



EVERY STUDENT. EVERY DAY.

**Testimony of Dr. Michael Yocum
On behalf of Oakland Schools
House Committee on Regulatory Reform
House Bill 5766**

Good morning, Chairman Hauck and members of the House Committee on Regulatory Reform. Thank you for the opportunity to provide testimony in support of House Bill 5766. I am Dr. Michael Yocum. I am here today representing Oakland Schools. We are a regional service agency that offers support services to school personnel in 28 local school districts and 19 public school academies. Our services benefit more than 200,000 students in Oakland County.

Oakland Schools also operates four AdvanceED (NCA)-accredited regional technical campuses where students spend half their school days preparing to meet the demands of post-secondary education and the expectations of employers in 17 programs of study. Our technical campuses play a vital role in promoting career pathways and opportunities to address current labor shortages and occupations that are projected to be in-demand in the future in Michigan.

In January 2021, Oakland Schools became aware that a marijuana license applicant wanted to open a business to include retail, processor, and grower operations only **88 feet** from Oakland Schools Technical Campus-Southeast at 5130 Meijer Drive in the city of Royal Oak. To our dismay, the Royal Oak City Planner had determined in April 2020 that the Technical Campus did not meet the definition of a K-12 school. The City made this decision without any input from or notice to either Oakland Schools or Royal Oak Schools, which sends students to our Southeast Technical Campus. There are currently 609 students attending classes at the campus.

Michigan law prohibits a marijuana establishment from operating within 1000 feet of a pre-existing public or private school providing education in kindergarten or any of grade 1 through 12, unless a municipality adopts an ordinance that reduces this distance requirement. Royal Oak has not done so. Vocational education programs offered at Oakland Schools Technical Campuses fall within the definition of a public school in accordance with the Revised School Code (MCL 380.5(6)).

The Royal Oak Planning Commission voted 3 to 2 to deny an application for a special land use permit and site plan during a public hearing on February 8, 2022. If approved, the request submitted by Gatsby Cannabis Co., would establish a marijuana business just feet away from Oakland Schools Technical Campus-SE. The Royal Oak City Commission will soon decide whether to accept or deny the recommendation of the Planning Commission. Oakland Schools has advised the Commission that singling out the Technical Campus as the only school in Royal Oak to which the 1000 feet buffer does not apply is unacceptable.

Marijuana facilities are land uses that voters in the community have expressed support for in general, but which they do not wish to see near their home or their child's school. The Royal Oak Technical Campus is in the Southeast quadrant where a majority of the communities with the lowest median household income in the County are clustered. There are strong equity implications to permitting marijuana facilities only in close proximity to the one school in the City that serves students from communities with lower socioeconomic backgrounds, and which serves a larger percentage of minority students, when the City would not permit this use within 1000 feet of any other public school within its limits. There are other

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locations within Royal Oak's industrial zone where marijuana businesses can operate that would not require the City to treat over 600 children at the Technical Campus differently than their peers, or require the City to violate local, State and federal law.

Oakland Schools has diligently pursued this matter as summarized in the HB 5766 Handout.

- The City made the decision to exclude the Technical Campus from the buffer protections and deny its status as a school in April 2020 without any input or notice to Oakland Schools
- The City knew applicants were viewing a location 88 feet from the Technical Campus for 20 months and did not notify Oakland Schools
- Oakland Schools only became aware the City determined the Technical Campus was not a school and would not be afforded the 1,000 foot buffer protection due to notice from a marijuana applicant - not the City
- Oakland Schools contested the City's determination the Technical Campus was not a school and informed the City its actions were in violation of MRTMA and the City disagreed and continues to do so
- Oakland Schools requested to meet with the City and the request was met with silence
- Oakland Schools requested the City to notify applicants of its opposition - it refused or failed to do so
- Oakland Schools submitted FOIA requests to identify applicants and provide notice of our opposition - FOIA requests were denied
- Since May 12, 2021, the City refused to respond or communicate with Oakland Schools
- Oakland Schools only became aware of the issuance of a marijuana license on January 19, 2022, when it was contacted by Gatsby Cannabis Co.

It is imperative that House Bill 5766 is passed so that no other ISD, school district, public school academy or private school has to re-allocate its human and monetary resources away from our core mission of teaching and learning to protect the health and well-being of all students. We urge your support by passing House Bill 5766. We ask that our letter to the Royal Oak City Commission and timeline of events related to this matter be entered into the record.

Thank you for your time today.

Prepared for: House Committee on Regulatory Reform – Public Hearing – March 8, 2022.

For additional information contact:

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February 18, 2022

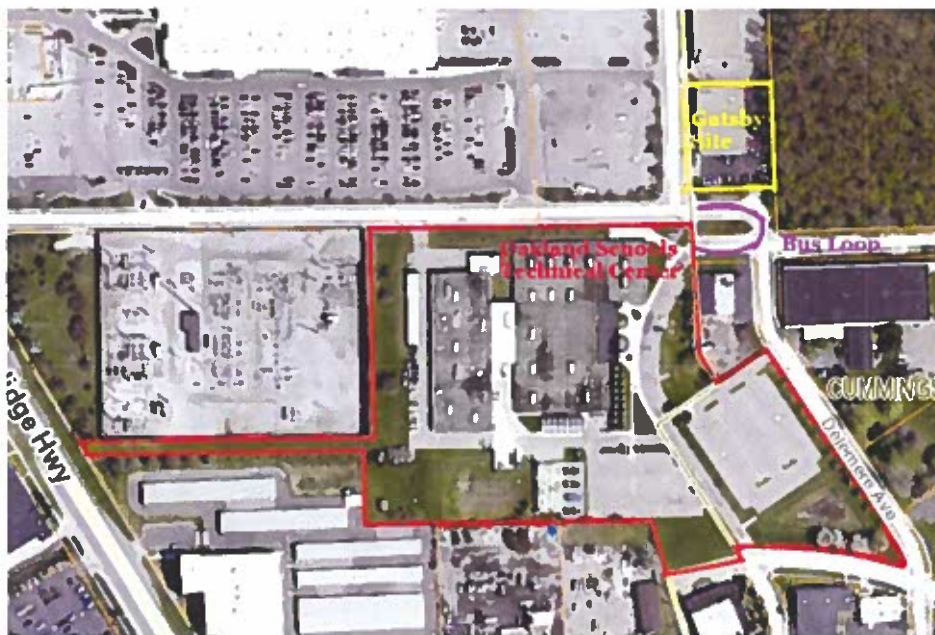
Royal Oak City Commission

Via email to ccfourmier@romi.gov, ccdouglas@romi.gov, ccdubuc@romi.gov,
cchunt@romi.gov, cckolo@romi.gov, ccmacey@romi.gov, cparuch@romi.gov

Re: Record regarding Special Land Use & Site Plan (SP 22-02-021) to establish marijuana retailer, processor, and class C grower (Gatsby Cannabis Co) within existing building (Karl Heinz Auto Center) at 5130 Meijer Dr (parcel no 20-32-301-016)

Dear Members of the City Commission:

You will soon be deciding whether to accept the recommendation of the Planning Commission, and deny special land use approval for Gatsby Cannabis Co to operate a marijuana business **88 feet** away from the Oakland Schools Technical Center, as depicted below. Before you make that decision, I wanted to clarify the record regarding the facts of this site, and of the background of this dispute. **I ask that this letter be added to the record that will be in front of the City Commission when it makes its decision, along with all submissions that were made as part of the public comment in front of the Planning Commission. Oakland Schools further requests a public hearing in front of the City Commission regarding this use.**



The Technical Center is a Public School

At the Planning Commission hearing on February 8, 2022 and in written public comment, the City heard from numerous parents, staff, and school administrators from across the County that the Technical Center is a school providing core 9-12 curriculum for over 600 high school students. That record is already extensive, so I will not repeat those comments here. But the record should also reflect that, in addition to classes like English 101 that are taught at the Technical Center during the Fall and Spring terms, the Technical Center has also provided Summer school instruction to children in grades 9-12 for Algebra, Biology, Chemistry, Economics, English, Geometry, Government, Physical Science, and World History.

