

AACO Realty Corp  
380 Dwight Street, #6  
Holyoke, MA 01040

City Council  
% Jeffery Anderson-Burgos  
Administrative Assistant to the City Council  
Holyoke City Hall  
536 Dwight St, Room 10  
Holyoke, MA 01040

27 July, 2022

**Failure to enforce city ordinances - Complaint**

Councilors:

Please accept the following notice of official complaint.

We own and operate the building at 380 Dwight Street, Holyoke. Following an inquiry from our tenant, Holyoke 420 LLC, a licensed marijuana retail store, we had cause to examine some of the requirements imposed upon both the applicant and the building owner by the special permit and the ordinances as a whole. These observations led us to believe that our tenant may be in violation of the terms and conditions of their special permit and city signage ordinances.

We believe the following to be true and of concern::

1. Their special permit application was presented to the city council without the business owners signature. Holyoke 420 LLC signed on our behalf without our authorization. This was likely an honest mistake but means that we were not privy to the final agreement between the city and the applicant until recently. Attorney Bissonnette has conceded that the document should have been signed by AACO Realty Corp, while Director Vega notes that this is a "common mistake".
2. The tenant has added considerable additional space to his retail store which naturally benefits AACO Realty Corp. We believe that the city requires amendment of the special permit if the applicant's "designated square footage" changes, however. This has not been done.
3. The tenant is conducting business operations outside of the "designated square footage" shown in their special permit submission. They are aware of this but refuse to comply.
4. The tenant is in violation of multiple signage violations.
5. The tenant is in violation of their lease agreement.

In accordance with city ordinance we compiled and submitted the attached notices of violation to the Building Commissioner Damien J. Cote. We were surprised and astonished to be informed by Commissioner Cote that no action would be taken to address these serious violations due to lack of staff. I sympathize with his position but find it to be completely

unacceptable. If the city's capacity to enforce its own ordinances is as compromised as Commissioner Cote suggests, I propose that the city immediately consider suspending the issue of further Host Community Agreements to cannabis businesses, and issue a moratorium on non-essential building permits, if that may be lawfully achieved, until such times that Commissioner Cote has rebuilt his team and has the capacity to fulfill his enforcement duties.

Holyoke 420 LLC has chosen to engage in one of the most heavily regulated industries in the commonwealth. State regulations and city ordinances should protect all parties; citizens, property owners, business owners, and the city. Our ordinances serve an essential function. It is meaningful when they are fairly administered and judiciously enforced. It is unacceptable that reports of violations be so casually dismissed. Holyoke 420 LLC should be well aware of city ordinances, and the terms and conditions of their special permit. Until recently, despite our objections, they had placed an unpermitted ATM in our common foyer space (removed on the advice of Director Vega, I believe). It is a condition of their state marijuana license that they devise a "plan to remain compliant with local zoning". We believe this plan has failed and that the violations reported to Commissioner Cote are correct and justified.

Much of our current conflict with our tenant would have been eased if we had been privy to the contents of the final special permit before the city council voted. This was the responsibility of the applicant. We find ourselves in a "David and Goliath" battle. Our tenant earns around 200 times more than AACO Realty Corp and has the financial resources to reserve a substantial "war chest" for legal fees. Holyoke 420 LLC hopes to file an injunction with the superior court to prevent us from taking any action that may lead to their eventual eviction, which may include submissions to the city council such as this. We stand alone trying to protect our business from the liabilities that our tenant's perceived violations may pull down upon our head, and simply ask that the city council ensure enforcement of the city ordinances without favor or prejudice.

Yours sincerely,

Mark Jarvis

President, AACO Realty Corp

Damien:

Thank you for you message. We empathize with the difficulties that a lack of staff must present. This is, no doubt, frustrating. Unfortunately, the building department's inability to act is unacceptable to AACO Realty Corp. We shall raise our concerns regarding your difficult position to the Mayor and city council while considering any administrative or civil solutions that may be available to us.

