

Case No. 22-1534

United States Court of Appeals for the Sixth Circuit

**WINERIES OF THE OLD MISSION PENINSULA ASSOCIATION**, a Michigan Nonprofit Corporation (WOMP); **BOWERS HARBOR VINEYARD & WINERY, INC.**, a Michigan Corporation; **BRY'S WINERY, LC**, a Michigan Corporation; **CHATEAU GRAND TRAVERSE, LTD**, a Michigan Corporation; **GRAPE HARBOR, INC.**, a Michigan Corporation; **MONTAGUE DEVELOPMENT, LLC**, a Michigan Limited Liability Company; **OV THE FARM, LLC**, a Michigan Limited Liability Company; **TABONE VINEYARDS, LLC**, a Michigan Limited Liability Company; **TWO LADS, LLC**, a Michigan Limited Liability Company; **VILLA MARI, LLC**, a Michigan Limited Liability Company; **WINERY AT BLACK STAR FARMS, LLC**, a Michigan Limited Liability Company; **CHATEAU OPERATIONS, LTD**, a Michigan Corporation,  
*Plaintiffs-Appellees,*  
v.

**TOWNSHIP OF PENINSULA, MI,**  
*Defendant-Appellant.*

On Appeal from the United States District Court  
for the Western District of Michigan

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**PENINSULA TOWNSHIP'S MOTION FOR PROCEDURAL ORDER UNDER F.R.A.P. 27(b), OR IN THE ALTERNATIVE UNDER F.R.A.P. 27(a), FOR LEAVE TO FILE AN EXHIBIT IN SUPPORT OF ITS MOTION TO STAY THE INJUNCTION PENDING APPEAL**

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**PENINSULA TOWNSHIP’S MOTION FOR PROCEDURAL ORDER  
UNDER F.R.A.P. 27(b), OR IN THE ALTERNATIVE UNDER F.R.A.P.  
27(a), FOR LEAVE TO FILE AN EXHIBIT IN SUPPORT OF ITS MOTION  
TO STAY THE INJUNCTION PENDING APPEAL**

Defendant-Appellant Peninsula Township (the “Township”), moves to supplement the record in support of its Motion for Stay of Injunction Pending Appeal as a Procedural Order under F.R.A.P. 27(b), or, in the alternative, under F.R.A.P. 27(a), more particularly as follows:

1. On August 3, 2022, the Township filed a Motion for Stay of Injunction Pending Appeal (Case No. 22-1534, Document 35-1);
2. Plaintiffs-Appellees filed a Response Brief in Opposition to the Motion (ECF No. 40-1);
3. This Court established a deadline of 5:00 p.m. on August 12, 2022 for the filing of a Reply Brief in Support of the Stay Motion, which was timely filed by the Township (Case No. 22-1534, Document 45);
4. One ground for the Township’s request for a Stay of Injunction was the existence of confusion about the status of the zoning ordinances following the District Court’s Summary Judgment Opinion, Order and Injunction;
5. In support of the Township’s position, the Township highlighted an August 8, 2022 Memorandum from Plaintiffs’ Counsel that was distributed to the Township Board and Planning Commission which

- expressed an overly expansive view of what is now allowable under the zoning ordinances; see Memorandum attached as Exhibit A;
6. This Memorandum also threatened future litigation if the Township amended the existing ordinances;
  7. This Memorandum was just issued on August 8, 2022 and is not a part of the District Court record under F.R.A.P. 10;
  8. It is unclear whether F.R.A.P. 10 applies to the Stay Motion as F.R.A.P. 27(a)(2)(B)(i) allows for “Accompanying Documents” to be filed with a Motion, which includes “any affidavit or other paper necessary to support a motion must be served and filed with the motion.”
  9. Given the 5:00 p.m. deadline for the filing of the Reply Brief, out of an abundance of caution, the present Motion was separately filed in order to ensure the timeliness of the Reply Brief while also providing the Court with an Exhibit that the Township believes will aid the Court’s decision on the pending Stay Motion;
  10. Plaintiffs’ Memorandum asserts that the District Court’s injunction now allows them the right to stay open after 9:30pm, have commercial kitchens, and offer paid entertainment (Ex A, p 9);

11. Plaintiffs' Memorandum threatens future litigation against the Township if the Township does not accept Plaintiffs' views or if the Township amends the ordinances;
12. Plaintiffs' Memorandum asserts that the amendments are rushed or proposed in bad faith, yet the Michigan Zoning Enabling Act allows the Township Board's authority to conduct legislative amendments to the Zoning Ordinance to conform to the District Court's decision (and is precisely why the injunction should not and cannot be construed as allowing activity that was otherwise not permitted within the Zoning Ordinance). See MCL 125.3202(5).
13. The present Motion was filed to provide the Court with an additional document the Township believes will assist the Court's decision on whether to Grant a Stay of Injunction Pending Appeal.

