

STATE OF MICHIGAN  
MASON COUNTY CIRCUIT COURT

TERRY L. GRAMS,

v

Case N° 2024-69-CZ

CITY OF LUDINGTON,  
Defendant

Hon. Susan K. Sniegowski

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May 25<sup>th</sup> 2024

**Document in support of Supplemental Motion in Opposition to Defendant's Motion for Summary Disposition of Plaintiff's Complaint and Preliminary Injunction.**

**PURSUANT TO MCR 2.116, MCR 2.116(G)(3) and MCR 2.116(G)(4) and MCR 2.116(I)(5)**

This document is in addition to my earlier response to the defendant's motion to dismiss my complaint against the deer cull in Cartier Park. This information came to my attention after I submitted the Supplemental Motion in Opposition to Defendant's Motion for Summary Disposition of Plaintiff's Complaint and Preliminary Injunction.

I recently learned that Michigan courts have interpreted standing somewhat broadly, requiring only that plaintiffs show a substantial interest detrimentally affected in a manner different from the general public. My involvement differs from that of the

general public because I have been deeply involved in the opposition to conducting a deer cull in Ludington since I first learned of it in 2022, more so than any other Ludington resident. Having spent hundreds of hours researching every aspect of deer culls, having spent hundreds of dollars trying to inform the public about deer culls by way of paid advertisements in the Ludington Daily News and the Mason County Press, numerous letters to the editor related to the cull published in the Ludington Daily News, publishing a website informing the public about deer culls, collecting data from Ludington and other cities, the DNR, EGLE and others by way of FOIA request, meeting with city officials on numerous occasions to discuss the wastefulness of urban culls and provided volumes of information to the Ludington city council about the White Tailed Deer that populate this area.

Because I live close to Cartier Park, I am more likely to be accidentally injured by activities related to conducting a cull in Cartier Park than all but a very few others that live closer.

Under the Michigan Environmental Protection Act (MEPA), citizens have broad standing to sue to protect natural resources from pollution, impairment, or destruction, even if they have not yet suffered personal harm. In conclusion, while the default position requires actual or imminent injury, there are pathways in Michigan law that allow a citizen to file a lawsuit based on a reasonable belief that the city's activities are dangerous and unnecessary.

Michigan has had numerous court cases that have addressed the issue of standing for citizens to enforce municipal ordinances. Here are some key examples where the courts have considered whether citizens had standing based on a direct, personal impact. It is

important to note that these cases cite possible future damage and do not demand that damage or hurt has already been incurred. Grams V City of Ludington are affected by specific Ludington Municipal Ordinances that in this case are being violated by the city. These ordinances are listed below the cases cites.

1. ***Joseph v. Grand Blanc Township*** (1981): - Summary: In this case, property owners challenged a township's decision related to land use. - Outcome: The Michigan Court of Appeals held that property owners had standing because they were directly affected by the zoning decisions which impacted the use and value of their properties. - Significance: This case underscores that property owners may have standing when municipal actions affect their property interests.

2. ***House of Providence v. City of Livonia*** (2017): - Summary: A nonprofit organization challenged the city's zoning ordinance that prevented it from using a property as a home for children. - Outcome: The court found that the organization had standing to sue because it was directly affected by the ordinance, which interfered with its intended use of the property. - Significance: Demonstrates that organizations, as well as individuals, can have standing if they can show a direct impact from municipal ordinances.

3. ***Lansing Schools Education Association v. Lansing Board of Education*** (2010): - Summary: Although not specifically about a municipal ordinance, this Michigan Supreme Court case is pivotal regarding standing principles. The court redefined the standing doctrine in Michigan to focus more on whether the plaintiff has a substantial interest that will be detrimentally affected in a manner different from the citizenry at large. - Outcome: The court established that standing in Michigan is more lenient than federal standing, emphasizing that plaintiffs only need to show that they have a special

injury or right affected. - Significance: This case broadened the concept of standing in Michigan, making it easier for citizens to claim standing if they can show a unique harm.

