

Bond Case Briefs

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ZONING - WASHINGTON

Cannabis Action Coalition v. City of Kent

Supreme Court of Washington, En Banc - May 21, 2015 - P.3d - 2015 WL 2418553

Interest group and individuals sued city, seeking to have city zoning ordinance prohibiting medical marijuana collective gardens declared preempted and invalid under Medical Use of Cannabis Act (MUCA). The Superior Court granted city summary judgment, dismissed claims of those individuals who did not reside or operate collective garden in city, and enjoined all plaintiffs from violating ordinance. Interest group and individuals appealed.

The Supreme Court of Washington held that:

- MUCA did not impliedly preempt field of medical marijuana, and
- MUCA did not conflict with ordinance.

Medical Use of Cannabis Act (MUCA) did not impliedly preempt field of medical marijuana, and thus MUCA did not preempt city zoning ordinance prohibiting medical marijuana collective gardens on such basis; MUCA expressly contemplated local regulation of medical marijuana.

Medical Use of Cannabis Act (MUCA) did not conflict with city zoning ordinance prohibiting medical marijuana collective gardens, such that MUCA did not preempt ordinance on such basis, despite contention that provision of MUCA contemplating local regulation of medical marijuana applied only to commercial, licensed producers, and that MUCA granted right to engage in collective garden, which ordinance prohibited. City's zoning power under MUCA was not limited to commercial, licensed producers, but rather MUCA provided local jurisdictions with authority to enact zoning requirements pertaining to land use activity of participating in collective gardens, and ordinance concerned such a land use, making it otherwise consistent with state law.