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### **Court of Appeals Rules that Voter-Initiated Charter Amendments Cannot Be Used to Implement Local Regulations Under the MRTMA**

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In an opinion released for publication on Tuesday, September 3, the Michigan Court of Appeals has ruled that voter-initiated charter amendments are not a permissible method of implementing the limited local regulations that are authorized by the Michigan Regulation and Taxation of Marihuana Act, otherwise known as “MRTMA.” (*City of Farmington Hills et al v Farmington Survey Committee et al.*, Published Opinion of the Court of Appeals, Docket No. 372022, Released for Publication September 3, 2024.)

The opinion is a big step in the right direction for cities that wish to retain their ability to locally implement licensing requirements for marijuana establishments that they deem are uniquely appropriate for their residents.

In its opinion, the court reasoned that recreational marijuana regulation is a state-dominated area of regulation with only limited powers of regulation carved out for municipalities. The court ruled that those limited powers do not include regulation pursuant to voter-initiated charter amendment. The court reasoned that under MRTMA, individuals are permitted voter-initiated action only by ordinance, not by charter amendment. Because the petition that was presented for placement on the ballot was for a charter amendment with detailed licensing schemes, it exceeded the authority under MRTMA and should not be placed on the ballot.

In this case, the Court of Appeals also recognized that previous panels of the court have concluded that there is no clear legal right to initiate legislation under MRTMA when a petition sought an ordinance that encompassed more than providing for the number of marijuana establishments within a municipality. The court supported this conclusion by previous panels by stating that “individuals of the electorate are afforded one narrow power of initiative: to seek an ordinance prohibiting or setting the number of marijuana retail establishments.” The power to adopt a local regulatory scheme for marijuana retail establishments is reserved for the legislative body, and “a voter initiated petition cannot be used to abrogate the authority vested in the municipality to regulate marijuana

establishments through legislative enactment of ordinances, and voter initiated petitions cannot be used to enact regulations regarding marijuana establishments.”

It’s unclear at this time whether the attorneys for ballot initiative committees will appeal the decision to the Michigan Supreme Court.

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