Though Covid temporarily suspended this program, the Technical Center also offers a Summer Science, Technology, Engineering and Math (“STEM”) camp program for children in grades 6-8. The fact is that year-round, children from across Oakland County are learning at this school in all manner of classes. It is therefore little wonder that Royal Oak’s Master Plan discusses the Technical Center in its “Royal Oak Neighborhood Schools” section, right alongside the elementary, middle, and high schools in the City (Master Plan p 80). The children attending the Technical Center are just as valuable and deserving of protection by the City’s ordinances as the other school children in the City, and the buffer should apply to them all equally.

Oakland Schools Proactively Contacted the City About this Issue Over a Year Ago, and Numerous Times Since

At the Planning Commission hearing on February 8, Mayor Fournier expressed regret that the City had not heard from Oakland Schools about its inclusion in the buffer earlier. However, Oakland Schools has reached out to the City numerous times *for over a year* on this very issue, from the moment it realized the City had taken the position that the Technical Center was not subject to a buffer. A timeline of Oakland Schools’ correspondence with the City, and the letters and emails referenced in the timeline, are included as **Attachment 1**.

Oakland Schools was not the only party to raise this issue with the City. Even applicants, who could clearly see the Technical Center, raised questions about application of the buffer to the Technical Center as early as April 2020. *See Attachment 1-A, 1-B*. The City took the position that the Technical Center was not a school, without any input from or notice to Oakland Schools.

Both the law firms of Dickinson Wright and Miller Canfield reached out multiple times to alert the City that the Technical Center is a public school under Michigan law and is protected by the 1,000 foot buffer under the Michigan Regulation and Taxation of Marihuana Act (“MRTMA”). Long before the City awarded any licenses to applicants, Oakland Schools asked to be added to the buffer map.

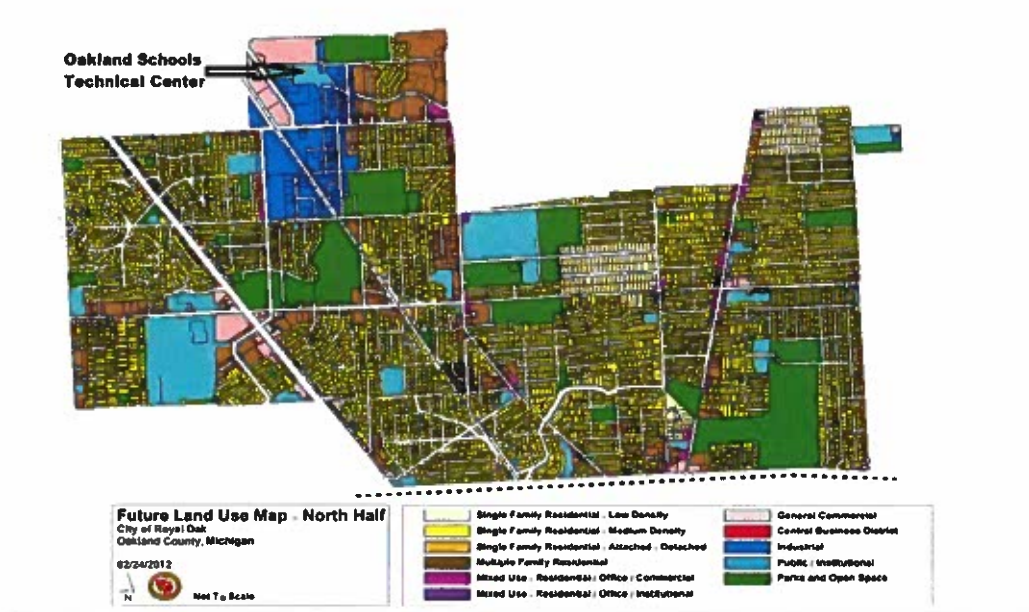
When the City refused, Oakland Schools submitted a FOIA request, so that it could determine if any applicants were relying on the incorrect buffer map, and could warn those applicants of the Schools' position. The City would not release that information, claiming a FOIA exception. While Oakland Schools was prevented from discerning if any marijuana facilities were looking to locate within 1,000 feet of the Technical Center, the City knew this information. Oakland Schools *specifically asked that the City put any such applicants on notice of Oakland Schools' position.* (See **Attachment 1-D**, 1/28/2021 letter "you should notify any parcel currently within the distance requirement or our client that you or the City may currently believe is eligible for licensure as a marijuana establishment, that any such eligibility is being contested and, therefore, in question.") The City did not do so. At the Planning Commission hearing, Commissioner Douglas expressed the belief that Gatsby should not be penalized for its reliance on the City's map of buffer zones. But it is far less appropriate to penalize Oakland Schools or the students of the Technical Center.

The existence of the school is readily apparent from Gatsby's proposed site, the Karl Heinz Auto Center; the "Oakland Schools" sign is just across the crosswalk from the auto center's business sign. The school has been operating in that area since the 1970's and Gatsby was clearly aware of its existence. But Gatsby waited to reach out to Oakland Schools until after it was awarded a license. **Attachment 1-W.** If, in fact, Gatsby went forward with its application in reliance on the City's buffer map (without doing any independent legal review of whether the school directly across the street was protected by federal, State, or local law, and without bothering to find out if the school was opposed), it bears the responsibility for that decision. Further, the City's Ordinance specifically warns applicants that, even if they are awarded a license, the license is a revocable privilege "not a property right," and that "Granting a license does not create or vest any right, title, franchise, or other property interest." City Ordinance 435-8. In short, Gatsby (unlike Oakland Schools which has a vested interest in continuing to operate a school where it has operated for over 50 years, and in which it has invested millions of dollars over that time) has no vested interest in operating at the auto center site. Gatsby assumed the risk that it asks the City to shield it from, at the expense of Oakland Schools and its students.

**The Technical Center Is Appropriately Located, and is in an Area Planned for
Public/Instructional Use on the City's Future Land Use Map**

Both Dickinson Wright and Miller Canfield have written at length to the City, explaining that local zoning ordinances do not apply to nor govern the location of Michigan schools, nor do they define what schools are. See **Attachments 1-D, 1-E, 1-I, 1-M, 1-N, 1-O**, and 2/7/2022 letter already in the record before the Planning Commission. However, at the Planning Commission meeting on February 8, Mayor Fournier expressed that the City intends to follow the opinion of the City Attorney on this issue. That being the case, the City Commission must acknowledge that the Technical Center is appropriately located, and its location provides no justification for treating it differently under State law.

City Attorney Anne McLaughlin opined that “The OSTC is a ‘business, technical or trade school,’ permitting that use in the office Service zone and, by operation of § 770-44.B(1), within the General Industrial Zone.” See **Attachment 1- L.**¹ Accordingly, the Technical Center is authorized to be exactly where it is, and where it has been for the past fifty years. Further, the City’s Future Land Use Map clearly depicts that the site of the Technical Center is intended for “Public/Institutional” use going forward. The City’s Master Plan states that “Areas designated as Public/Institutional land uses are intended to accommodate such activities as governmental and public buildings, **schools**, and churches.” Master Plan at p 44. This designation “**includes elementary, middle, and high schools**, Oakland Community College, and Beaumont Hospital.” *Id.* The school is precisely where the City permits and intends it to be, both now and in the future.



City Attorney McLaughlin opined that as a trade school the Technical Center is not protected by the City’s buffer ordinance for “schools with a curriculum equivalent to K-12.” **Attachment 1- L.** In short, Royal Oak has not enacted any buffer – either equal to or less 1,000 feet – for “trade schools.” That is precisely the situation in which State law applies a default 1,000 foot buffer. When the local municipality has not “adopt[ed] an ordinance that reduces this [1,000 foot] distance requirement,” MRTMA requires one. MCL § 333.27959(3)(c) (stating marijuana businesses are not permitted “within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, unless a municipality adopts an ordinance that reduces this distance requirement.”)

¹ See also City ordinance 770-44(B) which states that all uses permitted in the Office Service zone are also permitted in the General Industrial zone, and City ordinance 770-38(B) which in turn reflects that “trade schools” are permitted as a matter of right in Office Service zones.

