

3. Burden of Proof: The court placed the burden of proving whether or not a material change in circumstances had occurred on the county.

Applying the Test to the County's 2016 Moratorium and 2017 Ban on Dispensaries Turning to the County's ordinances regulating marijuana dispensaries, the court concluded a material change in circumstances had occurred since repeal of the 2011 ban in response to the referendum petition. **2016 Moratorium Validly Enacted** The court considered whether changes in the composition of the Board or voter approval of a measure restricting medical marijuana dispensaries to industrial zones indicated a shift in voter attitudes toward marijuana dispensaries but found the evidence inconclusive. Likewise, neither the passage of the Medical Marijuana Regulation and Safety Act in 2015 nor changes in case law were sufficient to establish a material change in circumstances surrounding county-level regulation of marijuana dispensaries. However, the court found that additional information contained in findings supporting the 2016 moratorium represented a material change in circumstances. These included the increased amount of County resources spent on new dispensaries (*e.g.* police responding to dispensary robberies) and information about the negative effects of legalization in Colorado, including increased traffic incidents and hospitalizations. Because circumstances had materially changed, the court held, the 2011 referendum no longer barred the County from adopting a moratorium. **2017 Ban Validly Enacted** Next, the court analyzed whether changes in marijuana regulation following the 2016 moratorium also constituted a material change in circumstances and concluded that they did. The court reasoned that Proposition 64 and the Medical and Adult-Use Cannabis Regulation and Safety Act of 2017 constituted a material change viewed in light of the totality of the circumstances. Based on these changes, the Board could reasonably infer that a larger number of dispensaries would increase the strain on County resources and cause the negative impacts documented in the Colorado legalization report. Thus, the 2017 ban was likewise valid notwithstanding the earlier referendum.