

Court of Appeals, State of Michigan

ORDER

Jobs for Rockwood v Rockwood City Clerk

Thomas C. Cameron
Presiding Judge

Docket No. 354752

Karen M. Fort Hood

LC No. 20-010712-CZ

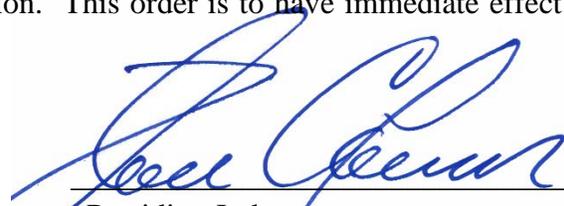
Michael J. Riordan
Judges

The motion for immediate consideration is GRANTED.

The motion to expedite is GRANTED. The Court accepts the answer to the motions filed September 10, 2020 and requires no further briefing. The Clerk of the Court is directed to submit the matter on the case call before this panel for decision without oral argument on September 10, 2020.

Pursuant to MCR 7.216(A)(7), the Court orders that the September 9, 2020 order denying plaintiff's request for a writ of mandamus is AFFIRMED. To obtain the extraordinary remedy of mandamus, a plaintiff has the burden of proving that "(1) the plaintiff has a clear, legal right to performance of the specific duty sought, (2) the defendant has a clear legal duty to perform, (3) the act is ministerial, and (4) no other adequate legal or equitable remedy exists that might achieve the same result." *Berry v Garrett*, 316 Mich App 37, 41; 890 NW2d 882 (2016). Plaintiff did not have a clear legal right to have its proposed initiative to appear on the ballot and defendant did not have a clear legal duty to include the proposed initiative on the ballot. Plaintiff's proposed ballot language far exceeds the scope of MCL 333.27956(1), which allows individuals to "petition to initiate an ordinance to provide for the **number** of marihuana establishments allowed within a municipality" Plaintiffs proposed initiative encompasses far more than providing for the number of marihuana establishments. Accordingly, the circuit court did not abuse its discretion by denying plaintiff's request for mandamus relief.

The Court retains no further jurisdiction. This order is to have immediate effect. MCL 7.215(F)(2).



Presiding Judge



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

September 11, 2020
Date



Chief Clerk

