

Bond Case Briefs

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Rocky Mountain Retail Management, LLC v. City of Northglenn

Supreme Court of Colorado - April 24, 2017 - P.3d - 2017 WL 1450103 - 2017 CO 33

Applicant sought judicial review of city's denial of application for license to operate medical marijuana center.

The District Court ruled that provision of city code setting forth factors to be considered by licensing authority before approving or denying a medical marijuana center license was unconstitutionally vague, and that city's denial of license in reliance on that invalid provision was arbitrary and capricious. City appealed. The Court of Appeals referred the case to the Supreme Court, which accepted jurisdiction.

The Supreme Court of Colorado held that:

- City ordinance permitting local licensing authority to consider "number, type, and availability" of existing medical marijuana facilities before approving or denying application for local license was not void for vagueness, and
- Substantial evidence supported city's decision to deny applicant's request for license to operate medical marijuana center.

City ordinance permitting local licensing authority to consider "number, type, and availability" of existing medical marijuana facilities before approving or denying an application for a local license provided sufficient notice to applicants regarding what information license authority would consider, and reasonably constrained exercise of city's discretion and, thus, ordinance was not void for vagueness, in violation of due process, even though ordinance used permissive language of "may consider."

Substantial evidence supported city's decision to deny applicant's request for license to operate medical marijuana center; although city council used term "need" in discussions and written findings, evidence it considered at hearings and discussed in findings reflected that decision was grounded in factors expressly outlined in city ordinance, including "number, type, and availability" of existing facilities in city, with reference made to fact that four medical marijuana business licensees existed in city, as well as to type of products offered by other facilities in comparison to those applicant intended to sell, and wait times at existing facilities, and regardless, ordinance allowed for consideration of other pertinent facts, under which "need" could fall.