ARTICLE:
JCCRANDALL, LLC V. COUNTY OF SANTA BARBARA: WILL A DISPUTE OVER THE USE OF AN EASEMENT SEND THE CONCEPT OF LEGAL CANNABIS CULTIVATION UP IN SMOKE?

By Carolyn Nelson Rowan[*]

Cannabis is a multi-billion-dollar industry in California. For many years now, cannabis businesses have operated pursuant to state law, obtaining licenses and permits and entering into contracts to carry out cultivation, distribution, sales, and other commercial cannabis activities. These businesses may enter into purchase and sale transactions or leases to obtain property on which to operate, and at different points in the supply chain, from cultivation site to storefront, they may rely on easements that were granted before California voted to legalize adult-use cannabis. The industry has developed and expanded despite the fact that cultivation/manufacture, distribution, sale, and possession of marijuana remains a crime under federal law, except in limited circumstances.

Faced with this state and federal law dichotomy, the Second District Court of Appeal, in the recent case of *JCCrandall, LLC v. County of Santa Barbara*,[1] found an express easement was not available for use by a cannabis business to access a cultivation site and transport cannabis, at least where the owner of the servient tenement did not agree to the use. The dispute arose in the context of a conditional use permit application, but the court made some sweeping statements that could be read to apply to easements more broadly and even to other types of contracts that have commercial cannabis activities as their purpose.

For California's commercial cannabis businesses, and the entities that contract with them, this decision may create confusion and uncertainty. This article examines the case, its potential reach, and limiting factors, but first provides a summary of laws relating to easements and cannabis in the state.

Law of Easements

To assess the potential scope of the *JCCrandall* decision, it is important to understand several background principles relating to easements. An easement is

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[*]Carolyn Nelson Rowan is a shareholder of Miller Starr Regalia. She is the Editor-in-Chief of the firm's 12-volume treatise, *Miller & Starr, California Real Estate 4th*, published by Thomson Reuters, and has practiced in the areas of environmental law and the California Environmental Quality Act for almost twenty years.

an incorporeal interest in the land of another that gives the owner of the easement the limited right to use another's property, a right imposed on the servient land to benefit the dominant tenement land.[2] There are several methods by which an easement may be created: (1) express grant; (2) express reservation; (3) implied grant; (4) implied reservation; (5) necessity; (6) prescription; (7) recorded covenant; (8) dedication; (9) condemnation; (10) estoppel; or (11) court decision.[3]

An express easement, like the one at issue in the *JCCrandall* decision, may be created and conveyed by a deed or other instrument that complies with the requirements to convey property.[4] The extent of an express easement is determined by the terms of the instrument creating it.[5] An instrument creating an easement is subject to the same rules of construction as a deed and interpreted as a contract.[6] If the parties' intent can be derived from the plain language of the instrument, a court should not rely on rules of statutory construction; however, if it is ambiguous, a court may apply the rules of construction codified by statute.[7] In the absence of express limitations to the contrary, the owner of an easement may be able to increase or modify its use, within the parameters set forth below.[8] In addition, when an instrument grants an easement but does not specify or limit the extent of its use, and the easement has been used for a reasonable time, the permissible use may also be established by past use.[9]

After an easement has been created, the parties have the right to insist that it remain substantially the same as it was at the time the right accrued.[10] Minor changes in use may be permitted as long as the change is one of degree and not character.[11] Questions regarding whether a use is excessive are issues of fact to be determined on a case-by-case basis.[12] However, an owner of the dominant tenement may be able to establish a right to use the easement in a manner that increases the burden on the servient tenement if the use satisfies the requirements of a prescriptive easement.[13]

Under general contract principles, an easement must have a lawful purpose at the time it is made.[14] As with contracts generally, easements that have an unlawful purpose may be void.[15] Even when an easement was created for a lawful purpose, it may not be put to an unlawful use. For example, parties may not agree to an easement for a commercial purpose if it violates local zoning law.[16] If the owner of the dominant tenement puts the easement to an unlawful use, the easement may become unenforceable.