Miller Canfield has previously explained that while – by its plain language – MRTMA gives local municipalities discretion to “reduce” the “distance requirement,” it does not enable the City to completely waive this “requirement” altogether. (That would be contrary to the notion of a requirement). The statute similarly does not enable the City to reduce the scope of schools to which the requirement applies by excluding vocational schools. State law does not distinguish between public schools providing education to high schoolers based on their curriculum, and includes vocational schools serving those students within its protections. Only the “distance” of the buffer from such schools may be reduced in a local ordinance. The types of schools subject to MRTMA’s protections cannot.

The City ordinance contains provisions that enable the Commission to waive or vary setbacks, parking, or other zoning requirements. *See* City Ordinance 770-52.1(B)(14). But the City cannot give itself the power to ignore State law. Further, even if the City Commission could waive or vary the State’s distance requirement in this instance, it should not.

Voters Have Not Expressed a Desire to Locate Marijuana Businesses Next to Schools, and Singling out the Technical Center as the Only School to which the Buffer Does Not Apply is Discriminatory

Marijuana facilities are land uses that voters in the community have expressed support for in general, but which they do not wish to see near their home or their child’s school. Mayor Fournier has stated that in general, voters want these businesses relegated to industrial areas, away from a majority of schools and homes. But locating a marijuana facility in an industrial zone when the location is directly next to a school does not accomplish voter intent. A vast majority of the community members who have spoken at oral or written public comment are wholeheartedly opposed to putting Gatsby’s facility in the specific portion of the industrial zone that abuts the Technical Center school. The City has acknowledged in its Location Map of Potential Marijuana Establishments that there are other industrial areas that are rendered inappropriate for marijuana businesses due to their proximity to Upton Elementary School at 4400 Mandalay Avenue and Keller Elementary School at 1505 N. Campbell Road. *See* <https://www.romi.gov/DocumentCenter/View/27896/Location-Analysis-of--Potential-Marihuana-Establishments> The Technical Center – the only school in the City that serves students who come from communities with different socioeconomic and racial profiles – should not be singled out for disparate treatment.

Oakland Schools operates four Technical Centers, one in each quadrant of Oakland County. The Technical Center at 5055 Delemere is located in the Southeast quadrant, where a majority of the communities with the lowest median household income in the County are clustered, including Southfield, Oak Park, Ferndale, Royal Oak Township, Hazel Park, and Madison Heights. The largest percentage of students attending the Technical Center are from the City of Southfield, which has a mean household income of \$55,705 and a population that is 23.1% white, compared

to the City of Royal Oak which has a mean household income of \$81,665 and a population that is 89.9% white.² A majority of students at the Technical Center are minority students. **Attachment 2.** There are strong equity implications to permitting marijuana facilities only in close proximity to the one school in the City that serves students from communities with lower socioeconomic backgrounds, and which serves a larger percentage of minority students, when the City would not permit this use within 1,000 feet of any other public school within its limits.

Gatsby's Proposed Use Does Not Meet the City's Special Land Use Criteria

Gatsby – as the applicant – has the burden of establishing that it meets all of the City's criteria for special land use approval, both those stated in 770-11 for all land uses, and the supplemental regulations specifically pertaining to marijuana establishments as set forth in 770.52.1. See 770-52.1(B) (stating that marijuana establishments must be “in accordance with the standards and procedures set forth in §770-11” and must “furthermore” be subject to the standards in § 770-52.1(B)).

Ordinance 770-11(C) states that the proposed land use and location must:

1. be harmonious and in accordance with the general objectives or any specific objectives of the Master Plan.

This criteria is not met because the Master Plan reflects that the parcel on which the Technical Center sits is intended for Public/Institutional use, which “includes elementary, middle, and high schools.” (Master Plan pages 44-45). The zoning districts of the Zoning Ordinance and their boundaries on the Zoning Map are intended to evolve over time to resemble the Future Land Use Map (Master Plan page 47). School uses are not harmonious or compatible with marijuana facilities. Placing a marijuana facility at Gatsby's proposed location would hamper the expressed intent in the Master Plan to continue Public/Institutional uses at 5055 Delemere.

The Master Plan also recognizes that “coordination should occur with adjacent communities to benefit the entire area.” (Master Plan p 95) Gatsby's proposed facility would impact all surrounding communities which send children to the Technical Center, over the objections of the neighboring Districts' school superintendents and without input from those communities.

²See www.census.gov/quickfacts/fact/table/royaloakcitymichigan.southfieldcitymichigan/RHI725219

3. *will not be hazardous or disturbing to existing uses or uses reasonably anticipated in the future.*

This criteria is not met because the Technical Center is both an existing use and, as reflected on the City's own Future Land Use Map, a use anticipated in the future.

At the Planning Commission hearing, Mayor Fournier expressed that the schools need to demonstrate a specific harm or hazard that Gatsby's use will bring. But the City itself has acknowledged that there are "adverse impacts" of marijuana operations, which must be separated from schools. See City Ordinance 770-52.1(A). Unless the Commission is taking the position that it arbitrarily enacted that ordinance, the City is already aware of the "adverse impacts" of marijuana operations and the incompatibility of these impacts with schools. Further, the burden is and has always been on Gatsby to establish that it meets all criteria for a special land use permit. It is not on the school children to prove Gatsby does not meet these criteria, or to provide the City with the rationale for its own ordinance.

While it is not incumbent on Oakland Schools to make this showing, Oakland Schools, community members, and parents have already raised concerns with the Planning Commission in its prior public comment, including that:

- Gatsby has acknowledged in its application materials that it has need of "substantial" security systems including interior and exterior 24 x7 monitoring. A facility that requires heightened security to operate should not be located next to a school, especially in the wake of the Oxford shootings and other incidents that have increased children's anxiety. The children's perception of their safety while on campus is an important component in their ability to effectively learn.
- The retail portion of Gatsby's business, and the entranceways to the site, are planned for the South and Southeast portions of the parcel, closest to the school. In fact, the Delemere Avenue entrance for Gatsby's facility is *within the bus loop* for the Technical Center. Students will not be able to avoid seeing the store as their busses pass by each day. More troublingly, students and buses will not be able to avoid contact with drivers coming to and from the store. The University of Michigan has reported that more than half of the persons who use cannabis for chronic pain drive while high. <https://medicine.umich.edu/dept/psychiatry/news/archive/201901/more-half-people-taking-cannabis-chronic-pain-report-driving-while-high> The use will bring increased numbers of impaired drivers to an area where children must pass in order to get to school. Even if some patrons use Gatsby's delivery service, all will not. The use poses a foreseeable increased risk to student health and safety.

- Parents and community members have also raised concerns about the fact that, with increased presence of drugs nearby the campus, there is an increased likelihood that drugs will find their way into students' hands. It is understood that Gatsby itself will not sell to children, but Gatsby has little control over where its patrons choose to use their product or to whom they resell it. Further, school children do not need the distraction of this business right outside the windows of their classrooms. They do not need to become accustomed to watching people buy drugs. The American Academy of Child and Adolescent Psychiatry has warned that legalizing marijuana for adults may be associated with "a) decreased adolescent perception of marijuana's harmful effects, b) increased marijuana use among parents and caretakers, and c) increased adolescent access to marijuana, all of which reliably predict increased rates of adolescent marijuana use and associated problems."
https://www.aacap.org/AACAP/Policy_Statements/2014/AACAP_Marijuana_Legalization_Policy.aspx Similarly, the children do not need to constantly see the signage and facility which are an advertisement for marihuana. A seven-year study done by the nonprofit RAND Corporation established that adolescents who view more marihuana advertising are more likely to use it and have positive views about it. <https://www.rand.org/news/press/2018/05/17.html> Again, the City's ordinances reflect it is already aware of these issues, and willing to protect all other school children within its boundaries from them. These concerns do not suddenly fade when the children exposed are learning a vocation, are of a different socioeconomic or racial background, or are farther from their homes, outside of a single family neighborhood.

4. Will be an improvement in relation to property in the immediate vicinity and to the City as a whole

The Technical Campus is in the immediate vicinity of the property, only 88 feet away. Oakland Schools and the parents that send their children to this campus have overwhelmingly spoken out that having a marihuana facility directly across the street would be disruptive to learning and would disturb the existing school. This business is still illegal under federal law, and it would not be an improvement to have an illegal marihuana business next door to the school, which is in a drug-free school zone. The Planning Commission and City Commission should not ignore the views of those most directly impacted by the proposed use, nor confuse voters' willingness to permit this use in industrial zones generally with a willingness to permit it in this particular location, directly across from a school.

