California Supreme Court Upholds Local Bans On Medical Marijuana Businesses

05.07.2013

Cities and counties have the authority to ban or limit medical marijuana businesses, according to a decision of the California Supreme Court issued yesterday. In *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, the Court concluded that California's medical marijuana statutes do not "expressly or impliedly preempt[ ] the authority of California cities and counties, under their traditional land use and police powers, to allow, restrict, limit, or entirely exclude facilities that distribute medical marijuana, and to enforce such policies by nuisance actions."

The Court rejected the argument advanced by medical marijuana advocates that Riverside's ban on medical marijuana dispensaries is preempted by the Compassionate Use Act (CUA) and the Medical Marijuana Program Act (MMPA) stating: "We have consistently maintained that the CUA and the MMP are but incremental steps toward freer access to medical marijuana, and the scope of these statutes is limited and circumscribed. They merely declare that the conduct they describe cannot lead to arrest or conviction, or be abated as a nuisance, as violations of enumerated provisions of the Health and Safety Code. Nothing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land, including the authority to provide that facilities for the distribution of medical marijuana will not be permitted to operate within its borders."

This case is affirmative authority from the State's highest court that cities and counties may ban, restrict and limit medical marijuana businesses (whether organized as collectives, cooperatives, dispensaries or otherwise) consistent with their inherent authority to regulate the use of land, despite state laws that allow some use of marijuana for personal medical purposes.

Published - May 7, 2013

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