WHEREFORE, Defendant-Appellant Peninsula Township (the "Township"), moves to supplement the record in support of its Motion for Stay of Injunction Pending Appeal as a Procedural Order under F.R.A.P. 27(b), or, in the alternative, under F.R.A.P. 27(a).

Respectfully Submitted,  
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Dated: August 12, 2022

**CERTIFICATE OF COMPLIANCE**  
**PURSUANT TO F.R.A.P. 27(d)(2)(A)**

1. This brief complies with the type-volume limitation of F.R.A.P. 27(d)(2)(A) because:

X this brief contains 523 words

2. This Brief was prepared using Microsoft Word.

Respectfully Submitted,  
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Dated: August 12, 2022

**CERTIFICATE OF SERVICE**

I hereby certify that on, August 12, 2022, I electronically filed the foregoing document with the Clerk of the Court using the CM-ECF system which will send notification of such filing to the following:

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Dated: August 12, 2022

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**WINERIES OF THE OLD MISSION PENINSULA ASSOCIATION**, a Michigan Nonprofit Corporation (WOMP); **BOWERS HARBOR VINEYARD & WINERY, INC.**, a Michigan Corporation; **BRYNS WINERY, LC**, a Michigan Corporation; **CHATEAU GRAND TRAVERSE, LTD**, a Michigan Corporation; **GRAPE HARBOR, INC.**, a Michigan Corporation; **MONTAGUE DEVELOPMENT, LLC**, a Michigan Limited Liability Company; **OV THE FARM, LLC**, a Michigan Limited Liability Company; **TABONE VINEYARDS, LLC**, a Michigan Limited Liability Company; **TWO LADS, LLC**, a Michigan Limited Liability Company; **VILLA MARI, LLC**, a Michigan Limited Liability Company; **WINERY AT BLACK STAR FARMS, LLC**, a Michigan Limited Liability Company; **CHATEAU OPERATIONS, LTD**, a Michigan Corporation,  
*Plaintiffs-Appellees,*

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**EXHIBITS TO:**

**PENINSULA TOWNSHIP'S MOTION FOR PROCEDURAL ORDER UNDER F.R.A.P. 27(b), OR IN THE ALTERNATIVE UNDER F.R.A.P. 27(a), FOR LEAVE TO FILE AN EXHIBIT IN SUPPORT OF ITS MOTION TO STAY THE INJUNCTION PENDING APPEAL**

<b>EXHIBIT</b>	<b>DESCRIPTION</b>
A	8/8/22 MEMORANDUM FROM INFANTE TO TWP



# EXHIBIT A

# MILLER CANFIELD

## MEMORANDUM

TO: Peninsula Township Board and Peninsula Township Planning Commission  
FROM: Joseph M. Infante  
RE: Proposed Amendments to Winery Ordinances  
DATE: August 8, 2022

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My firm represents the Wineries of Old Mission Peninsula Association and Bonobo Winery. I have reviewed the proposed amendments to the Winery Ordinances and listened to the planning session on July 26, 2022. Based on the proposed amendments and the comments made at the planning session, I am submitting this memorandum on behalf of my clients as an addition to the packet for the August 9, 2022 Township Board meeting. It appears that the Township has not reviewed Judge Maloney's rulings and is flagrantly disregarding them with these proposed amendments. It also has been made clear through repeated statements from various trustees and other Township officials that these proposed amendments target the Wineries only. This memorandum is intended to alert the Township Board that many of the amendments under consideration are either unconstitutional or preempted by Michigan law. The following list is not exhaustive as there are many more issues with the proposed amendments.

**Raw Produce Limitation.** Sections 6.7.2 and 6.7.3 propose to limit processing to "raw produce" only. For example:

- 6.7.2(19)(b)(2)(i): "Processing is limited to raw produce. For example, apples may be processed into apple juice or applesauce."

- 6.7.3(10)(b)(2)(a): “Processing is limited to raw produce. For example, an apple may be processed into apple juice or applesauce.”

