Circuit Court for Anne Arundel County
Case No. C-02-CV-20-001928

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0116

September Term, 2021

ROUNDTABLE WELLNESS, LLC

v.

NATALIE M. LAPRADE MARYLAND MEDICAL CANNABIS COMMISSION

Nazarian,
Leahy,
Harrell, Glenn T.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Nazarian, J.

Filed: May 10, 2022

Roundtable Wellness, LLC ("Roundtable") applied for grower and processor medical cannabis licenses from the Natalie M. Laprade Maryland Medical Cannabis Commission (the "Commission"). After the Commission informed Roundtable that it was not among the top tier of applicants, Roundtable filed suit against the Commission and individual commissioners in the Circuit Court for Charles County, seeking a writ of administrative mandamus, an injunction, and a declaratory judgment. The case eventually was transferred to the Circuit Court for Anne Arundel County, the individual commissioners were dismissed, and the Commission moved to dismiss. At the close of a hearing, the circuit court dismissed the petition for writ of administrative mandamus and declaratory judgment and granted summary judgment in favor of the Commission, denying the request for an injunction. Roundtable appeals and we affirm.

I. BACKGROUND

A. The Commission.

Before delving into the details of the case, we start with some background on Maryland's medical cannabis industry and the Commission's application process.

The Commission is an independent agency within the Maryland Department of Health responsible for developing policies and regulations to implement programs to make medical cannabis available to qualifying patients. Md. Code (1982, 2019 Rep. Vol., 2018 Cum. Supp.), § 13-3302(c) of the Health - General ("HG") Article. Among other things, the Commission is authorized to license medical cannabis dispensaries and to issue medical cannabis grower and processer licenses. *Id.* HG §§ 13-3307(a)(1), 13-3309(c)(3), 13-3306(a)(2)(iv).

In line with the General Assembly's recent legislative efforts to promote diversity in the Maryland cannabis industry, the Commission formed a race and gender-conscious submission process for medical cannabis grower and processor licenses.[1] In October 2019, the Commission developed and submitted emergency regulations that addressed the criteria for assessing license applications. Among other things, these amended regulations defined the term Disadvantaged Equity Applicant ("DEA") under COMAR 10.62.01.01B and provided that applicant entities could qualify for DEA status by demonstrating that a certain percentage of their ownership interest was held by people from disadvantaged communities. COMAR 10.62.08.05I(6)(b)(d), 10.62.19.04I(6)(b)–(d).

The Commission is authorized by statute to award a number of licenses to medical cannabis growers, processors, and dispensaries. HG §§ 13-3306, 13-3309. The Commission may issue no more than twenty-two grower licenses and no more than twenty-eight processor licenses. HG §§ 13-3306(2)(i), 13-3309(c)(1)(i). Before the 2019 application process, the Commission issued seventeen grower licenses, one grower license preapproval, and eighteen processor licenses. In March 2019, the Commission opened a

[1] The application process is memorialized in regulations, which provide that:

> A. An applicant shall submit an application for a license.
>
> B. An application shall be:
>
> (1) Completed on a form developed by the Commission; and
>
> (2) Submitted to the Commission for consideration.

COMAR 10.62.08.02(A)–(B). This language applies to processor licenses as well. COMAR 10.62.19.02.

new application process to seek qualified candidates for up to four additional grower licenses and ten additional processer licenses. HG §§ 13-3306(a)(2)(i), 13-3309(c)(1)(i).

B. The 2019 Application Process.

The new application process directed applicants to submit redacted documents to the Commission by May 24, 2019. The Commission then led an "initial sift" of all applications to determine whether the applicants met the minimum requirements or included disqualifying information.

The application period was open from March 25, 2019 to May 24, 2019. Candidates submitted application packets through an online platform. On June 10, 2019, the grower and processor license applications were reopened for an additional fourteen days due to technical issues with the submission platform and widespread errors with redaction. All candidates, including those who had submitted applications previously, were required to hand-deliver application packets to the Commission offices by June 24, 2019.

