

Bond Case Briefs

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MUNICIPAL ORDINANCE - WASHINGTON

Emerald Enterprises, LLC v. Clark County

Court of Appeals of Washington, Division 2 - March 13, 2018 - P.3d - 2018 WL 1280788

Applicant for retail license to sell marijuana within unincorporated county brought declaratory judgment action against county, alleging that state law legalizing recreational marijuana preempted a county ordinance that banned the retail sale of recreational marijuana.

The Superior Court entered summary judgment in favor of county. Applicant appealed and also filed appeal in a related land use case.

The Court of Appeals held that:

- Ordinance did not prohibit what state law permitted, as element in determining whether ordinance irreconcilably conflicted with state law and thus was preempted by it;
- Ordinance did not thwart the legislative purpose of state law, as element in determining whether ordinance irreconcilably conflicted with state law and thus was preempted by it;
- Ordinance did not exercise authority reserved by state law, as element in determining whether ordinance irreconcilably conflicted with state law and thus was preempted by it;
- State law did not expressly preempt ordinance; and
- State law did not impliedly preempt ordinance.