

STATE OF MICHIGAN

6TH JUDICIAL CIRCUIT COURT FOR THE COUNTY OF OAKLAND

CLARKSTON CARES 2022,

Plaintiff,

v

File No. 2022-195571-AW

JENNIFER SPEAGLE & CLERK OF THE  
CITY OF THE VILLAGE OF CLARKSTON,

Defendants.

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EX PARTE MOTION TO SHOW CAUSE

BEFORE THE HONORABLE RAE LEE CHABOT, CIRCUIT COURT JUDGE

Pontiac, Michigan - Tuesday, August 16, 2022

APPEARANCES:

For the Plaintiff: HANNAH LAUREN STOCKER (P82847)  
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For the Defendant: THOMAS J. RYAN (P19808)  
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WITNESSES: PLAINTIFF

None

WITNESSES: DEFENDANT

None

OTHER MATERIAL IN TRANSCRIPT:

None

EXHIBITS:

None

INTRODUCED

ADMITTED

X

X

1 Pontiac, Michigan

2 Tuesday, August 16, 2022 - 10:42:57 a.m.

3 THE CLERK: Calling matter Clarkston versus  
4 Speagle, docket number 22-195571-AV (sic).

5 THE COURT: Can I -- can I ask you hold off  
6 for like five minutes? I've got a really quick thing --

7 UNIDENTIFIED SPEAKER: Okay.

8 THE COURT: -- that I need to get on the  
9 Record. Thank you. Sorry. It's -- it's --

10 UNIDENTIFIED SPEAKER: It's Cecilia's.

11 THE CLERK: Oh, Richardson?

12 UNIDENTIFIED SPEAKER: Yes, Richardson. And  
13 that is docket number 37.

14 (At 10:43:30 a.m., hearing recessed)

15 (At 10:46:45 a.m., hearing resumed)

16 THE CLERK: Recalling matter Clarkston versus  
17 Speagle, docket number 22-195571-AV (sic).

18 THE COURT: Good morning.

19 MS. STOCKER: Good morning, your Honor.  
20 Hannah Stocker for Clarkston Cares.

21 MR. RYAN: Good morning, your Honor. May it  
22 please the Court, Tom Ryan appearing on behalf of  
23 defendant, Jen Speagle, clerk for the city of the Village  
24 of Clarkston.

25 THE COURT: Come on, you used to appear in

1 criminal call.

2 MR. RYAN: Exactly. I'm comfortable here,  
3 your Honor.

4 THE COURT: You're used to it. Yeah.

5 MR. RYAN: Yes.

6 MS. STOCKER: Feel like I'm going up against  
7 a celebrity. Everyone's like, "Hey, Tom. How's it going?"

8 THE COURT: Hey, that's who he is, you know.

9 Okay, so this is an ex parte motion to show  
10 cause why a writ of mandamus should not issue. Let me just  
11 say a couple of things that I think I know. You have  
12 petitioned the city council to amend the city charter to  
13 allow for marijuana dispensary. Is that correct?

14 MS. STOCKER: It's two medical marijuana  
15 facilities, correct.

16 THE COURT: Okay.

17 MS. STOCKER: Stand.

18 THE COURT: And so the -- and you -- and the  
19 time -- the last day for having something placed on the  
20 ballot is tomorrow?

21 MS. STOCKER: The certification  
22 --(undecipherable)-- to have the ballot question certified  
23 to the Oakland County Clerk would be today. So the -- it  
24 would be the -- was it the eighty-fourth day before the  
25 election. So that would be today.

1 THE COURT: Okay. I always get these things  
2 at the dead-last moment, and this is always an emergency  
3 motion, which why you're here during criminal call. Why --  
4 why is that, in this case?

5 MS. STOCKER: So for this particular matter,  
6 we didn't get the letter saying that it was not going to be  
7 placed on the November 8, 2022 ballot until August 11. So  
8 that was last Thursday. And given that we had requested  
9 that it be placed on this ballot, that is why we asked --  
10 and we really appreciate it -- the expedited hearing to  
11 determine whether or not that language was to be certified.

12 THE COURT: Okay. And why can't they put it  
13 on the ballot? Let the voters decide.

14 MR. RYAN: Oh, that's right, your Honor. So  
15 thank you. So your Honor, if I may say Tom Ryan appearing  
16 on behalf of the defendant.

17 So some time, your Honor, I may retire, and  
18 I'm sure when I retire -- I don't know when that'll be --  
19 I'll look back on these days fondly when we spent our  
20 August afternoons here or mornings dealing with election  
21 matters. We were here last year on this same issue with a  
22 different community.