Before the application period, the Commission solicited proposals for independent evaluators to review, score, and rank the applicants. The Commission collaborated with Morgan State University ("MSU") to evaluate the applications in a two-part blinded review.[2] MSU evaluators were responsible for evaluating operational factors, among other things,[3] while questions about the engagement of owners, employees, or contractors from

[2] Application materials were redacted to omit the name of the applicant and each investor, owner, employee, or consultant associated with the application.

[3] In September 2019, the Commission released a detailed breakdown of the weighted criteria, including the following factors: (1) operational, (2) safety and security, (3) commercial laboratory, pharmaceutical manufacturing, and consumer products

Economically Disadvantaged Areas ("EDAs") were reviewed by the Commission. MSU evaluated, scored, and ranked the applications and submitted a comprehensive evaluation report to the Commission on August 31, 2019. The Commission then combined the MSU scores (90 out of 100) with its own (10 out of 100) and shared the blinded application materials with the Commission members. After reviewing them, the Commission voted to approve the rankings. But this vote wasn't pre-approval for a license itself—it enabled the Commission to verify the information contained in the application materials of the high-ranking applicants.

After the rankings were announced, on October 8, 2019, the Commission wrote to Governor Larry Hogan, President of the Senate, Mike Miller, and Maryland Speaker of the House, Adrienne Jones, to explain the Commission's decision to delay the award of pre-approvals for the new grower and processer licenses. The Commission explained that it needed time to investigate the highest-ranking applications, and the Legislative Black Caucus of Maryland asked the Commission to delay the award due to concerns about the process. Zuckerman Spaeder conducted an independent investigation into the allegations challenging the impartiality and integrity of the process, and those allegations were found to be unsubstantiated. Stage-one preapprovals were announced on October 1, 2020.

C. The Lawsuit.

Roundtable is a proposed cannabis wellness company. It submitted online

production, (4) production control, (5) business and economic, and (6) additional factors, including a diversity plan and documentation regarding the applicant's minority ownership interests.

application materials for a grower and processor license on May 24, 2019 and submitted them again in person before the June 24, 2019 deadline. On September 24, 2019, Roundtable was informed that it was not among the highest-scoring applications for a medical processor (and seemingly a grower) license. Two days later, on September 26, 2019, the Commission announced and released a copy of the scoring criteria and the full rankings for both the grower and processor licenses.

On October 24, 2019, Roundtable filed an initial complaint for writ of administrative mandamus and sought preliminary and permanent injunctive relief in the Circuit Court for Charles County. After a lengthy procedural history, the case was eventually transferred to the Circuit Court for Anne Arundel County. On July 10, 2020, Roundtable filed an amended complaint that contained three counts: (1) Count I – Writ of Mandamus, (2) Count II – Injunctive Relief, and (3) Count III – Declaratory Judgment.

Roundtable's amended complaint challenged the scoring process and methodology implemented by the Commission, but not the scoring of its individual application:

> 41. The [Commission] acted arbitrarily, capriciously, and unreasonably when it failed to ensure that [MSU] had the proper subject matter experts to properly apply the methodology established by state law.
>
> 42. On information and belief, Roundtable Wellness proffers that the Commission acted arbitrarily, capriciously, and unreasonably when it failed to ensure that no current or former employee, independent contractor or person otherwise associated with [MSU] applied for and/or received a license.
>
> 43. The [Commission] acted arbitrarily, capriciously, and unreasonably when it failed to ensure that all the medical cannabis processor license applications received the exact same review.

> 44. The [Commission] acted arbitrarily, capriciously, and unreasonably when it allowed one of its members to participate in deliberation or even sit on the Commission, when one of the Commissioner's close relatives was a member of a group seeking a license.
>
> 45. The [Commission] acted unreasonably, arbitrarily, and capriciously when the Commission reserved unto its staff the ability to award 10% of the total application score for "evaluating questions relating to [DEA] status and [EDAs]."
>
> 46. The [Commission's] decision that Roundtable Wellness was not one of the highest ranked applications must be "supported by competent, material, and substantial evidence in light of the entire record as submitted."

