



THE COUNCIL
OF

THE CITY OF NEW YORK

GALE A. BREWER

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COVID RECOVERY AND RESILIENCY

May 8, 2023

Chris Alexander
Executive Director
NYS Office of Cannabis Management
59 Maiden Lane
New York, NY 10038

Dear Mr. Alexander,

I was pleased to see Governor Hochul sign legislation to curb the illicit cannabis market as part of the FY 2024 state budget, and I understand the Office of Cannabis Management (OCM) is happy with the content of the bill. The new enforcement powers appear promising, but OCM must take a strong leadership role to coordinate state and city enforcement agencies for the changes to be successful.

I sent the enclosed letter to city and state officials on December 7, 2022 outlining the actions needed to identify and restrain illegal cannabis retailers, including 26 stores in my district. (To date, none have been closed, and at least five more have opened.) My letter was prescient—I encourage you to re-read it. On January 18, 2023, the City Council’s Committee on Oversight and Investigation, which I chair, held a hearing on the proliferation of illegal cannabis shops. Since then, investigators from the City Council’s Oversight and Investigation Division along with members of my staff have initiated dozens of meetings and conversations with city and state officials as follow-up. I know a lot about this topic.

I believe the response to unlicensed cannabis retail stores has been scattered and siloed. There is insufficient information sharing regarding store locations, landlords, and owners as well as failures to share evidence. I find the city’s response to this public health crisis unsophisticated and OCM’s role in assisting the city unfocused. I am not unsympathetic. Similar to e-bike battery fires and the influx of migrants, illegal cannabis shops are a new problem with no proven or prompt solutions. The new enforcement legislation provides new tools, but we need a foreperson, and OCM must take on that role.

The enclosed letter I received on May 4, 2023 from the West 55th Street Block Association illustrates the need for your leadership. I strongly urge OCM to be transparent with New York City residents about the new enforcement process. New Yorkers feel beleaguered and OCM needs to win their trust.

To that end, I request the following:

1. Make a public announcement and post publically how New Yorkers should report illegal shops and what they should expect as follow-up. I introduced a bill on April 27, 2023 to codify reporting using 311, but there must be an effective and trackable method in the meantime.
2. Submit and post publicly memorandums to the NYPD, Sheriff, District Attorneys, and the Law Department outlining the new enforcement capabilities for local law enforcement and how they should be used to support OCM.
3. Create a standard operating procedure for NYPD and the Sheriff's office regarding evidence collection from illegal cannabis shops including field testing and evidence sharing with OCM, District Attorneys, and the Law Department.
4. Create an interagency database of illegal cannabis retailers, owners, and landlords.
5. Create a task force in collaboration with the State Attorney General to investigate the supply chain of illegal cannabis products as well as operators who control multiple retail locations across the city.
6. Contact the West 55th Street Block Association right away to discuss next steps.

Finally, I offer you my ongoing assistance and partnership. As you know, I have been the most outspoken City Council member (or perhaps city official of any kind) on the issue of illegal cannabis retailers. I have also been among the most supportive of OCM, your mission, and your goals. Please call on me, my staff, and my committee for help. I am eager to see OCM succeed in eliminating illegal stores, and opening legal ones, within the social justice framework you developed so well.

I look forward to your prompt response.

Sincerely,

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive, slightly slanted style.

Gale A. Brewer

Enclosures

cc:

Attorney General Letitia James
Mayor Eric Adams
Speaker Adrienne Adams
All New York City Council Members
District Attorney Alvin Bragg
District Attorney Eric Gonzalez
District Attorney Melinda Katz
District Attorney Darcel Clark
District Attorney Michael McMahon
Acting Commissioner Amanda Hiller
Deputy Mayor Philip Banks

Commissioner Keechant Sewell
Hon. Sylvia O. Hinds-Radix
Sheriff Anthony Miranda
Executive Director Dasheeda Dawson
Christine Gorman, President, West 55th Street Block Association
Jesse Bodine, District Manager Community Board 4
Max Vandervliet, District Manager, Community Board 7