This “raw produce” limitation is preempted by both federal guidelines defining winemaking and by the Michigan Liquor Control Code.

Federal winemaking regulations allow winemakers and small winemakers to purchase bonded wine for finishing by the winemaker or small winemaker. This allows winemakers and small winemakers to apply to process this bonded wine, often by blending it with other juice or wine, and then affixing label to the newly processed wine to sell it under their branding. This is an extremely common practice in the wine industry. Similarly, winemakers and small winemakers often purchase juice made from grapes or other fruit and then ferment that juice on premises to process it into alcoholic wine. Again, this is a common, federally recognized practice.

Similarly, the Liquor Control code defines “wine” as a “product manufactured” to certain specifications. MCL 436.1113(9). “Manufacture” means “to distill, rectify, ferment, brew, make, produce, filter, mix, concoct, process, or blend an alcoholic liquor or to complete a portion of 1 or more of these activities.” MCL 436.1109(1). Because Sections 6.7.2(19)(b)(2)(i) and 6.7.3(10)(b)(2)(a) prohibit the Wineries from distilling, rectifying, fermenting, brewing, making, producing, filtering, mixing, concocting, or blending bonded wine or juice into finished wine, these sections conflict with the Michigan Liquor Control Code. In other words, Peninsula Township has no legal basis upon which it may impose a “raw produce” requirement on any Winery.

**Sources of Produce.** Sections 6.7.2 and 6.7.3 imposes limitations on sources of produce in violation of the Dormant Commerce Clause.

- 6.7.2(19)(b)(2)(ii): “Not less than seventy percent (70%) of all the agricultural produce sold fresh or processed shall be grown on land owned or leased for the specific farm

operation by the same party owning and operating the Wholesale Farm Processing Facility.”

- 6.7.2(19)(b)(12)(I): “The owner of the Wholesale Farm Processing Facility shall annually provide data and records to the Director of Planning showing that a minimum of 70 percent of the raw products processed are grown on the land owned or leased for the specific farm operation by the same party owning and operating the Wholesale Farm Processing Facility.”
- 6.7.3(10)(a): “The majority of the produce sold fresh or processed shall be grown on the specific farm operation (land owned or leased for the specific farm operation) of the party owning and operating the retail farm processing facility.”
- 6.7.3(10)(b)(2)(b): “Not less than seventy percent (70%) of all agricultural produce sold fresh or processed from raw produce shall be grown on land owned or leased for the specific farm operation that is operating the retail farm processing facility.”
- 6.7.3(10)(b)(2)(C): “The verification of such conditions shall be presented to the Township Board by a public organization representing the fruit growers of northwest Michigan that is duly recognized by the Township Board. Processed products received in such year shall not exceed the highest volume produced in any of the preceding five years.”
- 6.7.3(10)(b)(12)(a): “The owner/operator of the retail farm processing facility shall annually provide data and records to the Director of Planning showing that a minimum of 70 percent of the raw produce processed within the retail farm processing facility is grown on the land owned or leased for the specific farm operation by the same party owning or operating the retail farm processing facility.”

These restrictions serve one purpose—to limit the influx of produce from outside of Peninsula Township into Peninsula Township. They are nearly identical to the sections of the existing Winery Ordinances that Judge Maloney ruled unconstitutional on June 3, 2022. The only differences are a reduction in percentage (from 85% to 70%) and a change in the origin of the produce (from Old Mission Peninsula writ large to land owned or leased by the farm processing facility). These differences will not save the proposed amendments. They still amount to facial discrimination against produce originating outside of Peninsula Township, which means that these proposed amendments “face a virtually *per se* rule of invalidity.” *Granholm v. Heald*, 544 U.S. 460, 476 (2005). That’s why, for at least the last 130 years, the Supreme Court has struck down local processing requirements like these as facially unconstitutional. *C&A Carbone, Inc. v. Town of Clarkstown, N.Y.*, 511 U.S. 383 (1994) (Township waste processing ordinance); *Fort Gratiot Sanitary Landfill, Inc. v. Michigan Dep’t of Nat. Res.*, 504 U.S. 353, 355 (1992) (Michigan’s Solid Waste Management Act imposing solid waste limits); *Hughes v. Oklahoma*, 441 U.S. 322 (1979) (Oklahoma fishing limits); *Dean Milk Co. v. City of Madison, Wis.*, 340 U.S. 349 (1951) (City of Madison, Wisconsin’s local milk processing requirements); *Brimmer v. Rebman*, 138 U.S. 78, 81 (1891) (Virginia meat inspection statute). No processing limits can survive this constitutional scrutiny. These proposed amendments should be rejected.