7. Will be consistent with the intent and purposes of this chapter, and comply with all applicable provisions and standards which are established for said use by this chapter and other applicable codes.

Gatsby's proposed use is not consistent with the intent and purposes of chapter 770, which acknowledges that regulations in the zoning ordinance are for the purpose of "locating these uses in areas where the adverse impacts of their operations may be minimized by the separation of such uses from one another and from schools." See City Ordinance 770-52.1(A).

Gatsby's use also does not comply with all applicable provisions and standards established for marihuana facilities by all other applicable codes, including chapter 435, which acknowledges that marihuana establishments must also comply with "all other applicable state and local ordinances, laws, codes, and regulations." See City Ordinance 435-3. State law, specifically MRTMA, requires a 1,000 foot buffer between marihuana establishments and all pre-existing public or private schools providing education (including vocational education) to children through 12th grade, unless the local municipality has adopted an ordinance reducing the "distance requirement" for schools. Royal Oak has not adopted a lesser distance requirement. Gatsby's proposed facility does not comply with state law and, accordingly, does not meet this requirement.

As identified by over 30 other applicants, there are other locations within the industrial zone where marihuana businesses can operate that would not require the City to treat over 600 children at the Technical Center differently than their peers, or require the City to violate local, State, and federal law. Oakland Schools asks that you follow the law, follow the recommendation of the Planning Commission, and recommend denial of Gatsby's special land use permit.

Sincerely,

Miller, Canfield, Paddock and Stone, P.L.C.

By: *Lara Kapalla-Bondi*

Lara L. Kapalla-Bondi

Attachments

CC: planning@romi.gov
AaronL@romi.gov

City of Royal Oak Handling of Marijuana Location Across from Oakland Schools Technical Campus

Date	Item	Detail
April 22, 2020	Email from applicant to City Planner	A marihuana license applicant noted that OSTC SE did not appear in the City's buffer map, and asked the City for clarification. The City Planner stated "In our opinion that facility does not meet the definition of K-12 or equivalent and would not require a setback." The City made this determination without any input from or notice to either Oakland Schools, or Royal Oak Schools. While the decision was communicated to the hopeful applicant, it was not communicated to the Schools. (Attachment A)
October 16, 2020	Email from applicant to City Commissioner	A marihuana license applicant again noted that OSTC SE did not appear in the City's buffer area, and asked the City if a 1,000 foot setback was required. The Director of Community Development Tim Thwing responded that "no" OSTC SE was not a school, it "provides services for students." City Attorney David Gillam, Commissioner LeVasseur, and City Manager Paul Brake were copied. Again, no notice was given to Oakland Schools or Royal Oak Schools of this determination, and they remained unaware this determination was made. (Attachment B)
December 7, 2020	City begins accepting license applications	Before any applications were submitted, the City knew hopeful licensees were interested in locating within 1,000 feet of OSTC, and that even those licensees questioned why OSTC did not fall within the City's buffer. The City chose not to alert OSTC or engage it in any way in its decisions that directly impacted the school and its students.
January 25, 2021	Pleasantrees reaches out to OSTC-SE staff	OSTC-SE found out that an applicant wanted to open a marihuana facility in the area after Pleasantrees asked if OSTC wanted to partner with the company/industry, such as through student internships. Pleasantrees said it had reached out because the City asked all applicants to reach out to all of their potential neighbors as part of the application process. (Pleasantrees was the only applicant that did so). OSTC responded that there was no option for it to partner with Pleasantrees' company/industry.
January 2021	OSTC-SE Dean call to Royal Oak Planner	The OSTC SE Dean called the Royal Oak Planner questioning the location of a Pleasantrees facility near OSTC-SE.
January 28, 2021	Email response from Royal Oak Planner to OSTC-SE Dean	Royal Oak first informed OSTC of its position that the OSTC campus "did not meet the definition of a K-12 school under the state law... Thus, it was not included as a school to be given the 1,000 ft. buffer in our map of eligible parcels." (Attachment C)

City of Royal Oak Handling of Marijuana Location Across from Oakland Schools Technical Campus

<p>January 28, 2021</p>	<p>Dickinson Wright Letter to Royal Oak Planner from Oakland Schools</p>	<p>Oakland Schools immediately requested confirmation that the buffer determination, as stated by the Royal Oak Planner, is the official and final position of Royal Oak, provided notice of Oakland Schools' objection to this determination, provided legal authority that OSTC-SE is a public school under the law, and asked Royal Oak to notify any other applicants of its position. (Attachment D)</p>
<p>February 1, 2021</p>	<p>Email from Oakland Schools' counsel to Pleasantrees, copying the City Planner</p> <p><i>(Note: Oakland Schools' final communication with Pleasantrees)</i></p>	<p>Counsel for Oakland Schools notified Pleasantrees' attorney that OSTC-SE is a public school for purposes of MRTMA, that there is not a Royal Oak ordinance decreasing the 1,000 ft. buffer, and that the City was put on notice to inform any license applicant interested in a location within that buffer of Oakland Schools' objection. Counsel stated, "I assume the City indicated our client's position to your organization in order to avoid any misunderstanding...." and attached the letter sent to the Royal Oak Planner. (Attachment E) However the City apparently never did notify any applicant of OSTC's position.</p>
<p>February 1, 2021</p>	<p>Email from Oakland Schools' counsel to City Attorney Mark Liss</p>	<p>Oakland Schools had not received a response to its January 28 letter from the City Planner. Oakland Schools' counsel notified the City Attorney of its position "to ensure the City is fully aware of [OSTC-SE's] status as a public school within the meaning of the Act, to ensure [OSTC SE] is notified of any proceedings that could compromise its status as a public school and that the City duly inform any marijuana establishment license application of said status in the even a location is applied for that is within the 1,000 foot limitation imposed by the Act." (Attachment F p 2)</p>
<p>February 1, 2021</p>	<p>City Attorney Liss responds</p>	<p>City Attorney Liss responded that he had not yet read the Planner's January 28 email determining that OSTC is not a public school for purposes of MRTMA, and thus "cannot comment" on it. He forwarded Oakland Schools' concerns to Interim City Attorney McLaughlin, the City's Planning Director Joseph Murphy, and the City's Director of Community Development Timothy Thwing. (Attachment F p 1)</p>
<p>February 1, 2021</p>	<p>FOIA request to Royal Oak</p>	<p>Having received no substantive response regarding the basis for the City's position, Oakland Schools sent its 1st FOIA request to the City. It asked for information on any other potential applicants for a license within 1,000 feet of OSTC SE, the basis for the City's determination that OSTC SE is not a school, and any ordinances reducing the 1,000 foot buffer (Attachment G)</p>

City of Royal Oak Handling of Marijuana Location Across from Oakland Schools Technical Campus

February 23, 2021	FOIA responsive documents received	The documents produced by the City did not contain any ordinances reducing the distance of the required 1,000 foot buffer for schools, and confirmed there was no reduction. The City did not produce any applications for marijuana licenses.
February 23, 2021	Applicant email to the City Director of Planning	An applicant (presumably Pleasantrees) which had become aware of OSTC's objections asked the City if the City's position regarding OSTC had changed. Though the City had still not replied to OSTC's January 28 letter asking for the City's final position and reasoning, the City immediately told the applicant its position had not changed and "The 1,000 foot setback was not applied to OSTC, it[] has not been treated as K-12 school, K-12 schools are not a permitted use or special land use in the General Industrial Zoning District." (Attachment H)
March 9, 2021	Letter from Oakland Schools to the City Director of Planning, ccs City Attorneys, Planner, Planning Director, Director of Community Development, and City Clerk	Oakland Schools again asked the City to provide the basis for its position that OSTC-SE is not a public school. Oakland Schools requested a response by March 19, 2021 to resolve the matter as soon as possible. Oakland Schools also asked for confirmation that, since no applications for marijuana licenses within 1,000 feet of OSTC SE were produced in response to its FOIA request, none exist (Attachment I) Unlike the immediate response the Director of Planning gave to the marijuana license applicant, the City continued to remain silent.
March 18, 2021	Email from Royal Oak Interim City Attorney to Oakland Schools	The City Attorney confirmed receipt of Oakland Schools' March 9, 2021 letter and promised a response by March 24, 2021. (Attachment J at p 4)
March 24, 2021	Email from Royal Oak Interim City Attorney to Oakland Schools	The City Attorney informed Oakland Schools' legal counsel she was unable to provide the promised written response "due to another urgent matter." (Attachment J at p 2)
March 25, 2021	Letter from City of Royal Oak, Deputy City Clerk to Oakland Schools	The City of Royal Oak provided supplemental documents in response to Oakland Schools' February 1, 2021 Freedom of Information request, again confirming no ordinance has reduced the 1,000 foot buffer. The City stated that it would not produce the requested applications for marijuana licenses within 1,000 feet of OSTC-SE based on a FOIA exemption. (Attachment K)
March 26, 2021	Email from Oakland Schools to Interim City Attorney	Oakland Schools requested an update on the City Attorney's written response to its letter, due to the failure of the City attorney to reply on March 25, 2021 as promised. (Attachment J at p 2)

