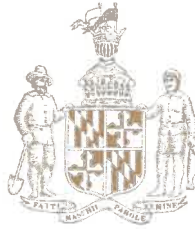


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**CONFIDENTIAL**  
January 22, 2020

The Honorable Shelly Hettleman  
311 House Office Building  
Annapolis, Maryland 21401-1991

Dear Delegate Hettleman:

You have asked for advice concerning proposed legislation that would prohibit hemp licensees from operating within two miles of a residential area. Specifically, you have asked whether the prohibition could apply to current licensees. It is my view that it could.

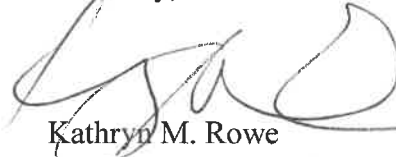
At the present time there are no licenses for the Hemp Farming Program created by Chapter 228 of 2019, *see* Title 14, Subtitle 3 of the Agriculture Article. Instead there are properties that have been certified and registered for the growing of hemp as part of the pilot program under Title 14, Subtitle 2 of the Agriculture Article. The pilot program registration has been extended to the end of February to permit the possession and sale of hemp from the previous season. It is my understanding that any licenses issued in the future under the new program, like the certification and registration before them, will need to be renewed annually.

While there is a presumption that legislation applies only prospectively, *Estate of Charles Howard Zimmerman v. Blatter*, 458 Md. 698, 728 (2018), a statute will be given retroactive effect if that is the legislative intent and retroactive application would not “contravene some Constitutional right or prohibition.” *Id.* Thus, a statute will not be applied retroactively if it will interfere with vested rights. *Id.* at 730. A vested right is defined as “[a] right that so completely and definitively belongs to a person that it cannot be impaired or taken away without the person’s consent.” Black’s Law Dictionary 1324 (7th Ed. 1999); *Bornemann v. Bornemann*, 175 Md. App. 716, 728 (2007). To be vested, “a right must be more than a mere expectation based on the anticipation of the continuance of an existing law; it must have become a title, legal or equitable, to the present or future enforcement of a demand.” *Dabbs v. Anne Arundel County*, 458 Md. 331, 364 (2018).

It is my view that participation in the pilot program cannot have created vested rights, because it is in the nature of a pilot program to be temporary. It is also my view that issuance of one year licenses would not create a vested right to grow hemp in a particular place. This is especially true if a bill to limit that ability is before the Legislature at the time the first licenses under the new program are granted.

The Honorable Shelly Hettleman  
January 22, 2020  
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Sincerely,

A handwritten signature in black ink, appearing to read 'K. Rowe', written over a horizontal line.

Kathryn M. Rowe  
Assistant Attorney General

KMR/kmr  
hettleman05