

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

ILLINOIS CRAFT CANNABIS ASSOCIATION,)
an Illinois Nonprofit Corporation,)
)
Plaintiff,)
)
vs.)
)
STATE OF ILLINOIS,)
J.B. PRITZKER, as Governor of the State of Illinois,)
ILLINOIS DEPARTMENT OF AGRICULTURE, and)
JERRY COSTELLO II, as Director of the Illinois)
Department of Agriculture,)
)
Defendants.)

CASE NO. 2020CH06247

VERIFIED COMPLAINT FOR WRIT OF MANDAMUS AND OTHER RELIEF

Plaintiff, ILLINOIS CRAFT CANNABIS ASSOCIATION, an Illinois Nonprofit Corporation, (hereafter “ICCA”), by and through its undersigned counsel, hereby submits this Complaint seeking the immediate issuance of a Writ of Mandamus and other relief requiring the STATE OF ILLINOIS, (hereafter “State”), J.B. PRITZKER as Governor of the State of Illinois (hereafter “Governor Pritzker”), the ILLINOIS DEPARTMENT OF AGRICULTURE, (hereafter “Department”) and JERRY COSTELLO II, as Director of the Illinois Department of Agriculture (hereafter “Costello”), to comply with their mandatory and non-discretionary legal and statutory directives and obligations. In support of the relief requested herein, Plaintiff states as follows:

NATURE OF THE ACTION

1. This lawsuit challenges the legality of the Defendants’ actions to unilaterally and indefinitely suspend the July 1, 2020 date by which cannabis Craft Grower, Infuser and Transporting licenses were to be awarded by statute.

2. By law, Craft Grower, Infuser and Transporting licenses were mandated to be scored and awarded to applicants by July 1, 2020, pursuant to Sections 30-5, 35-5 and 40-5 of the Illinois Cannabis Regulation and Tax Act, 410 ILCS 705, et seq. (the “CRTA”).

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3. On June 29, 2020, Governor Pritzker issued Executive Order 2020-45 (“Order 2020-45”) which, among other things, attempted to legally suspend the obligation of Defendants to award the licenses to awaiting applicants, without any definite new deadline. A true copy of *Order 2020-45* is attached hereto as Exhibit A.

4. Order 2020-45 was improper for at least two reasons: (i) it indefinitely suspended the mandatory deadline for awarding the licenses without any definite new deadline, and (ii) it failed to identify a sufficient basis for the suspension as required under Section 7(1) of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(1).

5. The detrimental effects of the improper Order 2020-45 on license applicants, as described herein, have been exacerbated by Defendants’ ongoing failure to identify any new deadline for the awarding of licenses, now more than 3 months after the statutorily mandated deadline of July 1, 2020.

6. Every day that passes without the licenses being awarded causes significant ongoing damage to the license applicants. This is so because, unlike the previously awarded dispensing organization license applicants, these license applicants had a specific legal obligation, under the CRTA, to locate, secure and properly zone real property for a complete application.

7. License applicants have been obligated to maintain their secured real property unexpectedly, beyond the mandated deadline of July 1, 2020, at a tremendous cost for extending leases or purchase contracts, extensions of now more than an additional 3 months. Certain applicants have also been obligated to maintain employees on payroll unexpectedly beyond the July 1, 2020 deadline.

8. To date, Defendants have failed to inform the license applicants and the public in general of the current status of their review of the applications, any expectation for ending the

ongoing delays, and any opportunity for relief to the license applicants for the damages incurred from the delays.

9. A conservative estimate of the total unexpected cost for the 455 Craft Grower applicants and 115 Infuser applicants due to the suspension is \$5 million monthly or \$20 million as of this filing. This includes costs to extend leases and purchase contracts approximately 4 months, to at least November 1, 2020, based upon a survey of Plaintiff's members. Whatever the actual number of millions of dollars have already been spent by applicants, the number is material and continues to grow.

10. Defendants will suffer no harm by immediately issuing the licenses, announcing the scores and providing the scoresheets to applicants. License applicants, on the other hand, will continue to suffer monetary damages daily if the Defendants do not take these actions.

11. Plaintiff seeks an expedited Writ of Mandamus compelling Defendants to issue Craft Grower, Infuser and Transporting licenses immediately and announce the scores and provide the scoresheets to applicants. Plaintiff also seeks a Declaratory Judgment that Order 2020-45 improperly suspended the July 1, 2020 deadline indefinitely and without sufficiently stated cause.

12. Defendants will also suffer no harm by immediately providing relief to license applicants by announcing the removal of certain overly burdensome statutory and/or regulatory obligations including the requirement of applicants' maintaining a secured location, proper zoning and staffing.

13. Plaintiff also seeks injunctive relief to relieve license applicants of statutory and/or regulatory obligations that have become overly burdensome as a direct result of Defendants' improper delays.

