

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EXCLUSIVE BRANDS LLC, a
Michigan Limited Liability Company

Case No. 19-cv -
Hon.
Magistrate:

Plaintiff,

v.

City of Garden City, a Michigan
Municipal Corporation,
Garden City Building Department,
Dale Dougherty, City Manager of Garden City
Individually and in his official capacity as representative
And Employee of Garden City

Defendants.

**PLAINTIFF'S COMPLAINT,
REQUEST FOR INJUNCTIVE OR DECLARATORY RELIEF
AND JURY DEMAND**

Plaintiff, EXCLUSIVE BRANDS LLC, A Michigan Limited Liability corporation
("Exclusive"), by and through its attorneys, files its Complaint And Request for Injunctive
or Declaratory Relief against Defendants (collectively "Defendants"), and states as follows:

Parties

1. Plaintiff Exclusive is a Michigan Limited Liability corporation, with its principle place of business is at 38701 Seven Mile Road Suite 160, Livonia, MI 48152.
2. Exclusive is and has been licensed under the Michigan Licensed Medical Marihuana Facilities Licensing Act (MMFLA).
3. Defendant City of Garden City is a Michigan municipal corporation created and existing by virtue of the laws of the State of Michigan and is empowered to act through

place of business is 6000 Middlebelt Rd, Garden City, MI 48135 and is a government within the meaning of 42 U.S.C. § 2000cc-5(4) (A), and is subject to the jurisdiction of this Court.

4. Defendant Garden City Building Department (“Department”) is a body within the City of Garden City. The Department is subject to the jurisdiction of this Court.
5. Defendant Dale "Doc" Dougherty (“Dougherty”) is the City Manager of Garden City, Michigan and is subject to the jurisdiction of this Court.

Jurisdiction and Venue

6. This Court has federal question jurisdiction, pursuant to 28 U.S.C. § 1343 over Plaintiff's claims regarding the deprivation under color of State law of rights secured by the First and Fourteenth Amendments to the Constitution of the United States and the laws of the United States.
7. This Court has supplemental jurisdiction over Plaintiff's State law claims, pursuant to 28 U.S.C. § 1367.
8. This Court has personal jurisdiction over Defendants because Defendants reside and conduct business in Wayne County, State of Michigan.
9. This Court has jurisdiction over Plaintiff's Constitutional claims pursuant to 42 U.S.C. § 1983.
10. Plaintiff's claims for declaratory relief are sought under 28 U.S.C. § § 2201 and 2202.
11. Plaintiff seeks permanent injunctive relief, pursuant to Rule 65 of the Federal Rules of Civil Procedure and 28 U.S.C. § 1343.
12. Plaintiff's claims for attorneys' fees and costs are predicated upon 42 U.S.C. §§1988 and 2000cc- 2(d), which authorize the award of attorneys' fees and costs to prevailing parties, pursuant to 42 U.S.C. § 1983. Plaintiff's claims for declaratory and injunctive relief are authorized by 28 U.S.C. § § 2201 and 2202, by Rules 57 and 65 of the Federal

13. Venue is proper under 42 U.S.C. § 1391 as to all Defendants because the proposed site is located within this District, and the acts described herein occurred within this District.

Nature of the Action

14. This is an action for declaratory and injunctive relief arising under the First and Fourteenth Amendments to the Constitution of the United States, 42 U.S.C. § 1983, and applicable laws of the State of Michigan. Plaintiff seeks costs and attorneys' fees under 42 U.S.C. § 1988.

15. Garden City has not identified any compelling government interest for denying MIA's application.

16. Garden City has failed to enforce its Zoning Ordinance and Master Plan in the least restrictive means possible.

Background

17. Prior to applying to Garden City, Exclusive had applied to the State of Michigan, Department of Licensing and regulatory Affairs, Medical Marihuana Licensing Board for a prequalification status pursuant to the Medical Marihuana Facilities Licensing Act (MMFLA).

