

## Michigan Municipal League Legal Defense Fund 2021-2022

The Michigan Municipal League's Legal Defense Fund (LDF) has been busy in the 2021-2022 year. Overall, the LDF filed briefs in 14 cases. Here are some of the highlights for the year:

*Peterson Financial v. Kentwood*, at the request of a member, the City of Kentwood, the LDF together with the Government Law Section of the State Bar (GLS) filed a brief in the Michigan Supreme Court. This case involved the city entering into a voluntary special assessment agreement with a developer. As a result of the "Great Recession" the property went into foreclosure. A real estate speculator bought the property and sought to invalidate the special assessment lien. While the circuit court agreed with the city (two times), the Court of Appeals invalidated the lien. The matter is still pending in the Supreme Court.

*Buckhalter v. Traverse City*, at the request of a member, the City of Traverse City, the LDF filed a brief in the Michigan Court of Appeals. This case involves a circuit court judge finding that any public use of land can become dedicated parkland without the city ever taking action to dedicate the parcel as parkland. The circuit court ruling has held up a major project to install a selective fish passage to protect the Boardman River.

*Taxpayers for Michigan Constitutional Government v. State of Michigan*, at the request of several member cities, the LDF joined with the Michigan Townships Association (MTA), and GLS to file a brief in the Michigan Court of Appeals after remand from the Michigan Supreme Court on the issue of what constitutes a charter school within the limitation set by the Supreme Court.



*Mackinaw Area Tourist Bureau v. Village of Mackinaw City*, at the request of a member, the Village of Mackinaw City, the LDF, together with the MTA, filed a brief in the Michigan Court of Appeals. MDEQ/EGLE required the village to upgrade the water system, including a new water tower. The department also required the village to adopt new rates to ensure that there was a sufficient budget for these capital expenditures. The plaintiffs brought an action in the circuit court claiming that this was an unauthorized tax in violation of the Headlee Amendment (a *Bolt* claim). The circuit court agreed with the plaintiffs and the village now seeks to overturn the decision in the appeals court.

*Green Peak et al v. City of Traverse City*, at the request of a member city, the City of Traverse City, the LDF filed a brief in the Michigan Court of Appeals. Traverse City adopted a medical marihuana ordinance pursuant to the MMFLA. Plaintiffs argue that the MRTMA allows any medical marihuana provisioning center under MMFLA to be an adult-use marihuana retailer under MRTMA. The circuit court agreed with the city and now seeks to uphold the ruling on appeal.

*Ingham Cares Coalition v. City of Mason*, at the request of a member city, the City of Mason, the LDF filed a brief in the Michigan Court of Appeals. This case was filed by the plaintiff seeking to place a “charter amendment” on the ballot which would have significantly revised the charter and re-organized the city administration. The revised charter was heavily favoring medical marihuana establishments. The circuit court ruled in favor of the plaintiff and the city seeks to overturn the ruling in the appeals court. This tactic has been used in several cities in Michigan.

*Logan v. City of Southgate*, at the request of a member city, the City of Southgate, the LDF filed a brief in the Michigan Supreme Court. The city had prevailed in a sidewalk case at the circuit court and the Michigan Court of Appeals. The Supreme Court scheduled an oral argument on the application as to whether the open and obvious doctrine abrogates the two-inch rule and the duty to maintain sidewalks and whether the open and obvious doctrine was applied correctly by the circuit court.

*Pegasus Wind v. Tuscola County et al*, the LDF together with the MTA has filed a brief in the Michigan Supreme Court. The plaintiff had appealed a decision of a zoning board of appeals denying a variance request near an airport. The Court of Appeals issued an unfavorable published (two-one) decision with potentially broad impact on local zoning boards of appeals. The Court of Appeals held that an applicant for a non-use (dimensional) variance does NOT need to show that its practical difficulty is unique to or inherent in the land. The county seeks to overturn the decision in the Supreme Court.

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