Roundtable sought multiple forms of relief, including that: (1) the Commission void the grower and processor rankings, (2) the Commission fulfill its statutory duty to review all applications in a manner that is not arbitrary, capricious, or unreasonable, (3) the Commission award Roundtable a stage-one preapproval, (4) the Commission cease issuing the licenses until the applications have been rescored, and (5) the court issue an injunction prohibiting the Commission from announcing the awards for preapproval licenses or take any other steps under Stage two of the licensing scheme.

D. Circuit Court Ruling.

The Commission filed a motion to dismiss Roundtable's amended complaint on October 20, 2020 and the parties appeared for a hearing on February 11, 2021. The Commission argued that none of the allegations in Roundtable's complaint, even if true, could properly support a mandamus claim because they attacked the "process as a whole[,]" and thus their allegations "g[o] to quasi-legislative actions undertaken by the Commission." Put another way, the allegations "at their core attacked the larger process,

the same process that each of the 200 applications to compete for grower and processer [sic] license[s] participated in[,]" and not Roundtable's individual application. Roundtable responded that the action was quasi-judicial in nature because MSU evaluators reviewed Roundtable's individual application, and "[t]he fact that the same process was done for 200 other applicants" does not affect whether it was a quasi-judicial act as applied to a single application.

At the end of the hearing, the circuit court granted the Commission's motion to dismiss in part and motion for summary judgment in part.[4] The court issued an Order on March 1, 2021, memorializing its findings from the motions hearing:

> 5) Pursuant to Rule 2-322, the Court dismisses the claim for administrative mandamus because the allegations in the Amended Complaint fail to establish that Plaintiff had a substantial right to a license that was prejudiced by any action by the Commission.
>
> 6) Pursuant to Rule 2-322, the Court dismisses the claim for administrative mandamus because the Plaintiff challenges actions by the Commission that are quasi-legislative, such that mandamus will not lie.
>
> 7) Pursuant to Rule 2-322, the Court dismisses the claim for a declaratory judgment because, although the Commission's actions at issue are quasi-legislative, the application and licensing process do not fall within the plain language of the statute and therefore Plaintiff has failed to allege a claim for a declaratory judgment upon which relief can be granted. The Commission's actions related to the licensure application process are within the Commission's discretion as conferred by the General Assembly.

[4] The circuit court's decision was based on multiple grounds, some of which Roundtable doesn't appeal. Roundtable appeals only some of the bases on which the circuit court dismissed the petition for writ of administrative mandamus and does not appeal the decision to dismiss based on laches or promissory estoppel.

> 8) Pursuant to Rule 2-501, summary judgment is granted in favor of the Commission on the claim for injunctive relief because the relief sought could not be granted. The claim for injunctive relief set forth in the Amended Complaint seeks to enjoin the Commission from issuing pre-approvals for medical cannabis grower and processor license, actions which have already occurred. This claim is therefore moot. Accordingly, there is no dispute of material fact and the Commission is entitled to judgment as a matter of law on the claim for injunctive relief.
>
> 9) The Court further finds that a request for injunctive relief cannot exist as a standalone cause of action. Given the dismissal of the claims for administrative mandamus and a declaratory judgment, there is no predicate cause of action upon which the claim for injunctive relief can survive.

Roundtable appeals the March 1, 2021 Order. We supply additional facts as necessary below.

II. DISCUSSION

Roundtable identifies five issues which we rephrase into three.[5] *First*, did the circuit

[5] Roundtable phrased its Questions Presented as follows:

> I. Whether the Circuit Court erred as a matter of law when it dismissed the Appellant's claim for administrative mandamus challenging the Appellee's 2019 application grading process because "the plaintiff has not stated a claim that the Commission failed to execute a non-discretionary ministerial duty"?
>
> II. Whether the Circuit Court erred as a matter of law when it dismissed the Appellant's claim for administrative mandamus challenging the [Commission's] 2019 application grading process because "the allegations in the Amended Complaint fail to establish that the Plaintiff had a substantial right to a license that was prejudiced by any action by the Commission"?
>
> III. Whether the Circuit Court erred as a matter of law when it dismissed the Appellee's claim for administrative mandamus

> challenging the [Commission's] 2019 application grading process because "the Plaintiff challenges actions by the Commission that are quasi-legislative, such that mandamus will not lie"?
>
> IV. Whether the Circuit Court erred as a matter of law when it dismissed the Appellant's claim for declaratory judgment challenging the Appellee's 2019 application grading process because the Commission's quasi-legislative actions "do not fall within the plain language of the [declaratory judgment] statute"?
>
> V. Whether the Circuit Court's decision to dismiss the Appellant's claim for injunctive relief should be reversed, given the Circuit Court erred as a matter of law when it dismissed the Appellant's claims for administrative mandamus and declaratory judgment?

