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BANKING ON MARIJUANA

Banks Cautiously Enter Marijuana Industry Financing

From Business Checking
To Mortgages, FIs Warm
To Pot Shops

BY BRAM BERKOWITZ | BANKER & TRADESMAN STAFF

Hudson-based Calare Properties earlier this month acquired a 34,000-square-foot warehouse in Littleton for \$2.7 million and secured a 10-year lease with medical marijuana provider Premier Health Group LLC for the entire building.

Calare, which declined to comment for this article, obtained \$1.8 million in mortgage financing for the property from Salem, New Hampshire-based Bank of New England. The bank, which also has branches in Massachusetts, did not respond to multiple requests for comment.

The fact that Calare obtained a mortgage is significant.

While medical and recreational marijuana is legal in many states, it is still illegal on the federal level; federally insured lenders typically have a clause in their mortgages noting that owners cannot conduct an illegal activity.

This makes banks very cautious about lending to facilities that house medical marijuana businesses. But the tide may be turning, at least for smaller community banks.

"We are seeing more state-chartered loans on properties with cannabis operations," said Frank Segall, co-chairman of the Cannabis Business Advisory group

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at Boston-based law firm Burns & Levinson. "Some state banks and credit unions and private finance companies are getting more comfortable in that space, particularly on the real estate side, because they have hard collateral."

Fls Ease Into Lending

Calare properties may be an outlier, but it is not the only property owner that has obtained a mortgage for a property that would be leased to a medical marijuana establishment.

Theory Wellness, a Bridgewater-based medical marijuana facility, leased its 12,000-square-foot space from the entity 1050 Realty Trust, according to leasing documents posted on the state's Department of Public Health website.

According to Plymouth County Registry of Deeds, 1050 Realty Trust obtained a \$750,000 mortgage from Mutual Bank, which has nine locations in Southeastern Massachusetts.

The lease was signed in March 2016 and the mortgage for the property was filed with the registry in May 2016.

Also in early 2016, Lowell-based Jeanne D'Arc Credit Union granted an entity called Pagson LLC a mortgage for \$1.275 million for the property at 70 Industrial Ave. in East Lowell. The mortgage required cross-collateralization and came with a variable interest rate.

Although DPH did not post leasing documents online, as it has with nearly all other state medical facilities, that property is now occupied by the medical marijuana company Patriot Care Corp.

Navigating A New Lending Landscape

Since states began legalizing medical and

recreational marijuana, there has been a legal gray area – some states allow it, others do not, and the federal government does not.

Even when the Obama administration took a fairly hands-off approach toward enforcing marijuana laws, there was uncertainty between banks and marijuana. And after current U.S. Attorney General Jeff Sessions requested Congress remove federal protections that prevented the Department of Justice from cracking down on medical marijuana patients, cultivators and dispensaries that are in line with state laws, there has been even more ambiguity.

Banks, not wanting to get in trouble at the federal level, have mostly stayed away from the marijuana business.

"Most banks have taken a very cautious approach to this and particularly on the lending side that is getting into a little more high-risk activity," said Jon Skarin, senior vice president at the Massachusetts Bankers Association, who deals with regulatory issues. "It's a little bit less challenging to do transactional as opposed to a lending relationship [with marijuana companies] even if the relationship is indirect."

Skarin also said working with marijuana companies is resource-intensive due to regulatory and compliance issues.

Warming To The Idea

Still, with the marijuana industry in Massachusetts valued at potentially more than \$1 billion, some banks have started to warm to the idea.

Media reports at the end of 2016 re-

vealed that Century Bank, a family-owned bank in Massachusetts, started doing business with marijuana dispensaries and allowing them to store their deposits there.

Even some of the larger banks, despite their denials about working with marijuana companies, seem to be doing business with some medical facilities.

Documents on the DPH website show that Bank of America allowed 4Front Ventures, a player in the marijuana industry, to set up a business checking account.

Adam Fine, a managing partner for the Massachusetts office of the marijuana law firm Vicente Sederberg, said he thinks more banks are more receptive to lending to the marijuana industry because there hasn't been any major problems from the federal government thus far.

Segall, of Burns & Levinson, said while it hasn't happened a lot with traditional financial institutions, there have been private funds that have formed solely for the purpose of acquiring real estate and leasing it to marijuana businesses.

And Segall suspects that more traditional banks and private equity firms will soon be lending to the marijuana industry.

"I am upbeat and confident on the industry and feel medical (marijuana) is here to stay and recreational (marijuana) will continue to gain acceptance as well," he said. "The voters have spoken overwhelmingly. This is not a train you slow down." ■

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