Federal and State Laws Regarding Cannabis

In addition to the foregoing principles regarding easements, an analysis of the *JCCrandall* decision requires some knowledge of the federal and state cannabis laws. In California, cannabis use and cannabis-related commercial activities are subject to a complex web of federal and state laws. At the federal level, marijuana is a Schedule 1 controlled substance under the Controlled Substances Act,[17] and thus is strictly regulated. The Controlled Substances Act prohibits the cultivation/manufacture, distribution, sale, and possession of marijuana except in very limited circumstances. Possession or use of marijuana is punishable as a crime and subject to increasingly severe penalties, depending on the amount of the substance at issue and past offenses.[18] Although the Department of Justice has followed different enforcement policies over the years,[19] federal law clearly imposes strict prohibitions against marijuana use and commercial activities.

Meanwhile, over the last thirty years, California law has permitted an increasing range of cannabis-related activities, subject to strict regulation. In 1996, California voters passed Proposition 215—the Compassionate Use Act of 1996—authorizing the use of marijuana for medical purposes in the state.[20] Subsequently, in 2016, the voters passed Proposition 64—the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA)—authorizing the consumption of nonmedical marijuana by persons over 21 years of age and providing for the licensure and regulation of certain commercial, non-medical marijuana activities in the state.[21] The Legislature then passed the Medicinal and Adult-Use Cannabis Regulation and Safety Act,[22] to consolidate licensure and regulation of certain commercial medical and non-medical marijuana (renamed, "adult-use cannabis") activities.

Together, these laws, and the regulations promulgated to implement them, create a complex regime regulating commercial adult-use cannabis activities in the state. Commercial cannabis businesses must obtain a license to operate, and every step of the process—from cultivation to distribution to sale to possession—is heavily regulated.[23] For those businesses that comply with California law and applicable local standards, state law expressly provides that notwithstanding federal law, "commercial activity relating to medicinal cannabis or adult-use cannabis . . . shall be deemed to be all of the following: (1) A lawful object of a contract. (2) Not contrary to, an express provision of law, any policy of express law, or good morals. (3) Not against public policy."[24]

When federal law prohibits activity allowed under state law, questions regarding preemption and federalism necessarily arise. According to the Supremacy Clause of the U.S. Constitution, "This Constitution, and the Laws of the United States . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."[25] A federal law may displace state law where there is express, field, or conflict preemption.[26] Absent federal preemption, states retain the power to experiment with their own laws, especially those relating to the police power.[27] Applying these principles, California courts have concluded that the Controlled Substances Act does not preempt the Medical Marijuana Program Act or the Compassionate Use Act of 1996.[28]

JCCrandall, LLC v. County of Santa Barbara

Against this legal backdrop, the Second District Court of Appeal in *JCCrandall* considered the question of whether an express easement created in 1998 for agricultural use could be used nearly a quarter of a century later for cannabis transport over the servient tenement owner's objection.

The facts of *JCCrandall* were relatively simple. Santa Rita Holdings, Inc. (Santa Rita) proposed a cannabis cultivation project on 2.54 acres in Santa Barbara.[29] The project site is zoned for agriculture and owned by Kim Hughes, as trustee of the Hughes Land Holding Trust (Hughes). Hughes consented to the proposed use.[30]

In furtherance of the proposed project, Santa Rita applied for a conditional use permit (CUP) to cultivate cannabis, as required by the County's Code.[31] Under the Code, for a CUP to issue, the County of Santa Barbara (County) must find streets and highways are adequate for proposed use.[32] The only access to the Hughes parcel is an easement for ingress and egress across land owned by JCCrandall, LLC (JCCrandall) that was created by deed in 1998. The easement is approximately one-half mile long. An unpaved road, approximately 12-feet wide, runs over the easement.[33]

JCCrandall objected to the use of the easement for cannabis transport.[34] Nevertheless, the County's fire and public works departments determined the road was adequate to serve the project, and the County granted the CUP.[35] JCCrandall appealed, and the Board of Supervisors denied the appeal and found the road was adequate to serve the project.[36]

JCCrandall filed a petition for writ of administrative mandate, alleging: (1)

"the use of the easement for cannabis activities is prohibited by the terms of the easement deed and federal law"; (2) "state law requires JCCrandall's consent for cannabis activities on its land and JCCrandall refuse[d] to consent"; and (3) "the road violates County standards for private roads."[37] The trial court denied the petition, finding the County's decision did not involve a fundamental vested right, the substantial evidence standard applied, and the County's decision was supported by substantial evidence.[38] JCCrandall appealed.

