

Bond Case Briefs

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CV Amalgamated LLC v. City of Chula Vista

Court of Appeal, Fourth District, Division 1, California - August 12, 2022 - Cal.Rptr.3d - 2022 WL 3354984

Business petitioned for writ of mandate challenging city's denial of its application for a license to operate a retail cannabis store in the city.

The Superior Court denied the petition. Business appealed.

The Court of Appeal held that:

- City had ministerial duty to follow mandatory procedures for issuing the license;
- City acted in an arbitrary and capricious manner in rescoring business's application;
- Business did not have adequate remedy for city's failure to follow its procedures; and
- No parties needed to be joined prior to granting the relief sought.

City had ministerial duty to follow mandatory procedures for issuing license to operate a retail cannabis store in the city, so that its failure to follow those procedures when it rejected business's license application in first phase of two-phase licensing process for business's failure to score high enough in merit-based evaluation conducted by the city provided basis for issuance of writ of mandate, where neither the relevant cannabis ordinance nor the cannabis regulations permitted the city to disqualify an applicant during the first phase of the process for not scoring high enough, but rather, both the ordinance and the regulations required that city deem an applicant to be qualified if it met the stated minimum requirements, which did not include any merit-based scoring requirement.

City acted in an arbitrary and capricious manner in rescoring business's application for license to operate a retail cannabis store, following business's appeal alleging that initial scoring was unfair, by limiting its efforts to only one of four relevant categories in the discretionary merit-based evaluation due to alleged formatting and organization errors, thus providing a basis for issuance of writ of mandate requiring city to carry out discretionary duty to rescore all four categories of business's application, where reason provided for so limiting the rescoring, that only one category was impacted by the errors, was contradicted by evaluator's testimony that all four categories were impacted by the errors, which compelled conclusion that rescoring each of the four categories was warranted.

Business's claim for promissory estoppel against city, seeking recovery of expenses for application for license to operate a retail cannabis store that were lost when city allegedly wrongly rejected its application in breach of a purported promise, did not provide adequate legal remedy for city's failure to follow mandatory procedures for issuing licenses for cannabis retail businesses as would provide the court with discretion to deny business's petition for mandamus relief, because the remedy for promissory estoppel would not give business the relief it sought through traditional mandamus, namely, a chance to compete for and be awarded a license.

Other applicants for license to operate a retail cannabis store who scored higher than business on city's merit-based evaluation and advanced to second phase of two-phase licensing process were not indispensable parties that business had to join in proceedings on its petition for writ of mandate as relief for city's alleged improper denial of its application, since other applicants would not be prejudiced by any writ issued as relief to business, as relief that business sought did not include an order invalidating any licenses city may have issued to the other applicants.