



CITY OF

PORTLAND, OREGON

Ted Wheeler, Mayor
 Amanda Feltz, Commissioner
 Nick Fish, Commissioner
 Jo Ann Hardesty, Commissioner
 Chloe Eudaly, Commissioner

May 22, 2019

The Honorable Lee Francis Cissna
 Director U.S. Citizenship and Immigration Services
 20 Massachusetts Avenue NW
 Washington, DC 20529

RE: April 19, 2019 Policy Guidance - Controlled Substance-Related Activity and Good Moral Character Determinations

Director Cissna:

As the Portland City Council, we are alarmed at the policy guidance in the USCIS Policy Manual your office issued on April 19, 2019, "Controlled Substance-Related Activity and Good Moral Character Determinations."

We reject the premise that law-abiding business owners and community members deserve to be targeted by this guidance. This action is irrelevant and detrimental to creating a safe, predictable, free market.

The policy guidance states, "a violation of federal controlled substance law, including for marijuana, established by a conviction or admission, is generally a bar to establishing GMC [good moral character], for naturalization even where the conduct would not be a violation of state law."

It is outrageous to assert that a person following state law would not demonstrate good moral character.

The State of Oregon and the City of Portland have enacted laws governing cannabis businesses that are explicitly designed to encourage participation in a legal, regulated cannabis marketplace. These laws ensure that the product is tracked, well-managed, and safe to be used.

The legal cannabis industry must follow all the same rules that other businesses do to operate. More to the point, Extract Processors are required by City code to have all final commercial building permits, mechanical permits, and other trade permits before getting a license from Portland's Cannabis Program and are required by state law and rule to meet a similar standard. Portland City Code goes a little beyond State requirements for other kinds of Processors and for Producers, who must have at least an issued commercial building permit to obtain a Cannabis Program license.

Oregon's legal cannabis business community is subject to laws and policies including, but not limited to:

- International Fire Code
- Product testing for consumer safety through the Oregon Environmental Laboratory Accreditation Program
- Oregon Structural Specialty Code
- Compliance with the Oregon Department of Revenue
- Regulation by the Oregon Liquor Control Commission

- Meet State requirements to make products less appealing and less accessible to children

The City does not believe that participation in the free market should be discouraged because of one's race, culture, gender identity, or immigration status. This is why we strongly support a diverse, multicultural legal cannabis marketplace.

The outcomes of cannabis prohibition -- and yes, even current cannabis regulations -- are not equitable. Historic enforcement and prosecution of drug-related crimes disproportionately affected communities of color, and there are State restrictions on getting licensed if you have certain convictions, increasing the hurdle to licensure for communities of color. One estimation showed that less than 1% of cannabis retail businesses are currently owned by African Americans.

The City's Cannabis Program is taking action to address these inequities, including:

- Establishing a Social Equity Program in the Cannabis Program to reduce fees for businesses whose staff or owners have a cannabis conviction, and for businesses who contract with those on the Oregon's Minority-Owned, Women-Owned, and Emerging Small Business list
- Convening Portland's cannabis policy public advisory body this year with an explicit focus to recommend how Portland can support equitable policies and outcomes
- Managing of \$490,000 in Social Equity Grants funded by a portion of Portland's local tax on retail cannabis sales
- Advocating for changes in state law to create legal, safe spaces for adults to consume cannabis, which would make it less likely for racial minorities to be targeted by current restrictions on cannabis consumption in public

What Portland needs is a Federal partner in these efforts. Instead, your office's policy guidance is racist in both intent and outcome and makes our work toward an equitable business community more difficult.

Finally, any policy guidance that threatens one's immigration or citizenship status for following state and local law is not only immoral, it's counter-productive. By issuing this policy guidance, individuals will be forced to participate in the same unlawful, untracked cannabis marketplace that Oregon's and Portland's laws were meant to bring into regulation.

We ask that you rescind this guidance.

Sincerely,

Tad Wheeler
Mayor

Aminda Fritz
Commissioner

Nick Fish
Commissioner

Jo Ann Hardesty
Commissioner

Shirley Eudaly
Commissioner

CC: Oregon Congressional Delegation



**U.S. Citizenship
and Immigration
Services**

July 5, 2019

Mr. Ted Wheeler
Office of the Mayor
1221 SW 4th Avenue #340
Portland, Oregon 97204

Dear Mayor Wheeler:

Thank you for your May 22, 2019 letter regarding the USCIS policy guidance on “Controlled Substance Related Activity and Good Moral Character Determinations.”


Naturalization is the most significant benefit that U.S. Citizenship and Immigration Services (USCIS) bestows. It is Congress that established the requirements for naturalization in the Immigration and Nationality Act (INA). The INA states that to be eligible for naturalization, the individual must be a person of “good moral character” during the statutorily-prescribed period. Furthermore, the statute states that *any* violation of federal controlled substance law, evidenced by conviction or admission, with the single exception of simple possession of 30 grams or less of marijuana, precludes a finding of good moral character. *See* INA sections 101(f)(3), 212(a)(2)(A)(i)(II) (8 U.S.C. §§ 1101(f)(3), 1182(a)(2)(A)(i)(II)); 8 C.F.R. § 316.10(b)(2)(iii)-(iv).

The USCIS Policy Manual makes clear to officers that an admission of an offense must meet the long-standing requirements in order to constitute a valid admission for immigration purposes, while also noting that even if an applicant does not have a conviction or make a valid admission to a marijuana-related offense he or she may be unable to meet the burden of proof to show that he or she has not committed such an offense. Under the Federal Controlled Substances Act, the possession, manufacture, distribution or dispensing of marijuana is prohibited. The statute does not provide an exception to the requirements for good moral character where the controlled substance is decriminalized under state law. Marijuana, among other drugs, remains a Schedule I controlled substance regardless of its treatment under parallel state laws. It is the applicant’s burden to prove that he or she has met the requirements for naturalization, which includes establishing that he or she is a person of good moral character as defined in the INA.

Mr. Ted Wheeler
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Thank you again for your letter and interest in this important issue. Please feel free to share this information with the cosigners of your letter. Should you wish to discuss this matter further, please do not hesitate to contact me.

Respectfully,

A handwritten signature in blue ink, appearing to read "Ken Cuccinelli II". The signature is stylized with a large initial "K" and "C".

Ken Cuccinelli II
Acting Director