/Defaults;
8. How can we address Unlawful Use Breach/Defaults;
9. How can we address compliance with local & California law;
10. Should we, and to what extent, have a Tenant share in pass-thrus/CAM Charges;
11. Should Landlord share in profits of Tenant;
12. How much control may Landlord retain;
13. Should there be more than one licensee per parcel;
14. How far away must premises be from schools and parks;
15. Must premises be in an Industrial location;
16. Should Landlord retain or be granted access for repairs and inspections;
17. Should Landlord or Tenant agree to Work Lists or Build-outs;
18. Should Work Lists or Build-outs be conditioned on compliance with Use;
19. Should Tenant and Landlord certify compliance with Local and State Laws (conditional use permits);
20. Should Landlord and Tenant agree to select law and facts including protections in bankruptcy;
21. Are there *legal* methods to protect wealth and retirement cash flow from the Cannabis industry?

About the Author: The author is Chairman of CCCMIS (www.CCCMIS.COM). New industry conflicts require experienced attorneys who have led the way during times of conflicting laws. Commercial real estate and litigation experience is necessary to help solve the conflicts facing the Cannabis Tenant and Landlord in California at this time. Richard Rydstrom, Esq. has a record of leading the way through conflicting times nationally and in California. Richard was Chairman of CMIS Mortgage Coalition (DC) reconciling diverse disparate interests of the banks and the consumer borrowers in developing neutral solutions to the Great Recession of 2007, including the HAMP mortgage modification program and the commercial tax modification regulations with or for the U.S. Treasury and the foreclosure and consumer interest groups. When the 110th Congress wanted a neutral analysis and congressional statement regarding the problems and solutions of the pre-Great Recession, they chose Mr. Rydstrom. When the banks and consumer groups wanted a formal explanation and speech regarding the first HAMP Mortgage Modification Program outline from President Obama and the U.S. Treasury, they chose Mr. Rydstrom. Mr. Rydstrom also served as a settlement officer for all California Superior Courts in Los Angeles. Richard is also a member of the Mediator Registry created when Los Angeles lost its funding to settle lawsuits in its VSO Program. Mr. Rydstrom has been quoted or published by: United States Congress, The Los Angeles Times, USA Today Magazine, MortgageOrb, Mortgage Daily News, Orange County Register, Tax.org, National Business Institute, CMISfocus eMagazine, Pepperdine University (Law, Business Journal), AIR

Commercial Real Estate Association, Constructor Magazine for the AGC Association, Society of California Accountants, various Landlords and Real Estate Owners associations and others. Richard is a frequent keynote speaker, moderator, panelist, and CLE instructor for National Business Institute for lawyers, judges, banks, and servicers.

Superb Attorney Rating by AVVO: With more than 27 years of legal experience, Richard Rydstrom is rated Superb, 10 out of 10 by Avvo – the world’s largest rating directory of lawyers. He has vast experience representing commercial tenants and landlords, plaintiffs, defendants, business owners, and consumers.



Free Initial Consultation: Attorney Richard Rydstrom is accepting select clients for representation in the new California Cannabis industry. Richard is available at **1-877-946-4968** or Email direct: (procouncil2017@gmail.com); Websites: (www.RydstromLaw.com) <http://calicannabislawyer.com>; www.SmartCannabisPlan.com Licensed Insured Good Standing Over 27 years; All Rights Reserved © TM 2017, Richard Rydstrom; SmartCannabisLeaseTM and CannabisAddendumTM are trademarks of Richard Rydstrom.

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