THE PARTIES

14. The ICCA is an Illinois Nonprofit Corporation duly organized and existing under the laws of the State of Illinois. It was organized and formed to support and protect the rights and interests of its members who are Illinois licensed cannabis Craft Growers, Infusers, or Transporters and other parties who have applied for such licenses or intend to apply for such licenses. ICCA is a representative of its members, whom are each applicants for one or more of the referenced licenses. *See Int'l Union of Op. Eng'rs, Local 148 v. Illinois Dep't of Empl. Sec.*, 828 N.E.2d 1104, 1111 (Ill. 2005) (expressly adopting the doctrine of association standing).

15. Defendant State of Illinois was the 21st state to enter the Union in 1818 and is currently governed by the Illinois Constitution of 1970, providing for, among other things, the separation of powers among three branches of government: legislative, executive and judicial.

16. Defendant J.B. Pritzker is the Governor of the State of Illinois.

17. Defendant Department is an Illinois governmental entity entrusted with, among other things, carrying out a true, fair and timely application process for the issuance of cannabis Craft Grower, Infuser and Transporting licenses pursuant to Illinois statute and related regulations, within the State of Illinois.

18. Defendant Jerry Costello II is the Director of the Department.

JURISDICTION AND VENUE

19. Jurisdiction over Defendants is proper because this Court has original jurisdiction over all claims not expressly reserved by the Illinois Supreme Court, including a writ of mandamus to protect private rights, see *People ex rel. Dickinson v. Board of Trade*, 193 Ill. 577, and otherwise under 735 ILCS 5/2-209(a)(1) (transaction of any business within this State) and Section 2-209(c)

(any other basis now or hereafter permitted by the Illinois Constitution and the Constitution of the United States).

20. Venue is proper in this Court pursuant to 735 ILCS 5/2-101 as Defendants conduct business in Cook County and some of the acts giving rise to the causes of action set forth in the Complaint arose in Cook County.

FACTS COMMON TO ALL COUNTS

The Illinois Cannabis Regulation and Tax Act (“CRTA”) 410 ILCS 705, et seq.

21. In 2019, the Illinois General Assembly enacted the CRTA and the relevant regulations were subsequently adopted by the Department, 8 IAC 1300.010 et. seq. Under the CRTA, effective January 1, 2020, recreational cannabis production, processing, marketing, sale and use (a/k/a “adult-use”) became legal under Illinois law.

22. The CRTA created some licenses that were new to Illinois, including a Craft Grower license under Article 30 (allowing the cultivation and processing of cannabis), an Infuser license under Article 35 (allowing the infusing of cannabis) and a Transporting license under Article 40 (allowing the transportation of cannabis from one licensed commercial facility to another licensed commercial facility).

23. Pursuant to the CRTA, the State, by and through its Department notified the public that it would accept applications for cannabis Craft Grower, Infuser, and Transporting licenses with an application filing deadline of March 16, 2020 (ultimately extended to April 30, 2020 due to business disruptions related to the COVID-19 pandemic).

24. Applicants needed to submit an application that consisted of hundreds of pages of documentation. This meant not only completing multiple forms that the Department provided, but submitting fingerprints, background information of owners and employees, disclosing

organizational charts, operating agreements, articles of organization, and all contracts and agreements (including oral) relating to the venture, as well as making financial disclosures and attesting to the financial viability of the applicant to proceed with the venture in the event it is awarded a license. In many cases, applicants spent a significant portion of their life savings to submit competitive license applications.

25. Pursuant to the CRTA, specifically 410 ILCS 705/30-5, 705/35-5 and 705/40-5, the Defendants were legally obligated to review and grade duly submitted license applications and issue cannabis Craft Grower, Infuser and Transporting licenses to qualified applicants by July 1, 2020.

Craft Grower licenses - (410 ILCS 705/30-5)

“Sec. 30-5. Issuance of licenses.

(a) The Department of Agriculture *shall issue* up to 40 craft grower licenses by July 1, 2020.” (*emphasis added*)

Infuser licenses - (410 ILCS 705/35-5)

“Sec. 35-5. Issuance of licenses.

(a) The Department of Agriculture *shall issue* up to 40 infuser licenses through a process provided for in this Article no later than July 1, 2020.” (*emphasis added*)

Transporting licenses - (410 ILCS 705/40-5)

“Sec. 40-5. Issuance of licenses.

(a) The Department *shall issue* transporting licenses through a process provided for in this Article no later than July 1, 2020.” (*emphasis added*)

26. While the determination of the scores given to the applications may be a discretionary act of the Defendants, the act of diligently scoring the applications and the time for announcement of the scores and issuance of the licenses was not discretionary, as the General Assembly specifically mandated a deadline of July 1, 2020 in the CRTA.

Executive Order 2020-45

27. On June 29, 2020, two days before the licenses were mandated by law to be issued under the CRTA, Governor Pritzker issued Order 2020-45 which, among other things, declared that “the COVID-19 outbreak and the suspension of the application deadlines have created delays in [the Department’s] application review process and have impacted IDOA’s ability to issue the Craft Grower, Infuser, and Transporting Organization Licenses by July 1, 2020.” (Order 2020-45, tenth recital). See attached, Exhibit A.

