

Bond Case Briefs

Municipal Finance Law Since 1971

ZONING - CALIFORNIA

City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.

Supreme Court of California - May 6, 2013 - P.3d - 13 Cal. Daily Op. Serv. 4517

City brought action against medical marijuana dispensary (MMD) operators for public nuisance, seeking injunctive relief.

The Supreme Court of California held that Compassionate Use Act (CUA) and Medical Marijuana Program Act (MMPA) do not preempt local bans on MMDs.

Inherent local police power recognized by the state constitution includes broad authority to determine, for purposes of the public health, safety, and welfare, the appropriate uses of land within a local jurisdiction's borders, and preemption by state law is not lightly presumed. When local government regulates in an area over which it traditionally has exercised control, such as the location of particular land uses, California courts will presume, absent a clear indication of preemptive intent from the Legislature, that such regulation is not preempted by state statute

Unless exercised in clear conflict with general law, a city's or county's inherent, constitutionally recognized power to determine the appropriate use of land within its borders allows it to define nuisances for local purposes, and to seek abatement of such nuisances. A local jurisdiction may prohibit collective or cooperative medical marijuana activities within its own borders by declaring such conduct on local land to be a nuisance, and by providing means for its abatement.

MMPA does not grant a "right" of convenient access to marijuana for medicinal use.