

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

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Qualified Applicants for a  
Preapproval Lottery,

Court File No. 62-CV-25-810

Petitioner,

vs.

**ORDER**

Minnesota Office of Cannabis  
Management, Interim Director  
Eric Taubel, in his official  
capacity,

Respondent.

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**INTRODUCTION**

Petitioner Qualified Applicants for a Preapproval Lottery (“Qualified Applicants”) moves the court for a writ of mandamus to compel the Minnesota Office of Cannabis Management (“OCM”) to hold a social equity lottery. OCM opposes the motion, suggesting it is not required to do so. Althea Huyser appeared on behalf of the Qualified Applicants. Assistant Attorneys General Ryan Petty appeared on behalf of OCM. The court took the matter under advisement following the hearing.

## **BACKGROUND**

This court issued a stay on November 25, 2024, prohibiting the OCM from conducting its social equity applicant lottery, pending a decision from the court of appeals regarding rejected applicants. Calm Waters Cannabis Co had been approved for the lottery. It sought a writ of prohibition to prevent this court from enforcing the stay. (Special Term Order, A24-1936, January 14, 2025 at 1). The appellate court temporarily stayed this court's order and directed expedited briefing. *Id.* at 5.

Meanwhile, Qualified Applicants seeks a writ of mandamus to compel OCM to conduct the social equity lottery it canceled, following this court's November 25th order. OCM objects to this request. It contends the members of Qualified Applicants<sup>1</sup> will have an opportunity to participate in the general lottery OCM tentatively has planned for some time in May or June of this year. The court's consideration of these arguments follows.

A writ of mandamus compels an official to perform a duty the law absolutely requires. *Mendota Golf, LLP v. City of Mendota Heights*, 708 N.W.2d 162, 171 (Minn. 2006); Minn. Stat. § 586.01. To obtain the writ, the petitioner must show the official failed to perform the required duty; that it suffered a public wrong; and that the petitioner has no adequate legal remedy. *N. States Power Co.*

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<sup>1</sup> Qualified Applicants is a nonprofit comprised of applicants the OCM has already approved.

*v. Minn. Metro. Council*, 684 N.W.2d 485, 491 (Minn. 2004) A writ of mandamus is an extraordinary remedy. *Id.* The question here is whether the law that enabled OCM requires it to conduct a social equity lottery. Qualified Applicants argues it does; OCM responds that scheduling another social equity lottery is within its discretion. The answer to the question lies in the meaning of the applicable statute.

Statutory construction requires the court to give effect to the legislature's intent. *Ly v. Harpstead*, 16 N.W.2d 788, 797 (Minn. 2024). Here, it appears the legislature intended to displace the illicit cannabis market with a legitimate one and to provide historically disadvantaged groups with an opportunity to ready their capacity to operate a cannabis-related business. (Writ Pet. at 6-7) The legislature vested the OCM with the discretion to establish a license preapproval process for applicants that meet the requirements of Minn. Stat. § 342.17. 2024 Minn. Sess. Laws, Ch. 121, Art. 2 § 148, subd. 1. If there are more qualified applicants than available licenses, however, OCM “*must conduct a lottery to select applicants for license preapproval.*” *Id.* at subd. 6. The lottery must include all qualified applicants seeking license preapproval for the available license type and “must be impartial, random, and in a format determined by the office.” *Id.*

Qualified Applicants argues this language is unambiguous and mandatory. It agrees OCM had the discretion to establish a license preapproval process. But it proffers that, because there were more qualified applicants than available licenses,

the legislature mandated that OCM conduct an impartial lottery to award them. (Writ Pet. at 7-8) There is nothing on the face of the language mandating a lottery that appears ambiguous. Minn. Stat. § 645.16 (2022); *Ly*, 16 N.W.2d at 797; 14 *Cherrywood, LLC v. City of North Oaks*, 993 N.W.2d 287, 292 (Minn. App. 2023). But OCM generally argues it has discretion over the entire licensing process and therefore intimates this language ““is susceptible to more than one reasonable interpretation.”” (OCM Br. at 2); *Ly*, 16 N.W.2d at 797 quoting *Spann v. Minneapolis City Council*, 979 N.W.2d 66, 73 (Minn. 2022). OCM’s argument engenders the court’s skepticism.

