



HUMBOLDT COUNTY GROWERS ALLIANCE

Date: March 6, 2023

Dear Supervisors and Staff,

On behalf of Humboldt County Growers Alliance, we appreciate the opportunity to comment on the Planning Department's report on the Humboldt Cannabis Reform Initiative (HCRI).

HCGA has previously analyzed the HCRI in a [letter](#) published shortly after the initiative text became public in March 2022, and in a comprehensive [policy analysis](#) published on October 18, 2022.

We have reviewed the Planning Department report and believe it provides a thorough and accurate analysis of the HCRI and its likely impacts. The report makes clear that the HCRI poses an existential threat to Humboldt's cannabis industry, and would have severe negative effects on Humboldt's economy and environment were it ever to be implemented.

The report's findings also substantiate that the stated intent of the initiative - whether in the title and ballot summary, in the "intent" sections of the initiative, or in statements used by proponents to endorse the initiative - is false and misleading, and does not reflect how the initiative would actually function in practice.

As one example, while the ballot title for the initiative references "large-scale commercial cannabis restrictions," and its intent language references a desire to protect small-scale cannabis farms, the Planning Department report makes clear that the HCRI would have catastrophic effects for all legal cannabis farms in Humboldt County, regardless of size.

Specifically, the report affirms many points which have been previously raised regarding catastrophic provisions in the HCRI, including:

- The applicability of most HCRI restrictions to all cannabis farms in Humboldt County, regardless of size, down to the county's smallest permitted farms.
- The definition of "expansion" in the HCRI to include the installation of any structure, including renewable energy or water storage, and the impacts of this definition on operators seeking to comply with conditions of approval, install infrastructure for environmental sustainability, or make normal modifications to their premises for business or environmental reasons.
- Restrictions on "multiple permits," and the impacts of this provision on the ability for small cultivators to establish value-added activities on-farm which are critical to compete with large-scale, vertically-integrated competition.
- The extension of untenable Category 4 road standards to existing small farms which cannot practically comply with these requirements.



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- The extent to which the initiative text appears uninformed regarding current provisions in the ordinance and current regulatory oversight implemented by the Planning Department, Department of Fish and Wildlife, Water Board, and Department of Cannabis Control.

Additionally, the Planning Department analysis points to many other significant problems in the initiative which we had not previously identified, including conflicts between the initiative text and the General Plan, and requirements for existing permit-holders to renew their permits annually under a process which is not clearly defined.

In light of the catastrophic effects were the HCRI to ever become law, we would like to offer the following recommendations:

The Board of Supervisors Should Formally Oppose the HCRI

Our understanding is that California elections law authorizes the governing body of a jurisdiction to take a formal position of support or opposition on a citizen ballot initiative (see, for example, this [report](#) from the Institute for Local Government).

We request that county counsel confirm the ability of the Board of Supervisors to take a formal “oppose” position on the HCRI, and if this is confirmed, that the Board vote to adopt a formal statement of opposition.

The Proponents Should Withdraw the HCRI From the Ballot

The Planning Department’s analysis makes clear the contradiction between the stated intent of the initiative and its actual effects on small farmers, the environment, and the county’s economic vitality. In light of this contradiction, we call on the initiative proponents to withdraw the initiative, and to instead bring forward their concerns as part of an open, public process facilitated through the Planning Commission and Board of Supervisors.

The Planning Department report provides an opportunity for the proponents to reset their approach in light of new information, and to avoid doubling down on policy which would be demonstrably harmful if enacted. If the proponents are not prepared to defend the HCRI on its merits in good faith - and we believe that such a defense would be incredibly difficult in light of the analysis presented by the Planning Department, and the comprehensive feedback that the proponents have received from small farmers and legal experts - then the initiative should not move forward.

HCGA has participated in the county’s public process for cannabis ordinance development since our founding in 2017, alongside many other stakeholders in the community who are not cannabis operators, and we remain committed to this process. An open public process provides



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the most effective opportunity for stakeholders to share a range of views, and to develop ordinance language which reflects the community as a whole.

The County Should Consider Assessing Legal Risks Associated with the HCRI

In addition to the substantive issues identified by the Planning Department report, we believe the report raises many questions regarding the constitutionality of provisions within the HCRI.

If the HCRI were to pass, we believe that multiple provisions within the initiative could potentially become subjects of post-election litigation that would impose substantial costs on the county and further complicate effective administration of the ordinance. Litigation could potentially be initiated by a range of stakeholders, including permit-holders, permit applicants, neighborhood groups, and environmental groups, all of whom would be motivated to interpret (often vague) provisions in the HCRI in multiple ways.

An assessment of HCRI's legal viability would provide critical information to the public, the county, and other stakeholders regarding the real-world effects of the HCRI were it to pass.

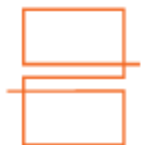
HCRI provisions which may benefit from legal assessment include:

- Impacts to vested rights for applications submitted after the “completeness” cut-off on March 4, 2022, but before the effective date of the initiative in 2024.
- Impacts to vested rights for applications submitted before March 4, 2022, that may not have been considered “complete.”
- Impacts to vested rights for permit-holders whose permits would now automatically expire yearly under the HCRI and require annual renewal.
- “Due process” considerations regarding the provision in the initiative that would prohibit a permit renewal based on any complaint that has not been investigated by the Department, regardless of whether these complaints are substantiated.
- The lengthening of the forbearance period in contradiction to current state regulation from CDFW and the Water Board.
- Contradictions between the General Plan and the text of the initiative.
- Public notice requirements that exceed requirements in state law.
- Potential legal implications to vague language in the initiative, including language regarding multiple permits, permit renewals, and “inadequate water storage.”

We request that the Board of Supervisors consider whether it is appropriate for county counsel to assess these potential risks for litigation.

The County Should Assess the Administrability of HCRI Provisions

The Planning Department's report speaks to a number of issues which suggest that the HCRI, if passed, would be difficult or impossible to practically implement. We request further clarification



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from the Planning Department on whether they believe the provisions of the HCRI are practically administerable by the Department, and if so, what the anticipated costs of administering these provisions would be.

Thank you for your consideration,

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