



Foster Swift Wins Victory for City in Marihuana Ordinance Appeal

FOR IMMEDIATE RELEASE

Foster Swift Municipal Law News

July 18, 2022

Foster Swift municipal attorneys Laura J. Genovich and Michael D. Homier successfully defended the City of Mount Pleasant against an appeal of its competitive selection process under the Michigan Regulation and Taxation of Marihuana Act ("MRTMA").

Like many municipalities, the City of Mount Pleasant adopted an ordinance authorizing a limited number of adult-use marihuana retailers and establishing a competitive process to select the applicants best suited to operate in compliance with MRTMA in the City. The City faced lawsuits and appeals following its selection of three retailer licensees. One of the lawsuits claimed that the City's decision was arbitrary and denied the plaintiff its due process rights. The circuit court dismissed the lawsuit.

In a published, binding opinion issued on July 14, 2022, the Michigan Court of Appeals affirmed the circuit court's decision in favor of the City. The Court of Appeals agreed that the City "afforded each license applicant an extraordinary amount of process," and it rejected plaintiff's claim that the scoring process was arbitrary. The Court of Appeals concluded that the due process clause does not "empower courts to micromanage the decision-making of governmental entities" or permit them to "second-guess" the City's scoring of applications. The City's licensing decision was therefore upheld.

The opinion is available here:

https://www.courts.michigan.gov/4a065a/siteassets/case-documents/uploads/opinions/final/coa/20220714_c356707_35_3

Foster Swift represents municipalities across the state in developing, enforcing, and defending medical and adult-use marihuana ordinances and advising on related issues, including ballot initiatives. If you have questions or your community would like assistance, please contact Laura Genovich at 616.726.2238/lgenovich@fosterswift.com or Michael Homier 616.726.2230/mhomier@fosterswift.com.

ATTORNEYS

Laura J. Genovich

Michael D. Homier

PRACTICE AREAS

Cannabis Law

General & Commercial Litigation

Municipal & Public Entity Law

Municipal Litigation