The Commission phrased its Questions Presented as follows:

> 1. Was the circuit court's dismissal of Roundtable's petition for a writ of administrative mandamus legally correct, because (a) Roundtable does not possess a substantial right to a medical cannabis grower or processor license pre-approval that it did not receive, and (b) the Commission's actions and omissions that Roundtable challenges are quasi-legislative and therefore are not properly the basis for a petition for a writ of administrative mandamus?
>
> 2. Was the circuit court's dismissal of Roundtable's claim for a declaratory judgement legally correct, because (a) in seeking a declaratory judgment that it be awarded a Stage One pre-approval, Roundtable was not asking the circuit court to determine the construction or validity of a statute, rule or regulation and therefore its claim was beyond the scope of § 3-406 of the Courts and Judicial Proceedings Article, (b) the Commission actions and omissions that Roundtable challenges are quasi-legislative and within the scope of the Commission's discretionary authority, as conferred upon it by the General Assembly, and (c) the circuit court has discretion, pursuant to § 3-409 of the Courts and Judicial Proceedings Article, not to issue a declaratory judgment when doing so would serve no

court err as matter of law when it denied Roundtable's claim for administrative mandamus? *Second*, did the circuit court err as a matter of law when it dismissed Roundtable's claim for declaratory judgment? And *third*, did the court err when it granted summary judgment in favor of the Commission on Roundtable's claim for injunctive relief?

When reviewing a decision to grant a motion to dismiss for failure to state a claim upon which relief can be granted, "we must determine whether the complaint, on its face, discloses a legally sufficient cause of action." *Schisler v. State*, 177 Md. App. 731, 743 (2007) (citation ommitted). In doing this, "we accept all well-pled facts in the complaint, and reasonable inferences drawn from them, in a light most favorable to the non-moving party." *Converge Servs. Grp. v. Curran*, 383 Md. 462, 475 (2004) (*citing Porterfield v. Mascari II, Inc.*, 374 Md. 402, 414 (2003)). Dismissal for failure to state a claim is proper only if the alleged facts and permissible inferences would, if proven, fail nonetheless to afford relief to the plaintiff. *See Ricketts v. Ricketts*, 393 Md. 479, 492 (2006). And we review the court's decisions themselves *de novo*. *Talbot Cnty. v. Miles Point Prop., LLC*, 415 Md. 372 (2010).

In its written order, the circuit court listed several reasons that defeat Roundtable's

---

useful purpose and would not terminate the controversy?

3. Was the circuit court's dismissal of the Roundtable's claim for an injunction legally correct because a claim for an injunction cannot exist as a standalone cause of action and Roundtable has no legally sufficient predicate claim?

administrative mandamus claim. We agree with and shall address two.[6] *First*, the actions taken by the Commission were quasi-legislative in nature. *Next*, even if Roundtable can surpass the first hurdle, Roundtable does not possess a substantial right to a license, and therefore the claim for administrative mandamus fails for both reasons.

A. The Circuit Court Didn't Err In Dismissing The Petition For Administrative Mandamus.

Roundtable contends that the circuit court had jurisdiction to review the Commission's decision to deny it a stage-one preapproval because the Commission's determination that Roundtable's application was not among the highest-scoring applications for a grower and processor license was "quasi-administrative in nature"[7] and, therefore, "subject to judicial review[.]" Roundtable seeks to invoke Maryland Rule 7-401(a), which allows "for judicial review of a quasi-judicial order or action of an administrative agency where review is not expressly authorized by law."

