

STATE OF MICHIGAN
WAYNE COUNTY CIRCUIT COURT

KELLY GOTTESMAN,
individually, and as representative
of a class of similarly-situated persons
and entities,

Case No. 17-014341-CZ
Hon. Susan L. Hubbard

Plaintiff,

v.

CITY OF HARPER WOODS,
a Michigan municipal corporation,

Defendant.

Gregory D. Hanley (P51204)
Jamie Warrow (P61521)
Edward F. Kickham Jr. (P70332)
Kickham Hanley PLLC
32121 Woodward Avenue, Suite 300
Royal Oak, MI 48073
(248) 544-1500

Attorneys for Plaintiff and the Class

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Attorneys for Defendant

ORDER ON MOTIONS FOR PARTIAL SUMMARY DISPOSITION

At a session of the Wayne County Circuit Court
held in the City of Detroit, State of Michigan
on this 18th day of June, 2018

PRESENT: HON. /s/ Susan L. Hubbard
Circuit Court Judge

This matter having come before the Court upon Plaintiff's Motion for Partial Summary
Disposition as to Counts I, II, and III of his Complaint under MCR 2.116(C)(10), and under

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Defendant's Counter-Motion for Partial Summary Disposition as to Counts I, II, and III of Plaintiff's Complaint under MCR 2.116(I)(2) and MCR 2.116(C)(7), the Court having heard oral argument and being otherwise advised in these premises:

IT IS HEREBY ORDERED that for the reasons stated on the record, the Stormwater Charges (the "Charges") Plaintiff challenges in his Complaint are taxes and are not user fees;

IT IS FURTHER ORDERED that Plaintiff's Motion for Partial Summary Disposition as to Count I of his Complaint is GRANTED for the reasons stated on the record;

IT IS FURTHER ORDERED that Plaintiff's claims in Count I of his Complaint are timely to the extent that they are based on Charges imposed on or after September 28, 2016;

IT IS FURTHER ORDERED that Plaintiff's Motion for Partial Summary Disposition as to Counts II and III of his Complaint is DENIED without prejudice, pending further briefing, for the reasons stated on the record;

IT IS FURTHER ORDERED that Defendant's Counter-Motion for Partial Summary Disposition as to Count I of Plaintiff's Complaint is DENIED with prejudice for the reasons stated on the record;

IT IS FURTHER ORDERED that Defendant's Counter-Motion for Partial Summary Disposition as to Counts II and III of Plaintiff's Complaint is DENIED without prejudice, pending further briefing, for the reasons stated on the record.

/s/ Susan Hubbard 6/18/2018

Circuit Court Judge

Approved as to form only:

KICKHAM HANLEY PLLC

By: /s/ Gregory D. Hanley
Gregory D. Hanley (P51204)
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MI Wayne 3rd Circuit Court

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