City of Royal Oak Handling of Marijuana Location Across from Oakland Schools Technical Campus

<p>March 26, 2021 (Letter dated March 25 but not received until March 26)</p>	<p>Phone call and letter from Royal Oak Interim City Attorney to Oakland Schools. Letter copies City Planner, Planning Director, and Director of Community Development</p>	<p>The City Attorney notified Oakland Schools:</p> <ul style="list-style-type: none"> • Royal Oak’s “zoning ordinance clearly distinguishes between K-12 schools and technical/trade schools.” • “The City’s Planning Department has not made an express determination whether the OSTC is or is not a K-12 school for purposes of MRTMA.” • “[E]ither OSTC is a nonconforming use or is a technical or trade school.” • “The 1,000 -feet buffer zone required under the City’s zoning ordinance does not apply to OSTC.” <p>(Attachment L)</p>
<p>March 31, 2021</p>	<p>Letter from Oakland Schools to Royal Oak Interim City Attorney</p>	<p>Oakland Schools responded to Royal Oak’s March 26, 2021 letter:</p> <ul style="list-style-type: none"> • Challenged Royal Oak’s inconsistent statements that (1) the City’s planning Department has not made an express determination whether the OSTC is or is not a K-12 school for purposes of MRTMA and (2) Royal Oak determined the 1,000 feet buffer did not apply. Both cannot be true. • Reiterated OSTC-SE is a pre-existing K-12 school as defined by MCL § 380.5(6) of the Revised School Code, and thus MRTMA applies to it. • Provided legal authority that as a public school OSTC-SE is not subject to local zoning ordinances pursuant MCL § 380.1263(3) of the Revised School Code. The City’s zoning designations for industrial or residential areas do not control the application of MRTMA. • Requested a response by April 9 (Attachment M)
<p>April 1 – May 11, 2021</p>	<p>41 days</p>	<p>No response from City of Royal Oak for 41 days.</p>
<p>May 12, 2021</p>	<p>Follow-up email and letter from Oakland Schools to Royal Oak Interim City Attorney</p>	<p>Oakland Schools expressed disappointment with the lack of response to its March 31, 2021 letter: “Oakland Schools, as a public school benefitting many students residing in Royal Oak and surrounding school districts in the County, was hopeful that the City would at least be open to a dialogue to attempt to resolve this matter. The City’s silence is puzzling to us... We are available at your convenience to further discuss this matter.” (Attachment N)</p>
<p>May 12, 2021</p>	<p>Letter from Oakland Schools to Royal Oak Interim City Attorney</p>	<p>Oakland Schools’ attached letter:</p> <ul style="list-style-type: none"> • Reiterated its position from its March 31, 2021 letter and asked “does the City have a response, or does it now agree that it is prohibited from

City of Royal Oak Handling of Marijuana Location Across from Oakland Schools Technical Campus

		<p>approving the licensure of a marijuana facility within 1,000 feet of the OSTC?"</p> <ul style="list-style-type: none"> Notified Royal Oak that Oakland Schools would take appropriate actions to enforce its rights and protect the students of OSTC if there was an attempt to locate a facility within 1,000 feet of the campus. (Attachment O)
May 12, 2021	Email from Royal Oak Interim City Attorney to Oakland Schools	The City Attorney apologized for not responding and assured Oakland Schools that, "I will respond to your letter this week." (Attachment P)
May 27, 2021	Follow-up email from Oakland Schools to Royal Oak Interim City Attorney	Over two weeks later, the City Attorney had still not replied. Oakland Schools again requested a response to its March 31 and May 12, 2021 communications. (Attachment Q)
May 12, 2021 - February 8, 2022	252 days	No response from the City of Royal Oak for 252 days or almost 9 months.
October 4, 2021	FOIA request from Oakland Schools to Royal Oak	Oakland Schools sent a 2 nd FOIA request, again asking for information on any applications for marijuana licenses within 1,000 feet of the campus, and information needed to monitor for notices of public hearings on any proposed facilities. (Attachment R)
October 7, 2021	Letter from Royal Oak to Oakland Schools	The City stated only that it required extended time to respond to the 2 nd FOIA request. There was still no response to the March 31 nor May 12 letters.
October 25, 2021	Letter from Royal Oak to Oakland Schools	The 2 nd FOIA request was granted in part, and denied in part (Attachment S) The City reiterated it would not produce marijuana license applications.
November 3, 2021	Letter from Oakland Schools to Royal Oak City Manager	Oakland Schools appealed denial of the 2 nd FOIA request, pertaining to applications for municipal marijuana licenses. (Attachment T)
December 7, 2021	Email from Oakland Schools to City Manager and City Attorney	Over a month later, the City had still not responded to the FOIA Appeal, and Oakland Schools asked for a status. (Attachment U)
December 15, 2021	Letter from Royal Oak to Oakland Schools	The City finally responded to the FOIA appeal, denying it. (Attachment V) Oakland Schools had no means to identify applicants seeking to locate near its campus and had to rely on the City to notify applicants of Oakland Schools' position.
January 19, 2022	Letter from Gatsby's legal counsel to	After it had already received a license from the City, Gatsby reached out to Oakland Schools for the first time to discuss Gatsby's plans to open a marijuana business as an

City of Royal Oak Handling of Marijuana Location Across from Oakland Schools Technical Campus

	Oakland Schools legal counsel	"immediate neighbor[]" to OSTC-SE. (Attachment W) This was the first Oakland Schools had heard of Gatsby or of any plans to open a marihuana facility at the Karl Heinz Auto Center directly across the street.
January 21, 2022	Newspaper	Because Oakland Schools was monitoring the newspaper for notices of Planning Commission meetings, it happened to see that a hearing was scheduled for Gatsby's special land use permit for February 8. The City never provided Oakland Schools with the personal notice of the hearing that it was required to send to all occupants of all structures within 300 feet of the property under MCL § 125.3103.
January 24, 2022	Letter from Oakland Schools' legal counsel to Gatsby's legal counsel	Oakland Schools' counsel declined a meeting between Gatsby's personnel and Oakland Schools' personnel regarding Gatsby's planned operations, since the meeting could not address the fundamental issue that OSTC-SE is a public school located within the buffer zone afforded public schools under MRTMA. Oakland Schools' counsel offered to speak with Gatsby's counsel, however. (Attachment X) No response was ever received.

ATTACHMENT A

From: "Hedges, Doug"

<DougH@romi.gov**>**

Date: April 22, 2020 at 3:18:38 PM
EDT

To:

<

**Subject: Re: Request for
information**

We use the definition of school from the state act, which is K through 12 or equivalent. In our opinion that facility does not meet the definition of K-12 or equivalent and would not require a setback.

[See More](#)



ATTACHMENT B

Begin forwarded message:

From: [REDACTED]
Subject: Fwd: Oakland Schools Technical Campus - marijuana establishment setback requirements
Date: October 16, 2020 at 3:33:42 PM EDT
To: [REDACTED]

Regards,

[REDACTED]

Begin forwarded message:

From: [REDACTED]
Date: October 16, 2020 at 2:43:10 PM EDT
To: "Thwing, Tim" <TimT@romi.gov>
Cc: "LeVasseur, Commissioner" <cclevasseur@romi.gov>, "Brake, Paul" <PaulB@romi.gov>, "Gillam, David" <GillamD@romi.gov>
Subject: Re: Oakland Schools Technical Campus - marijuana establishment setback requirements

Thank you very much for the clarification

Have a great weekend

Regards,

[REDACTED]

On Oct 16, 2020, at 1:53 PM, Thwing, Tim <TimT@romi.gov> wrote:

No, it provides services for students. I am not in office or I would attach a copy of the map.