First addressing the standard of review under Code of Civil Procedure section 1094.5, the court of appeal explained the applicable standard turns on whether "the administrative decision involves or affects a 'fundamental vested right.' "[39] If it does, the trial court exercises its independent judgment based on the evidence.[40] If it does not, the trial court's review is more limited, and the court reviews the decision to determine whether it is supported by substantial evidence.[41] Therefore, the court of appeal focused on whether JCCrandall's claim involved a fundamental vested right.

"A vested right is a right that is a preexisting right or a right already possessed," and is decided on a case-by-case basis.[42] The court framed JCCrandall's right at issue as the right to exclude an unauthorized person from its property. "Inherent in the right of ownership is the right to exclude others. The right to exclude others is the essence of the right of property ownership. The right existed prior to any administrative decision. It is a fundamental vested right."[43] The court distinguished *Bakman v. Department of Transportation*,[44] in which homeowners objected to a permit allowing an airport expansion, on the basis that JCCrandall was not simply an owner of property near the project; rather, the permit was premised on Santa Rita's right to physically use JCCrandall's property.[45] Therefore, the court found the trial court erred in applying the substantial evidence standard, and applied the independent judgment standard instead.[46]

The court of appeal then turned to the question of whether use of the easement for cannabis cultivation was lawful. The court's analysis began with a sweeping statement: "It is often said that cannabis is legal in California. The statement is not true. Under federal law, cannabis is illegal in every state and territory of the United States."[47]

In support of its conclusion that cannabis cultivation was a lawful use of the easement, the trial court had relied on Civ. Code, § 1550.5, subd. (b), which, as

explained above, provides that notwithstanding federal law, commercial cannabis activity that is conducted in compliance with California law and applicable local standards and regulations is deemed lawful.[48] The court of appeal disagreed, finding that provision "defies the Supremacy Clause."[49] "No matter how much California voters and the Legislature might try, cannabis cultivation and transportation are illegal in California as long as it remains illegal under federal law."[50]

Dismissing the County's argument, made in a petition for rehearing, that federal law does not preempt California's Medical Marijuana Program Act (MMPA) and the Compassionate Use Act of 1996, the court stated, "We are not concerned with federal preemption of the MMPA, the Compassionate Use Act, or city permit requirements."[51] The court also emphasized it was not deciding whether Civil Code section 1550.5, subdivision (b) is valid as between contracting parties who voluntarily agree to enter into the cannabis business.[52] Rather, the court framed its decision as addressing the question of whether JCCrandall has the right to prevent the use of its land for a purpose that is a crime under federal law.[53]

Next, the court addressed JCCrandall's argument that state law requires its consent to use its land for commercial cannabis activity. Bus. & Prof. Code, § 26051.5, subd. (a)(2) provides that an applicant for a commercial cannabis license must provide proof of its legal right to occupy and use the proposed site and a statement from the landowner or its agent that demonstrates the landowner has acknowledged and consented to permit the activities on the property by the "tenant applicant."[54] Although the County claimed section 26051.5, subd. (a)(2) only applies between landlord and tenant because of its reference to a "tenant applicant," the court noted that "the statute also refers to consent of the 'landowner,' a category broader than the tenant applicant's landlord."[55] The court also noted the statute demonstrates a policy in favor of consent and against forcing landowners to allow their property to be used for commercial cannabis activities. Therefore, the court concluded that the state statute "require[s] permission for commercial cannabis activities from all landowners where land is so used, including the owners of servient tenants over which cannabis is transported."[56]