Best,

Mark

On 7/26/2022 12:45 PM, Damian Cote wrote:

Good afternoon,

We will put this in our system as a complaint.

As of right now we are down to 4 full time staff. With this we are unable to work on this in a timeline that folks in the public would prefer.

With just Kevin and I in the office our priority is to fill the positions and get new hires trained in how to handle these complaints.

Thank you

On Mon, Jul 25, 2022 at 11:47 AM Mark Jarvis <[greek2me.mark@gmail.com](mailto:greek2me.mark@gmail.com)> wrote:

Mr Cote:

Please find the attached for your urgent consideration.

Many thanks,

Mark Jarvis

--

Damian J Cote  
Building Commissioner

Room 300  
20 Korean Veterans Plaza  
Holyoke, MA 01040  
Phone 413-322-5600  
Fax 413-322-5601  
[www.holyoke.org](http://www.holyoke.org)

Office hours; 700-930am and 1-2 Monday-Friday and 430-6 Wednesday

AACO Realty Corp  
380 Dwight Street, #6  
Holyoke, MA 01040

Building Commissioner, Damian Cote  
City of Holyoke Building Department  
City Hall Annex  
Room 300  
20 Korean Veterans Plaza  
Holyoke, MA 01040

25 July, 2022

### **Violations of Holyoke City Ordinances**

Commissioner Cote:

I recently had cause to read a tenant's (Holyoke 420 LLC) special permit submission and was alarmed to learn of certain commitments made therein by the applicant on our behalf and without our authorization. These commitments have caused great harm and inconvenience to our business operations. We have shared our concerns at a meeting with Mayor Garcia attended by Mr Vega, and Attorney Bissonnette.

### **Authorization of the Special Permit application**

AACO Realty Corp provided Holyoke 420 LLC with an affidavit that affirmed that the applicant has the right to use the site for a marijuana establishment. AACO Realty Corp did not (and were not invited to) authorize and sign Holyoke 420 LLC's special permit application. Instead, this application was signed by the applicant themselves, effectively approving the whole on AACO Realty Corp's behalf. Attorney Bissonnette has confirmed that the form in question should have been signed by both the applicant, Holyoke 420 LLC, and the property owner, AACO Realty Corp. Mr Vega has stated that this failure to seek the property owner's signature is a common mistake.

This unfortunate usurpation of our authority has led to a series of circumstances that demand consideration. Certain of these terms and conditions may cause AACO Realty Corp considerable expense and inconvenience and deprive us of future income.

### **Foyer space**

Holyoke 420 LLC currently uses the common foyer space outside their retail store to conduct security and ID checks. This is clearly a business operation and a clear violation of section 7.10.5 Operational Requirements which states;

- 1) Use:
  - a) Marijuana establishments may only use their designated square footage for the purposes of operating such an establishment, as encompassed in this Ordinance.

As the foyer space is **not** part of Holyoke 420 LLC's "designated square footage", their current use appears to constitute a violation of the terms and conditions of their special permit.

Holyoke 420 LLC's proposal to install a "security window" in the common foyer space through which they may conduct screening fails to address our primary concern of restricted ingress and egress through the common foyer space due to lines of customers. This situation is exacerbated by Holyoke 420 LLC's decision to essentially occupy 282 square feet of valuable commercial space with neither permission, nor offer of payment.

Neither Holyoke 420 LLC, nor AACO ever intended that security and ID checks should take place in the common foyer space. Holyoke 420 LLC's special permit submission clearly outlines AACO's understanding of how space would be used. Their security and ID activities were to take place entirely within the envelope of their leased space. Furthermore, this was the planned use that was approved by the city council. 935 CMR 500.000 does NOT require that such screening activities be performed outside the store. Many marijuana retail stores choose to conduct security screening within the store itself.

I ask that you examine this concern and, where required by the ordinances, enforce the alleged violation. Please notify me in writing, of any action or refusal to act, and the reasons therefor, within fourteen days of receipt of this request.