In *Maryland Overpak Corp. v. Mayor & City Council of Baltimore*, the Court of Appeals distinguished between acts of administrative agencies that are legislative in nature and those that are quasi-judicial:

> The outcome of the analysis of whether a given act is quasi-judicial in nature is guided by two criteria: (1) the act or

[6] The circuit court outlined a third reason for its decision to dismiss the mandamus claim: the claim for administrative mandamus "premised on allegations of impropriety by the Commission related to the submission of applications in June 2019 on the basis that [Roundtable] has not stated a claim that the Commission failed to execute a non-discretionary ministerial duty." We note that failure to execute a non-discretionary ministerial duty applies to common law mandamus actions under Maryland Rule 15-701, relief that Roundtable concedes it isn't seeking.

[7] "Quasi-administrative" and "quasi-judicial" have the same meaning in this context.

> decision is reached on individual, as opposed to general, grounds, and scrutinizes a single property; and (2) there is a deliberative fact-finding process with testimony and the weighing of evidence.

395 Md. 16, 33 (2006) (citations omitted). *Overpak* involved the amendment of a previously approved planned unit development ("PUD") and amounted to a quasi-judicial action because the amendment dealt with a specific property and its unique circumstances and because the City Council, in enacting the ordinance that amended the PUD, made an extensive body of factual findings "on an individualized basis" after comprehensive, adversarial hearings. *Id.* at 41.

Generally, "proceedings or acts that scrutinize individual parcels or assemblages for the consideration of property-specific proposed uses, at the owner's or developer's initiative, ordinarily suggest a quasi-judicial process or act." *Id.* at 37. Individual determinations are distinct "from acts that primarily have broader, community-wide implications which encompass considerations affecting an entire planning area or zoning district." *Id.* at 36. A deliberative process involves "the holding of a hearing, the receipt of factual and opinion testimony and forms of documentary evidence, and a particularized conclusion as to the development proposal for the parcel in question." *Id.* at 38 (citations omitted). Along those same lines, "site-specific findings of fact are necessary not only to inform properly the interested parties of the grounds for the body's decision, but also to provide a basis upon which judicial review may be rendered." *Id.* at 40 (citations omitted). Indeed, the "most weighty criterion" is the fact-finding. *Id.* at 33.

Similarly, in *Talbot County v. Miles Point*, the Court of Appeals pointed out that it

is not a hearing's mere focus on one piece of land (or in this case, one application) that makes a decision quasi-judicial, "'but rather that the matter taken up at the hearing is disposed of based on the unique characteristics' of the property at issue." 415 Md. at 387 (*quoting Overpak*, 395 Md. at 39). The Court explained that "the greater a decisionmaker's reliance on general, 'legislative facts,' the more likely it is that an action is legislative in nature." *Id.* On the other hand, "the greater a decision-maker's reliance on property-specific, 'adjudicative facts,' the more reasonable it is to term the action adjudicatory in nature." *Id.* These adjudicative facts concern questions of "who did what, where, when, how, why and with what motive or intent . . . ." *Id.* at 387–88 (cleaned up).

This case doesn't map neatly onto the usual administrative mandamus cases. On the one hand, Roundtable is an unhappy applicant for licenses and seeks to challenge the Commission's decision to deny it those licenses, which normally would suggest a quasi-judicial decision. On the other, Roundtable's complaint alleges defects with the Commission's process for evaluating applications while saying nothing about the Commission's analysis of Roundtable's specific application. The complaint seeks to upend and invalidate the entire stage-one preapproval process and, seemingly, to disqualify and rescind the successful stage-one preapprovals that were awarded in October 2020, but never alleges that Roundtable was entitled to stage-one approval.[8] Indeed, a close look at Roundtable's operative complaint reveals allegations of inconsistences within the scoring

[8] This aspect of the case distinguishes it from our recent reported opinion, in which an applicant was awarded a stage-one approval. *See Green Healthcare v. Med. Cannabis Comm'n*, ___ Md. App. ___, No. 766, Sept. Term 2021 (filed April 28, 2022).

process and allegations of individual misconduct by both Commission members and MSU evaluators, but nothing about Roundtable's own application or how the Commission evaluated it:

> - Failure "to ensure that [MSU] had the proper subject matter experts to properly apply" the established methodology;
> - Failure "to ensure that no current or former employee, independent contractor or person otherwise associated with [MSU] applied for and/or received a license";
> - Failure "to ensure that all . . . applications received the exact same review";
> - Allowing "one of its members to participate in deliberation or even sit on the Commission, when one of [their] close relative[s] was a member of a group seeking a license";
> - The Commission reserving "unto its staff the ability to award 10% of the total application score for 'evaluating questions relating to [DEA] status and [EDAs]'"; and
> - "The [Commission's] decision that Roundtable [] was not one of the highest ranked applications must be 'supported by competent, material, and substantial evidence in light of the entire record as submitted.'"