23 THE COURT: Right.

24 MR. RYAN: So the problem is, your Honor,  
25 respectfully, there's two statutes involved. There's the

1 election deadline statute, which plaintiffs trump it. And  
2 there's a Home Rule City Act to amend charters, which is  
3 MCL 117.21 to 117.25.

4 THE COURT: Yeah.

5 MR. RYAN: So what they do -- they  
6 cherry-pick, respectfully, the -- the -- they can't  
7 short-circuit the process. The filing of the petitions and  
8 the fact that they have sufficient number of signatures  
9 starts the process for them, which means that it goes to  
10 city council first. Then it goes to the governor and to  
11 the attorney general to determine the language if the -- if  
12 the language is appropriate. This takes time.

13 That's why we attach that memorandum from the  
14 governor last year -- a copy to the attorney general, that  
15 the -- these people that --(undecipherable)-- charter  
16 amendments have to understand the process. It is not just  
17 getting the number of petitions signed and filed, and going  
18 on the ballot. It has to go through the process which is  
19 city council, governor, attorney general. That's what the  
20 law is. That's what their statutory --(undecipherable)--  
21 is based on. And so now it's just in process.

22 THE COURT: Okay. You want to know what I  
23 think?

24 MR. RYAN: Sure.

25 THE COURT: I think that it's possible that

1 they don't want marijuana in their city. They don't want  
2 to amend the charter. They don't want the marijuana. And  
3 so they drag their feet on a petition until the last minute  
4 when it's too late to like scramble to pull it all  
5 together.

6 MR. RYAN: Well, I -- and you said that last  
7 year, your Honor, to Keego Harbor, and I understand that.  
8 And that -- you're gonna see that case again next  
9 Wednesday, believe it or not. That's the back end of it.  
10 I'm sorry, but -- but --

11 THE COURT: Yeah.

12 MR. RYAN: But respectfully, the clerk has 45  
13 days to act, and whether they want it or not -- right now  
14 medical marijuana's not allowed -- but it is in the process  
15 and going through the process. They -- they can't short-  
16 circuit the statutory process, your Honor.

17 THE COURT: See, I don't --

18 MR. RYAN: That's all.

19 THE COURT: I don't believe that. I -- I'm  
20 not saying you're wrong on the law. I'm sure you're right  
21 on the law. But I don't buy that. I think --

22 MR. RYAN: Okay.

23 THE COURT: -- it's politics. I think it's  
24 all manipulation by the city council, and --

25 MR. RYAN: Well -- well, respectfully, your

1 Honor --

2 THE COURT: -- anyone else, and I realize I'm  
3 defaming people on the Record, but --

4 MR. RYAN: But the city council had nothing  
5 to do with this. This -- this -- this was a petition  
6 --(multiple speakers)--

7 THE COURT: Well, I got notice last Thursday.

8 MR. RYAN: Well -- right. This was brought  
9 to them. Right. But -- but, your Honor, you're gonna --  
10 you're gonna understand this, because next week we're gonna  
11 be here. That case has been pending for over a year. We  
12 sent all the language to the attorney general and the  
13 governor months ago for that case --(multiple speakers)--

14 THE COURT: Yeah.

15 MR. RYAN: Okay. And -- and that -- that  
16 there was a primary election this year, so the attorney  
17 general ask us -- ask everybody to hold off because they  
18 had ballot elections on the primary on August 2nd.

19 So it -- it's nobody's -- it's -- it's what  
20 the process is, your Honor. Nobody's doing anything except  
21 going through the process. They chose to go -- ask for a  
22 charter amendment. They got to follow the process. They  
23 can't short-circuit. You ruled that last year. It's the  
24 same case --

25 THE COURT: I know.



1 MR. RYAN: -- respectfully.

2 THE COURT: Go ahead.

3 MS. STOCKER: In regards to Mr. Ryan's point,  
4 this case is different than the Keego Harbor -- Harbor case  
5 in the fact that this petition was submitted on the  
6 forty-seventh day before this particular date.

7 So whereas the Michigan -- the Home Rule City  
8 Act, it allows for the clerk to determine the sufficiency  
9 within 45 days. In this particular matter, she did have  
10 the 45 days. And Keego Harbor, I believe that the issue  
11 was whether or not she still had the duties to certify when  
12 she hadn't completed that 45-day time frame of sufficiency.

13 This is a little bit different. She's  
14 canvassed the signatures. It appears that after she  
15 canvassed it, she did absolutely nothing.