4. *City of Kalamazoo v. KTS Industries, Inc.* (2014): - Summary: This case involved the City of Kalamazoo suing a company for violating a local ordinance related to environmental contamination. - Outcome: The court recognized the city's standing to enforce its ordinances aimed at protecting the environment and public health. - Significance: While this case focused on municipal standing, it reflects judicial support for enforcing ordinances that safeguard public welfare, *suggesting that citizens might also be granted standing in similar contexts.*

Practical Implications for Citizens: - Direct Impact: Citizens in Michigan who seek to enforce municipal ordinances need to demonstrate how the ordinance violation specifically harms them in a manner distinct from the general public. - Property Interests: Property owners often have a clearer path to standing when they can show that municipal decisions adversely affect their property rights or values.

Broader Interpretation: Post-Lansing Schools Education Association, Michigan courts may be more receptive to standing claims if the plaintiff can articulate a specific, substantial interest that is negatively impacted.

Conclusion: In Michigan, citizens can potentially have standing to enforce municipal ordinances if they can demonstrate a direct, personal impact. Precedents like *Joseph v. Grand Blanc Township* and the broader interpretation of standing from *Lansing Schools Education Association* support the notion that citizens who suffer unique harms from

ordinance violations may successfully claim standing in court.

The following are Ludington City ordinances that I believe are being violated by the deer cull and that I believe if enforced would prevent the deer cull from proceeding.

1. ORDINANCE NO. 494-22

- a. Section 1: APPROVAL. Pursuant to Section 8.10 of the Charter of the City of Ludington, the City Council hereby approves the City Manager and City Clerk to sign a three (3) year Cooperative Service Agreement between the City of Ludington and United States Department of Agriculture Animal and Plant Health Inspection Service Wildlife Services to provide lethal removal of white-tailed deer in areas with high numbers of complaints and damage. ARTICLE 1 - PURPOSE The purpose of this Cooperative Service Agreement is to assist the City of Ludington by providing lethal removal of white-tailed deer in areas with high numbers of complaints and damage.
- b. No evidence of any complaints about or damage to Cartier Park by the deer has ever been claimed or provided by the City of Ludington.
- c. Section 3: Repeal: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.
  - i. The phrase "All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed" is problematic when included in a city ordinance for the following reasons:
  - ii. 1. It lacks specificity and can lead to confusion about which ordinances are actually being repealed. Repealing ordinances by

using vague phrases like "all in conflict" or "insofar as they may conflict with" is discouraged. Every effort should be made to determine and specifically list the prior ordinance provisions that need to be repealed.

- iii. 2. Some provisions of ordinances intended for repeal may not directly conflict with the new ordinance, and consequently, are not effectively repealed. Other potential conflicts may be subtle and require judicial interpretation to determine if they have been implicitly repealed.
- iv. 3. Specific repeal of an ordinance or its sections by ordinance number, title, subject matter, and date of enactment is recommended to prevent ambiguity and tracking issues. This helps maintain a clear legislative history and proper record keeping.
- v. 4. Courts have ruled that a municipal ordinance can only be repealed by an act of equal dignity, meaning an ordinance cannot be repealed except through another ordinance. Using a vague "repeal clause" in the new ordinance may not meet this standard of formality required for repeal. In summary, the vague "repeal clause" phrasing lacks the specificity and formality generally required to effectively and unambiguously repeal prior ordinances. The preferred approach is to list out and repeal conflicting ordinances explicitly by identifying details within the new ordinance itself.

vi. References for the above are:

1. The Michigan Municipal League handbook states that using vague phrases like "all in conflict" to repeal ordinances is discouraged, as it lacks specificity and can lead to confusion about which ordinances are actually being repealed.
2. The Georgia Municipal Association handbook recommends specifically listing out the ordinances being repealed by number, title, subject matter, and date, rather than using a vague "repeal clause". This helps maintain a clear legislative history and proper record keeping.
3. The Oregon manual on ordinance drafting advises against using phrases like "all ordinances insofar as they may conflict with" because some provisions intended for repeal may not directly conflict, leading to ineffective repeal. It recommends specifically repealing conflicting ordinance provisions.

