

**LOCAL MOTIVES FARMS, et al v
CALAVERAS COUNTY TAX COLLECTOR, et al**

25CV48292

**PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION
AND STAY**

Petitioner Local Motive Farms ("Petitioner") seeks writ relief from a September 3, 2025, administrative hearing officer's ruling that upheld the County Division of Cannabis Control's ("DCC") revocation of Petitioner's commercial cannabis cultivation permit. Now before the Court is Petitioner's request for preliminary injunction on this matter. Respondents are the DCC and the Calaveras County Tax Collector ("Respondents.")

The Court grants the Request for Judicial Notice, including the Final Order After Hearing dated September 3, 2025 ("Final Order" located at Declaration of Julie Moss-Lewis ("Moss-Lewis Decl." ¶ 7, Ex. C.))

I. Background Facts and Relevant Procedural History

The relevant facts and procedural history are taken from the findings as set forth in the hearing officer's Final Order.

From December 22, 2019, to May 8, 2025, Petitioner held a permit ("Permit") for commercial cannabis cultivation of one acre on real property located in Calaveras County ("Property.") On July 10, 2025, the DCC issued a Notice of Revocation ("Notice") to Petitioner respecting the Permit and Property. The Notice was based on Petitioner's failure to pay its first quarter 2025 cannabis tax and a concomitant finding that Petitioner was a chronic tax non (more specifically late) payer.

The tax calculation for the entire relevant period was \$2 per square foot. The hearing officer concluded that Petitioner's tax burden was \$87,120 per year, to be paid in quarterly installments of \$21,780. Petitioner conceded that this was its annual and quarterly tax responsibility in 2021. (*Ibid.*) Petitioner was delinquent in his 2021 tax payments.

In 2022, the board of supervisors reduced cannabis cultivation taxes by 60% for the next several years. Thereafter, Petitioner's tax burden for 2022-2024 was \$34,848 per year, to be paid in quarterly installments of \$8,712.00. Petitioner was delinquent in his 2022 tax payments.

Petitioner was delinquent again with payment of its taxes for the first quarter of 2025. Petitioner attempted to negotiate a lesser amount due for "Canopy Reduction" with the Tax Collector's office which was denied at the time. Petitioner's tax payment was thereafter delinquent by more than 60 days. On May 8, 2025, Petitioner's application for Canopy Reduction was granted.

Petitioner appealed and an appeal hearing was held on September 3, 2025. The hearing officer upheld the Permit revocation as proper under the Calaveras County Code.

II. Legal Standard and Discussion

A challenge to a local agency's decisions or actions regarding land use is either an ordinary mandamus under Code Civil Procedure section 1085 or administrative mandamus under Code Civil Procedure section 1094.5. Review under section 1094.5 is appropriate where, as here, the administrative decision is quasi-judicial in that it applies established law to a specific set of facts. (*Pacifica Corp. v. City of Camarillo* (1983) 149 Cal.App.3d 168, 175.) The inquiry in such a case "shall extend to the questions whether the respondent has proceeded without, or in excess of, jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion." (Code Civ. Proc. §1094.5(b).)

The Court has discretion to stay the administrative ruling pending the outcome of the court matter. The first sentence of CCP 1094.5(g) states that the court "may stay the operation of the administrative order or decision pending the judgment of the court." This wording "implicates the preliminary injunction standard with additional consideration of the public interest." (*Doe v. Regents of the Univ. of Cal.*, 2018 Cal. Super LEXIS 79012, *1; Section 1094.5(g) ["no stay shall be imposed or continued if the if the court is satisfied that it is against the public interest"].)

When determining whether to issue a preliminary injunction, the court considers two interrelated questions: (1) the likelihood that the moving party will prevail on the merits, and (2) the relative balance of harms that is likely to result from the granting or denial of interim injunctive relief. (*White v. Davis* (2003) 30 Cal.4th 528, 554; see also *Robbins v. Sup. Ct.* (1985) 38 Cal.3d 199, 206; Code Civ. Proc., § 526.)

When reviewing the matter under section 1094.5, the Court considers whether Petitioner is likely to prevail on the claim taking into consideration the standard of review applicable to the claim.

