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PUBLIC HEALTH - CALIFORNIA

Grant Park Neighborhood Association Advocates v. Department of Public Health

Court of Appeal, Third District, California - August 14, 2023 - Cal.Rptr.3d - 2023 WL 5198632

Objectors, who were neighborhood association and individuals, filed petition for writ of mandate challenging Department of Public Health's approval of entity's application to operate needle and syringe distribution program in county.

The Superior Court denied petition. Objectors appealed.

The Court of Appeal held that:

- Department violated statutory requirement of "consultation" with local law enforcement;
- Department's violation of consultation requirement was prejudicial, and thus, not harmless error;
- Objectors' claims regarding failure to consult with law enforcement were not rendered moot by expiration of approval of program, in light of its reauthorization;
- Department violated written-notice requirement of public-comment provision;
- Department was required to provide 90-day comment period, rather than 45-day period;
- Department's violations of notice and comment-period requirements were collectively prejudicial, and thus, were not harmless error; and
- Department's violation of comment-period requirement was not rendered moot by amendment of regulation.

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