2. City Code Chapter 14

- a. 14 Sec. 14-38. - Firearms. Possession or discharge of a firearm in or adjacent to the cemetery is forbidden except in connection with burial ceremonies, such as a military funeral or by a duly authorized police officer. Code 1984, § 3.113(d)

3. Chapter 38 - PARKS AND RECREATION

- a. Sec. 38-71. - Weapons and explosives. No person, except a law

enforcement officer, shall bring onto park or beach property or have in his possession on park or beach property any firearm or ammunition, any explosive, dynamite cap, consumer fireworks, or display fireworks, any air gun, pellet gun, or any device by means of which a projectile can be propelled, any incendiary bomb or material; any smoke or stink bomb; any tear gas or other disabling chemical or agent; any inflammable liquid, except fuel in a fuel tank of a vehicle, vessel, camp stove or camp heater; any lighter fluid or starter fluid expressly manufactured for lighting charcoal or other cooking fuel in a designated picnic area only and but no more than one quart of such, which shall be kept in its original container. In approved camping areas, an amount of fuel not to exceed one gallon in a closed container may be in the possession of a registered camper for a lantern, camp stove or heater other than that contained in the unit's fuel tank.

The Defendant may argue that the Plaintiff lacks standing because he has not been harmed. However, that is not true. I have suffered injury and hurt as the result of the city not abiding by their own ordinances as detailed above. And am thereby entitled to standing in *Grams v City of Ludington* now before this honorable court. In addition to the emotional damage already suffered the Plaintiff will be exposed to numerous physical injuries should the culls be allowed to continue. This possibility is exacerbated by the Plaintiff's residence being so close to Cartier Park. Being given standing by this honorable Court will permit the Plaintiff to prove this factually.

Being an older adult, now 83 years old, I am more susceptible to injury both physically



and emotionally than younger people. This is not readily apparent to most younger people.

Consequently, I and others my age who have been forced to give up much of what brings us joy for a variety of reasons are significantly more vulnerable to severe emotional stress and damage from events that may not affect younger persons. In my case I have by necessity given up running, swimming, fishing, motorcycle and bike riding and any strenuous physical exercise because of age related illness or physical conditions. I have given up hobbies like pocket watch repair and reading because of numerous eye surgeries. As a result, one of the few pleasures left to me is observing wildlife. Fortunately, living in a northern Michigan forest area there is a lot of that to observe. Now the city of Ludington is depriving me of that pleasure and doing me emotional harm by killing the deer in Cartier Park to save flowers in the third and fourth wards of the city. Flowers that could be easily protected with a little personal effort using motion-controlled sprinklers and repellants, some of which like human hair or urine are free.

I offer the following in support of this, as it relates to Cognitive and Emotional Processing: Older adults have a reduced capacity to manage stress due to changes in cognitive and emotional processing.

A study published in the “Journal of Gerontology” highlighted that older adults often experience heightened emotional responses to stressors and have a harder time returning to baseline emotional states. Resilience and Coping Mechanisms and Diminished Coping Skills: While some older adults exhibit remarkable resilience, many have diminished coping skills due to cumulative stress and loss over their lifetimes. This can

make them more vulnerable to emotional distress from events that might be more easily managed by younger individuals.

Emotional Impact of Loss: A study by the National Institutes of Health (NIH) highlighted that bereavement and the associated emotional turmoil can be particularly intense for older adults, often leading to prolonged periods of depression and decreased overall wellbeing. In summary, there is substantial evidence that older adults are more vulnerable to both physical and emotional injuries from events that might not significantly affect younger individuals. This heightened vulnerability is due to a combination of physiological changes, increased susceptibility to stress and social isolation, and slower recovery processes.

Other examples of city official behavior that caused me severe emotional distress are:

1. While it is not uncommon for individuals or groups opposing certain viewpoints to use various tactics to discredit or intimidate opponents, I did not expect to be subjected to this kind of intimidation by the Ludington City Council.
2. Kathy Winczewski invited me to meet with her to discuss my opposition to a planned deer cull in the city. When I arrived at the meeting, I was surprised to find that another council person, Wally Cain, the city manager, the mayor, the chief of police and the owner of the property where we were meeting were also in attendance. It appeared to me that the pursuing discussion was designed to rattle me, confuse me, or make me angry. The mayor even accused me of claiming there was no place anywhere in Ludington that was a safe place to live. My impression of this meeting was it was a setup to attempt to discredit me and

never intended to be an honest discussion. I believe the mayor recorded the meeting or parts of it on his phone without mentioning it.