**Indoor Processing Requirements.** Multiple proposed amendments would limit farm processing to indoor activities only. For example:

- Definition of Farm Processing Facility: “Processing shall be conducted within an entirely enclosed building(s).”
- 6.7.2(19)(b)(1)(i): “All processing shall be conducted indoors.”
- 6.7.3(10)(b)(1)(i): “All processing and retail sales shall be conducted indoors.”

- 6.7.3(11)(b)(7)(a)-(b): “The outdoor seating area shall be limited to 750 square feet” and “the maximum occupancy of the outdoor seating area shall be 50 persons at all times.”

The Michigan Right to Farm Act expressly preempts these provisions. “[A] local unit of government shall not enact, maintain, or enforce an ordinance, regulation, or resolution that conflicts in any manner with this act or generally accepted agricultural and management practices developed under this act.” MCL 286.474(6). GAAMPs generally define a “farm operation” as “the operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products[.]” This definition incorporates many examples, including “the operation of machinery and equipment necessary for a farm,” and “the management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes.” Similarly, the 2022 Farm Market GAAMPs issued by the Michigan Commission of Agriculture & Rural Development define “Processed” as “A farm product or commodity that has been converted into a product for direct sales. Processing may include, but is not limited to, packing, washing, cleaning, grading, sorting, pitting, pressing, fermenting, distilling, packaging, cutting, cooling, storage, canning, drying, freezing, or otherwise preparing the product for sale.”

By forcing the Wineries to conduct all processing operations indoors, the Township would be telling the Wineries how to farm in violation of GAAMPs. For example, crushing, pressing, drying, and aging of fruit often take place outside. It is unclear why the Township wants to limit these to indoor activities in violation of GAAMPs. If the Township Board truly is “pro farming” as it so often says, it will reject these proposed amendments because they are preempted by GAAMPs and defy common sense.

Additionally, Michigan Liquor Control Rule 436.1419 states that MLCC may issue an outdoor service permit to a winery and states the requirements for receipt of such a permit. Because outdoor service is allowed under the Liquor Control Code, the Township cannot bar it.

**Takings and Due Process Violations.** The proposed ordinance imposes stricter standards than are currently allowed and constitute a taking under the Due Process Clause of the Fourteenth Amendment to the United States Constitution. The following limitations are not present in the current zoning ordinance and, to the extent they are ever enforced against the Wineries, would constitute a taking. For example:

- 8.7.3(10)(b)(1)(i): “All processing and retail sales shall be conducted indoors.”
- 8.7.3(10)(b)(1)(ii): “The consumption of processed products on premises is permitted indoors only.”
- 8.7.3(10)(b)(1)(iv): “Free entertainment may be provided within a retail sales/tasting room indoors only.”
- 8.7.3(10)(b)(1)(v): “The hours of operation for retail sales, including a tasting room, shall be limited to an opening time no earlier than 9:00 a.m. and a closing time no later than 9:30 p.m.”
- 8.7.3(10)(b)(1)(vii): “Food items not processed within the retail farm processing facility are limited to snacks that require minimal preparation such as cheese and crackers, dried fruit and nuts, and chocolates. No commercial kitchens shall be permitted as part of a retail farm processing facility.”
- 8.7.3(10)(b)(4)(a): “Front Yard Setback: 50 feet.”
- 8.7.3(10)(b)(4)(a): “Side and Rear Yard Setback: 350 feet.”

- 8.7.3(10)(b)(5)(a): “The total floor area of the retail farm processing facility above finished grade shall equal 250 square feet per acre of land owned or leased for the specific retail farm processing operation but may not exceed 30,000 square feet of total floor area above finished grade.”
- 8.7.3(10)(b)(5)(b): “The retail farm processing facility may consist of more than one building; however, all buildings associated with the retail farm processing facility shall be located on the 20-acre minimum parcel that contains the retail farm processing facility.”<sup>1</sup>
- 8.7.3(10)(b)(5)(c): “Underground floor area may be allowed in addition to the maximum permitted square footage of floor area above finished grade provided it is entirely below pre-existing ground level and has no more than one loading dock exposed.”
- 8.7.3(10)(b)(5)(d): “Retail sales space may be a separate room within a retail farm processing facility and shall not exceed 1,500 square feet in area.”
- 8.7.3(10)(b)(5)(e): “A tasting room shall be included in the allowable square footage area for retail sales.”
- 8.7.3(11)(b)(2)(i): “All processing and retail sales shall be conducted indoors.”<sup>2</sup>
- 8.7.3(11)(b)(2)(iv): “Free entertainment may be provided within a retail sales/tasting room indoors only.”