28. Pursuant to Order 2020-45, Governor Pritzker “suspended” the mandated issuance of any Craft Grower, Infuser, and Transporting licenses “[d]uring the duration of the Gubernatorial Disaster Proclamations, or until [the Department] otherwise announces a new date no later than the termination of the Gubernatorial Disaster Proclamations.” (Order 2020-45, Section 1).

29. With respect to each category of license, Order 2020-45, Section 1 provides:

“(a) The requirement pursuant to 410 ILCS 705/30-5(a) that [the Department] issue up to 40 Craft Grower Licenses by July 1, 2020, is suspended. **[The Department] shall provide notice to the public of the date such licenses will be issued;**

- (b) The requirement pursuant to 410 ILCS 705/35-5(a) that [the Department] issue up to 40 Infuser Licenses by July 1, 2020, is suspended. **[The Department] shall provide notice to the public of the date such licenses will be issued;** and,
- (c) The requirement pursuant to 410 ILCS 705/40-5(a) that [the Department] issue Transporting Organization Licenses no later than July 1, 2020, is suspended. **[The Department] shall provide notice to the public of the date such licenses will be issued.** (emphasis added)

30. Order 2020-45 provides that the legal basis for the suspension of the mandated issuance of licenses is Section 7(1) and 7(12) of the Illinois Emergency Management Agency Act, 20 ILCS 3305 (the “IEMA”). The relevant part of the IEMA statute, Section 7(1), provides as follows:

Sec. 7. Emergency Powers of the Governor. In the event of a disaster, as defined in Section 4, the Governor may, by proclamation declare that a disaster exists. Upon such proclamation, the Governor shall have and may exercise for a period not to exceed 30 days the following emergency powers; provided, however, that the lapse of the emergency powers shall not, as regards any act or acts occurring or committed within the 30-day period, deprive any person, firm, corporation, political subdivision, or body politic of any right or rights to compensation or reimbursement which he, she, it, or they may have under the provisions of this Act:

(1) To suspend the provisions of any regulatory statute prescribing procedures for conduct of State business, or the orders, rules and regulations of any State agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder or delay necessary action, including emergency purchases, by the Illinois Emergency Management Agency, in coping with the disaster.
(emphasis added)

31. Nowhere in Order 2020-45 does Governor Pritzker comply with his burden of identifying how “strict compliance” with any of the provisions in the CRTA mandating licenses to be issued on July 1, 2020, “would in any way prevent, hinder or delay necessary action...by the

Illinois Emergency Management Agency, in coping with the disaster.” Quoting from Section 7(1) of the IEMA.

32. Suspension of the mandated issuance of licenses, indefinite or otherwise, was ordered without a sufficiently enumerated basis under the IEMA.

33. Nonetheless, Governor Pritzker has continued to renew his Gubernatorial Disaster Proclamations (currently through October 17, 2020) pursuant to a series of monthly reissued Proclamations, none of which have provided the required basis for suspension of the mandated issuance of licenses as required under the IEMA.

34. There has been no indication that Governor Pritzker will cease issuing these Proclamations in the near future.

35. To date, the Department has not provided any notice as to the date the licenses will be issued, despite the clear language of Order 2020-45 requiring the Department to do so.

36. Despite the attempted suspension of the July 1, 2020 statutory deadline, the Defendants’ obligations to diligently complete scoring of the applications, announce the results of the application process and issue the licenses continued to remain, at all times, mandatory acts and did not convert to discretionary obligations.

37. The CRTA, together with its legislatively declared intentions and purposes, remains in effect.

38. The Department’s role under the CRTA remains mandatory and ministerial.

39. The Gubernatorial Disaster Proclamations recite a litany of public health concerns related to the COVID-19 pandemic, but also recognize that the pandemic has caused extensive economic loss and continues to threaten the financial welfare of a significant number of individuals

and businesses across the nation and the State, and that the economic loss and insecurity caused by the pandemic threatens the viability of businesses.

40. One of the stated purposes of the Proclamations is to assist the state in facilitating economic recovery for individuals and businesses in an effort to prevent further devastating consequences from the economic instability the pandemic has caused.

41. In particular, Section 9 of the Gubernatorial Disaster Proclamation dated September 18, 2020 provides that “All State agencies are directed to cooperate with the Governor, other State agencies and local authorities in the development and implementation of strategies and plans to cope with and recover from the economic impact of the present public health emergency.” A true copy of the September 18, 2020 Proclamation is attached hereto as Exhibit B.

42. While the COVID-19 pandemic does continue to persist, unlike at the time of the initial Gubernatorial Disaster Proclamations, the Defendants are operating and no longer materially burdened in their operations by the pandemic.

43. Notwithstanding the Gubernatorial Disaster Proclamations, Defendants continue to move forward with other duties and functions under the CRTA, including, but not limited, to (a) moving forward with the dispensing organization license process under the CRTA, (b) implementing a supplemental scoring process for such dispensing organization licenses, and (c) vetting and announcing over a dozen appointments to the State’s Adult Use Cannabis Health Advisory Committee.

