

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADVISORY NEIGHBORHOOD COMMISSION 3A



Resolution RE Request to ABCA to Operate a Licensed Medical Cannabis Retailer at 3715 Macomb Street NW (ABCA-127009)

Top Level, LLC, is proposing to locate and operate a licensed medical cannabis retailer under trade name “Aligned” at 3715 Macomb Street NW (Suite 201, upstairs), which is in ANC3A03.

Currently Top Level has an establishment at that location, which has a license from the DC Department of Licensing and Consumer Protection to sell tobacco and other smoking products and is listed online as a “cannabis shop.” Like many “Initiative 71” (I-71) establishments that are not now licensed to offer cannabis products, Top Level is applying during the open application period that the DC Alcoholic Beverage and Cannabis Administration (ABCA) established (November 1, 2023, through January 24, 2024) for unlicensed operators that have been engaged in commercial cannabis transactions in the District at least since December 31, 2022, to apply for a license to operate as a licensed medical cannabis retailer, to provide cannabis flowers, cannabis concentrates, and a line of edible products at the requested location. The applicant is also requesting a Delivery Endorsement to be allowed to offer home delivery service to registered patients in Washington, DC.

Under DC law adopted in 2022, patrons at a medical cannabis dispensary in the District no longer need to present a prescription from a medical doctor in order to purchase products from a medical cannabis retailer; individuals can self-certify their need to use medical cannabis products.

District law and regulations provide that medical cannabis retailers must meet certain requirements including security. In addition, DC law prohibits consumption of cannabis products inside a licensed medical cannabis establishment or anywhere on the property or in public or private property other than the individual customer’s own home or apartment.

After receiving notice of Top Level’s application, the ANC invited the applicant to make a presentation about the request at the ANC 3A public meeting on January 16, 2024, and the applicant accepted.

Since that item was placed on the proposed ANC 3A public meeting agenda for January 16, which was posted the required 7 days prior to the meeting, the ANC has received multiple comments from constituents expressing concerns about the application, including about the potential for the proposed medical cannabis retailer to cause disruptions to peace, order and quiet in the community.

Nearby residents are particularly concerned about noise and traffic related to patrons coming and going from the establishment. The location is surrounded by family restaurants and is within 100 feet of several apartment buildings, and within a half block of a residential neighborhood of homes with many children and families.

Following the presentation about an application at an ANC 3A public meeting, the ANC has a practice of opening a month-long public comment period on the change the applicant is seeking.

That is the ANC's plan for addressing the Top Level request that has been submitted to ABCA for a medical cannabis retailer license in ANC 3A.

Based on that background and experience in other cases of this kind, the ANC's hope would be that the Commissioners and the community will be able to get more information about the planned establishment and the ANC can reach agreement with the applicant on mutually acceptable provisions to mitigate the potential adverse consequences to peace, order and quiet for the community. If that effort does not succeed and the ANC and the applicant cannot reach an effective agreement on terms to address local concerns under the "peace, order and quiet" provisions of the law, the ANC would normally submit a petition to ABCA to protest the application and participate in the protest hearings.

The ANC will also open a one-month public comment period about the Top Level license application to ABCA, extending from ANC 3A's January 16 public meeting through its February 20 public meeting; review all comments received in the two public meetings and in the public comment period; and take up the application again at the February 20 public meeting, with the intent of developing a more detailed analysis and response to the application.

Based on the comments received to date, it appears to be advisable for the Commission to have further discussions with the applicant about the plans for the operation and services at the proposed location, including the safety and security provided in and around the establishment, the nature of the proposed home delivery service, the location of the planned loading area or delivery pick-up point, as well as steps that can be taken to mitigate the potential for traffic and noise from individuals entering and leaving the establishment to disrupt the activities and lives of others.

At this time, in order to meet the protest petition deadline scheduled for February 5, 2024, under current laws and regulations (a date several weeks before ANC 3A can hold its February public meeting), the Commission resolves to:

- a) communicate to ABCA that the ANC is interested in taking a position on Top Level's application;
- b) announce a public comment period through February 20, 2024, for the community members to submit comments on the application, and review all comments received;
- c) continue to talk with the applicant and with constituents, including residents and nearby establishments, to identify concerns and discuss methods for mitigating potential adverse effects on the peace, order and quiet in the community due to noise, traffic, and other disruptions by individuals and vehicles coming and going from the establishment;
- d) seek a settlement agreement with the applicant to resolve concerns as appropriate and possible;
- e) submit a protest to ABCA regarding the Top Level, LLC, application (ABCA-127009) if the applicant does not submit information that addresses community about potential adverse effects on peace, order and quiet and/or the ANC and the applicant cannot reach an effective agreement on terms to address local concerns under the "peace, order and quiet" provisions of the law, by the time of the protest petition deadline of February 5, 2024;
- f) develop an official position on the application with more detailed provisions as needed, which the ANC could vote to approve at its February 20 public meeting and submit to ABCA in time for the Roll Call Hearing on the case on February 26, 2024, and/or the Protest Hearing on April 10, 2024.

The Commission understands that the DC Council approved emergency legislation on Tuesday, January 9, 2024, entitled "Medical Cannabis Program Enforcement Emergency Declaration Resolution of 2024" (proposed as PR 25-0589; adopted as resolution R25-0408) to change some provisions guiding ABCA in

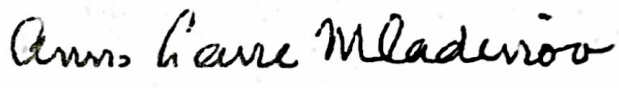
reviewing license applications for medical cannabis retailers and create jurisdiction over unlicensed establishments operating under "Initiative 71" who have not yet applied for a medical cannabis license.

The legislation also would provide for a 30-day extension of the usual ABCA 45-day public comment period on these applications and enable ANC's to file protest notices with ABCA regarding unlicensed businesses in their ANC areas who are applying for licenses as medical cannabis retailers. The emergency legislation will go into effect upon the Mayor's signature (or in the absence of her signature, if she does not veto the bill within 10 days), which means the status of the law will be known within the coming days. The ANC will continue to watch the progress of that legislation, and could alter its position and approach to this application if/when it goes into effect.

This resolution was approved by the Commission by a vote of 5 - 0 at its duly noticed public meeting on January 16, 2024, at which a quorum was participating. (Three of the five Commissioners constitute a quorum.) By the same vote, the Commission also designated the Chair or his designee(s) to represent the Commission on this matter.

Signed:


Chair


Secretary