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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

SWEETFLOWER PASADENA
LLC,

Plaintiff and Respondent,

v.

CITY OF PASADENA,

Defendant,

INTEGRAL ASSOCIATES
DENA, LLC,

Real Party in Interest
and Appellant.

B312412

(Los Angeles County
Super. Ct. No.
20STCP03212)

APPEAL from an order of the Superior Court of
Los Angeles County, Mitchell L. Beckloff, Judge. Affirmed.

Carlson & Nicholas, Richard A. McDonald for Real Party in
Interest and Appellant.

No appearance for Defendant.

Nossaman, Artin N. Shaverdian, Gabriela S. Pérez,
Gregory W. Sanders and John J. Flynn III for Plaintiff and
Respondent.

SweetFlower Pasadena, LLC filed a verified petition for writ of mandate and complaint seeking to compel the City of Pasadena to set aside any permits the City had granted to SweetFlower's competitor, Integral Associates Dena, LLC, pertaining to Integral's operation of a retail cannabis store in the City and to obtain a judicial declaration that the City had erred in concluding Integral remained eligible to participate in the permitting process following a material change in its ownership. Integral, named in SweetFlower's petition/complaint as real party in interest, filed a special motion to strike pursuant to Code of Civil Procedure section 425.16.¹ The trial court denied Integral's motion, concluding none of SweetFlower's claims arose from protected speech or petitioning activity. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

1. Integral's Applications for Cannabis-related City Permits

According to SweetFlower's petition/complaint, in June 2018 City voters approved two initiative measures to legalize and regulate commercial cannabis businesses within City boundaries. (See Pas. Mun. Code, §§ 5.28.010 et seq., 5.78.010 et seq.,

¹ Statutory references are to this code unless otherwise stated.

8.11.010 et seq., 17.50.066.)² The initiative measures authorized the City's manager or his or her designee to promulgate the rules and procedures governing the application process for the necessary City permits.

After a detailed vetting process that involved an independent selection committee reviewing and scoring more than 120 applications, in June 2019 the City selected SweetFlower, Integral and four other candidates to apply for a retail cannabis conditional use permit. Pursuant to the City's procedures, applicants that were successful in obtaining a conditional use permit could then apply for a commercial cannabis permit and related operational permits. In January 2020 the City approved Integral's application for a conditional use permit. Sweetflower's application was rejected as incomplete and ultimately denied after Integral and other SweetFlower competitors secured the only available spots for cannabis-related businesses in the City's districts.

On June 18, 2020, after questions emerged whether a change of ownership or control at the selected candidates' businesses during the permitting process should invalidate that applicant's application and continued eligibility to obtain further cannabis-related permits, the city manager, Steven Mermell, issued new rules for reviewing cannabis-related permit applications following a change in a candidate's ownership or management. The new rules declared that "a material change in either ownership or management during the permitting process

² Some of the City's cannabis-related ordinances were amended in November 2021. Those amendments, the subject of ongoing litigation between Integral and the City in the Los Angeles Superior Court, are not at issue in this appeal.

would undermine the legislative intent in [Pas. Mun. Code] Section 5.78.080[] where qualities specific to both were evaluated and directly impacted the scoring and ranking of permittees as part of the selection process. [Thus,] as a matter of equity to all applicants, a material change in ownership and/or management should be evaluated. [¶] A change in ownership and/or management is not allowed and is considered material where it constitutes a ‘change of control.’ ‘Change of control’ shall refer to a transaction whereby a new party acquires a beneficial ownership interest in applicant (or in an existing owner of a beneficial ownership interest in applicant), or a new party is identified as a manager of applicant, such that after such transaction there is a change of identity of the person or entity that has the power to direct or cause the direction of the management and policies of applicant, and therefore would have impacted the substantive scoring of the application such that a different outcome would have been likely.”

Under the new rules, in undertaking a review of a change of ownership or management the City compares the “application materials regarding ownership and management submitted at the beginning of the permittee selection process” with “potential evidence of a change of control.” “The applicant shall have an opportunity to rebut such evidence, and/or offer evidence of no change of control within 10 days of written notice.” “Within 10 days of review of all evidence, the City Manager shall issue a decision in writing as to whether or not any change in ownership and/or management is a change of control and notify the applicant of such conclusion. If there was a change of control, the applicant shall lose the right to proceed through the cannabis permitting process and its application will be rejected.”

On June 30, 2020 SweetFlower wrote to the City alleging Integral had undergone a material change in ownership and/or management since it filed its screening application. In particular, SweetFlower alleged (1) Alex Yemenidjian, Armen Yemenidjian and Brian Greenspun had owned and/or controlled various entities that, in turn, owned and controlled Integral at the time Integral filed its initial application in January 2019; (2) in June 2019 Green Thumb Industries, Inc., acquired the Yemenidjians' and Greenspun's ownership interests in Integral and its controlling entities; (3) following Green Thumb's acquisition of the Yemenidjians and Greenspun's interests, neither the Yemenidjians nor Greenspun remained significantly involved in the operations of Integral.

Integral responded that the Yemenidjians were still involved in the operations of Integral after the sale of their interests and Greenspun remained available to Integral as a consultant.

In July 2020 the City found no material change of control at Integral and allowed Integral to continue participating in the permitting process to open a cannabis retail store.

2. SweetFlower's Petition / Complaint

In October 2020 SweetFlower filed a verified petition for writ of mandate pursuant to sections 1085 and/or 1094.5 and complaint for declaratory relief. In support of its petition, SweetFlower asserted the City had arbitrarily, and without substantial evidence, found Green Thumb's acquisition of the Yemenidjians' and Greenspun's interests had not resulted in a material change of control at Integral. SweetFlower asserted substantially the same allegations to support its claim for a judicial declaration that, based on City rules, Integral's material

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