18. Exclusive was granted a very coveted prequalification status on May 31, 2018, which is always pending final approval once a municipality grants a license for a particular location, etc.

19. On August 13, 2018, Exclusive submitted an application for a special land use permit and site plan related to a medical marihuana facility to the Garden City Building Department (the "Department"). At that time, the Department accepted the application,

20. Approximately 10 days later, Exclusive's primary contact person with Garden City (the "City"), Mr. Sam Qaoud ("Mr. Qaoud") called the Department to inquire about the status of Exclusive Brands' special land use permit and site plan application. At that time, Mr. Qaoud was informed that the City Council of Garden City (the "City Council") had passed a six-month moratorium on accepting medical marihuana facility permit applications on August 6, 2018, and that Exclusive's application would, therefore, not be accepted. Pursuant to that moratorium, "[m]edical marihuana facility permit applicants impacted by the moratorium may appeal a deferral of their application by submitting a written request for appeal to the Building Department."
21. Mr. Qaoud began discussing the possibility of Exclusive locating a medical marihuana facility in Garden City in May 2018. In that same month, Mr. Qaoud made an offer on a property located at 32595 and 32639 Industrial Road on behalf of Plaintiff (the "Property"), which contain two buildings that Exclusive intends to utilize as medical marihuana facilities. In July 2018, Mr. Qaoud entered into a \$1.2 million purchase agreement for the Property, with closing contingent upon Exclusive Brands receiving a medical marihuana facility permit from Garden City. As part of the agreement, Mr. Qaoud made a nonrefundable payment of \$25,000 to the seller in order to retain the right to purchase the property until October 29, 2018. Mr. Qaoud had the option to extend this and other dates for various non-refundable fees.
22. Since entering into the purchase agreement for the Property, Exclusive has paid approximately \$15,000 to engineers, contractors, and other vendors to prepare reviews and other plans in anticipation of making improvements to the Property in order to utilize it for several medical marihuana facilities.
23. Since May 2018, Mr. Qaoud has been in frequent contact with Patrick Sloan ("Mr. Sloan"), who was working with the Department, and was identified as the primary point

Garden City. Mr. Sloan informed and affirmatively represented to Mr. Qaoud that all applications submitted to the City by August 13, 2018 would be accepted and discussed at the September 13, 2018 meeting of the Garden City Planning Commission. See email from Mr. Sloan, attached as **Exhibit A**.

24. Mr. Sloan never mentioned the moratorium to Mr. Qaoud prior to communications subsequent to August 6, 2018. One of the individuals working for Exclusive Brands' engineering firm, Mr. Robert Aaron Wanty, also interacted with Mr. Sloan related to the Property, and was also not apprised of any potential moratorium in Garden City. See affidavit from Robert Aaron Wanty, attached as **Exhibit B**.
25. Exclusive relied upon Mr. Sloan's guidance in submitting its application on August 13, 2018, and, indeed, was not aware that the City Council had passed a moratorium until after it had submitted its application for a special land use permit and site plan. Had Mr. Sloan informed Exclusive Brands that Garden City was contemplating a moratorium and that its application needed to be submitted by August 6, it would have done so. However, Exclusive relied upon guidance and representations from Mr. Sloan and, as a result, has been unfairly prejudiced in having their application deferred.
26. Exclusive would be an asset to the Garden City community. The entity and its ownership have already undergone extensive vetting by the Michigan Bureau of Medical Marijuana Regulation and received prequalification approval from the Medical Marijuana Licensing Board on May 31, 2018. See prequalification notification, attached as **Exhibit C**. Exclusive Brands anticipates receiving full approval to operate a licensed medical marijuana provisioning center and a Class A grower facility from the Michigan Medical Marijuana Licensing Board on September 10, 2018.
27. In Garden City, Exclusive Brands intends to operate two Class A grower facilities, a processor facility, and a provisioning center, all of which will cumulatively create

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