

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ALBANY

ORGANIC BLOOMS, LLC,
NIAGARA NUGGET, LLC, BLACKMARK, LLC, and
WINDWARD MANAGEMENT, LLC,

ORDER
Index No.: 904497-24

Petitioners-Plaintiffs,

For a Judgment Pursuant to CPLR Article 78 and § 3001

—against—

NEW YORK STATE CANNABIS CONTROL BOARD
and NEW YORK STATE OFFICE OF CANNABIS
MANAGEMENT,

Respondents-Defendants.

DECISION AND ORDER

The Court enters this Order for the purposes of further clarifying the December 12, 2024 Decision and Order granting Petitioners' motion for a preliminary injunction and responding to the requests for intervention by non-parties and proposed intervenors, Dai Mi, LLC; MAD City Canna, LLC; Gourmet Budz, LLC; High Rise Brand LLC; Budega NYC, LLC; Quality Roots LLC; Steven Steals & Co. LLC; Blaze 420, LLC; and SLG-DB LLC ("Proposed Intervenors").

WHEREAS, this Court held Oral Argument on October 17, 2024 on Motions #1 and #2, including the Petitioners' motion for a preliminary injunction, and Respondents' motion to dismiss the Petition/Complaint, respectively; and

WHEREAS, this Court granted Petitioners' motion for a preliminary injunction (NYSCEF Doc. No. 11) (Motion #1) and denied Respondents' motion to dismiss (NYSCEF Doc. No. 35) (Motion #2) by its Decision and Order dated December 12, 2024 and entered in the office

of the Clerk of the Supreme Court of the State of New York, County of Albany, on December 13, 2024 (NYSCEF Doc. No. 50); and

WHEREAS, the December 12, 2024 Decision and Order granted Petitioners' motion for a preliminary injunction to the extent that pending the outcome of this proceeding, Respondents are enjoined from processing Conditional Adult Use Retail Dispensary ("CAURD") applications in which the applicant did not submit proof of a municipally noticed secured location on or before November 17, 2023 and are enjoined from processing any other provisional Adult-Use ("AU") applications; and

WHEREAS, Proposed Intervenors filed an Order to Show Cause on December 17, 2024 seeking leave of this Court to intervene pursuant to CPLR §§ 1012, 1013 and/or 7802(d) (NYSCEF Doc. No. 63) (Motion #3); and

WHEREAS, this Court issued a clarifying Decision and Order on December 24, 2024 and entered in the office of the Clerk of the Supreme Court of the State of New York, County of Albany, on December 27, 2024 (NYSCEF Doc. No. 84); and

WHEREAS, this Court heard Oral Argument by Petitioners, Respondents, and Proposed Intervenors on the Proposed Intervenors' Order to Show Cause on January 6, 2025 (Motion #3); and

WHEREAS, at Oral Argument on January 6, 2025, Petitioners represented their intention to this Court to amend their Petition/Complaint to revise the relief sought regarding the validity of any and all licenses allegedly improperly granted pursuant to Marihuana Regulation and Taxation Act §76 and Respondents voiced no objection to the same; and

4.6.

~~WHEREAS, such amendment to the Petition/Complaint would result in the removal of any potential interest on behalf of Potential Intervenors in the ultimate outcome of this proceeding; and~~

WHEREAS, Petitioners, Respondents, and Proposed Intervenors are interested in properly clarifying the scope of the preliminary injunction to avoid unnecessary cost and/or waste of judicial resources; and

THEREFORE IT IS HEREBY,

ORDERED, that any applicant who has received written notice from the New York State Office of Cannabis Management (“OCM”) on or before December 12, 2024 confirming that the applicant was granted a CAURD and/or provisional license is considered a “licensee” for the purposes of the December 12, 2024 Decision and Order; and it is further

ORDERED, that the New York State Cannabis Control Board (“CCB”) and/or OCM may take any action regarding the final licensure and/or “post-selection” process of any such licensee who was granted a CAURD and/or provisional license on or before December 12, 2024; and it is further

ORDERED, that the preliminary injunction applies only to CAURD *applicants* and provisional adult-use retail dispensary *applicants* who have not, as of December 12, 2024, received a license approval vote from the CCB and/or written notification of license approval from the OCM;¹ and it is further

ORDERED that the preliminary injunction does not prohibit Respondents from processing non-provisional applications in the November and December queues, including any

¹ The preliminary injunction is not applicable to licensees or provisional licensees looking to convert their licensee. For example, the preliminary injunction is not applicable to Adult Use Cannabis Cultivators (“AUCC”) converting their AUCC license to a Microbusiness retail license.

applicant who thereafter lost control of that location or whose original location was not viable due to proximity limitations; and it is further

ORDERED, that the preliminary injunction does not apply to the OCM's processing of public convenience and advantage requests for any licensee or applicant described above; and it is further

ORDERED, that the preliminary injunction does not apply to the OCM's processing of amendment requests and location change requests for any licensee that received a license approval vote from the CCB and/or written notification of license approval from the OCM prior to December 12, 2024; and it is further

ORDERED, that this Order is controlling with regards to the scope of the preliminary injunction and supersedes the December 12, 2024 Decision and Order and December 24, 2024 Decision and Order as it pertains to the scope and application of the preliminary injunction; and it is further

~~ORDERED, that Proposed Intervenors are denied leave to intervene because, consistent with the statements of counsel for Proposed Intervenors' at Oral Argument regarding the ultimate outcome of this matter, along with this Order's clarification of the December 12 and 24 Decisions and Orders, shows that Proposed Intervenors do not have a bona fide interest in the outcome of this proceeding because they are considered licensees for the purposes of the preliminary injunction and do not suffer any potential harm with Petitioners' representation concerning the amendment of the relief sought under the Petition/Complaint.~~

56. ORDERED that proposed intervenors in motion #'s 3, 4, and 5 shall advise the Court by January 21, 2025 whether they intend to withdraw their pending applications. All ^{other} submissions and deadlines on these pending ^{intervenor} applications are ~~to~~ held in abeyance pending further order of this Court.

SO ORDERED.

Dated: January 15, 2025
Albany, New York

ENTER,



SHARON A. GRAFF, J.S.C.