16 In regards to Mr. Ryan's point that it has to  
17 go to the city council first for ballot language approval,  
18 that's not -- as far as I'm aware, that is not accurate  
19 because the Michigan election law, MCL 117.21, in regards  
20 to the actual ballot question language, if it has been set  
21 forth in the initiative petition, which is has been herein,  
22 it does not have to go to the city council for them to  
23 draft a new language.

24 I -- I am really astonished that, after she  
25 determined there was enough signatures, she -- she didn't

1 even try to send it to the attorney general for approval.  
2 That's -- that's really my issue here.

3 Also, in regards to this alleged process,  
4 there's controlling case law by the Michigan Court of  
5 Appeals, that would be *Buffa versus the City of Warren*,  
6 which Mr. Tom -- Mr. Ryan actually reference in his brief.  
7 And that case is the one that says that the city council --  
8 the city clerk has a duty to certify even if the governor  
9 hasn't, you know, said yes or no as to whether or not it is  
10 a sufficient proposal.

11 And in regards to initiative petitions, it's  
12 --

13 THE COURT: Yes.

14 MS. STOCKER: -- a little bit different  
15 because it's gonna be submitted to the people  
16 notwithstanding any objections from the governor.

17 So there's still time for her to weigh in,  
18 you know. But what we're here today is to figure out  
19 whether or not it should be certified and whether it should  
20 be placed on the ballot.

21 MR. RYAN: And -- and she can't certify, your  
22 Honor, by law until the attorney general's ruled on it.  
23 That's MCL 172.21, paren (2). It has -- I mean, and -- and  
24 even though it's --(undecipherable)-- and the governor can  
25 say yes or no, but it won't have any merit, it still has to

1 go to the governor for review, not that he or she controls  
2 what happens after that.

3 But the attorney general does control.

4 THE COURT: And you say it doesn't?

5 MS. STOCKER: Well, it says -- let's see,  
6 "shall be placed" -- "the text of the statement shall be  
7 submitted to the attorney general for approval as  
8 compliance with this requirement before be -- before being  
9 printed." So before being printed, that's key here because  
10 it's not gonna be printed until probably the first week of  
11 September.

12 So the fact that she waited -- she  
13 --(undecipherable)-- returned in July 13th of 2022, she  
14 waited and did not do anything, it can still be submitted  
15 to the attorney general before it gets printed  
16 --(undecipherable)--

17 THE COURT: Just think about marijuana in  
18 Clarkston at Pine Knob.

19 MR. RYAN: (Undecipherable) Independence  
20 Township --(undecipherable)--

21 THE COURT: Oh. But that's not where Pine  
22 Knob it?

23 MR. RYAN: Oh, it -- it's in independence  
24 Township.

25 THE COURT: Oh.

1 MR. RYAN: We're just a little part of  
2 independent --(multiple speakers)--  
3 THE COURT: I got you. I got you. But  
4 that's big. I'm gonna grant the motion. Sorry, Mr. Ryan.  
5 MS. STOCKER: Thank you, your Honor.  
6 MR. RYAN: Really?  
7 THE COURT: Yes.  
8 MR. RYAN: In spite of your decision last  
9 year on the same fact?  
10 THE COURT: In spite of it.  
11 MR. RYAN: Okay. Thank you, your Honor.  
12 MS. STOCKER: I'll draft the order.  
13 THE COURT: You have to do the order.  
14 MS. STOCKER: Okay.  
15 THE COURT: We'll see what happens.  
16 MS. STOCKER: Thank you.  
17 MR. RYAN: Have a good day, your Honor.  
18 THE COURT: (Undecipherable).  
19 MS. STOCKER: Thank you.  
20 (At 10:56:47 a.m., hearing concluded)

CERTIFICATION

This is to certify that the attached electronically recorded proceeding, consisting of thirteen (13) pages, before the 6th Judicial Circuit Court, Oakland County in the matter of:

CLARKSTON CARES 2022

v

JENNIFER SPEAGLE & CLERK OF THE  
CITY OF THE VILLAGE OF CLARKSTON

\_\_\_\_\_ /

Location: Circuit Court

Date: Tuesday, August 16, 2022

was held as herein appeared and that this is testimony from the original transcript of the electronic recording thereof, to the best of my ability.

I further state that I assume no responsibility for any events that occurred during the above proceedings or any inaudible responses by any party or parties that are not discernible on the electronic recording of the proceedings.

          /s/ Linda Bacon          

Linda Bacon, CER #8970  
Certified Electronic Recorder

Dated: August 18, 2022

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