On Oct 16, 2020 1:01 PM, "LeVasseur, Commissioner" <cclevasseur@romi.gov> wrote:

Tim -

Just following up here: is a setback required for marijuana establishments from the Oakland Schools campus located at 5055 Delemere?

- Randy LeVasseur

Begin forwarded message:

From: [REDACTED]
Date: October 16, 2020 at 12:03:41 PM EDT
To: "LeVasseur, Commissioner" <cclevasseur@romi.gov>
Subject: Re: Marijuana App

Would 5055 Delemere be considered a school and cause a setback? It is the Oakland Schools Technical Campus.

ATTACHMENT C

Gole, Amy

From: Tschirhart, Julianna A. <JuliannaT@romi.gov>
Sent: Thursday, January 28, 2021 9:46 AM
To: Gole, Amy
Subject: Follow up

External Message

Hi Amy,

I discussed your question with my colleagues regarding the OSTC Technical Campus. It was determined that the OSTC did not meet the definition of a K-12 school under the state law, the Michigan Regulation and Taxation of Marijuana Act. Thus, it was not included as a school to be given the 1,000 ft. buffer in our map of eligible parcels.

Kind regards,

Julianna A. Tschirhart
Planner II
Royal Oak Community Development
juliannat@romi.gov
248.246.3282



Royal Oak

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ATTACHMENT D



500 WOODWARD AVENUE, SUITE 4000
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FACSIMILE: (844) 670-6009
<http://www.dickinsonwright.com>

GEORGE P. BUTLER III
GButler@dickinsonwright.com
(313) 223-3134

January 28, 2021

Via Regular and Certified Mail and Email

Ms. Julianna A. Tschirhart
Planner II
Royal Oak Community Development
JuliannaT@romi.gov

Re: Oakland Schools Royal Oak Campus

Dear Ms. Tschirhart:

This office represents Oakland schools and, in particular, with respect to your email communication to it indicating that you have determined that our client's Royal Oak campus does not fall within the definition of a public school for the purposes of Sections 4.1(h) and 9.3(c) of the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq. ("Act"). Please confirm that your determination is the official and final position of the City of Royal Oak.

Our client and its facilities within the City of Royal Oak clearly fall within the Act's definition of a public school and, therefore, the City may not issue a license to a marihuana establishment within 1,000 feet of a pre-existing public school unless the City has adopted an ordinance that reduces this distance requirement. Please provide any duly adopted City ordinance that reduced this distance requirement.

If you relied on the zoning status of any property owned and operated by our client in making the determination referenced above, please be advised that nothing in the Act turns on how a property is zoned when a public school property is involved (as it would for a residential property) and please also be advised of the well settled law on the inapplicability of local zoning on the use of property by or as a public school. Such use is not subject to local zoning.

If your determination was based upon a determination that our client is not a public school or that its Royal Oak facilities are not a public school, please provide us the basis for that determination and what process was employed to make that determination. Your determination was made without notice to our client or an opportunity for it to be heard and, in any event, is clearly wrong. Our client and its Royal Oak facilities and operation constitute a public school as

Re: Oakland Schools Royal Oak Campus
Page 2

defined by the Act.

Given your determination, this letter also constitutes notice to you that our client objects to and contests your determination and therefore, that you should notify any parcel currently within the distance requirement or our client that you or the City may currently believe is eligible for licensure as a marihuana establishment, that any such eligibility is being contested and, therefore, in question.

We understand that you or the City have developed a map of "eligible parcels for marihuana licensure." Please provide us with a copy of same and please be on notice that if any of those parcels are within 1,000 feet of our client's property, any such parcel would not, in fact, be eligible for licensure as a marihuana establishment.

If your initial determination was in error, please confirm same, in writing, but absent any such confirmation by on or before the close of business tomorrow, our client will be left with no choice but to notify all concerned of its position and to seek an appropriate remedy for your erroneous determination. Please also be advised that given the clarity of the law on the issue of whether the 1,000 foot limitation applies to our client in Royal Oak, our client will be forced to seek all costs and attorney fees it incurs if forced to take further action to reverse your determination. If you do not reverse your determination and it later proves to have been made without authority or in accord with our client's due process rights, our client will have to seek redress not only against the City but the individuals involved as well.

We look forward to the prospect that you will reverse your determination but the choice is yours.

Very truly yours,



George P. Butler III

ATTACHMENT E

Mcmillan, Sherry

From: George P. Butler III <GButler@dickinson-wright.com>
Sent: Monday, February 1, 2021 10:26 AM
To: jc@enjoypleasantrees.com
Cc: JuliannaT@romi.gov
Subject: Oakland Schools' Royal Oak campus and communications from Enjoy Pleasantrees
Attachments: Oakland Schools Letter to Julianna Tschihart..doc

Follow Up Flag: Follow up
Flag Status: Completed

External Message

Dear Mr. Crawford:

Our office represents Oakland Schools and, in particular, with respect to its rights as a public school for the purposes of Sections 4.1(h) and 9.3(c) of the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq. ("Act"). I have attached hereto a letter we previously sent to the City of Royal Oak making clear that our client objects to and will not agree to any deviation from the Act's distance limitation for the licensing of a marihuana establishment within 1000 feet of our client's Royal Oak campus. We are unaware of any City of Royal Oak Ordinance that modifies the distance limitation in any way. Please direct any further communication from your organization intended for our client to me. As you can see, the City is on notice to inform any license applicant interested in a location within said limitation of our client's Royal Oak campus of its objection. I assume the City indicated our client's position to your organization in order to avoid any misunderstanding and that our client will be notified of any proceedings that could compromise its rights as a public school with respect to the Act's distance limitation. Thank you for your cooperation.

Very truly yours,

George P. Butler.

George P. Butler III Member

500 Woodward Avenue
 Suite 4000
 Detroit MI 48226

Phone 313-223-3134
 Mobile 248-321-2108
 Fax 844-670-6009

 Email GButler@dickinsonwright.com

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<http://www.dickinsonwright.com>

GEORGE P. BUTLER III
GButler@dickinsonwright.com
(313) 223-3134

January 28, 2021

Via Regular and Certified Mail and Email

Ms. Julianna A. Tschirhart
Planner II
Royal Oak Community Development
JuliannaT@romi.gov

Re: Oakland Schools Royal Oak Campus

Dear Ms. Tschirhart:

This office represents Oakland schools and, in particular, with respect to your email communication to it indicating that you have determined that our client's Royal Oak campus does not fall within the definition of a public school for the purposes of Sections 4.1(h) and 9.3(c) of the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq. ("Act"). Please confirm that your determination is the official and final position of the City of Royal Oak.

Our client and its facilities within the City of Royal Oak clearly fall within the Act's definition of a public school and, therefore, the City may not issue a license to a marihuana establishment within 1,000 feet of a pre-existing public school unless the City has adopted an ordinance that reduces this distance requirement. Please provide any duly adopted City ordinance that reduced this distance requirement.

If you relied on the zoning status of any property owned and operated by our client in making the determination referenced above, please be advised that nothing in the Act turns on how a property is zoned when a public school property is involved (as it would for a residential property) and please also be advised of the well settled law on the inapplicability of local zoning on the use of property by or as a public school. Such use is not subject to local zoning.

If your determination was based upon a determination that our client is not a public school or that its Royal Oak facilities are not a public school, please provide us the basis for that determination and what process was employed to make that determination. Your determination was made without notice to our client or an opportunity for it to be heard and, in any event, is clearly wrong. Our client and its Royal Oak facilities and operation constitute a public school as

Re: Oakland Schools Royal Oak Campus
Page 2

defined by the Act.

Given your determination, this letter also constitutes notice to you that our client objects to and contests your determination and therefore, that you should notify any parcel currently within the distance requirement or our client that you or the City may currently believe is eligible for licensure as a marihuana establishment, that any such eligibility is being contested and, therefore, in question.