Having concluded that both federal and state law prohibited use of the easement for cannabis cultivation without JCCrandall's consent, the court turned to the argument that the transportation of cannabis exceeds the scope of uses al-

lowed under the easement. The court explained that the "mode and manner" of an easement's use must remain "substantially the same as it was at the time the easement was created."[57] At the time JCCrandall's easement was created, cannabis was illegal under both state and federal law. Since its creation, the easement was used for legal agricultural purposes. The court saw a "vast difference between legal and illegal agricultural purposes."[58] Even if the parties had intended that the easement be used for cannabis cultivation at the time of its creation, the easement would have been unenforceable because it would have been for an illegal purpose. Accordingly, the easement's scope did not include the transport of cannabis. To the extent Civ. Code, § 1550.5, subd. (b) could be read as expanding the scope of the easement to allow such a use, it would be "void as violating the Takings Clause of the Fifth Amendment to the United States Constitution."[59]

Finally, the court reached the question of whether the road violated the County's Code. Though the County claimed the dispute was a matter between private parties, not the business of the County, the court noted that the County's Code requires the County, in order to grant a CUP, to find "[s]treets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed use."[60] As such, if the easement is not available for the proposed use and that easement is the only means of access to and from the proposed use, a necessary prerequisite for a CUP is not met.

Accordingly, the court reversed the trial court's decision.

Assessing the reach of *JCCrandall, LLC v. County of Santa Barbara*

Despite expressly limiting its holding to the facts presented, the court of appeal's decision in *JCCrandall* contains several sweeping statements regarding the legality of cannabis in the state and leaves many open questions that may create uncertainty for real estate practitioners advising clients in this arena.

In concluding the easement at issue could not be used for commercial cannabis transport, the *JCCrandall* court emphasized repeatedly that the servient tenement owner did not consent to the proposed use. One of the first questions practitioners may have is, would the result have been different if they did consent? The decision seems to suggest a different outcome would be possible. True, some of the court's reasons for finding the easement was not available for the proposed use would not apply if the dominant and servient tenement own-

ers agreed on the use. For example, the court interpreted Bus. & Prof. Code, § 26051.5, subd. (a)(2) as "requiring permission for commercial cannabis activities from all landowners where land is so used, including the owners of servient tenants over which cannabis is transported."[61] The court noted that the statute evinces a policy that landowners should not be forced to allow their properties to be used for commercial cannabis activities.[62] This concern would not exist in a case where the dominant and servient tenement owners consented to the use.

However, one key line of reasoning would seem to apply regardless of whether or not the servient tenement owner consents to the use. Although the court dismissed cases cited by the County finding federal law did not preempt California's MMPA, the Compassionate Use Act or city permit requirements with little analysis, the court found that Civ. Code, § 1550.5, subd. (b) "defies the Supremacy Clause" and cannot expand the scope of an easement to allow an act that is illegal under federal law (i.e., "illegal transport of cannabis"). Though the court expressly did not decide whether section 1550.5, subdivision (b) is valid between contracting parties who voluntarily enter into cannabis business, it is difficult to see how such an agreement could yield a different result, given that parties cannot contract for an illegal purpose and cannot agree to an easement for an illegal use.[63] Thus, despite the court's attempts to emphasize a narrow scope of its holding following the County's petition for rehearing, the decision contains reasoning that may have an impact beyond the facts of the case.

In future cases, other factual distinctions may arise, but whether they are significant enough to change the outcome in *JCCrandall* is not clear. The *JCCrandall* decision addressed an easement that was expressly made for agricultural use, and the court noted that the difference between use for agriculture and cannabis transport was too great to permit. What if the easement was not limited to agricultural use? For example, if a road easement is granted in general terms, it can be used for all reasonable purposes. However, even with a more general grant, it would seem that the court's finding that Civ. Code, § 1550.5 cannot expand the scope of an easement to allow an unlawful act would still apply.

The court in *JCCrandall* also highlighted the fact that the easement at issue was made in 1998, when cannabis was still illegal in California. What if the easement had been made in 2015, after California authorized cannabis cultivation and transport, and during a time when the federal government had announced a policy against enforcement in states that had legalized marijuana ac-

cording to a scheme that protected the same priorities as the federal government? In that case, it is possible that a stronger argument could be made for the reasonableness of an easement holder's expectation an easement was available for cannabis transport, especially with the consent of the servient tenement, but whether that would be enough to overcome the court's finding that such use is prohibited under federal law is questionable.

