



MARIJUANA—WASHINGTON’S INITIATIVE 502

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By Michael Showalter



About the Author

Michael Showalter is the founder and president of CDR. He is also a licensed real estate broker and a former general contractor.

Contact CDR

206-232-9075

3047 78th Avenue SE

Suite 204

Mercer Island, WA 98040

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Washington is one of four States that allows recreational possession and use of marijuana. However under Federal law, marijuana remains a Schedule 1 substance under the Controlled Substances Act. That means that marijuana is in the same Schedule 1 category as Heroin, LSD, Mescaline, MDMA (ecstasy), GHB (date rape drug), and Quaaludes. In Washington, distribution of marijuana remains a federal offense. Additionally, civil asset forfeiture laws allow the Federal government to seize property allowing illegal activity.

Under Recreational Marijuana Initiative 502, only licensed growers can cultivate marijuana and create edible marijuana products. Therefore it is illegal for anyone under the age of 21 to possess or use marijuana, or for anyone 21 years or older to possess or use publicly or to cultivate marijuana even for their own use.

Nondisclosure in real estate transactions can result in civil litigation and result in monetary damages or rescission of sale. The Northwest multiple listing service (NW MLS) Seller Disclosure Form 17 # 7(J) asks “Has the property been used as an illegal drug manufacturing site?” Homeowners and

landlords should be strongly cautioned as to how they allow or restrict recreational marijuana possession and use. Similarly, as condominium homeowners associations establish language governing recreational marijuana possession and use within their complexes, certainly it appears wise to prohibit cultivation.

For real estate Brokers, RCW 18.86.030 discusses Duties of a Broker: “(d) To disclose all existing material facts known by the broker and not apparent or readily ascertainable to a party; provided that this subsection shall not be construed to imply any duty to investigate matters that the broker has not agreed to investigate;” Brokers who are aware that the tenants or sellers cultivated or possessed marijuana in excess of what is allowed in Initiative 502 may also have some liability should that disclosure not be made in Form 17 or separately by the Broker.