

III. Court Clears Path For 60 Cannabis Grower Licenses

By **Lauraann Wood**

Law360 (March 18, 2022, 9:34 PM EDT) -- An Illinois judge cleared the way for regulators to issue 60 licenses for craft cannabis growers to operate in the state in a ruling that lifted an injunction on the licensing process and remanded several previously disqualified license applications for reconsideration.

Resolving several rejected applicants' request for administrative review on Tuesday, Sangamon County Circuit Judge Gail Noll reversed the Illinois Department of Agriculture's disqualification of 11 applicants who sought to be included when the state issued its first wave of craft grower licenses.

Judge Noll also lifted a preliminary injunction that was preventing the department from issuing any craft grower licenses or announcing their recipients. Removing that block will allow the state to finish its licensing process and include the 11 remanded applicants in its process.

A representative for the state agriculture department told Law360 in a written statement Friday that with Judge Noll's order in place, it is prepared to finalize its process of notifying top-scoring applicants that they're eligible for a growing license.

"The department remains committed to ensuring that all licenses are issued in a fair and equitable manner," the statement continued, adding that further updates will be posted on the department's Adult Use Cannabis webpage.

The applicants sued for administrative review after the department disqualified them for reasons they claimed were improper. Many claimed they received application deficiency letters that were too vague and requested information they weren't required to include in their applications.

During a March 10 hearing on their petitions, Judge Noll said administrative records demonstrate that several applicants, including AG Pharm LLC, were asked to supplement their applications with information that wasn't required by statute. The department certainly had a "big job" in administering the craft grower licenses, but its attempt to add requirements through the application instructions "resulted in inconsistencies and confusion," she said, according to a transcript of the proceeding.

Carl Draper of Feldman Wasser, who represents two of those applicants, told Law360 that his clients' applications received perfect scores and bonus points outside the information they were improperly dinged for excluding. "So, they're actually in the position to have their licenses issued," he said.

Dan Shapiro of Shapiro & Associates Law, who represents AG Pharm, declined to comment Friday.

The judge also remanded an application for one business, SDC Transport, whose application to transport adult-use cannabis was disqualified. She found that the company's application suffered from similar vagueness issues from the department, according to the hearing transcript.

Donald Craven of Donald M. Craven PC, who represents SDC and several grower applicants, told Law360 on Friday that his clients "are thrilled that their disqualifications were overturned" and are looking forward to starting their craft grow businesses.

Judge Noll also found the department had also made a mistake in disqualifying Prairie State Cannabis

LLC, which claimed it was booted from craft grower and transporter consideration for ignoring deficiency notices it never received. The department should reissue its notices and give Prairie State a chance to cure its deficiencies if it chooses, she said during the March 10 hearing.

Judge Noll did uphold the disqualification of one applicant, ia GP LLC, after finding it failed to include information in its application that was required by state regulation.

Counsel for ia GP declined to comment on Friday.

Ia GP secured the injunction that halted the department's licensing process before the Illinois Supreme Court consolidated the applicants' cases. The state asked Judge Noll to lift that order after she'd resolved the individual applicants' petitions during the March 10 hearing, according to the transcript.

Prairie State filed a brief opposing that request days later, arguing that lifting the injunction would give the department a chance to issue all 60 of its available licenses before it has a chance to respond to its reissued deficiency notices. But Judge Noll's Tuesday order found that the injunction had served its purpose since she addressed the merits of each applicant's claims and the party who initially secured the injunction hasn't requested any further relief.

Counsel for Prairie State didn't immediately respond Friday to a request for comment.

Law firms representing the applicants include Feldman Wasser, Benesch Friedlander Coplan & Aronoff LLP and Shapiro & Associates Law.

The state agriculture department is represented by the Office of the Illinois Attorney General.

The case is In re: Cannabis Craft Grower Litigation, case number 21-MR-1256, in the Circuit Court of Sangamon County.

--Editing by Ellen Johnson.