We understand that you or the City have developed a map of "eligible parcels for marihuana licensure." Please provide us with a copy of same and please be on notice that if any of those parcels are within 1,000 feet of our client's property, any such parcel would not, in fact, be eligible for licensure as a marihuana establishment.

If your initial determination was in error, please confirm same, in writing, but absent any such confirmation by on or before the close of business tomorrow, our client will be left with no choice but to notify all concerned of its position and to seek an appropriate remedy for your erroneous determination. Please also be advised that given the clarity of the law on the issue of whether the 1,000 foot limitation applies to our client in Royal Oak, our client will be forced to seek all costs and attorney fees it incurs if forced to take further action to reverse your determination. If you do not reverse your determination and it later proves to have been made without authority or in accord with our client's due process rights, our client will have to seek redress not only against the City but the individuals involved as well.

We look forward to the prospect that you will reverse your determination but the choice is yours.

Very truly yours,



George P. Butler III

ATTACHMENT F



Email GButler@dickinsonwright.com

DICKINSON WRIGHT

ARIZONA CALIFORNIA FLORIDA ILLINOIS INDIANA MICHIGAN NEVADA
NEW YORK NEW JERSEY TEXAS WASHINGTON WISCONSIN

From: Liss, Mark <MarkL@romi.gov>
Sent: Monday, February 1, 2021 10:21 PM
To: George P. Butler III <GButler@dickinson-wright.com>
Cc: McLaughlin, Anne <AnneM@romi.gov>; Thwing, Tim <TimT@romi.gov>; Murphy, Joseph <JoeM@romi.gov>; Tschirhart, Julianna A. <JuliannaT@romi.gov>
Subject: EXTERNAL: Re: Oakland Schools' Royal Oak Campus a/k/a OSTC-NE

Mr. Butler,

Thank you for your message informing me of your concerns that Ms. Julianna Tschirhart of the planning division apparently made a determination that your client is not a public school for purposes of the Michigan Regulation and Taxation of Marihuana Act. I have not yet read her letter and cannot comment on it.

But, I suggest you bring your concerns initially to Joseph Murphy, the city's Planning Director or Timothy Thwing, who acts as the Director of Community Development and oversees the Planning Department. Both can be reached at (248) 246-3280.

Your letter to Ms. Tschirhart also requested certain city ordinances concerning the 1,000 foot 'setback' requirements under the act, and they can be found with the city's code of ordinances available online at the General Code website (<https://ecode360.com/RO2029>). Other documents can be quickly located on the city's website at, www.romi.gov. I'll also see if the city can provide you with a more specific response to your requests.

I will share your messages with the Interim City Attorney Anne McLaughlin, (248) 246-3244, and you can also reach me directly at (248) 246-3242, or (586) 275-7505.

Mark O. Liss
City Attorney's Office
City of Royal Oak
203 S Troy St, Royal Oak, MI 48067
(248) 246-3240
(248) 246-3003, fax



From: George P. Butler III <GButler@dickinson-wright.com>
Sent: Monday, February 1, 2021 2:53 PM

To: Liss, Mark <MarkL@romi.gov>
Subject: Oakland Schools' Royal Oak Campus a/k/a OSTC-NE

WARNING: This email originated from **outside** The City of Royal Oak. **Do not click on any links or open any attachments** unless you recognize the sender and are expecting the message.

Dear Mr. Liss:

I understand that you are the attorney for the City of Royal Oak as per relevant listings of city attorneys. If I am incorrect, please let me know and destroy this communication and attachment. This office represents Oakland Schools, a Michigan intermediate, public school district. Our client operates a public school campus in Royal Oak called Oakland Schools Technical Campus- NE ("OSTC-NE"). The physical address of same is 5055 Delemere Street, Royal Oak, Michigan 48073.

In response to an email our client received from Ms. Julianna Tschirhart of the City's planning department stating that our client is not a public school for the purposes of the Michigan Regulation and Taxation of Marihuana Act, we immediately emailed and mailed Ms. Tschirhart the attached letter.

We bring this to your attention not only because we have received no response from Ms. Tschirhart but also in order to ensure the City is fully aware of our client's status as a public school within the meaning of the Act, to ensure our client is notified of any proceedings that could compromise its status as a public school and that the City duly inform any marihuana establishment license applicant of said status in the event a location is applied for that is within the 1000 foot limitation imposed by the Act.

We also asked Ms. Tschirhart for any City ordinance deviating from the Act's 1000 foot restriction and to notify us of any proceedings that could affect our client. We also reminded Ms. Tschirhart that Michigan public school districts are not subject to local zoning ordinances wherever their property may be situated. As indicated, we have received no response to our letter.

Please feel free to contact me if you wish to discuss the letter or any aspect of it. Thank you.

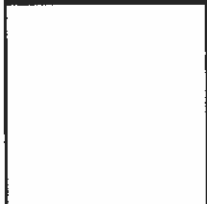
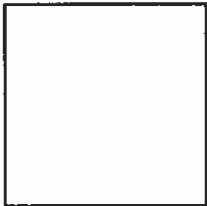
Very truly yours,

George Butler.

George P. Butler III Member

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Fax 844-670-6009
Email GButler@dickinsonwright.com



ATTACHMENT G

Mcmillan, Sherry

From: Jared A. Christensen <JChristensen@dickinson-wright.com>
Sent: Monday, February 1, 2021 3:42 PM
To: deannab@romi.gov
Subject: FOIA Request
Attachments: OS FOIA to City of Royal Oak.pdf

Follow Up Flag: Follow up
Flag Status: Completed

External Message

Dear Ms. Braswell,

Hope all is well with you. Please find attached a FOIA request on behalf of Oakland Schools. Feel free to reach out should you require any additional information as you are reviewing.

Regards,

Jared A. Christensen Attorney

500 Woodward Avenue
Suite 4000 Detroit MI 48226
Phone 313-223-3477
Fax 844-670-6009
Email JChristensen@dickinsonwright.com

DICKINSON WRIGHT PLLC

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PETER H. WEBSTER
PWebster@dickinsonwright.com
(248) 433-7513

February 1, 2021

Via Email

City of Royal Oak FOIA Coordinator
211 South Williams Street
Royal Oak, MI 48067
Fax: 248-246-3001

Re: Oakland Schools Technical Campus – Southeast
5055 Delemere Street, Royal Oak, Michigan 48073

To Whom It May Concern:

This Michigan Freedom of Information Act (“FOIA”) request is made in the name of and on behalf of Oakland Schools, a Michigan Intermediate School District. Please provide the undersigned with copies of the following public records (as that term is defined in the FOIA)(“records”) within five business days of this request:

- All records concerning or constituting a City of Royal Oak (“City”) ordinances that reduces or otherwise implicates the 1,000 foot restriction found in MCL 333.27959 regarding the placement of a marihuana establishment in proximity to a pre-existing public or private school.
- All records indicating the City’s designation of areas appropriate for a “marihuana establishment” as that term is defined in MCL 333.27953 (“marihuana establishment”).
- All records indicating the City’s designation of any areas in proximity to the Oakland Schools Technical Campus – Southeast (“OSTC-SE”) as appropriate for a marihuana establishment. For purposes of this request, the address for the OSTC – SE is 5055 Delemere Street, Royal Oak, Michigan 48073.
- All records of or constituting communications from or to the City of Royal Oak and/or anyone who works for it, to or from an applicant for a marihuana establishment license for a location within 2000 feet of the OSTC-SE Campus.
- All public records of any City proceedings regarding the application for, eligibility for or location of a license for a marihuana establishment within the City.
- All public records determining that OSTC-NE is not a public school within the meaning of the Michigan Regulation and Taxation of Marihuana Act (“Act”).