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December 9, 2022

Chris Alexander, Executive Director
New York State Office of Cannabis
Management
Harriman State Office Building Campus,
Building 9
Albany, NY 12226

Keechant L. Sewell, Commissioner
New York City Police Department
1 Police Plaza
New York, NY 10038

Preston Niblack, Commissioner
New York City Department of Finance
One Centre Street, 22nd Floor
New York, NY 10007

Sheriff Anthony Miranda
New York City Sheriff's Office
30-10 Starr Avenue
Long Island City, NY 11101

Vilda Vera Mayuga, Commissioner
New York City Department of Consumer and
Worker Protection
42 Broadway
New York, NY 10004

Matthew Fraser, Chief Technology Officer
New York City Office of Technology &
Innovation
2 MetroTech Center, P1
Brooklyn, NY 11201

Commissioner Kevin Kim
New York City Department of Small Business
Services
Cannabis NYC
1 Liberty Plaza, 11th Floor
New York, NY 10006

Dear Executive Director Alexander, Commissioner Sewell, Commissioner Niblack, Sheriff Miranda,
Commissioner Mayuga, Chief Technology Officer Fraser, and Commissioner Kim,

I write to express concerns over unlicensed cannabis sales in my district and throughout New York City. Like many on the Upper West Side, I support the Marijuana Regulation and Taxation Act (MRTA) and consider the legislation, with its robust social equity provisions, the strongest cannabis law in the country. However, absence of its enforcement in these early days threatens to undermine the law's intent before the legal market even takes shape.

In addition to immediate public health risks associated with selling unregulated ingestible and combustible cannabis – including to New Yorkers under age 21 – I am concerned that the free-for-all environment will become entrenched and disincentive sellers from seeking licensure at all. Licensed sellers will be forced to compete with unregulated (presumably less expensive) stores, and the city and

state will miss out on much needed tax revenue—tax revenue also meant to fund the MRTA’s laudable social equity initiatives. I have also heard reports that unlicensed retailers are falling prey to armed robbery.

I recently sent my staff to canvas every block of the council district to determine the number of illicit cannabis retailers (the district encompasses most of the Upper West Side from 108th Street to 54th Street). They visited 61 storefronts that sell tobacco products or smoking accessories and found cannabis is available at 26 locations (twenty-six!), from bodegas and delis to smoke shops and newsstands. All but four of the retailers also sell tobacco products and/or electronic flavored and unflavored “vaping” products (more than a few also lack licenses to sell tobacco, according to the City’s Open Data Portal). As you know, only four retail cannabis licenses have been awarded for all of Manhattan, and 36 for all of New York State. None of these retailers have opened for business.

There is no ambiguity in the law: it is illegal to sell cannabis without a license. The ambiguity lies in who can and should enforce it. It is my understanding that the NYC Department of Consumer and Worker Protection (DCWP) does not have the authority to enforce cannabis-related regulations; the NYPD has reportedly directed precincts not to enforce cannabis-related laws; and the New York State Office of Cannabis Management (OCM) only has authority to issue licenses and intervene with retailers that are already licensed. It is my understanding that further legislation will be introduced in Albany to give OCM the power to enforce the law, which I support.

The NYC Department of Finance (DOF) and the NYC Sheriff’s Office regularly inspect tobacco retailers for untaxed cigarettes and, during the course of these inspections, have the authority to seize illegal products and issue civil violations. NY1 reported in October that during the course of a tobacco inspection, the NYC Sheriff’s Office “seized marijuana and bags filled with illegal tobacco products like vapes and untaxed cigarettes from a smoke shop on Staten Island.” Sheriff Miranda stated at the time: “These are routine inspections of stores who are selling illegal cigarettes and other tobacco products, and most of the time, when we do these inspections, we also find other illegal items in the stores, from vaping products to flavored products such as marijuana pills.”