And although the Commission's decision that Roundtable was not among the top scorers is the end of the road for its license applications, the decision itself was a threshold determination of eligibility. The initial scoring round was not a final determination that any applicant would be awarded a grower or processor license, but a preliminary finding of eligibility based on the criteria established by the Commission and implemented through blind review by MSU. That preliminary eligibility finding was based on general, legislative facts regarding operational factors, safety and security, commercial laboratory,

pharmaceutical, manufacturing and consumer products production factors, business, and economic factors, as well as the applicant's diversity plan and ownership interests of DEAs. So although we recognize that Roundtable disputes the Commission's decision and that it may not have had much ability to include detailed allegations about its particular score,[9] its complaint nevertheless takes issue only with the process, never alleges that Roundtable would have been one of the top-ranking applicants if the applications had all "received the exact same review[,]" and, ultimately, seeks to challenge a legislative decision of the Commission, not a quasi-judicial one.

B. The Circuit Court Correctly Dismissed The Administrative Mandamus Claim Because Roundtable Does Not Have A Substantial Right That Was Prejudiced By An Action Of The Commission.

Next, Roundtable contends that because this is "an action for administrative mandamus pursuant to Maryland Rule 7-401 and not common law mandamus pursuant to Maryland Rule 15-701[,]" it "is not required to establish that it had a substantial right to a license that was prejudiced by any action" taken by the Commission. But the plain text of Rule 7-403 says otherwise:

> The court may issue an order denying the writ of mandamus, or may issue the writ (1) remanding the case for further proceedings, or (2) reversing or modifying the decision *if any*

[9] During oral argument, Roundtable stated that it was not given a debriefing about why its application was not among the highest scoring applications and had no opportunity to request their score. Counsel for the Commission conceded that the only information given to unsuccessful applicants is the rankings, which include individual scores but no further breakdown by category. We recognize this as a difficult position for any unsuccessful applicant. Then again, Roundtable does not allege that it asked for its individual score or was denied any information about how the Commission scored its application.

> *substantial right of the plaintiff may have been prejudiced* because a finding, conclusion, or decision of the agency:
>
> (A) is unconstitutional,
>
> (B) exceeds the statutory authority or jurisdiction of the agency,
>
> (C) results from an unlawful procedure,
>
> (D) is affected by any error of law,
>
> (E) is unsupported by competent, material, and substantial evidence in light of the entire record as submitted,
>
> (F) is arbitrary or capricious, or
>
> (G) is an abuse of its discretion.

(Emphasis added.) At the threshold, then, Roundtable can't bring a petition for administrative mandamus unless it can show the denial of a "'clear legal right or protected interest.'" *Barson v. Md. Bd. of Phys.*, 211 Md. App. 602, 618 (2013) (*quoting Perry v. Dep't of Health & Mental Hygiene*, 201 Md. App. 633, 637 (2011)).

It can't. Roundtable asserts in its reply brief that its "interest" and "substantial right" have been "prejudiced by the Commission's actions." But even if Roundtable was fully qualified for the stage-one approval, as it alleges in its complaint, it didn't have a substantial right to the stage-one preapproval that it was denied. Nor was it denied any substantial interest by the procedures utilized by the Commission, either in awarding the stage-one approvals or in handling its application.

A substantial right is a protected property interest. *Perry*, 201 Md. App. at 640 (*citing Oltman v. Md. State Bd. Of Phys.*, 182 Md. App. 65, 72 (2008)). In order for Roundtable to establish a substantial right, it had to identify some property interest to which it was entitled that was prejudiced by an action by the Commission. The rights asserted by

Roundtable here are speculative and hopeful, and at best prospective and certainly not vested. *See Board of Regents of State Colls. v. Roth*, 408 U.S. 564, 577 (1972) ("To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it.").

