FILED
MAY 23 2022
JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

MO CANN DO, INC.	)	
	)	
Plaintiff,	)	
	)	Case No. **20SL-CC05846**
v.	)	
	)	Division No. **19**
MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES	)	
	)	
Defendant.	)	

ORDER AND JUDGMENT

Before the Court is a Petition for Judicial Review of the Decision of the Administrative Hearing Commission granting Summary Judgment for the State Department of Health and Senior Services ("Missouri") and thereby Denying Petitioner's appeal of Missouri's denial of its application for a license under Missouri's medical marijuana scheme.

The case involves a clear deficiency in Petitioner's application for a license to cultivate medical marijuana. It is a technical deficiency only because Petitioner twice failed to attach the required certificate of good standing with its application even though Petitioner was in good standing to conduct business in Missouri as a matter of fact.

Petitioner points out that Missouri was required by regulation to specify in its notice to an applicant who submits an incomplete application "what information is missing." Again, by all accounts, Missouri neglected to specify that Petitioner failed to include the required certificate of good standing when it notified Petitioner that its application was deficient and even though it was specific with respect to other deficiencies in the original application.

It appears that, even if Missouri failed to meet its regulatory duty to specify that, among other things, Petitioner's application lacked the necessary certificate of good standing, such specificity would not have resulted in a complete application from Petitioner upon resubmission.

This is so because Petitioner submitted six other applications for various Missouri medical marijuana licenses. In those six applications, the same certificate was missing. In those six notices of deficiency from Missouri, the lack of that certificate was specified and Petitioner still failed to include such a certificate upon resubmission.

This is an unfortunate case of a technical mistake but Missouri should be able to insist on technical compliance from a sophisticated applicant such as Petitioner in the course of enacting a far-reaching new government program such as the medical marijuana scheme. To the extent Missouri made its own technical mistake in notifying Petitioner of this technical mistake, it is reasonable to conclude, at least in this case, that a more specific notice would have been of no effect.

The Court has reviewed the record and the briefs of the parties. The Commission's decision affirming the denial of Petitioner's application is well-reasoned and grounded in law and procedure. Missouri's action does not violate the Missouri Constitution. It does not exceed its agency's authority of jurisdiction. The agency's action is supported by competent and substantial evidence. It is procedurally sound and is reasonable. It is neither arbitrary nor capricious nor an abuse of discretion. Section 536.140.

Therefore, for the foregoing reasons, the action of Missouri in denying Petitioner's appeal of its denial of a license to cultivate medical marijuana and the decision of the Administrative Hearing Commission affirming the same by means of a summary decision is AFFIRMED.

SO ORDERED:

Judge Thomas C. Albus
Division 19
DATE: