



**Department of Excise & Licenses**

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Colorado Symphony Association  
Jerry Kern, President  
Colorado Symphony Association  
1000 14th Street, No. 15  
Denver, CO 80202

May 8, 2014

Re: Events on May 23, July 18 and Aug. 15, 2014

Dear Mr. Kern,

You have openly advertised that the Colorado Symphony will host events at The Space Gallery on May 23rd, July 18th and August 15th where marijuana will be openly consumed by your patrons. Advertisements indicate patrons are encouraged to bring marijuana to your event and consume it publicly. In consultation with the Denver City Attorney's Office, the Denver Department of Excise and Licenses and the Denver Police Department, we write to inform you that the event, as advertised, could violate both City and State law.

We provide you with this letter to dissuade you from hosting the event; however, if you go forward, we will exercise any and all options available to the City of Denver to halt the event and hold the business owners, event organizers responsible for any violations of law. We are also ready to hold individual attendees responsible for any violations of City ordinances or state law prohibiting public consumption of marijuana.

Amendment 64 permits the personal use of marijuana for adults over twenty-one and creates limited, permissible marijuana-related business enterprises. Immunity from prosecution under state and local laws granted for adult possession and consumption does not extend to smoking "openly and publicly or in a manner that endangers others." Colo. Const. Art. XVIII, Sec. 16(3)(d). State law and city ordinance both prohibit the open and public display and consumption of marijuana. See C.R.S. 18-18-406(5)(b)(I) and D.M.R.C. Sec. 38-175). The City Attorney has advised us that a venue, like the Space Gallery, may be considered a public place under Colorado law. Thus, openly smoking or consuming edible marijuana at an event at the Space Gallery may well be a violation of State laws prohibiting public consumption of marijuana.

In September of last year, the City of Denver passed ordinances governing four retail marijuana licenses, with no provision for a license to operate a club or venue that openly promotes the consumption of marijuana on premises. This ordinance also included the following broad prohibition:

It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of marijuana other than those forms of businesses and commerce that are expressly contemplated by section 16 of Article XVIII of the Colorado Constitution, the Colorado Retail Marijuana Code, or the Colorado Medical Marijuana Code.

D.R.M.C. Sec. 6-206(c).

The Colorado Clean Indoor Air Act also specifically imposes a criminal penalty on any person who “owns, manages, operates, or otherwise controls a premises” where unlawful smoking occurs. C.R.S. 25-14-208(1).

Additionally, your contract with Denver for the use of Boettcher Concert Hall requires compliance with all laws, expressly including federal law. The consumption of marijuana is illegal under federal law and the promotion of public marijuana consumption at a Colorado Symphony event may constitute a breach of contract with the City.

The applications for two special event permits that your organization submitted to Denver will be subjected to a public hearing to determine if the permits should be granted as provided for by state and local law. The advertisements promoting public consumption of marijuana will be examined at this hearing and will be considered as to whether the permit is issued or denied.

With the foregoing in mind, we advise that you cancel the effort to use your business to provide an event for the public consumption of marijuana in violation of local and state laws. Failure to follow the law may result in civil and criminal penalties.

Regards,

Stacie Loucks  
Director  
Denver Department of Excise & Licenses