Perry and *Barson* are both instructive on this point. In *Perry*, the circuit court dismissed a petition for writ of mandamus because the petitioner did not have a substantial right to a promotion she sought, and was denied, and could not bring a challenge to obtain a position she had never held in the first place. 201 Md. at 640. Similarly, in *Barson*, the circuit court lacked jurisdiction to issue a writ of administrative mandamus to invalidate a decision of the State Board of Physicians denying the physician's request for revision of a consent order. 211 Md. at 618–20. The physician failed to show a clear legal right or protected interested in having her registration numbers reinstated after forfeiting them voluntarily, and she couldn't seek extraordinary relief based on her failure to understand the consequences of that decision. *Id.* at 619.

Roundtable, like the two hundred other candidates, applied for consideration for a grower or processor license, and the Commission's decision to grant approval at any stage is a discretionary one. As in *Perry*, where the decision to promote the petitioner was discretionary and decided against her, Roundtable had no substantial right to the license (or any preliminary approval toward it) that it was never awarded. The circuit court did not err by granting the Commission's motion to dismiss on these grounds.

C. The Circuit Court Properly Dismissed The Declaratory Judgment Claim Because Roundtable Does Not Have A Substantial Right To A License.

Roundtable also assigns error to the circuit court's dismissal of its declaratory action, contending that "declaratory judgment is the correct cause of action to pursue when there is no judicial review by statute and the action was quasi-legislative in nature." Roundtable argues that the circuit court erred by dismissing the declaratory judgment claim under Maryland Code (1973, 2020 Repl. Vol.), Section 3-406 of the Courts and Judicial Proceedings ("CJ") Article, without also considering CJ § 3-409. We address each in turn.

The first question leads to a straightforward answer. Under CJ § 3-406, a person whose rights are affected by a document, statute, or ordinance can ask the court to construe it and declare their rights, status, or relations:

> Any person interested under a deed, will, trust, land patent, written contract, or other writing constituting a contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, administrative rule or regulation, contract, or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, administrative rule or regulation, land patent, contract, or franchise and obtain a declaration of rights, status, or other legal relations under it.

We agree with the Commission, though, that Roundtable's claim for declaratory judgment under CJ § 3-406 "did not ask the circuit court to determine the construction or validity of a statute, rule, or regulation but, rather, whether certain actions or omissions by the Commission were arbitrary, capricious, or unreasonable." Moreover, the Commission is right that "the application and application process do not fall within the plain language of a statute or regulation." And because Roundtable has not asked the court to construe the

terms or scope of its rights under the statute, there is no declaratory relief the court could give it under CJ § 3-406.

With regard to CJ § 3-409, we agree with Roundtable that "[a] declaratory judgment action is appropriate when there is no judicial review by statute and the action was quasi-legislative in nature . . . ." *Dugan v. Prince George's Cnty.*, 216 Md. App. 650, 659 n.13 (2014) (*citing World Outreach Church v. Montgomery Cnty.*, 184 Md. App. 572, 596–97 (2009)); *see* also *Armstrong v. Mayor & City Council of Balt.*, 169 Md. App. 655, 667 (2006) (citations omitted) ("In the absence of a statutory basis for judicial review of administrative decisions by a local body, such decisions are reviewable, based on a court's inherent power, in an action invoking the original jurisdiction of the circuit court, through the writ of mandamus, by injunction, declaratory action, or by certiorari."). We agree as well that *Bethel*, *Armstrong*, and *Dugan* recognize a cause of action for declaratory judgment where there is no judicial review by statute and the action was quasi-legislative in nature, so declaratory judgment can be an appropriate procedural vehicle under these circumstances. From there, though, Roundtable also must satisfy the pleading standard for declaratory judgment, and it didn't.

A court may grant a declaratory judgment if it will serve to terminate the controversy and if: (1) an actual controversy exists between the parties; (2) antagonistic claims are present between the parties involved which indicate imminent and inevitable litigation; or (3) a party asserts a legal relation, status, right, or privilege and this is challenged or denied by an adversary party, who also has or asserts a concrete interest in it. CJ § 3-409.

