

Bond Case Briefs

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West Street Associates LLC v. Planning Board of Mansfield

Supreme Judicial Court of Massachusetts, Bristol - August 30, 2021 - N.E.3d - 488 Mass. 319 - 2021 WL 3852207

Abutting landowner of proposed location for medical marijuana dispensary operated by recently converted for-profit organization brought action against town planning board challenging the issuance of a special permit to construct a medical marijuana dispensary.

The Superior Court Department found no error in board's decision to grant for-profit organization a special permit and concluded town bylaw that required medical marijuana dispensaries to be operated by nonprofit entities was preempted. Landowner appealed.

The Supreme Judicial Court held that town bylaw was preempted by state law to the extent it required all medical marijuana dispensaries to be nonprofit organizations.

Town bylaw was preempted by state law to the extent it required all medical marijuana dispensaries to be nonprofit organizations, and thus special permit issued by town planning board to recently converted for-profit organization to construct a medical marijuana dispensary could not be revoked; Legislature disavowed statutory and regulatory provisions regarding nonprofit organizations when it repealed and replaced the act and expressly allowed medical marijuana establishments to be for-profit, and town's bylaws frustrated one of the purposes of the amended act which was to allow for-profit entities to distribute medical marijuana.