

## An Update on Cannabis Law & Residential Real Estate Industry

In the June edition of the *Reporter*, we drew your attention to illegal smoke and cannabis stores along with possible ramifications for owners. Following New York's legalization of marijuana in 2021, the city and statewide surge in retail dispensaries led New York Supreme Court Justice Kevin Bryant to block the state from processing or issuing marijuana dispensary licenses in August of this year.

The inability of regulators to thoroughly vet businesses and their owners, alongside a program that is at odds with state law, has made the path to legal businesses and licensure difficult. Between June and now, only three additional businesses have been registered with the Office of Cannabis Management (OCM) for a total of nine officially licensed sellers in the New York City area.

Between the health and safety issues of selling untested and unregulated products and loopholes in disclosing ownership, additional authority and enforcement have been provided to OCM.

To support owners, this past October Manhattan DA Alvin Bragg alongside OCM and The Real Estate Board of New York (REBNY) hosted a webinar discussing unlicensed cannabis shops and the real estate industry along with educating our members on the laws and possible liabilities should a ground floor commercial space be currently rented to one of these businesses.

To view the recorded webinar please visit the following link: <https://bit.ly/3u44L38> and use password: **t&+7d2jc**.

Revisions to the New York Cannabis Law were included in the State Fiscal Year 2023-2024 Budget to establish a comprehensive framework to address the spread of unlicensed cannabis shops

statewide. Greater enforcement actions by OCM were granted to include regular inspections of all businesses selling cannabis, along with empowerment of OCM to seek court-ordered injunctions closing orders, and removal of commercial tenants to ensure unlicensed stores cannot operate.

Nonetheless, the growth of unlicensed stores has exposed building owners to liability due to illicit drug sales. Cannabis Law 136 (5) states “**any person who, being the owner, lessee or occupant of any room, shed, tenement, booth, building, float, vessel or part thereof who knowingly permits the same to be used for the cultivation, processing, distribution, purchase, sale, warehousing or transportation of any cannabis, in violation of a possession limit in the penal law, known by the person to be illicit cannabis, is guilty of a violation**”. If you are an owner that has leased a commercial space to one of these businesses, whether knowingly or unknowingly, a Notice of Violation or Cease and Desist letter and a Notice of Petition will be served to you.

For building owners, a withdrawal of Petition by OCM can be made when illegal operators vacate the premises. A closing Order Vacated by the Court can be obtained when proof of unlicensed activity is abated, the undertaking is shown, and bond and proof of unlicensed activity is abated. OCM expressed their goal is to ultimately have these illegal businesses removed and will work with owners to make sure they are not held financially liable. Should you have a commercial tenant operating an illegal business, we advise you to consult your lawyer on these issues. ■



### SPECIAL WEBINAR:

**Program to Help Navigate – and Pay for! –  
Delays in Setting Up New Voucher Tenants**

Wednesday, November 29, 2023 at 10:00AM

RSA is pleased to suggest **Anthos|Home** as a resource to help navigate new voucher tenants and to help defray the cost of lost rent while an apartment is inspected and approved. We are hosting an informational webinar so RSA members can hear directly from **Anthos|Home**.

**Anthos|Home** is a pioneering new nonprofit organization working to reduce homelessness in New York City by improving the housing subsidy process for both tenants and housing providers.

**Register for the webinar at: <https://bit.ly/46j2uPn>**