

District Court, Delta County, State of Colorado 501 Palmer Street, Room 338 Delta, CO 81416 Telephone: (970) 874-6280	<p style="text-align: right; color: blue;">DATE FILED: September 16, 2013</p> <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
TRAVIS JARDON, et al, Plaintiff(s), v. DELTA COUNTY BOARD OF COUNTY COMMISSIONERS, et al, Defendant(s).	Case No.: 12CV314 Div.: 2
ORDER ON MOTION TO AMEND	

The Court has reviewed the Motion, Response and Reply. The issue is whether or not the Court's Order of September 5, 2013 could properly order the County to issue a Cease and Desist Order to Applicants based on the Court's ruling that there was no evidence in the record to suggest compatibility with the neighborhood with respect to public health.

Applicants argue that this Order was, in effect, an Order of Mandamus which was not pled. Plaintiffs argue that this was not mandamus relief, but rather, the means to enforce the Rule 106(a)(4) order. Further, Plaintiffs argue that they are entitled to the process set forth in the County regulations for notice and an opportunity to be heard with respect any violation prior to any such relief being enforced by Delta County .The Court has not seen the Cease and Desist Order issued by Delta County but accepts the representation that the County issued such an Order on September 6, 2013.

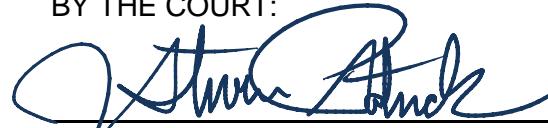
Generally, the Court agrees with the analysis in the response by Plaintiffs. The portion of the Order directing the issuance of a Cease and Desist Notice is the means to enforce the Court's determination that no valid approval was issued. The Court agrees with Applicants, however, that C.R.C.P. Rule 62(a) contemplates an automatic stay of 14 days, which in this instance would be to and including September 19, 2013.

The Court also disagrees that the notice of violation or process for enforcing action with respect to any violation have any application under this fact pattern. The approvals have been found to be void for the reasons articulated in the September 5, 2013 Order. This potential outcome has been argued and known to Applicants since, at the latest, the preliminary injunction hearing where it was clear that should Plaintiffs prevail this would be the result given their decision to proceed prior to resolution of this dispute and the pending litigation.

The Motion to Amend is denied.

Dated this, the 16th day of September, 2013.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "J. Steven Patrick", written over a horizontal line.

J. Steven Patrick
District Judge

cc: Knight, Tolin, Rhodes