### **Vault**

Holyoke 420 LLC currently leases unit #4 which adjoins unit #3, their retail store, for the purposes of marijuana storage. This space has been adapted to function as a vault. Holyoke 420 LLC have not sought an amendment to their special permit to incorporate this storage into their "designated square footage". This is clearly a business operation and a clear violation of section 7.10.5 Operational Requirements which states;

2) Use:

- a) Marijuana establishments may only use their designated square footage for the purposes of operating such an establishment, as encompassed in this Ordinance.

As the vault located in unit #4 is **not** part of Holyoke 420 LLC's "designated square footage", their current use appears to constitute a violation of the terms and conditions of their special permit.

I ask that you examine this concern and, where required by the ordinances, enforce the alleged violation. Please notify me in writing, of any action or refusal to act, and the reasons therefor, within fourteen days of receipt of this request.

### **Parking**

Holyoke 420 LLC currently leases eight (8) parking spaces. Holyoke 420 have chosen to use one of these spaces for their dumpster. Thus far this has not been a problem as all tenants have shared all parking spaces, cooperatively allowing Holyoke 420 LLC access to far in excess of the eight parking spaces required in their special permit.

Recently, Holyoke 420 LLC demanded that their parking spaces be assigned to them - which is their right - and that they be allowed to place reserved parking signage. As they have used one parking space for their trash dumpster we are only able to designate a further seven (7) parking spaces for their use which falls below the number stated in their special permit.

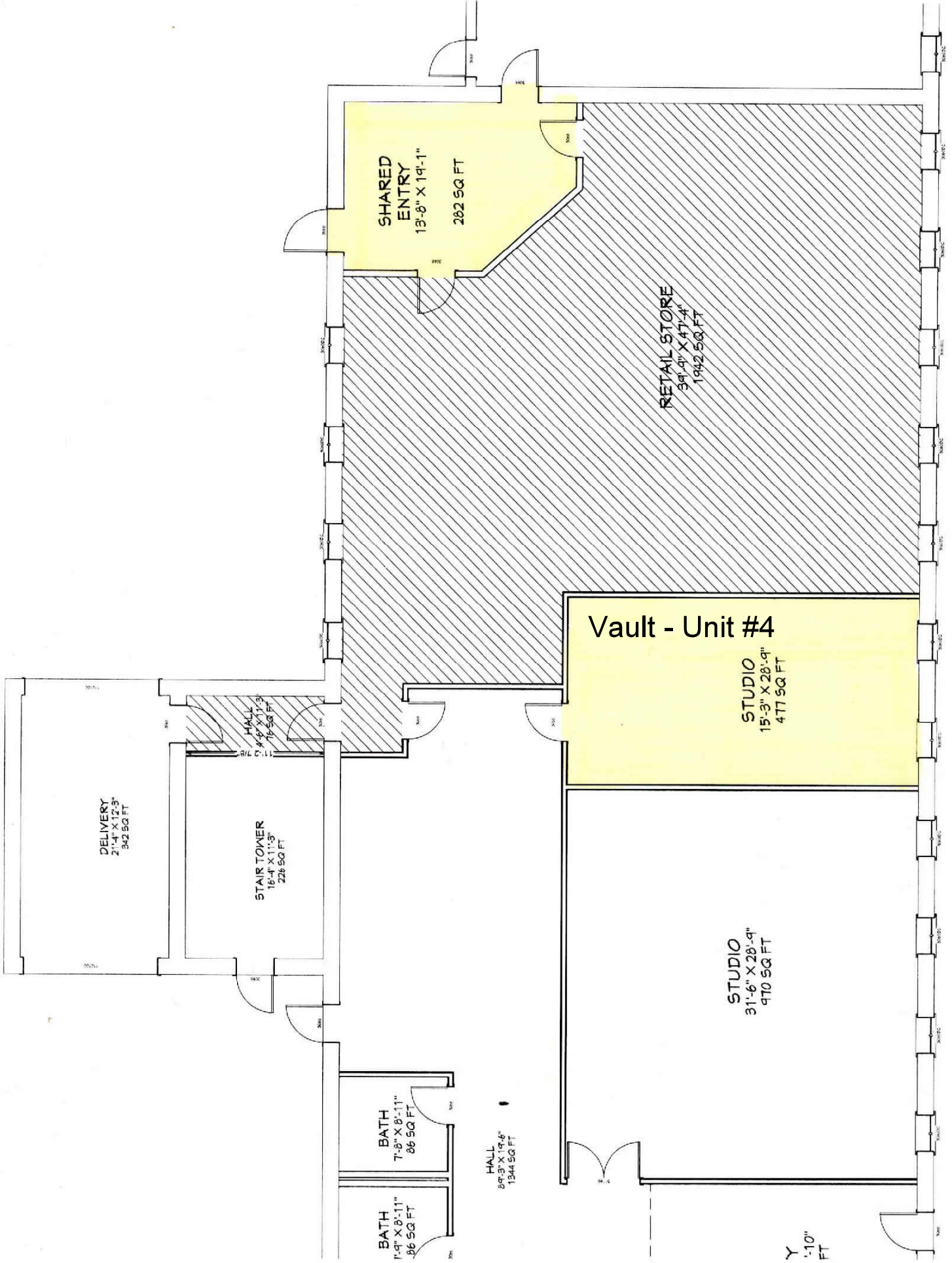
I ask that you examine this concern and, where required by the ordinances, address the alleged violation. Please notify me in writing, of any action or refusal to act, and the reasons therefor, within fourteen days of receipt of this request.