Thus, it seems quite possible that the lack of consent in *JCCrandall* was not determinative, and future courts, applying the same reasoning, may conclude that an easement is never available for transporting cannabis, even when the parties agree to the use. Because no contract can be made for an unlawful purpose, it would not be much of a stretch to argue that *any* contract, not just an instrument granting an easement, that has commercial cannabis activities as its purpose would be invalid. From a real property perspective, the decision thus has potential to affect leases and other types of contracts, in addition to easements. So even though the court cautions readers, "Not to worry—our holding does not concern the sale or personal use of cannabis," the decision may potentially throw a wrench in the business of commercial cannabis, if not limited by future courts.

One might query how the issue would arise in future cases if the parties agreed to the use. As explained above, even if the dominant and servient tenement owners agree to a use, an easement with an unlawful purpose may be void or unenforceable. Thus, if disputes arise later, whether between the original contracting parties or between their successors, the easement may be deemed void or unavailable for cannabis-related activities.

Even if there is never a private dispute regarding the easement's creation or use, its validity may still be called into question in the context of related land use approvals. In *JCCrandall*, it was the owner of the servient tenement that challenged the project approval, but to the extent the court's decision is based on the finding that an easement cannot be used to transport cannabis because that use would violate federal law, query whether any third party challenging a proposed project could raise the issue wherever a local government must make a finding that the streets and highways are adequate to carry the traffic generated by the proposed use, or something to that effect. In the context of a third-party lawsuit challenging a permit approval, a court's review would generally be limited to the record, and the court would not necessarily have all of the evidence that might be presented in an action between private parties.

Perhaps the procedural posture partly explains the breadth of the court's decision in *JCCrandall*. In theory, the court could have resolved the dispute based on the scope of the easement granted and the parties' established use. This might have allowed the court to avoid the broader issues relating to the validity of cannabis-related contracts and Civ. Code, § 1550.5 more generally. In fact, the *JCCrandall* court did conclude that a shift from agriculture to cannabis cultivation and transport was a substantial change in the use of the easement, but the court did not stop there. Given that the court was considering the issues in the context of a petition for writ of mandate against the County, it did not necessarily have the ability to delve into the evidence with respect to this particular easement.

Regardless of the reason for the breadth of the *JCCrandall* decision, future servient tenement owners, landlords, and project opponents may attempt to extend its holding to other factual scenarios. Cannabis businesses and those who willingly contract with them will have a stronger argument that *JCCrandall* should be limited to its facts and distinguished where:

- Both parties agree to the type and scope of the use at the outset;
- The agreement was made after enactment of the Medicinal and Adult-Use Cannabis Regulation and Safety Act in 2017;
- The cannabis business has obtained the necessary licenses and follows all applicable state laws and regulations;
- There is a written agreement memorializing all of the above; and
- There is a strong record establishing the existence and scope of the easement available to support any permit or license applications.

Even if all of the foregoing circumstances exist, it remains unclear how broadly *JCCrandall* will be applied.

Conclusion

Just how big of an impact *JCCrandall* will have on actors in the cannabis industry remains to be seen. If future courts find the decision is limited to the facts, the decision may ultimately be a simple (but important) reminder for cannabis businesses, and those who contract with them, that cannabis is still unlawful under federal law. But if future courts apply the court's reasoning and interpret the decision more broadly, as prohibiting the use of easements—or

contracts generally—for any cannabis-related use, it could be a buzz kill for this large, but still-budding, industry.

ENDNOTES:

[1]*JCCrandall, LLC v. County of Santa Barbara*, 107 Cal. App. 5th 1135, 328 Cal. Rptr. 3d 828 (2d Dist. 2025).

[2]Civ. Code, § 887.010; *Kazi v. State Farm Fire and Cas. Co.*, 24 Cal. 4th 871, 881, 103 Cal. Rptr. 2d 1, 15 P.3d 223 (2001); see also Miller & Starr, California Real Estate 4th (2024) § 15:5, fn. 3.

[3]*See* Miller & Starr, California Real Estate 4th (2024) § 15:13.