3. When a meeting deviates significantly from expectations and includes unexpected high-level attendees, I believe it's plausible that the intention was to intimidate or discredit me. The mayor's accusations and potential recording without my knowledge or consent indicates a lack of transparency and respect for open dialogue. Such tactics are often used to catch opponents off guard.
4. Wally Cain emailed me and accused me of spreading disinformation regarding the cull. I replied to him that I would retract anything I had said that was untrue, he did not reply but reiterated the accusation.
5. These two are examples of my experiences related to the deer cull in Cartier Park that have caused me extreme emotional distress.
6. I live close to Cartier Park about 1/2 block south on Beechwood, so I can observe the deer as they travel up the alley behind my residence. Because of the configuration of my backyard fence and a row of cedars the deer frequently rest in the area between them. Each spring I look forward to seeing the doe with their new fawns, but not this year because the city has killed all or most of them. I have a large mulberry tree that attracts the deer when the fruit is ripe but probably not this year because the deer have been killed to save a few flowers. This saddens me very much. And I believe does real tangible damage to me and many other city residents.
7. I have been accused by the city of trying to assert rights related to Cartier Park, which I never did or inferred in anyway. Nor did I ever claim to be acting on

behalf of Mary Cartier, who is in fact a blood relative. The defendant states the following “Plaintiff Mr. Grams is not a member of the Cartier Family, nor does he appear to be related by marriage to said family or to otherwise in any way have any right to assert any right, title or interest that the Cartier family may have with respect to the use of Cartier Park. Based on the pleadings as filed, Mr. Grams has invoked the jurisdiction of this honorable Court in his role as an average citizen of the City of Ludington, rather than one with any particular right or authority to seek to enforce the restrictions set forth in the Cartier family conveyances described above”.

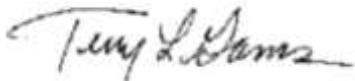
8. The facts are that the defendant brought this matter to the attention of Mary’s attorney and have now by their own actions created the possibility of legal action from the heirs to the reversion clause in the deed as witnessed by an email to the city attorney from Mary Cartier’s attorney. “See exhibit #18” This action by the city attorney caused me great distress because it could lead Mary to believe I was interfering in her affairs and result in her having negative feelings towards me. It was unnecessary and uncalled for because I never claimed any right to invoke the reversion clause in in the Cartier Park Deed and only suggested the city consider the reversion clause in the deed before acting, which of course they did not do.
9. The proposed deer cull and its implementation in March of 2024 resulted in my inability to sleep more than three or four hours per night for months, for worry for the deer, for the future of Cartier Park, the safety of myself and other nearby residents of the park and passerby’s and for anyone that might consume venison that could be chemically contaminated. My days have been consumed

researching legal ways to prevent the cull in Cartier Park until the concerns I iterated to the council have been addressed. To claim this ill-advised deer cull has damaged the quality of my life is a profound understatement.

Thank you for your attention to this matter. I remain available to provide any further clarification or information as necessary.

By my signature below I affirm that I have read this Verified Answer to Defendant's Affirmative Defenses and Motion for Summary Disposition and Preliminary Injunction and that my responses to the contents thereof are true to the best of my information knowledge, and belief.

Terry L. Grams Plaintiff

A handwritten signature in black ink, appearing to read "Terry L. Grams". The signature is written in a cursive, flowing style.

Terry Grams

## Exhibit # 18

From: Thomas Kuiper  
Sent: <kuiper@k2legal.com>  
To: Sunday, April 28, 2024 10:19  
Subject: AM Ross Hammersley; Terry

**Grams Cartier Park**

**Ross and Terry. I communicated over the weekend with my client, Mary Cartier, about the deer culls and other issues related to Cartier Park. Mary is strongly opposed to any deer culls ever happening in the park, whether past, current, or in the future. She believes it is a violation of the deed to do so and she does not want it to ever happen again. Mary is preserving her legal rights of reversion if the deed restriction is violated. Please feel free to use this email as necessary in any court filing so that the judge is aware of Mary's position. Tom**

*Thomas A. Kuiper* KUIPER KRAEMER PC

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