44. Despite being operational and having had a substantial amount of additional time to assess the applications, as of the date of this filing, the Defendants have failed to issue any cannabis Craft Grower, Infuser or Transporting licenses or even provide a date when such action will be taken.

45. Upon information and belief, the scoring process for the Craft Grower, Infuser and Transporting license applications has been substantially completed for no less than several weeks.

46. There is no justifiable reason or circumstance preventing the Defendants from complying with their legal obligation to issue cannabis Craft Grower, Infuser and Transporting licenses without delay, as required by the CRTA.

47. Without conceding that any element of the Defendants' responsibilities is discretionary, even in the event that such discretionary power is being exercised by the Defendants to delay issuance of the licenses, it is being exercised with manifest injustice and is a palpable abuse of discretion.

The ICCA and its Membership

48. The ICCA was formed to represent and protect the interests of Illinois licensed cannabis Craft Growers, Infusers, Transporters and parties who have filed, or who intend to file, applications for licensure in those categories. Its current membership includes in excess of *Thirty Five (35)* parties who have submitted applications to the State by and through its Department, for issuance of a Craft Grower, Infuser or Transporting license pursuant to the CRTA.

49. The members of the ICCA, or any one of them, are suffering immediate or threatened injury as a result of the Defendants failure to award licenses as required by the CRTA of the sort that would make out a justiciable case had any of the members themselves brought suit.

50. The interests the ICCA seeks to protect are germane to the organization's purpose; and neither the claim asserted, nor the relief requested, requires the participation of individual members in these proceedings.

51. The following fact scenarios are actual, true examples of the nature of the claims and injuries being suffered by ICCA members and include, without limitation:

- Applicants' continuous employment of the necessary number of qualified persons to maintain its social equity status. Those employees remain idle, despite being paid bi-weekly. The cost of this payroll to applicant is approximately \$9,500.00 for each bi-weekly payroll period. Each of these employees is also subjected to continued emotional and personal stress and other damages because of lost opportunities for employment and not knowing of their fate in the protracted and open-ended process.
- Applicants have taken action necessary to locate, retain and obtain special use permits for real estate necessary to construct a cultivation facility to comply with the CRTA. If the delay by the Defendants continues, applicants may lose their rights in and to the property and, as a result, would be disqualified for failing to retain their secured property.
- Leases for property have been entered which require applicants to begin leasing on August 1 or September 1, 2020, thirty (30) - sixty (60) days after the licenses were to be issued. Because no license announcement has been made, applicants have been required to renegotiate their leases to extend start dates. In doing so, it is now required that applicants pay extension fees of \$10,000 per month or more. Additionally, some landlords are not willing to extend the start dates beyond October 31, 2020. As a result, if no licenses are issued by that time, some applicants will lose their interest in the property altogether, unable to extend leases further.
- Agreements to purchase property have been entered which require applicants to close on the purchase agreement on or by August 1 or September 1, 2020, thirty (30) - sixty (60) days after the licenses were to be issued. Because no license

announcement has been made, applicants have been required to renegotiate their purchase agreements to extend closing dates. In doing so, it is now required that applicants pay extension fees of \$10,000 per month or more. Additionally, some sellers are not willing to extend the closing dates beyond October 31, 2020. As a result, if no licenses are issued by that time, some applicants will lose their interest in the property and earnest money, as sellers will terminate and re-list the property for sale.

- Applicants have expended considerable time, effort and large sums of money - for some, it constitutes entire life savings - to support and submit a competitive license application. Any further delay in issuance of licenses may cause applicants to abandon their applications because of lack of funds and financial inability to maintain the required employees and secured property.
- Applicants current business is on hold until there is a decision on the license applications, as it does not know if it should order inventory for the upcoming year, if it should begin advertising or promoting its new seasonal offerings, or if it should begin retaining its staff for the start of its new season.
- Applicants retained a number of key individuals to prepare for the start of business should a license be awarded. One of the key employees is an individual who has experience in the design and construction of cannabis cultivation facilities. Because of the delay, this key employee has now taken employment elsewhere, leaving applicant without key personnel necessary to carry out its plan for construction of its facility.

52. The nature of the claims and of the relief sought by the ICCA does not make the individual participation of each injured party indispensable to proper resolution of the cause. The ICCA is an appropriate representative of its members and is entitled to invoke the court's jurisdiction to represent its members' rights and interests.

Effects of the Delay in issuance of the Licenses and Damages Caused

53. There is currently a significant shortage of supply of cannabis for distribution by licensed Illinois dispensaries. This has resulted in inflated product cost to Illinois cannabis consumers. Continued delay in issuance of Craft Grower and Infuser licenses only delays alleviation of this supply shortage.

54. 410 ILCS 705/7-20(c) can be interpreted as prohibiting a social equity applicant from changing the employment status of their Social Equity employees while its application is pending without risk of losing its rights as a social equity applicant under the scoring process developed by the State and the Department.

55. The longer the Defendants delay in their issuance of licenses, the more difficult it will be for successful applicants to comply with the Department's regulatory requirement that licensed facilities be fully on line and approved by the State for start of operations within six (6) months of license award. IAC 1300.310(e)

56. With the original date of license award of July 1, 2020 successful applicants had an entire summer to undertake construction of their facilities. Now that the Defendants have delayed their decisions to fall or beyond, it may be impossible for successful applicants to comply with this regulatory requirement.