[4]*See* Miller & Starr, California Real Estate 4th (2024) § 15:14.

[5]Civ. Code, § 806.

[6]*See* Miller & Starr, California Real Estate 4th (2024) §§ 15:15, 15:16, 15:54-15:62.

[7]*See* Miller & Starr, California Real Estate 4th (2024) § 15:16.

[8]*See* Miller & Starr, California Real Estate 4th (2024) §§ 15:15, 15:54-15:55.

[9]*Rye v. Tahoe Truckee Sierra Disposal Co., Inc.*, 222 Cal. App. 4th 84, 91-92, 170 Cal. Rptr. 3d 275 (3d Dist. 2013); see also Miller & Starr, California Real Estate 4th (2024) § 15:56, fn. 13.

[10]*Whalen v. Ruiz*, 40 Cal. 2d 294, 302, 253 P.2d 457 (1953); see also Miller & Starr, California Real Estate 4th (2024) § 15:54, fn. 3.

[11]*Gaither v. Gaither*, 165 Cal. App. 2d 782, 785, 332 P.2d 436 (3d Dist. 1958); see also Miller & Starr, California Real Estate 4th (2024) § 15:54, fn. 4.

[12]*Scruby v. Vintage Grapevine, Inc.*, 37 Cal. App. 4th 697, 703, 43 Cal. Rptr. 2d 810 (1st Dist. 1995); see also Miller & Starr, California Real Estate 4th (2024) § 15:54 fn. 7.

[13]*McBride v. Smith*, 18 Cal. App. 5th 1160, 1181, 227 Cal. Rptr. 3d 390 (1st Dist. 2018); see also Miller & Starr, California Real Estate 4th (2024) § 15:56, fn. 30.

[14]Civ. Code, § 1596; see also 1 Miller & Starr, California Real Estate 4th (2024) § 1:10.

[15]*Baccouche v. Blankenship*, 154 Cal. App. 4th 1551, 1552, 1557-1558, 65 Cal. Rptr. 3d 659 (2d Dist. 2007) (easement for equine use not enforceable insofar as use would violate local ordinance); see Miller & Starr, California Real Estate 4th (2024) § 15:54, fn. 10; 1 Miller & Starr, California Real Estate 4th (2024), § 1:110.

[16]*Teachers Ins. & Annuity Assn. v. Furlotti*, 70 Cal. App. 4th 1487, 1498, 83 Cal. Rptr. 2d 455 (2d Dist. 1999); Miller & Starr, California Real Estate 4th

(2024) § 15:54, fn. 11.

[17]21 U.S.C.A. §§ 801, et seq.

[18]21 U.S.C.A. § 812(c)(10); *City of Garden Grove v. Superior Court*, 157 Cal. App. 4th 355, 377, 68 Cal. Rptr. 3d 656 (4th Dist. 2007).

[19]For example, on August 29, 2013, Deputy Attorney General James M. Cole sent a memorandum to all United States Attorneys titled, "Guidance Regarding Marijuana Enforcement." See https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf (last accessed Feb. 3, 2025). The document became known as the "Cole Memorandum." While acknowledging the distribution and sale of marijuana is a serious crime under federal law, the Cole Memorandum discussed the Department's enforcement priorities in light of the resources available (e.g., prohibiting distribution to minors), and stated that outside of those priorities, enforcement of state law by state and local law enforcement should remain the primary means of addressing marijuana-related activity. *Id.* Essentially, the message to states was: if a state legalizes marijuana use but imposes strict regulations addressing the Department's priorities, the federal government will not challenge the state law. *Id.* However, the Cole Memorandum did not repeal federal laws and, in any event, was later rescinded. Guidance Memorandum regarding "Marijuana Enforcement," from Attorney General Jefferson B. Sessions, III, dated January 4, 2018, available at: https://www.justice.gov/opa/press-release/file/1022196/dl (last accessed Feb. 3, 2025). Thus, to the extent the Cole Memorandum might have given states, like California, that had legalized cannabis for state law purposes some comfort that their actions were not in conflict with federal law enforcement priorities at the time, it is no longer in force.