**Summary**

AACO Realty Corp is fully prepared to take part in any speedy process that would address the business, legal, and liability concerns that these violations represent.

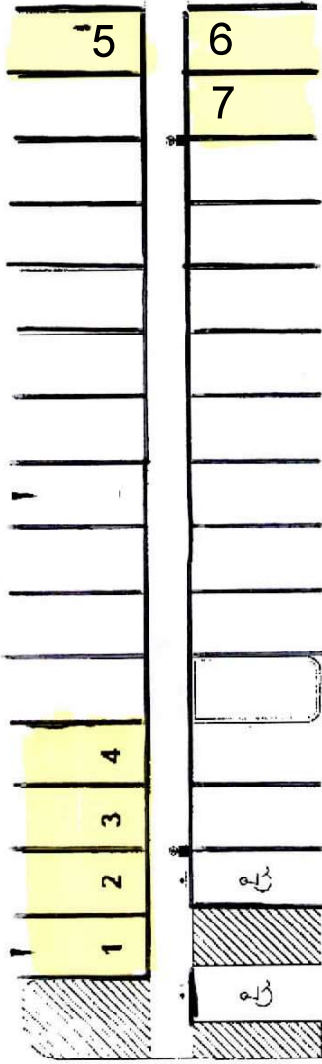
Sincerely,

Mark Jarvis  
President, AACO Realty Corp



PROPERTY LINE

DESIGNATED SPACES FOR HOLYOKE CANNABIS



(SEE SHEET L002 FOR SIGNAGE DETAILS)

SIGN #2  
50 SQFT

SIGN #1  
75 SQFT

HOLYOKE CANNABIS DUMPSTER LOCATION

EXISTING 2-STORY

SIGN #3  
72 SQFT

SIGN #4  
12 SQFT

BIKE RACK

ENTRY

BOLLARDS AT ENTRY

UNIT #3

PROPERTY LINE



AACO Realty Corp  
380 Dwight Street, #6  
Holyoke, MA 01040

Building Commissioner, Damian Cote  
City of Holyoke Building Department  
City Hall Annex  
Room 300  
20 Korean Veterans Plaza  
Holyoke, MA 01040

25 July, 2022

### **Violations of Holyoke City Ordinances**

Commissioner Cote:

I believe that temporary signage used by Holyoke 420 LLC at their place of business at 380 Dwight Street, #3 is in violation of Appendix A - Zoning - Section 6. General Requirements, sub-section 6.4 Signs.

