

Bond Case Briefs

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Cloudi Mornings, LLC. v. City of Broken Arrow

Supreme Court of Oklahoma - November 19, 2019 - P.3d - 2019 WL 6123533 - 2019 OK 75

Retail marijuana establishment and its manager petitioned for declaratory judgment and injunctive relief, alleging city had no authority to zone or otherwise regulate medical marijuana businesses within city limits.

The District Court issued declaratory judgment, finding city was precluded from adopting regulations, zoning overlays, fees or other restrictions relating to medical marijuana business activities. City appealed. The Supreme Court remanded for findings of fact and conclusions of law addressing whether city had unduly changed or restricted zoning laws so as to prevent the opening of a retail marijuana establishment, and the impact of the statutory amendment on the validity of the City ordinances. The District Court filed its findings of fact and conclusions of law in which it concluded ordinances did not unduly change or restrict zoning so as to prevent opening of retail marijuana establishments.

The Supreme Court held that:

- City had the authority to follow standard planning and zoning procedures as to marijuana growers under amendments to the Act that legalized medical marijuana, and
- Retail marijuana establishment lacked standing to bring declaratory judgment action.

City had the authority to follow standard planning and zoning procedures as to marijuana growers under amendments to the Act that legalized medical marijuana, which specifically stated that “municipalities may follow their standard planning and zoning procedures to determine if certain zones or districts would be appropriate for locating marijuana-licensed premises, medical marijuana businesses or any other premises where marijuana or its by-products are cultivated, grown, processed, stored or manufactured.”

Retail marijuana establishment lacked standing to bring declaratory judgment action against city for a determination as to whether city had authority to zone or otherwise regulate medical marijuana businesses within city limits, as the amendments to the Act legalizing medical marijuana authorized the city to follow standard planning and zoning procedures as to marijuana growers, retail marijuana establishment was not denied any city permits, required to pay a particular city fee, or prohibited from locating in a chosen location within city limits altogether, and thus, there was no actual, justiciable controversy between city and the marijuana establishment.