To be clear, I do not want to see unlicensed cannabis sellers enter the criminal justice system for anything less than severe criminal conduct that threatens public safety, but the need for consistent seizure and civil penalties to curtail unlicensed sales is apparent. While OCM and the City of New York work to codify MRTA enforcement roles and responsibilities, I ask that DOF and the Sheriff’s Office expand the use their existing authority over tobacco retailers to seize cannabis products and issue civil penalties. I also ask that DOF, the Sheriff, DCWP, and NYPD coordinate on these efforts to target retailers that are selling tobacco and vaping products without a tobacco license. DCWP has clear and robust enforcement powers in such instances.

Additionally, I urge all addressees to identify more measures to protect the emerging legal program, such as revocation of Certificates of Registration at retailers with repeat offenses, a public information campaign to educate consumers on why buying from a licensed seller matters, and the use of public nuisance laws to hold knowledgeable landlords accountable for illegal cannabis retailers operating in their buildings (which was successful in curtailing the sale of counterfeit goods on Canal Street).

I also ask that NYC Office of Technology & Innovation (OTI) coordinate with OCM to implement a

consistent way for constituents to submit complaints through 311 to ensure their concerns are being documented and directed to the proper authorities. Depending on the operator, constituents report being told to register complaints with DCWP, the NYPD, 911, and/or OCM. There must be clarity on how to triage all cannabis-related complaints. It would also be helpful for OCM to share complaint information with the City of New York.

I also ask for information and clarity on two things:

1. We are all cognizant of extreme municipal vacancies and the impact on daily government operations. At each of your agencies, what is the current capacity for inspections of tobacco and cannabis retailers in the five boroughs? How many vacancies exist for relevant inspection and oversight staff? What is the status of so-called secret shopper programs, including those that utilize young people? What resources are needed to make enforcement more robust?
2. Regarding the siting of cannabis dispensaries: An October 11, 2022 article in Vox reported that Conditional Adult-Use Retail Dispensary (CAURD) license recipients will get access to turnkey storefronts made possible by a \$200 million social equity cannabis fund. How will these storefront locations be determined and how do they align with equity and saturation goals? When an individual wins an award, what is the process to find a storefront? What role will the Community Boards play in the process?

Thank you for your prompt attention to this matter. While walking to a City Council hearing this week I came across a brand new smoke shop at 253-255 Broadway, which is directly across from City Hall. The store opened on December 5, according to the clerk, and stocks a sizable variety of cannabis flower, concentrate, and edibles (as well as vape tobacco products). The City of New York must be a strong partner to OCM for the successful rollout of the MRTA.

I look forward to your response.

Sincerely,

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive, flowing style.

Gale A. Brewer
Chair, Committee on Oversight and
Investigations

Goldsmith, Sam

From: West 55th Street Block Association <west55ba@gmail.com>
Sent: Thursday, May 4, 2023 5:11 PM
To: simonet@nyassembly.gov; rosenthall@assembly.state.ny.us; hoylman@nysenate.gov; District6; District3; OCONNELL, JOHN; strazae@dany.nyc.gov
Cc: anthonywsimone@gmail.com; mtighe25@gmail.com; ebottcher@gmail.com; Gale Brewer; Goldsmith, Sam; Wilson, Carl; Feiner, Jordan; BELLANTONI, ANTHONY; DUGAN, MICHAEL
Subject: [EXTERNAL] We warned you! Unlicensed smoke shop opens at 301 West 55th
Attachments: 301W55_20230501_neon_joint_closeup.jpg; Canna_gummies_tropical.jpg; 301W55_20230501_neon_joint.JPEG; THC_orange_front.jpg; THC_orange_back.jpg

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Dear Assembly Members Tony Simone and Linda Rosenthal, Senator Brad Hoylman-Sigal, Council Members Erik Bottcher and Gale Brewer, District Attorney Alvin Bragg and Deputy Inspector O'Connell (Midtown North)

We have been warning you since last September that this would happen and now it has.

The unlicensed smoke shop at 301 West 55th (e.g. Exotics Town Convenience Store) opened its doors to customers today.