I ask that you examine these concerns and, where required by the ordinances, enforce the following alleged violations. Please notify me in writing, of any action or refusal to act, and the reasons therefor, within fourteen days of receipt of this request.

#### **Sail Flag** - (see Appendix A. item 1)

Holyoke 420 LLC is displaying a so-called sail flag in the parking lot outside the entrance to the common area that leads to their store. This flag is approximately 20 square feet in size. I believe this to be a violation of one or more of the zoning ordinances found under 6.4 - Signs:

6.4.1 General. For the purposes of this ordinance, any business or advertising sign exceeding **six square feet in area shall be considered a separate structure and shall require a permit for its erection**, alteration, or reconstruction.

6.4.3 Special regulations.

7. Temporary sign. Temporary signs shall include fixed signs, portable signs, banners, inflatables, balloon signs, sandwich boards, and other similar signs. Temporary signage greater than **six square feet in business and industrial districts shall require a permit** and shall comply with section 6.4.6. Temporary signs less than six square feet shall be allowed in all districts without a permit, and not more than one sign shall be placed per business except in the case of a corner lot where two signs are permitted (one facing each street).

**Advertising flag** - (see Appendix A. item 2)

Holyoke 420 LLC is displaying a branded advertising flag on the wall at the entrance to the common area that leads to their store. I believe this to be a violation of the following zoning ordinance found under 6.4 - Signs:

6.4.3 Special regulations.

7. Temporary sign. Temporary signs shall include fixed signs, portable signs, banners, inflatables, balloon signs, sandwich boards, and other similar signs. Temporary signage greater than six square feet in business and industrial districts shall require a permit and shall comply with section 6.4.6. **Temporary signs less than six square feet shall be allowed in all districts without a permit, and not more than one sign shall be placed per business** except in the case of a corner lot where two signs are permitted (one facing each street).

**Sandwich Board** - (see Appendix A. item 3)

Holyoke 420 LLC is displaying a branded sandwich board on the fence leading to the parking lot.

I believe this to be a violation of the following zoning ordinance found under 6.4 - Signs:

6.4.3 Special regulations.

7. Temporary sign. Temporary signs shall include fixed signs, portable signs, banners, inflatables, balloon signs, sandwich boards, and other similar signs. Temporary signage greater than six square feet in business and industrial districts shall require a permit and shall comply with section 6.4.6. **Temporary signs less than six square feet shall be allowed in all districts without a permit, and not more than one sign shall be placed per business** except in the case of a corner lot where two signs are permitted (one facing each street).

**SUMMARY**

I believe that each of my retail tenants is permitted one "Open" flag or similar, and one sandwich board. I base this opinion on the following excerpts from the ordinances;

6.4.3 Special regulations.

7. Temporary sign. Temporary signs shall include fixed signs, portable signs, banners, inflatables, balloon signs, sandwich boards, and other similar signs. Temporary signage greater than six square feet in business and industrial districts shall require a permit and shall comply with section 6.4.6. **Temporary signs less than six square feet shall be allowed in all districts without a permit, and not more than one sign shall be placed per business** except in the case of a corner lot where two signs are permitted (one facing each street).

#### 6.4.2 Exemptions.

(h) Textile or fabric banners that do not advertise a business or product. The material may be supported by framing and which is attached to the building by either a pole as in an "open" sign or directly to a building such as an architectural feature.

Thank you for giving this matter your attention. I look forward to receiving your written response. Should you wish to discuss this matter further, please do not hesitate to contact me by email.

Best,

Mark Jarvis

President, AACO Realty Corp

**Appendix A.**



1. Sail flag estimated 8 feet high and 2.5 feet (around 20 square feet)



2. Advertising flag



3. Sandwich board