

# **Bond Case Briefs**

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## **ZONING & PLANNING - CALIFORNIA**

### **Granny Purps, Inc. v. County of Santa Cruz**

**Court of Appeal, Sixth District, California - August 5, 2020 - Cal.Rptr.3d - 2020 WL 4504904 - 20 Cal. Daily Op. Serv. 7971 - 2020 Daily Journal D.A.R. 8265**

Medical marijuana dispensary brought action against county, seeking to recovery marijuana plants seized by the county for violating county's cultivation ordinance, alleging causes of action for conversion, trespass, and inverse condemnation.

The Superior Court sustained county's demurrer without leave to amend. Dispensary appealed.

The Court of Appeal held that:

- County cultivation ordinance did not render marijuana plants "contraband" subject to seizure;
- Revival of medical marijuana dispensary's corporate powers did not retroactively validate lawsuit filed during suspension for purposes of the statute of limitations under the Government Claims Act; and
- Allegations were insufficient to state an inverse condemnation claim.

Pursuant to its inherent police power, a local government can by zoning ordinance determine that a medical marijuana dispensary is not an allowed land use anywhere in the jurisdiction, and a local legislative body can restrict or disallow entirely the cultivation of medical cannabis.

County ordinance that imposed a limit on medical cannabis cultivation within the county did not render marijuana plants, which complied with state law, "contraband" subject to seizure for violation of the ordinance; local ordinances could not make it illegal to possess legal medical marijuana, even while the locality remained free to limit or prohibit commercial dispensing or cultivation.

Revival of medical marijuana dispensary's corporate powers did not retroactively validate lawsuit filed against county filed within period of its suspension to bring trespass claim regarding seizure of marijuana plants within statute of limitations for suits against a government entity pursuant to the Government Claims Act.

Medical marijuana dispensary's allegations regarding county's seizure of its marijuana plants in connection with enforcement of county ordinance prohibiting cultivation were insufficient to state an inverse condemnation claim, where none of the allegations indicated the marijuana was taken for public use or damaged in connection with a public work of improvement.