57. The delay in issuing licenses has, and will continue to, result in lost revenue by successful applicants and by their employees.

58. If successful in obtaining a Craft Grower, Infuser or Transporting license, income generated by the license holder would be considerable. Additionally, the wages applicants will be able to pay their employees upon award of a license will greatly increase from the minimum regulatory requirement during the months of delayed pending applications.

59. As a direct and proximate result of the Defendants failure to act in accordance with their statutory and legal duties, ICCA Members and their employees have incurred, and will continue to incur, unnecessary expenses, costs and suffer other damages to comply with their legal and application obligations after July 1, 2020 as follows:

- a. Applicants' obligation for payroll, taxes and other employee costs which are continuing as of this filing until which time as the Department issues licenses;
- b. Rent and other related costs to maintain an applicant's rights to real property required by the CRTA to be under applicant's control and necessary for construction of a craft grow or infusion facility, until which time as the Department issues licenses;
- c. Loss of real property acquired or secured by applicants, in compliance with the CRTA, because of inability to pay continuing rent, penalties or violation of purchase or rental agreements, all due to Defendants' delay in issuing licenses;
- d. For successful applicants, lost revenue because of the delay in starting operation of their licensed facilities or transportation services;
- e. For successful applicants, additional construction costs required to complete construction of their craft grow or infusion facilities because of delay and the effect of building during winter months;
- f. For the employees of successful applicants, lost opportunity of increased wages and a higher standard of living;

g. For the employees of unsuccessful applicants, lost employment opportunities, employment search costs, and other general damages; and

h. For successful applicants, the inability to meet statutory construction deadlines because of work being required during winter months.

COUNT I

For a *Writ of Mandamus* Compelling the Defendants to Issue Craft Grower, Infuser and Transporting Licenses Immediately

60. Plaintiff realleges allegations 1 through 59 as if fully set forth herein.

61. The ICCA and its membership have a clear right and expectation that the Defendants comply with 410 ILCS 705/30-5, 705/35-5, and 705/40-5 and issue Craft Grower, Infuser and Transporting licenses to qualified applicants by July 1, 2020.

62. The Defendants have a clear, explicit and non-discretionary duty to comply with 410 ILCS 705/30-5, 705/35-5 and 705/40-5 and issue Craft Grower, Infuser and Transporting licenses to qualified applicants in a timely manner as required in the CRTA.

63. The ICCA and its members have suffered significant monetary and other damages and will continue to suffer additional monetary and other damages as a result of the Defendants' noncompliance with their legal obligations under the CRTA.

64. Although the Governor attempted to suspend the mandated issuance of licenses through Order 2020-45, said Proclamation was improper because it (i) extended the mandated July 1, 2020 deadline indefinitely without any new deadline, and (ii) it failed to sufficiently comply with the requirements of the IEMA.

65. Even assuming that Order 2020-45 was sufficient, the underlying emergency basis being the COVID-19 pandemic no longer exists to the extent it should further delay the mandated and non-discretionary act of immediately issuing Craft Grower, Infuser and Transporting licenses.

66. The ICCA and its members have no other adequate remedy available to alleviate their damages or address their claims.

67. On October 5, 2020, Plaintiff delivered a written letter to Defendants, accompanied by a draft complaint, identifying the issues and demanding that the mandate of the CRTA to issue the licenses be undertaken immediately and additional relief be provided accordingly. A true copy of the October 5, 2020 letter is attached hereto as Exhibit B.

68. While counsel for the Department did respond to Plaintiff's letter with vague references to possible solutions, Defendants refused to provide any specific responses to Plaintiff's demands as of the date of this filing.

WHEREFORE, Plaintiff prays that this Court issue a Writ of Mandamus compelling the Defendants to implement the mandate of the Cannabis Regulation and Tax Act by doing the following without further delay:

- a. Immediately issue cannabis Craft Grower, Infuser and Transporting licenses to qualified applicants;
- b. Disclose to each applicant their total application score and their scoring sheet explaining where their application may have lost points;
- c. Reimburse Plaintiff its reasonable attorney's fees and costs incurred in this action.

COUNT II

For Declaratory Judgment That Order 2020-45 Improperly Suspended the Mandated Deadline of July 1, 2020 Indefinitely and Without Sufficient Support From the IEMA

69. Plaintiff realleges allegations 1 through 68 as if fully set forth herein.

70. Order 2020-45 improperly suspended the July 1, 2020 deadline indefinitely.

71. Order 2020-45 was insufficient to comply with the IEMA requirements for suspending the mandated deadline of July 1, 2020 for issuing Craft Grower, Infuser and Transporting licenses.

72. An actual controversy exists between the parties regarding the foregoing issues.

73. Plaintiffs have no adequate remedy at law because the only current remedy is to compel the Defendants to comply with the mandated deadline of the CRTA.