The plain meaning of the language at issue tells the OCM when it must conduct a lottery. 2024 Minn. Sess. Laws, Ch. 121, Art. 2 § 148, subd. 6. And that it must do so in a manner that is “impartial, random, and in a format determined by the office.” *Id.* This language portends (and attempts to address) the very situation that prevails here. When there are more *qualified (social equity) applicants* than license types available, the OCM would not be permitted to select arbitrarily who gets one. Instead, the successful applicants would be selected through a random, impartial lottery.

Given the purpose of the statute and the legislature’s unambiguous expression of how that purpose shall be realized, the court finds OCM is required to conduct a social equity lottery for the 648 preapproved applicants. It has failed

to do that and has expressed publicly that it does not intend to conduct a separate social equity lottery. (Writ Pet. at 3) Qualified Applicants contends OCM's decision has harmed its members in a variety of ways.

It argues the decision has hindered some of its members ability to produce a cannabis crop for at least another year. *Id.* at 11 It suggests the void will allow the illicit market to continue to grow, contrary to the legislature's intent. *Id.* at 12. Qualified Applicants argues the delayed crop makes it more difficult for its smaller businesses to secure financing, as lenders and investors need to know they have a stable supply of cannabis. *Id.* Some of Qualified Applicants' members have invested hundreds of thousands of dollars or secured financing for the same. *Id.* at 13-14. It argues cancelling the social equity lottery creates a degree of uncertainty for its members they had not bargained for and that unfairly jeopardizes their chances at succeeding. *Id.* at 11-15. They also point to the lost advantage of competing against a smaller group of applicants for a limited number of licenses. *Id.* at 15.

The legislature created a framework to cultivate a nascent cannabis industry in Minnesota. Part of that framework was designed to ensure historically disadvantaged communities could participate meaningfully in this industry. It appears OCM's decision to cancel the social equity lottery will diminish this opportunity, contrary to the legislature's intent. The question the court now must

answer is whether Qualified Applicants has an adequate legal remedy. The court is persuaded it does not.

While social equity lottery offers no guarantees, as discussed above, cancelling the lottery effectively casts aside the significant time and investment 648 qualified applicants put into shoring up their capacity to hit the ground running as a licensee. The legislature vested OCM with the discretion to create a preapproval process for a reason. 2024 Minn. Sess. Laws, Ch. 121, Art. 2 § 148, subd. 1. It understood that allowing disadvantaged groups to build their capacity early on in the licensing process would enhance their ability to operate a successful business. (Writ Pet. at 7). That advantage is lost if there is no social equity lottery. There are no administrative or judicial remedies available to address this wrong in a timely fashion short of a writ of mandamus. (Writ Pet. Reply at 3-9)

The record here reflects that OCM has a legal duty to conduct a preapproval (social equity) lottery pursuant to 2024 Minn. Sess. Laws, Ch. 121, Art. 2 § 148, subd. 6. It has failed conduct this lottery, and Qualified Applicants has suffered a public wrong as a result. There is no adequate legal remedy to address OCM's failure to perform its legal duty.

**IT IS HEREBY ORDERED:**

1. That an alternate writ of mandamus shall issue from this Court, directing OCM immediately upon receipt of the writ to conduct a preapproval lottery pursuant

to 2024 Minn. Sess. Laws, Ch. 121, Art. 2 § 148, subd. 6. Or, if in default, OCM must appear before this court to show cause why it has failed to do so, by its return to said writ, which shall be made by filing and serving its response to Qualified Applicants' Petition.<sup>2</sup>

Dated:

**BY THE COURT:**

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Stephen L. Smith  
Judge of the District Court

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<sup>2</sup> All briefing in connection with the Writ of Mandamus will be on an expedited basis as the court directs. Consistent with this order, the court finds both the likelihood of irreparable harm, and that it is in the interest of justice to allow the members of Qualified Applicants to receive the benefit the legislature intended. Minn. R. Gen. Prac. 115.07.