A worker inside the Exotics Town Convenience Store told a local resident that they expect to be selling cannabis next week. They are already selling flavored nicotine products, which **ARE ILLEGAL in NYC** as well as THC gummies, which are legal but may only be sold by those with a [cannabinoid hemp retail license](#). See [Section 114](#) of the Rules and Regulations of the State of New York, pursuant to Sections 13 and 91 of the Cannabis Law. They **DON'T** have a license to sell tobacco, nicotine, cannabinoid hemp or cannabis products.

The owner(s) of the Exotics Town Convenience Store is flagrantly violating multiple laws and regulations, has lied about his intentions to both the landlord, residents and the staff members from Council Member Erik Bottcher's office in the past and is likely to continue to do so.

What does it take to get action?

The facts:

- 1) The Exotics Town Convenience Store at 301 W55 **DOES NOT** have a license to sell cannabis or cannabinoid hemp products.
- 2) The Exotics Town Convenience Store at 301 W55 sold a local resident flavored "Canna THC-O mango and tropical punch gummies" for \$10 each. (See attached photos.)
- 3) The Exotics Town Convenience Store at 301 W55 **DOES NOT** have a license to sell tobacco or nicotine products.

4) Because [NO NEW TOBACCO OR E-CIGARETTE retail licenses are currently available](#), there is no way the Exotics Town Convenience Store or any other store at 301 West 55 is ever going to get one.

5) Flavored tobacco and nicotine products are [BANNED in New York State generally and New York City specifically](#) in large part because they are believed to target minors.

6) Flavored nicotine products, including [Fume double apple, strawberry banana, blueberry mint](#), are clearly visible and available for sale at the Exotics Town Convenience Store at 301 West 55.

7) Students from the [High School for Environmental Studies](#) use West 55th Street every morning and afternoon on their way to and from school.

8) Unlicensed cannabis stores, which do an all-cash business, are magnets for robberies, stabbings and other crimes. We have had [two shootings](#) in the past [three weeks](#) in Hell's Kitchen that were linked to unlicensed cannabis shops.

9) A [fire at an unlicensed cannabis shop on West 52nd](#) last week took 100 firefighters to put out, endangered multiple residents, required the City to issue an immediate vacate order for the building, and heavily damaged a nearby restaurant. We still don't know the cause of that fire.

10) Zengas "jet lighters" have been observed for sale at Exotics Town Convenience Store. Unlike ordinary lighters, which the company labels as "boring," [Zengas lighters](#) shoot their flames out more like a butane torch. What is the fire safety plan at 301 West 55th Street? Are the people who live in the apartments at 301 West 55th Street in danger from a fire at the store?

11) The shop owner(s) has made a habit of disregarding regulations ever since signing a lease in 2022. For example, workers erected a sign over a weekend last month for which they do not acquire a permit. The sign is 40 square feet and set up to be illuminated--both actions are in violation of NYC regulations. [Complaint #1632487](#); 311 reference number 311-13933938)

12) The Exotics Town Convenience Store at 301 West 55 has added a neon sign inside the store premises of a pink hand smoking a marijuana joint (photos attached). The identical sign is on sale on [etsy.com](#) and is clearly labelled as "[pink smoking hand with joint](#)."

13) A DOB inspector issued a summons ([ECB violation 39084091Z](#)), which the shop owner (or his agents) promptly tore down.

14) The landlord for 301 W55 is Jacob Dyckman (cc'd here) of Montgomery Trading. His phone number is 212-819-0355. Now [that the budget is passed, he should be fined \\$10,000 per day](#) for allowing this unlicensed cannabis shop to open. His email is jacobdyckman18@gmail.com

15) The tenant of record for the shop at 301 West 55 is Rashid Nasher, 201-22 Epsom Course, Queens Village, NY 11427. The following phone number is registered to him at that address: 917-662-5510.

Our Block Association newsletter has more history [here](#), [here](#), [here](#) and [here](#).

We need this store shut down. It is a public nuisance, a potential fire hazard and is stealing revenue from both the state and licensed cannabis shop owners, many of whom are black, who are doing their best to abide by the rules.

On behalf of the residents of West 55th Street, **WE NEED YOU TO ACT**, not just pass along information.

Christine Gorman

--

President, The West 55th Street Block Association

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