



## City of East Lansing Prevails in Electric Franchise Fee Appeal

### FOR IMMEDIATE RELEASE

April 14, 2023

**EAST LANSING, Mich.** In a unanimous opinion issued on April 13, 2023, the Michigan Court of Appeals held in favor of the City of East Lansing in a class-action lawsuit related to electric franchise fees. *Heos v City of East Lansing*, Court of Appeals Case Nos. 361105, 361138. The Court of Appeals reversed earlier decisions of the Ingham County Circuit Court, which had granted summary disposition to plaintiff James Heos and other similarly situated Board of Water and Light customers. The Court of Appeals directed the circuit court to instead enter summary disposition in favor of the City on remand.

In reaching this decision, the Court of Appeals held that plaintiff's claim under the Headlee Amendment to the Michigan Constitution and his similar equitable claims were untimely because they were not filed within one year after the franchise ordinance was adopted. The Court of Appeals further held that plaintiff could not bring an action under the 1905 Foote Act because the Foote Act only applies to electric utility providers, not electric customers. Consequently, the City was entitled to dismissal of all of plaintiff's claims.

The opinion is available online here:

[https://www.courts.michigan.gov/497287/siteassets/case-documents/uploads/opinions/final/coa/20230413\\_c361105\\_34\\_3](https://www.courts.michigan.gov/497287/siteassets/case-documents/uploads/opinions/final/coa/20230413_c361105_34_3)

The City was represented in the circuit court and the Court of Appeals by attorneys Laura Genovich, Michael Homier, Charles Barbieri, and Brandon Schumacher of Foster Swift Collins & Smith PC.

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