The decision to issue a declaratory judgment lies within the sound discretion of the trial court. *Sprenger v. Pub. Serv. Comm'n of Md.*, 400 Md. 1, 20 (2007). Those kinds of discretionary matters are "'much better decided by the trial judges than by appellate courts, and the decisions of such judges should only be disturbed where it is apparent that some serious error or abuse of discretion or autocratic action has occurred.'" *Dabbs v. Anne Arundel Cnty.*, 458 Md. 331, 347 (2018) (*quoting Northwestern Nat'l Ins. Co. v. Samuel R. Rosoff, Ltd.*, 195 Md. 421, 436 (1950)).

To be sure, dismissal of a declaratory judgment complaint is rarely appropriate, and in most cases the trial court must declare the parties' rights even if the decision would be unfavorable to the party seeking the declaration. *See, e.g., 120 W. Fayette St., LLLP v. Mayor & City Council of Balt.*, 413 Md. 309, 355–56 (2010). But a court may dispose of a declaratory judgment action without declaring the parties' rights when there is no justiciable controversy. *Broadwater v. State*, 303 Md. 461, 467 (1985) (collecting authorities). And a justiciable controversy exists where "there are interested parties asserting adverse claims upon a state of facts which must have accrued wherein a legal decision is sought or demanded." *State Ctr., LLC v. Lexington Charles Ltd. P'ship*, 438 Md. 451, 591 (2014) (cleaned up). "Of equal importance, and more instructive in this case, is the logical converse, that is, when a declaratory judgment action is brought and the controversy is not appropriate for resolution by declaratory judgment, the trial court is neither compelled, nor expected, to enter a declaratory judgment." *Curran*, 383 Md. at 477 (*citing Popham v. State Farm Mut. Ins. Co.*, 333 Md. 136, 140–41 n.2 (1993)).

The requirement that there be an existing live controversy avoids the issuance of advisory opinions. *Hatt v. Anderson*, 297 Md. 42, 46 (1983). In *Hatt*, a fireman brought suit against the county fire department seeking a declaratory judgment that a certain regulation was unconstitutional. *Id.* at 43. The circuit court granted summary judgment in favor of the county, but the Court of Appeals vacated the circuit court's judgment, remanded the case, and instructed the court to dismiss the fireman's action for lack of a justiciable controversy. *Id.* at 47. The Court observed that the complaint failed to allege that the regulation had affected him directly, and the mere existence of the regulation did not create an actual dispute between the parties. *Id.* at 45–46. The Court explained that his complaint merely speculated about how the regulation could be enforced in the future and noted that the county had not ordered the fireman to perform or refrain from any act. *Id.*

This case is like *Hatt*. Roundtable challenges the circuit court's refusal to issue a declaratory judgment regarding the Commission's processes in scoring and ranking the applications for grower and processor licenses. Nowhere does Roundtable assert it was or should have been one of the highest qualifying applicants or that there were scoring issues with its individual application materials. Instead, Roundtable contends that a declaratory judgment is necessary to prevent hypothetical and abstract consequences based on speculative allegations of misconduct by the Commission and MSU employees. The facts alleged in Roundtable's complaint did not allege a current dispute between the parties that could be remedied through a declaratory judgment, and the circuit court dismissed it correctly.

D. Roundtable Is Not Entitled To Injunctive Relief.

Finally, Roundtable argues that the court's denial of its claim for injunctive relief should be reversed given that the circuit court erred when it dismissed Roundtable's other claims. But a request for injunctive relief is not a stand-alone cause of action—it's a remedy that flows from a substantive claim that entitles a party to it, so Roundtable's claim for injunctive relief fails for the same reasons its substantive claims fail. And Roundtable's request for injunctive relief is moot in any event: it asked the circuit court to issue "an injunction prohibiting [the Commission] from announcing the awards of pre-approval licenses," but the stage-one preapprovals were issued in October 2020 and were not stayed. There is, then, no relief the court could award to Roundtable in that regard.

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY AFFIRMED. APPELLANT TO PAY COSTS.