



## San Diego City Attorney Mara W. Elliott

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### **City Attorney Wins \$425,000 Judgment Against Marijuana Dispensary's Landlords**

A judge has ordered a Riverside County couple who leased a San Ysidro storefront to an illegal marijuana dispensary twice in a year to pay \$425,000 in civil penalties to the City of San Diego.

The judgment against Quirino and Bertha Gutierrez of Menifee, Calif., brings to \$4,873,977 the civil judgments obtained by the City Attorney's Office against landlords and operators of illegal dispensaries. In addition to the penalties, Superior Court Judge Randa Trapp ordered the Gutierrezes to pay the City's costs.

The Gutierrezes' property at 154 W. San Ysidro Blvd. is located in a zone where a marijuana dispensary could be permitted, but the Gutierrezes never obtained a conditional use permit for the location.

This is the second time the City Attorney's Office has filed a complaint against the Gutierrezes that resulted in an injunction and civil penalties.

In October 2015, the City investigated a marijuana dispensary operating at the property. The operators of the dispensary shut it down by the end of November 2015. As the Gutierrezes did not respond to the City's complaint, a default judgment was entered against them on August 22, 2016, permanently barring them from leasing the property to unpermitted dispensaries and assessing civil penalties and costs of \$12,399.

Then, in March 2016, the City was informed that a marijuana dispensary was operating at the property under the name "Luxury Care Healing Center" and was advertising marijuana products and prices on the Internet. The City filed a second lawsuit for injunction and civil penalties on May 9, 2016.

The Court issued a temporary restraining order against the Gutierrezes on September 21, 2016 and a preliminary injunction on October 21, 2016. However, the dispensary continued to operate in violation of the court's orders until February 22, 2017, when San Diego Police Department narcotics officers served a search warrant at the premises. The police impounded approximately 10 pounds of marijuana, \$3,500 in cash, 100 edible marijuana products and 150 concentrate products.

**"Landlords of illegal dispensaries are no less culpable than their operators and owners, and we prosecute them with equal vigor,"** City Attorney Mara W. Elliott said. **"If you are leasing your property to an unpermitted pot shop, we will find you and hold you accountable to the fullest extent of the law."**

The case was prosecuted by Deputy City Attorney Marsha B. Kerr of the City Attorney's Office's Code Enforcement Unit.

Penalties won by the Code Enforcement Unit of the City Attorney's Office come to the City, with half of the money going to a fund that supports future civil prosecutions.

Since September 2011, the Code Enforcement Unit has shut down 235 dispensaries by obtaining court orders against operators and landlords.

In this case, the owners and operators face separate misdemeanor criminal charges for possession of marijuana, violation of a Court order, and operating a marijuana dispensary without a permit.

The criminal case is being handled on behalf of the People of California by Chief Deputy Mark Skeels, head of the City Attorney's Special Prosecutions Unit. If convicted, the landlords face up to one year and the operators face up to six months in custody, plus additional fines, terms and conditions of probation.

Since May 2016, the City Attorney's Criminal Division has shut down more than 50 marijuana dispensaries through the aggressive use of search warrants in conjunction with criminal prosecution.

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