A. Public Interest Weighs Against The Stay

Respondents' first argument is that because the public interest would weigh against any stay, the Court does not have discretion to grant the stay. Section 1094.5(g) clearly provides that "no stay shall be imposed or continued if the if the court is satisfied that it is against the public interest."

Respondents assert that a stay would be against the public interest because it would undermine the entire purpose of the County's cannabis regulatory system. When California legalized cannabis at a state-wide level, Calaveras County responded with local ordinances aimed at preserving "the public peace, health, safety, and general welfare of the citizens of Calaveras County and the environment while retaining the ability of cannabis users to have access to cannabis in the County to the extent deemed necessary under state law." (Calaveras Code §17.95.010(A).) To that end, the County enacted various rules, including requiring the permitting of commercial cultivation businesses, subject to extensive regulations. (Calaveras Code Chapter 17.95.) All cannabis activity that does not comply with the requirements of the county code are considered unlawful. (*Id.* §17.95.040.)

In addition to operating regulations, Calaveras County also enacted a cannabis tax ordinance, including a tax on commercial cannabis cultivation (Chapter 3.56; 3.56.050(B).) The two codes must be read together. Simply paying the cultivation tax does not itself authorize commercial cannabis cultivation. (Section 3.56.080.) The failure to pay taxes, however, is grounds for the revocation of the cannabis cultivation permit issued pursuant to Chapter 17.95 (Section 3.56.120(D).) The cannabis tax code makes it clear that taxes are due in quarterly installments (Section 3.56.100) and that the failure to pay taxes on the due date is a delinquency which may result in permit revocation. The tax collector has the discretion to issue a notice of delinquency and the failure to issue any notice is not grounds for refusing to pay the taxes due. (Section 3.56.160.) If the tax collector exercises his/her discretion to issue a notice of delinquency, then the permit holder has the right to request a hearing. (Section 3.56.170.) Contrary to Petitioner's position, the cannabis tax code does not require a notice of deficiency or a hearing.

The purpose of the local cannabis regulations is to enable the County to control and regulate cannabis operations to ensure the safety and wellbeing of its community. Part of the regulation of commercial cannabis includes the imposition of a tax, and the ability to revoke a permit based on the failure (or repeated failures) to pay the tax due in a timely manner.¹

The Court is persuaded by the Respondents' argument that the public interest is not served by staying the revocation of Petitioner's permit so that he can harvest his now-illegal cannabis crop.

Because the public interest is not served by granting a stay, the Court lacks authority to grant Petitioner's request for an injunction. However, even if the public interest did not weigh against this conclusion, Petitioner has also failed to carry its burden to show it is entitled to injunctive relief.

B. Injunctive Relief

1. Success on the Merits

The heart of Petitioner's complaint is that the hearing officer refused to provide for the hearing process pursuant to Calaveras County Code section 3.56.170 when determining that the Permit revocation was proper.

As set forth above, the Tax Collector is not under any mandatory duty to provide a permit holder with a notice of delinquency. (Section 3.56.160.) This is a discretionary action that the Tax Collector is authorized, but not required, to take. Only upon the issuance of such a discretionary notice is the permit holder entitled to a hearing. (Section 3.56.170.)

Thus, Petitioner was not entitled to a notice of delinquency, or a hearing on such delinquency, and thus cannot demonstrate that the hearing officer acted "in excess of, jurisdiction" failed to provide a "fair trial" or engaged in any "prejudicial abuse of discretion." (Code Civ. Proc. §1094.5(b).)

¹ Petitioner also argues that he attempted to pay his taxes in April 2025 but they were rejected. Petitioner attempted to pay the amount due based on the County's approval of his application for canopy reduction – which had not been submitted or approved at the time he went to pay the taxes. Rather than paying them, and then seeking a refund through the appeals process (Calaveras Code section 3.56.180) or by seeking a refund (Section 3.56.190.)

Because Petitioner has failed to show a likelihood of success on the merits of his Petition, the Court need not consider the balance of harms. However, the Court also concludes that the balance of harms weighs in favor of protecting the County's interest in preserving safe and legal cannabis cultivation.

III. Conclusion

Based on the foregoing, the motion for Preliminary Injunction is **DENIED**.

The clerk shall provide notice of this ruling to the parties forthwith. Respondent to submit a formal Order complying with Rule 3.1312 in conformity with this Ruling.