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Mayor

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May 4, 2026

Hon. Richard Furlow, Chair  
City of New Haven  
Board of Alders Legislation Committee  
165 Church Street, 2<sup>nd</sup> Floor  
New Haven, CT 06510

Re: Corporation Counsel Responses to Legislation Committee,  
RERACA Amendments

Dear Alder Furlow, and Honorable Members of the Committee

On behalf of the Office of the Corporation Counsel, please accept the following clarifications in response to committee members' questions regarding the proposed adoption of the municipal authority to issue civil violations and civil penalties as authorized by the RERACA C.G.S. Sec. 21a-420c (the "Act").

At the Committee hearing, members of the committee posed the following questions:

1. Alder Rodriguez asked why the legislation proposed that the Executive Director of the Livable City Initiative ("LCI") to be the City's designated enforcement officer for the issuance of civil violations and civil penalties authorized by RERACA, and suggested that perhaps it should be the Health Director, as the City has recently enacted an ordinance requiring licensing of tobacco retailers, which is overseen by the Director of Health, or perhaps the Economic Development Administrator or the Building Official as he is already the designated zoning enforcement Officer.
2. On a similar note, Alder Marchand asked that this office review and vet with the Mayor's Office which official should be designated as the enforcement officer under Sec. 21a-420c.
  - At the time of the initial submission our office selected the LCI Director, essentially as a placeholder, but also because LCI has recently updated its anti-blight and residential rental licensing procedures and had updated and streamlined its appeals procedures.

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- In the amended submission we have recommended the Economic Development Administrator (the “Administrator”) or his designee. This will provide some operational flexibility as the Administrator oversees multiple enforcement departments including the Building Department which manages Zoning Enforcement Operations as well as LCI. This will allow the Administrator to evaluate which department is best equipped and staffed to take on the additional enforcement operations.
3. Alder Marx asked the broad question of what constitutes a violation of the statutes and the ordinance which would subject a person to the significant penalties authorized by the Act.
  4. Alder Marx further asked whether the Mayor’s authority to apply to the Superior Court for an Order which “may issue . . . ex parte and without a hearing” to seize from and take remove any merchandise or proceeds related to a violation of C.G.S. 21a-420c from a business operating in violation of C.G.S. 21a-420c or poses an immediate threat to public health and safety implicates the Due Process Clause, and further what the City is authorized to do with the seized merchandise or proceeds.
    - Upon its passage RERACA created a procedure for the legalized cultivation, manufacture, delivery and sale of cannabis products in Connecticut for adult recreational use. The RERACA system is based on a comprehensive licensing scheme by which state *licensed* cultivators, manufacturers, delivery agents, and retailers can legally cultivate, manufacture, deliver and sell or offer at retail cannabis products.
    - RERACA also expressly prohibits any *unlicensed* cultivation, manufacture, delivery, offering, or sale of cannabis products. The Act also deems unlicensed cannabis activity to be deemed to be an Unfair Trade Practice. Thus, a violation of RERACA is any unlicensed cultivation, manufacture, delivery, offering, or sale of cannabis products – in excess of the home cultivation and use limit. Any person violating RERACA is subject to the \$30,000.00 civil penalty and any business engaged in unlicensed sale of cannabis products is subject to the seizure of any merchandise related to the violation as well as any proceeds from such unlicensed sale.
    - As RERACA is still a relatively new statute, there is very little case law discussing the Act. However, it is the opinion of this office that the statute’s authorization of an application for a seizure order which may issue ex parte and without hearing does not violate the Due Process Clause of the Fourteenth Amendment and the statutory requirements adequately address Due Process concerns.

The City must first identify and document activity that would constitute a violation of the Act. The City may then apply to the Superior Court for an order to seize any merchandise or proceeds related to a violation of the Act. Concurrently, the City must provide a copy of the application to the Office of the Attorney General and the Commissioner of Consumer Protection.

The Superior Court may then issue the seizure order only after making a finding that there has been a violation. Reasonably this requires the City to identify and produce evidence of the violation upon which the court could make a reasoned finding of violation. The requirement that the City submit written copies of the application to the AG and to DCP provides an opportunity for state review of the application, and potentially intervention. Further, there is nothing in the statute to prevent the court from ordering a hearing to show cause prior to issuing the seizure order.

- Finally, we have spoken with the Office of the Attorney General and the staff attorneys for the Department of Consumer Protection (“DCP”), the designated licensing and enforcement agency for the State in RERECA matters, requesting guidance about the City’s responsibilities regarding any merchandise or proceeds seized. DCP attorneys have advised that because the seizure Orders direct the Police Department to undertake the seizure, and in most instances the seizures will also incur criminal referral, the seized merchandise will simply be managed in the same manner as evidence in a criminal matter. We will continue to coordinate with DCP as the agency has developed expertise in overseeing destruction of seized merchandise and managing seized proceeds.

Respectfully Submitted,

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