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<sup>1</sup> Parcel size requirements are also preempted by the Michigan Right to Farm Act and GAAMPs. *See* Charter Twp. of Shelby v. Papesch, 267 Mich. App. 92, 106 (2005) (“[I]f defendants’ farm is commercial in nature and in compliance with the GAAMPs, it is a farm operation protected by the RTFA. The ordinance conflicts with the RTFA to the extent that it allows plaintiff to preclude a protected farm operation by limiting the size of a farm.”).

<sup>2</sup> The numbering in this section begins at 2. It looks like a typographical error.



- 8.7.3(11)(b)(2)(v): “The hours of operation for retail sales, including a tasting room, shall be limited to an opening time no earlier than 9:00 a.m. and a closing time no later than 9:30 p.m.”
- 8.7.3(11)(b)(2)(vi): The hours of operation for an approved outdoor seating area shall be limited to an opening time of no earlier than 9:00 a.m. and closing time of 8:00 p.m.”
- 8.7.3(11)(b)(2)(viii): “The retail farm processing facilities that hold a liquor license may sell limited food items indoors in the retail sales area to offset the effects of consuming alcohol. Food items not processed within the retail farm processing facility are limited to snacks that require minimal preparation such as cheese and crackers, dried fruit and nuts, and chocolates. No commercial kitchens shall be permitted as part of a retail farm processing facility.”
- 8.7.3(11)(b)(3)(a): A total of eighty (80) acres of contiguous land is required to be devoted to the operation of a retail farm processing facility with indoor retail sales and an outdoor seating area for consumption only.
- 6.7.2(19)(b)(1)(i): “All processing shall be conducted indoors.”
- 6.7.2(19)(b)(1)(ii): “No retail sales or consumption of processed products on the premises is permitted.”<sup>3</sup>
- 6.7.2(19)(b)(3)(VII): “There shall be no more than one single-family dwelling on the 20-acre parcel containing the Wholesale Farm Processing Facility and no more than one single-family dwelling on the remaining 20 acres.”

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<sup>3</sup> This is also clearly preempted by the Michigan Liquor Control Code. MCL 436.1113(10) states that a winery may sell wine to consumers “at retail on the licensed winery premises.”

- 6.7.2(19)(b)(3)(X): “If property is leased, the lease shall be for a minimum of five (5) years, and the lease shall be recorded with the Grand Traverse County Register of Deeds.”
- 6.7.2(19)(b)(3)(XI): “There shall be a minimum of ten (10) acres in active crop production on the same parcel as the Wholesale Farm Processing Facility.”
- 6.7.2(19)(b)(3)(XII): “There shall be an additional fifteen (15) acres of land in active crop production of the minimum 40-acre minimum, such that a minimum of sixty-five percent (65%) of the total land associated with the Wholesale Farm Processing Facility is in active crop production.”
- 6.7.2(19)(b)(5): “A Wholesale Farm Processing Facility shall not include retail space. The total floor area of a Wholesale Farm Processing Facility above finished grade shall equal 250 square feet per acre of land owned or leased for the specific farm operation but may not exceed a maximum of 30,000 square feet of total floor area above finished grade. The Wholesale Farm Processing Facility may consist of more than one building; however, all buildings associated with the farm processing operation shall be located on the 20-acre minimum parcel. Underground floor area may be allowed in addition to the permitted square footage of floor area above finished grade provided it is entirely below the pre-existing ground level and has no more than one loading dock exposed.”

To date, the Wineries have the ability to use their outdoor space. They have outdoor sales permits from the Michigan Liquor Control Commission. They have invested in outdoor spaces to host events. They are allowed, as Judge Maloney ruled, to stay open past 9:30 p.m. because nothing in the current ordinance requires them to close at that time. They are allowed to have commercial kitchens. They are allowed to offer paid entertainment. These proposed amendments are obviously targeted at these vested rights and are clearly intended to harm the Wineries in retaliation

for challenging the existing ordinance.

