

County successful in cannabis lawsuits

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Calaveras County has been victorious in a pair of lawsuits challenging the 2018 Board of Supervisors' decision to ban commercial cannabis cultivation.

Visiting Judge Gary R. Hahn sided with the county in a request to dismiss class action lawsuits filed by Mark Bolger and 90 other defendants including former Calaveras County Supervisor Tom Tryon.

The judge said the lawsuits failed to comply with the applicable statutes of limitations. In addition, the defendants did not have any “vested right” to continue growing cannabis on a commercial basis once the county discontinued the temporary program.

The Board of Supervisors in January 2018 ended commercial cannabis production after a two-year trail under an emergency ordinance passed by a previous board.

“While the court notes that plaintiffs very carefully use the phrase of a 'vested right', substantively all such arguments argued they had a constitutional right to cultivate commercial cannabis, a position that is opposite to conclusions reached by all California court decisions addressing the issue,” Judge Hahn said in his ruling.

“Moreover, the emergency ordinance explicitly expressed it was a temporary interim measure that vested no future rights, even explicitly including a definitive termination date,” he added. “Therefore, the Court finds plaintiffs could not have any reasonable belief that the urgency ordinance conveyed any right to cultivate beyond the timeframe of the urgency ordinance.”

Another cannabis class action lawsuit is working its way through the court system. A case management conference is scheduled for April 10 in the case of Andrew Greer vs. the county.

Despite the recent court decision, supervisors once again are opening the door to consider whether the county should give the green light to commercial cannabis growing. A study session to consider once again allowing commercial cannabis production is tentatively scheduled for the Feb. 19 board meeting.