

Experts Highlight Real Estate's Key Role In Fla. Pot Market

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Law360, Miami (October 11, 2018, 10:22 PM EDT) -- With the cannabis industry's many moving parts — from growing to processing, distribution and dispensing — it is easy to overlook the important role of real estate in its businesses, and real estate is an especially critical component in Florida, experts said at an event Thursday in Miami.

Florida's requirement that medical marijuana treatment centers be vertically integrated means that license holders must set up and maintain growing and processing plants and up to 25 retail locations, and the state also effectively tethers their licenses to these properties by requiring applicants to disclose upfront where they will operate, Jessica Feingold, senior legal counsel for Stem Holdings Inc. noted during a panel discussion hosted by the **Miami chapter of the CREW Network, a professional association for women in the real estate profession.**



Raquel Matas (left) moderated the “Cannabis: Commercial Real Estate Friend or Foe?” panel in Miami on Thursday with (from left) panelists Edison Vasquez, Jessica Feingold, Jeff Feiler and Brady Cobb.

“The real estate component of this is crucial,” Feingold said.

But finding suitable properties presents numerous obstacles, she and other panelists said.

Cannabis producers have highly specialized needs in terms of space for growing and typically extensive electrical, plumbing, temperature and ventilation control, drainage and security upgrades.

Once the facilities are up and running, there is the need to roll out multiple retail locations.

“It is very, very expensive,” Feingold said. “Just expect to spend way over your budget.”

Many municipalities have enacted moratoriums and ordinances, including requirements that cannabis facilities and stores be certain distances from churches or schools or requirements for minimum numbers of parking spots that have also severely limited where cannabis companies can look.

Attorney and cannabis industry lobbyist Brady Cobb of Cobb Eddy PLLC said that after shading out areas on a map of Fort Lauderdale, there appeared to be only about a square mile of eligible land.

“The sites are incredibly hard to find,” he said, adding a strong recommendation to engage a land-use attorney.

Clients looking to lease space may also run into morality provisions that disqualify them because of marijuana's continued illegal status under federal law or just reluctant landlords.

Panelist Edison Vasquez, managing partner of brokerage ComReal Miami, said after the discussion that a tomato packing plant in Homestead on the market drew strong interest from cannabis companies after the November 2016 election, when state voters approved a broad medical marijuana legalization amendment to the Florida Constitution, but that the landlord was not ready to complete the deal, and another tomato producer took over the land.

The 2016 amendment passed with more than 70 percent of the vote, but public sentiment is still mixed. and state government has maintained the highly restrictive vertically integrated structure for medical marijuana treatment centers. It has granted 14 licenses, resulting in 55 dispensing locations' currently operating statewide.

There is a “massive gap in thinking” between Florida voters and the “very, very, very conservative [Florida] Legislature,” Cobb said.

Given the ongoing illegality of marijuana at the federal level, the panelists stressed the importance of attorneys and brokers reminding clients of this upfront and repeatedly.

The question of leasing versus buying is another big decision, and it split the panel.

“If you can own the property — and speed to the market is goal with your product — the acquisition process is much easier,” Cobb said. “Buying makes life a lot simpler.”

Owning the property also provides more certainty and, unlike leasing, eliminates the necessity of counsel on the other side that may not specialize in the cannabis industry, he said.

But buying has its own challenges, since cannabis businesses are largely shut out of traditional banking and financing services.

“Go find a bank that is going to actually underwrite a mortgage on your property. It's not like any other warehouse that you can buy anyplace else, where you're going to put down 20, 30 or 40 percent and go to the bank for the rest. It's not going to happen,” said Jeffrey Feiler, a lawyer who has extensive experience counseling cannabis businesses in Florida and Colorado.

And having enough money to buy right out of the door is very difficult except for public companies, Feingold added.

Feiler said private equity was the answer at this stage in the cannabis industry's development and, with the ability to command loans at interest rates as high as 12 percent, lucrative for private lenders.

“There are other funds that are coming around as they become more comfortable that the federal government isn't going to come and seize their property,” he said.

Despite the numerous hurdles, the outlook for the industry is promising, panelists agreed.

Congress has several bills in the pipeline in that would help the industry, the panelists said. Full decriminalization may not be likely in the near future, he suggested, but legislation to recognize state legalization laws has some powerful support and would add certainty for the industry and financial interests. And other proposals would help cannabis businesses access financial services or gain the ability to write off expenses.

“The cat's not going back in the bag,” Cobb said.