

NEW: Arbitrator rules Tracy pot club ``a public nuisance''

By Mike Martinez, Staff Writer
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TRACY - An arbitrator has ruled a medical marijuana dispensary that opened more than two months ago isn't allowed in downtown Tracy, and ordered it to be closed by Feb. 9.

After being open for about two weeks, the Valley Wellness Cannabis Collective was ordered in November by city officials to ``discontinue the non-listed use of distributing medical marijuana" in Tracy by Dec. 5.

Jeanne Schechter, Merced's assistant city attorney and the arbitrator in the case, ruled the dispensary could appeal the order, which allowed for the Jan. 4 hearing she presided over. But she also ruled that the dispensary isn't a pharmacy and doesn't fall under allowed uses in city code.

In her seven-page ruling, Schechter said the collective ``is considered a public nuisance" under city codes.

``(The) Tracy Municipal Code ... provides that unauthorized uses are prohibited," Schechter wrote. ``The (collective) does not fall within any unconditionally permitted uses within the (Central Business District) Zone and as such, is an unauthorized use in violation of the Tracy Municipal Code."

Although there is nothing in the city code specifically banning medical marijuana dispensaries, there's also nothing that allows for it.

Matt Robinson, a spokesman for the city of Tracy, said the ruling was good news for the city, which has seen two marijuana dispensaries open in the past two years, the first two ever to open in San Joaquin County.

``The city is pleased with the arbitrator's ruling," Robinson said. ``If the cannabis club wishes to appeal, the city will defend its position. We feel we are right in doing so."

Attorneys for the collective were unavailable for comment Tuesday morning. _

In 1996, California voters passed Proposition 215 -- the Compassionate Use Act -- providing the seriously ill with the right to obtain and use marijuana for medical purposes.

The San Joaquin County District Attorney's office interprets the retail sale of marijuana, even those who have a doctor's recommendation, as illegal.

Mike Martinez can be reached at (209) 832-3947 or at mmartinez@trivalleyherald.com.