WHEREFORE, Plaintiff prays that this Court issue a Declaratory Judgment that Order 2020-45 was insufficient for suspending the mandated deadline of July 1, 2020 for issuing Craft Grower, Infuser and Transporting licenses, and any additional relief this Court deems just.

COUNT III
**For *Injunctive Relief* to Release Applicants From Certain Ongoing Obligations
Under the CRTA**

74. Plaintiff realleges allegations 1 through 73 as if fully set forth herein.

75. The ICCA members have incurred, and will continue to incur, monetary and other damages as a result of the delay in issuance of Craft Grower, Infuser and Transporting licenses by the Defendants, because there remain ongoing regulatory and statutory requirements of license applicants that:

a. Applicants maintain social equity employees while applications are being considered by the Defendants;

b. Applicants maintain specific property secured by lease or purchase right for location of their licensed facilities;

c. Applicants have property secured that is properly zoned to allow its intended use; and

d. Applicants complete construction of their facilities during winter months by a date of 6 months from date of license issuance.

76. Whether or not a Writ of Mandamus is not entered compelling issuance of the licenses, the ICCA members will need relief from these regulatory and statutory requirements, otherwise many will lose their qualification status or ability to meet their legal obligations under the CRTA and may lose their right to proceed with a license should one be awarded.

77. The ICCA and its membership have no other adequate remedy at law to address their grievances or prevent further irreparable injury because of the application of these statutes and regulations.

78. The damages being suffered by the membership of the ICCA requires emergency relief to prevent further damages.

WHEREFORE, Plaintiff prays for an Order providing for the following Injunctive relief:

a. Prohibit the Defendants from enforcing the provisions of 410 ILCS 705/7-20(c) and finding any applicants ineligible to proceed as social equity applicants if they furlough employees until such time as the Department rules on the license applications;

b. Compel Defendants to provide successful applicants additional time to complete construction of their licensed facilities beyond the time limit set forth in 8 IAC 1300.310(e);

c. Compel Defendants to provide successful applicants a reasonable amount of time to correct expired zoning and/or locate, retain and rezone, if necessary, replacement property for cultivation locations lost because of the delay by the Defendants in carrying out their statutory and legal obligations;

- d. Compel Defendants to allow applicants time and ability to correct their organizational chart and replace individuals who have left applicant as a result of the delay by the Defendants in carrying out their statutory and legal obligations;
- e. Compel Defendants to comply with their clear and unambiguous legal obligations to immediately issue cannabis Craft Grower, Infuser and Transporting licenses to qualified applicants as required by the CRTA;
- f. Compel Defendants to disclose to each applicant their total application score and their scoring sheet explaining where their application may have lost points;
- h. Award of reasonable attorney's fees and costs incurred by Plaintiff; and
- i. Such other relief as this Court deems appropriate.

Respectfully submitted,

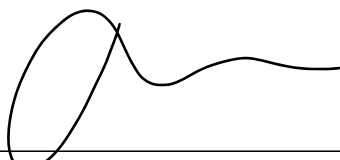
**ILLINOIS CRAFT CANNABIS
ASSOCIATION,**
an Illinois Nonprofit Corporation,

By: /s/ David S. Ruskin
One of Its Attorneys

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VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned, Paul Magelli, President of Illinois Craft Cannabis Association, certifies that the statements set forth in this instrument are true and correct, except as to matters therein states to be on information and belief as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

A handwritten signature in black ink, consisting of a large, loopy initial 'P' followed by a series of connected, wavy lines that form the rest of the name.

Paul Magelli

Date: October 12, 2020

EXHIBIT A



FILED
INDEX DEPARTMENT

JUN 29 2020

IN THE OFFICE OF
SECRETARY OF STATE

June 29, 2020

Executive Order 2020-45

EXECUTIVE ORDER IN RESPONSE TO COVID-19
(COVID-19 EXECUTIVE ORDER NO. 43)

WHEREAS, Coronavirus Disease 2019 (COVID-19), a novel severe acute respiratory illness, has rapidly spread throughout Illinois in a short period of time, necessitating stringent guidance from federal, state, and local public health officials and significant measures to respond to the increasing public health disaster; and,

WHEREAS, COVID-19 can spread among people through respiratory transmissions, asymptomatic people can transmit the virus, and there is currently no effective treatment or vaccine; and,

WHEREAS, on March 9, 2020, I, JB Pritzker, Governor of Illinois, declared all counties in the State of Illinois as a disaster area in response to the outbreak of COVID-19; and,

WHEREAS, on April 1, 2020, I declared all counties in the State of Illinois as a disaster area due to the exponential spread of COVID-19; and,

WHEREAS, on April 30, 2020, due to the expected continuing spread of COVID-19 and the resulting health impacts across the State, as well as the need to prevent potential shortages of hospital beds, ICU beds, ventilators, personal protective equipment and materials for testing for the virus, I declared all counties in the State of Illinois as a disaster area; and,

