

In a far-reaching **United States District Court Opinion dated April 5**, the judge in the ***WOMP v Peninsula Township and Intervenor PTP*** case rejected the Wineries' primary arguments and numerous claims.

The judge **REJECTED the Wineries' lead argument** that winery activities like hosting weddings and events are agritourism, which is advertising, which is constitutionally protected "speech." Effectively, Judge Maloney said baloney; activities are activities, they are not speech.

The judge also **REJECTED the Wineries' arguments** for "takings" and damages for not being allowed to operate restaurants, catering, amplified music, and late hours.

The judge also **REJECTED the Wineries' argument** that the square footage requirements for winery building floor space regulate constitutionally protected "speech."

The judge also **REJECTED the Wineries' argument** that the wineries should all be treated the same. Instead, he said each winery must prove its individual claim based on the facts, the law, and each separate winery's zoning provisions. For example, the judge **AGREED with PTP** that Black Star, Two Lads, Peninsula Cellars, and Tabone did not prove Winery Chateau parts of the zoning ordinance were unconstitutionally applied to them.

Importantly, Judge Maloney also **REJECTED the Wineries' argument** that the Peninsula Township interest in agricultural preservation is not substantial: **"This factor falls in favor of the Township and PTP; preserving agriculture and regulating for the general health and safety of citizens are substantial government interests."**

The judge gave the Wineries a few small victories. He **AGREED with the Wineries' argument** that zoning requiring Winery Chateaus to identify "Peninsula produced" food or wine served at "wine and food seminars and cooking classes" compels them to speak.

The judge also **AGREED with the Wineries' argument** that requiring Winery Chateaus to get Township approval for "meetings of agricultural related groups" is a prior restraint of speech.

The judge issued a **mixed ruling** on the Wineries' argument that zoning limits on what merchandise wineries can sell and advertise are unconstitutional – this is an issue for the upcoming trial.

The April 5 ruling was an unmistakable win for PTP, Peninsula Township, and residents who want to preserve the agricultural character of our community.

Other issues will also go to trial . Nearly two years ago, Judge Maloney declared unconstitutional zoning that requires wine made by "use by right" wineries must be

made with 85% Peninsula-grown fruit. This applies to the three Food Processing Facilities – Two Lads, Black Star, and Tabone. Judge Maloney also previously declared the term “Guest Activity Use” for Winery Chateaus is unconstitutionally vague.

The trial starts April 29 in Kalamazoo. For each issue the Wineries win, each winery will have to prove at trial what damages and zoning changes – if any – it is entitled to as a result of each ruling.