[20]Compassionate Use Act of 1996, Health & Saf. Code, § 11362.5.

[21]Health & Saf. Code, § 11362.1.

[22]Bus. & Prof. Code, §§ 26000, et seq.

[23]See, e.g., Bus. & Prof. Code, §§ 26050-26059 (licenses), 26060-26066.2 (cultivation licenses), 26067-26069 (tracking), 26070-26071 (retail and distribution), 26080-26090 (distribution, transport, delivery).

[24]Civ. Code, § 1550.5, subd. (b).

[25]U.S. Const., art. VI, cl. 2.

[26]*Virginia Uranium, Inc. v. Warren*, 587 U.S. 761, 767, 139 S. Ct. 1894, 204 L. Ed. 2d 377 (2019).

[27]*Qualified Patients Assn. v. City of Anaheim*, 187 Cal. App. 4th 734, 757-758, 115 Cal. Rptr. 3d 89 (4th Dist. 2010).

[28]*Id.* at 756-763.

[29]*JCCrandall, LLC v. County of Santa Barbara,* 107 Cal. App. 5th at 1138.

[30]*Id.*

[31]*Id.*

[32]*Id.*

[33]*Id.*

[34]*Id.*

[35]*Id.*

[36]*Id.*

[37]*Id.*

[38]*Id.*

[39]*Id.* (quoting *HPT IHG-2 Properties Trust v. City of Anaheim*, 243 Cal. App. 4th 188, 198, 196 Cal. Rptr. 3d 326 (4th Dist. 2015)).

[40]*JCCrandall, LLC v. County of Santa Barbara,* 107 Cal. App. 5th at 1139.

[41]*Id.*

[42]*Id.*

[43]*Id.* at 1139-1140 (citations omitted).

[44]*Bakman v. Department of Transportation*, 99 Cal. App. 3d 665, 160 Cal. Rptr. 583 (3d Dist. 1979).

[45]*JCCrandall, LLC v. County of Santa Barbara,* 107 Cal. App. 5th at 1140.

[46]*Id.*

[47]*Id.* (citing U.S. Const., art. VI, ¶ 2; Controlled Substances Act, 21 U.S.C.A. § 801, et seq.; 21 U.S.C.A. § 812(c)(10); *City of Garden Grove v. Superior Court*, 157 Cal. App. 4th 355, 377, 68 Cal. Rptr. 3d 656 (4th Dist. 2007)).

[48]*Id.* at 1140-1141.

[49]*Id.* at 1141.

[50]*Id.*

[51]*Id.*

[52]*Id.*

[53]*Id.*

[54]*Id.* at 1141-1142.

[55]*Id.* at 1142.

[56]*Id.* Though the court referred to servient tenants, it presumably meant servient tenements, as this statement was made in support of a broader reading of Bus. & Prof. Code, § 26051.5, subd. (a)(2), beyond only a landlord and tenant relationship.

[57]*Id.*

[58]*Id.*

[59]*Id.* at 1143.

[60]*Id.* (citing LUDC, § 35.82.060, subd. (E)(1)(d)).

[61]*Id.* at 1142. Bus. & Prof. Code, § 26051.5, subd. (a)(2) provides that "[a]n applicant for a state license to conduct commercial cannabis activity must '[p]rovide evidence of the legal right to occupy and use the proposed location and provide a statement from the landowner of real property or that landowner's agent where the commercial cannabis activity will occur, as proof to demonstrate the landowner has acknowledged and consented to permit commercial cannabis activities to be conducted on the property by the tenant applicant.' " Nowhere does the statute mention an easement holder or dominant or servient tenement. Rather, it applies to a "tenant applicant." Still, the court noted that the term "landowner" should be interpreted as a broader category than a tenant applicant's landlord, and that the statute evinces a policy that landowners should not be forced to allow their properties to be used for commercial cannabis activities.

[62]*Id.*

[63]*Baccouche v. Blankenship*, 154 Cal. App. 4th at 1552, 1557-1558; see Miller & Starr, California Real Estate 4th (2024) § 15:54, fn. 10; 1 Miller & Starr, California Real Estate 4th (2024), § 1:110.