WHEREAS, on May 29, 2020, due to the thousands of lives lost to COVID-19 in Illinois, the continued increase of cases, the continued threat of shortages of hospital beds, ER beds, and ventilators, the improved but still insufficient testing capacity, and the financial destruction caused by the virus, I again declared all counties in the State of Illinois as a disaster area; and,

WHEREAS, on June 26, 2020, due to the ongoing burden on hospital resources, the expected continuing spread of COVID-19, and the ongoing health and economic impacts that will be felt over the coming month by people across the State, I again declared all counties in the State of Illinois as a disaster area (together with the previous proclamations identified in this Executive Order, the Gubernatorial Disaster Proclamations); and,

WHEREAS, the Cannabis Regulation and Tax Act, 410 ILCS 705, and implementing regulations, Title 8, Section 1300 of the Illinois Administrative Code, require the Illinois Department of Agriculture (IDOA) to issue up to 40 Craft Grower Licenses, 410 ILCS 705/30-5(a), up to 40 Infuser Licenses, 410 ILCS 705/35-5(a), and an unlimited number of Transporting Organization Licenses, 410 ILCS 705/40-5(a), by July 1, 2020; and,

WHEREAS, pursuant to Executive Order 2020-03 and Executive Order 2020-17, the application submission deadlines in the Cannabis Regulation and Tax Act and implementing regulations for submitting Craft Grower, Infuser, and Transporting Organization License applications by March 16, 2020, were suspended until April 30, 2020; and,

WHEREAS, the COVID-19 outbreak and the suspension of the application deadlines have created delays in IDOA's application review process and have impacted IDOA's ability to issue the Craft Grower, Infuser, and Transporting Organization Licenses by July 1, 2020; and,

WHEREAS, the Cannabis Regulation and Tax Act, 410 ILCS 705/20-30(m), prohibits cultivation centers from transporting cannabis to a craft grower, dispensing organization, infuser organization, or laboratory licensed under the Act without obtaining a Transporting Organization License beginning July 1, 2020; and,

WHEREAS, the Cannabis Regulation and Tax Act, 410 ILCS 705/25-5(a), requires IDOA, in coordination with the Illinois Community College Board, to establish a Community College Cannabis Vocational Pilot Program, and requires community colleges to submit applications to IDOA for the Community College Cannabis Vocational Pilot Program no later than July 1, 2020, 410 ILCS 705/25-10(a); and,

WHEREAS, the ability of community colleges to complete and submit applications to IDOA by July 1, 2020, may have been impacted by the COVID-19 outbreak and the measures that the State has enacted to address the COVID-19 outbreak;

THEREFORE, by the powers vested in me as the Governor of the State of Illinois, pursuant to Sections 7(1) and 7(12) of the Illinois Emergency Management Agency Act, 20 ILCS 3305, I hereby order the following:

Section 1. During the duration of the Gubernatorial Disaster Proclamations, or until IDOA otherwise announces a new date no later than the termination of the Gubernatorial Disaster Proclamations, the following provisions of the Cannabis Regulation and Tax Act, 410 ILCS 705, and the implementing regulations, are hereby suspended as follows:

- a. The requirement pursuant to 410 ILCS 705/30-5(a) that IDOA issue up to 40 Craft Grower Licenses by July 1, 2020, is suspended. IDOA shall provide notice to the public of the date such licenses will be issued;
- b. The requirement pursuant to 410 ILCS 705/35-5(a) that IDOA issue up to 40 Infuser Licenses by July 1, 2020, is suspended. IDOA shall provide notice to the public of the date such licenses will be issued; and,
- c. The requirement pursuant to 410 ILCS 705/40-5(a) that IDOA issue Transporting Organization Licenses no later than July 1, 2020, is suspended. IDOA shall provide notice to the public of the date such licenses will be issued.

Section 2. During the duration of the Gubernatorial Disaster Proclamations, or until IDOA issues Transporting Organization Licenses pursuant to 410 ILCS 705/40-5(a), whichever is sooner, the requirement pursuant to 410 ILCS 705/20-30(m) and 8 Ill. Adm. Code 1300.195, that beginning July 1, 2020, a cultivation center shall not transport cannabis or cannabis-infused products to a craft grower, dispensing organization, infuser organization, or laboratory licensed under this Act, unless it has obtained a Transporting Organization License, is suspended.

Section 3. The July 1, 2020, deadline for submission of Community College Cannabis Vocational Pilot Program applications pursuant to 410 ILCS 705/25-10(a), and 8 Ill. Adm. Code 1300.202(a), is suspended until September 1, 2020, or until the termination of the Gubernatorial Disaster Proclamations, whichever is sooner.

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Section 4. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.