These restrictions also go further than what was previously imposed. The Wineries have property rights in their liquor licenses as issued by the Michigan Liquor Control Commission. *Wojcik v. City of Romulus*, 257 F.3d 600, 609 (6th Cir. 2001) (“Michigan courts have held that the *holder* of a liquor license has a constitutionally protected interest[.]”); *Bisco's, Inc. v. Michigan Liquor Control Comm'n*, 395 Mich. 706, 716 (1976). Any attempt to chip away at these restrictions constitutes a taking. Under both federal and state due process analyses, state actions attempting to promote the health, safety, and welfare of the general public must be reasonable to be enforceable. *E.g.*, *Goldblatt v. Town of Hempstead, N. Y.*, 369 U.S. 590, 594 (1962); *Bonner v. City of Brighton*, 495 Mich. 209, 227 (2014). It makes no sense to suggest that what the Township thought was reasonable before Judge Maloney’s opinion somehow needs to be made stricter after that opinion. These restrictions constitute nothing more than an “arbitrary exercise of governmental power” designed to punish the Wineries. *Bonner*, 495 Mich. at 224.

**Vested Interests.** Section 6.7.3 references the intent to strip vested rights from existing uses.

- 6.7.3(10)(a): “Since a retail farm processing facility is essentially an industrial and commercial use, it is not the intent to grant any vested interest in non-agricultural uses of any structure used or constructed for a retail farm processing facility.”
- 6.7.3(10)(b)(7): “There shall be no vested interest in non-agricultural uses of the structures.”
- 6.7.3(11)(a): “Since a retail farm processing facility is essentially an industrial and commercial use, it is not the intent to grant any vested interest in non-agricultural uses of any structure used or constructed for a retail farm processing facility.”

- 6.7.3(8)(a): “There shall be no vested interest in non-agricultural uses of the structures.”

To the extent this language is intended to strip the existing Wineries of a to be vested non-conforming use, this language contradicts prior holdings from the Michigan Supreme Court. “A prior nonconforming use is a vested right to continue the lawful use of real estate in the manner it was used prior to the adoption of a zoning ordinance. Though the ordinance be reasonable, it cannot operate to oust the property owner of his vested right.” *Dusdal v. City of Warren*, 387 Mich. 354, 359–60 (1972). “Once a nonconforming use is established, a subsequently enacted zoning restriction, although reasonable, will not divest the property owner of the vested right.” *Heath Twp. v. Sall*, 442 Mich. 434, 439 (1993). It is unclear for what purpose this language is included other than to specifically target the Wineries. This language should be rejected.

### CONCLUSION

These proposed amendments have serious flaws that undoubtedly will result in another legal challenge whether that is brought by the Wineries, a winery in planning or a farmer. Each has a viable legal challenge. It is unsurprising, however, that these amendments have made it this far. They were proposed by the Citizens Agricultural Advisory Committee. On that issue, I need to correct the record for the citizens of Old Mission Peninsula.

The Citizens Agricultural Advisory Committee began as a “negotiating committee” following the October 6, 2021, meeting at St. Joseph’s Church. The Township Board attempted to delegate its responsibility and authority to a committee of unelected citizens. When Judge Maloney was made aware of this committee, he asked “They [the Committee] can’t speak on behalf of the Township in this Court, can they?”<sup>4</sup> Judge Maloney continued: “I don’t care who it is. How does the Township board delegate this responsibility to somebody else?” Given that

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<sup>4</sup> Transcript of December 2, 2021 hearing.

background, there was no way the Wineries would or should negotiate with an entity that did not have the power to reach a settlement.

Additionally, the committee was structured in a way to give three seats to the Wineries. In that scenario, the Wineries would have been negotiating with themselves. That made no sense at the time. However, this “negotiating committee” morphed into the Citizens Agricultural Advisory Committee. It is disingenuous to keep characterizing the committee as belonging to farmers when the farmers continually were voted down and there was no realistic way any Winery member would or should have joined in the first place. To put it bluntly—these proposed amendments were not written by farmers. They were written by a self-interested group of people who, in the words of their attorney, are the “political enemy” of the Wineries.

Given the way these proposed amendments came about and their blatantly unconstitutional nature, I strongly suggest that the Township Board reject them. Adoption of these proposed amendments in their current form would be nothing more than outright retaliation against the Wineries for filing their lawsuit and prevailing at summary judgment.