
ZONING & PLANNING - ILLINOIS

Medponics Illinois, LLC v. Department of Agriculture

Supreme Court of Illinois - May 20, 2021 - N.E.3d - 2021 IL 125443 - 2021 WL 2005476

After the Illinois Department of Agriculture (DOA) denied its application for permit to operate medical cannabis cultivation center in particular Illinois State Police (ISP) district and instead awarded permit to competitor, applicant petitioned for administrative review of DOA's decision, asserting that competitor's application contained disqualifying flaw, namely, that its proposed cultivation center was within 2,500 feet of area zoned "exclusively" for residential use, in violation of the Compassionate Use of Medical Cannabis Pilot Program Act.

The Circuit Court reversed. Competitor and DOA appealed. The Appellate Court reversed judgment of circuit court and ordered permit reinstated to competitor. Applicant's petition for leave to appeal was allowed.

The Supreme Court held that:

- Although competitor's proposed cultivation center was within 2,500 feet of city's R-1 and R-5 districts, such districts were not zoned "exclusively" for residential use within meaning of the Act, and so cultivation center did not violate the Act;
- Ample evidence in the administrative record supported the Supreme Court's decision, independent of letter from city to DOA advising that location of proposed cultivation center was not within 2,500 feet of any area zoned exclusively for residential use and "Frequently Asked Questions" (FAQ) document located on DOA website, neither of which was included in the administrative record;
- Even if applicant had not forfeited its argument, the location requirement as interpreted by DOA did not impermissibly limit the scope of the Act; and
- DOA's interpretation of location requirement was reasonable and harmonized with purpose of the Act, and so would be given due deference.

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