JB Pritzker

Issued by the Governor June 29, 2020
Filed by the Secretary of State June 29, 2020

FILED
INDEX DEPARTMENT
JUN 29 2020
IN THE OFFICE OF
SECRETARY OF STATE

EXHIBIT B

Illinois Craft Cannabis Association

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(312) 620-8362

info@ilcraft.org

October 5, 2020

VIA HAND DELIVERY AND EMAIL

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Mr. Jerry Costello II, Director
Illinois Department of Agriculture
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Jerry.Costello@illinois.gov

Re: Demand for Immediate Announcement and Issuance of
Cannabis Craft Grower, Infuser and Transporting Licenses

Governor Pritzker, Director Costello, and Ms. Hutchinson:

The Illinois Craft Cannabis Association (“ICCA”) is an Illinois nonprofit corporation, organized and formed to support and protect the rights and interests of its members (“Members”) who are Illinois licensed cannabis Craft Growers, Infusers, or Transporters and other parties who have applied for such licenses or intend to apply for such licenses. We are writing to you today on behalf of our Members, who count themselves among the many hundreds of applicants (“Applicants”) that filed one or more applications with the State of Illinois, (hereafter “State”), through its Department of Agriculture, (hereafter “Department”), for issuance of a license to allow operation of a Cannabis Craft Grower cultivation facility pursuant to the Cannabis Regulation and Tax Act, 410 ILCS 705 et. seq. and the regulations adopted by the Department, 8 IAC 1300.010 et. seq. (hereafter collectively the “Act”), a Cannabis Infusion facility under the Act, or a Cannabis Transporting operation under the Act (each, a “License”), and who are experiencing severe financial hardship and potential ruin as a result of the State and Department’s continued delay in issuing the applicable Licenses.

Many of our Members submitted their application as a qualified social equity candidate based upon either majority ownership and control by a qualifying individual(s) or the fact that a majority of their employees are qualified social equity persons as defined by the Act (meaning that before filing their application, and continuing thereafter, each such Applicant continuously employed the necessary number of qualified persons to maintain their social equity status). Moreover, before filing their application and continuing thereafter our Members had taken all action necessary to

locate and retain a qualifying interest in real estate necessary to construct the applicable cannabis facility to comply with the Act. Unlike the dispensary process, this process was not based on hypothetical locations, but actual property under contract, leased or owned by the Applicant.

Our Members have expended considerable time, effort and large sums of money, in many cases, their entire life savings, to support and submit competitive license applications. In our estimation, Applicants have spent upwards of \$100 million preparing license applications. But as noted above, the expense of this process does not stop upon submission of the application to the Department and every day that the Department delays this process materially damages our Members and all similarly situated Applicants. We estimate that Applicants are having to spend in excess of \$5 million per month due to the State's delays, and have already spent more than \$15 million since July 1, 2020. In fact, any further delay in issuing the licenses may cause some Applicants, including some of our Members, to be forced to abandon their applications because of lack of funds and thereby lose their standing or rights under the Act. Moreover, the State's delays mean that eventual Licensees will lose approximately \$40 million in revenue for each month of delay that can never be recovered, totaling more than an estimated \$120 million since July 1, 2020 and the State will lose nearly \$12M per month in badly needed excise tax revenue for each month it delays.

While we all appreciate the impact that the COVID-19 pandemic has had on the lives of everyone in the State (and beyond), the pandemic can no longer be used as an excuse to delay the statutorily required issuance of these Licenses. Pursuant to the Act, specifically 410 ILCS 705/30-5(a) and 35-5(a), the State, by and through the Department were legally obligated to act upon and issue the Licenses to qualified Applicants by July 1, 2020. While the grading of the applications was a discretionary act of the Department, issuance of the Licenses was not. While Executive Order 2020-45 ("Order") suspended the July 1, 2020 statutory deadline, it did not somehow convert the Department's obligations to discretionary obligations. They remain mandatory and ministerial. As of the date hereof, the Department has failed to issue any Licenses or even provide a date when such action will be taken despite that announcement being a requirement of the Order. Even assuming for the sake of argument that the Order did create a discretionary power, this discretionary power is now being exercised with manifest injustice and is a palpable abuse of discretion.

We are unaware of any justifiable reason or circumstance, consistent with the Order and Gubernatorial Disaster Proclamations, which would prevent the State or the Department from complying with their legal obligations to issue the Licenses under the Act. While the COVID-19 pandemic persists, the Department is operating, as is KPMG - the organization that was engaged to score the applications. Moreover, this has been the case since July 1st. While the application deadline was extended approximately 45 days, issuance of the Licenses has been delayed more than 90 days and unlike the time period between the original License application deadline of March 16, 2020 and April 30, 2020, when the pandemic was raging and spreading exponentially, that was not the case between April 30th and today. Simply put, our Members believe that the State and Department are not acting in good faith in their decision to continue to delay the issuance of the Licenses.

While we hope it is not necessary, the ICCA is prepared to immediately seek judicial relief because of the actions of the State and Department. The Complaint we are prepared to file is attached. This Complaint will be filed at 1:00pm (CST) on October 7, 2020 in the event that the State and Department have not issued the Licenses by noon (CST) on October 7, 2020 supported by publication of all Applicant scores.

Thank you for your time and consideration on this important and urgent issue. While our resolve to request judicial intervention is real, we remain open to working with you to find a reasonable solution to the issues at hand. Please direct all correspondence to our counsel, David Ruskin at (312) 606-3235 or druskin@hmbllaw.com.

Sincerely,



Paul J. Magelli
President

Enc.

CC: David Ruskin