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NEVADA	OHIO	TENNESSEE	TEXAS	TORONTO
				WASHINGTON DC

City of Royal Oak – FOIA Request
February 1, 2021
Page 2

- All records reflecting the status of OSTC-NE as a public school within the meaning of the Act including but not limited to any analysis of that status by a company, company representative, marihuana establishment license applicant, an attorney not representing the City, or another government entity.
- All City planning department records concerning the status of OSTC-NE as a public school within the meaning of the Act.
- All City building department records concerning the status of OSTC-NE as a public school within the meaning of the Act.
- All City zoning department and/or departments designated as having zoning authority records concerning the status of OSTC-NE as a public school within the meaning of the Act.
- All City ordinances passed pursuant to the Act.
- All records of communications from the City and anyone working for it to Oakland Schools or to OSTC-NE during the period 1/1/2018 up to and through the present.
- All records of all determinations made by the City or anyone who works for it that Oakland Schools or OSTC-NE is not a public school within the meaning of the Act including but not limited to all records revealing the maker of each such determination, the date and time of each such determination and all records reflecting the proceedings that involved and/or resulted in each such determination.

If your office requires a fee to obtain the above information, please contact me with the information necessary and required by the FOIA to enable a fee. Request is made that any fee be waived due to the public interest in ensuring enforcement of the Act, City ordinances and the safety and security of our public schools and their students located within the City.

Thank you for your attention to this matter. Please contact me if you require additional information to complete this request.

Sincerely,



George P. Butler III

ATTACHMENT H

[REDACTED]

From: [REDACTED]
Sent: Tuesday, February 23, 2021 3:20 PM
To: Thwing, Tim
Subject: RE: [REDACTED] Royal Oak Application | Seeking Clarity | [REDACTED]

Good Afternoon Tim,

Thank you very much for the prompt response and for again reaffirming the City's position on this matter. We are greatly appreciative to receive this confirmation once more.

Understanding that the evaluation process now rests with the City Manager, we will await additional insight in that regard. If you need anything additional, please do not hesitate to contact me.

Kind Regards,

[REDACTED]

[REDACTED]

From: Thwing, Tim <TimT@romi.gov>
Sent: Tuesday, February 23, 2021 1:19 PM
To: [REDACTED]
Subject: RE: [REDACTED] Royal Oak Application | Seeking Clarity | [REDACTED]

[REDACTED]

The planning division's position has not changed. The 1,000 foot setback was not applied to OSTC, its has not been treated as K-12 school, K-12 schools are not a permitted use or special land use in the General Industrial Zoning District. The ranking of license applicants rests with the city manager.

From: [REDACTED]
Sent: Tuesday, February 23, 2021 11:17 AM
To: Thwing, Tim <TimT@romi.gov>
Subject: [REDACTED] Royal Oak Application | Seeking Clarity | [REDACTED]

WARNING: This email originated from **outside** The City of Royal Oak. **Do not click on any links or open any attachments** unless you recognize the sender and are expecting the message.

Dear Tim,

I hope that this message finds you well. I am contacting you on behalf of [REDACTED]; I presently serve as the [REDACTED] for the company. As you probably know, [REDACTED] is among the applicants seeking to obtain a license to operate a recreational marijuana establishment in the City of Royal Oak. Our proposed site is located at [REDACTED] and our application number is [REDACTED] (the "Site" and the "Application").

By way of this message, we are hoping to obtain some clarification concerning a recently received communication from the Oakland Schools Technical Campus ("OSTC"). Specifically, on the morning of February 1st, the same day we submitted the Application, an attorney representing OSTC sent us a troubling email objecting to [REDACTED] ability to use the Site as intended due to OSTC's suggested status as a nearby "school." Our understanding is that Julianna Tschihart was copied on this email, so we anticipate your office is aware of this situation. (Just in case, a copy is attached to this email).

Naturally, this unexpected correspondence served as a huge emotional blow in the final hours of our submission process. In conjunction with calling Royal Oak the home of our new corporate office, we've invested a great deal of time and energy scouting and acquiring the Site in furtherance of our Application. We think that the Delemere business community is a superb spot for a recreational retail establishment and, as shown in the Application, nearly all of our prospective new neighbors have been welcoming and supportive. Of course, we are aware of the applicable 1,000-foot setback from "any school" (Section 435-5(A)(5)(a)). Prior to committing to the Site, you may recall [REDACTED] reached out to your office twice to confirm that the location's proximity to OSTC would not pose an issue. First, on April 22, 2020, [REDACTED] real estate agent, [REDACTED], obtained clarification from Royal Oak City Planner Doug Hedges that OSTC does not meet the definition of a "school" and thus does not implicate the setback restriction mentioned above. Then, on October 16, 2020, verifying this position through then-Commissioner Randy LeVasseur, [REDACTED] received an affirming response to the same inquiry from you in your capacity as Director of Community Development. In particular, you responded that OSTC "provides services to students" but is not itself a "school." (For your convenience, we've attached both communications to this email).

Notwithstanding these prior assurances, it was truly heartbreaking to receive the OSTC lawyer's email on the day of submission after investing months of work on a project we are incredibly passionate about. Notably, on February 16th, we were sent a copy of another letter indicating that the associated law firm would not continue to represent OSTC and will not advocate any of the positions set out in its initial January 28th correspondence to Ms. Tschihart. (I am including a copy of that letter here for your convenience as well). Nonetheless, while that withdrawal letter allowed us to exhale a brief sigh of relief, we certainly don't expect that OSTC will yield its position with regard to the Site. For that reason, we cannot help but wonder how this matter may or may not impact our Application and the associated scoring process.

At this juncture, we are simply seeking any response the City can offer as to this concerning development. Our hope is that the City will confirm its position on the matter as previously expressed and reassure [REDACTED] that the Application will receive fair and balanced consideration in the same manner as any other applicant. Again, our passion for the Royal Oak community started some time ago and is evidenced by [REDACTED]. As outlined in more depth throughout the Application, we are committed to community development and are excited to implement numerous positive initiatives within the City. Of course, our sincere desire is to further extend our Royal Oak roots through the mutually beneficial operation of a retail establishment at the Site. Given the recent concerns summarized above, we just want to ensure that we stand on even footing as compared to our peers and that the concerns raised by OSTC will not impede our opportunity to bring that desire to fruition.

Thank you in advance for taking the time to review this correspondence. We know the application review process is a serious undertaking and greatly appreciate your insights during this busy time. If you have any questions or would like to discuss in more detail, please do not hesitate to contact me.

Kind Regards,

[REDACTED]

[REDACTED]

[REDACTED]

ATTACHMENT I

Founded in 1852
by Sidney Davy Miller

MILLER CANFIELD

JAMES M. CROWLEY
TEL (312) 496-7606
FAX (312) 460-4201
E-MAIL crowley@millercanfield.com

Miller, Canfield, Paddock and Stone, P.L.C.
150 West Jefferson, Suite 2500
Detroit, Michigan 48226
TEL (313) 963-6420
FAX (313) 496-7500
www.millercanfield.com

MICHIGAN
ILLINOIS
NEW YORK
OHIO
WASHINGTON, D.C.
CANADA
CHINA
MEXICO
POLAND
QATAR

March 9, 2021

Via Email Only

Mr. Joseph M. Murphy
Director of Planning
Royal Oak Community Development
203 South Troy Street
Royal Oak, Michigan 48067

Re: **Oakland Schools Royal Oak Technical Campus: 5055 Delemere Street**

Dear Mr. Murphy:

We represent Oakland Schools with regard to the status of its Royal Oak Technical Campus as “a pre-existing public ... school providing education in kindergarten or any grades 1 through 12” under Section 9 of the Michigan Regulation and Taxation of Marihuana Act (MCL §333.27959(3)(c)) (the “Marihuana Act”).

Oakland Schools is a Michigan intermediate school district created and governed by Part 7 of the Michigan Revised School Code (MCL §380.601 et. seq.) (the “School Code”). The Royal Oak Technical Campus is a career and technical education program authorized and operated pursuant to Section 681 through 690 of the School Code (MCL §380.681 through §380.690) The program operated at the Royal Oak Technical Campus is for high school students in the 11th and 12th grades.

As the Royal Oak Technical Campus is a public school under the Marihuana Act, the location of a licensed marihuana facility within 1,000 feet of this campus is prohibited. Attached is a map prepared by Oakland Schools showing the 1,000 foot-buffer zone around the Royal Oak Technical Campus. This buffer zone should be enforced, as it is clearly not appropriate for a licensed facility to be located near minor high school students.

However, it is our understanding that the City has taken the position that the Royal Oak Technical Campus is not a public school and the prohibition on the location of a licensed facility under the Marihuana Act within 1,000 feet is not applicable. We have not been provided the basis for the City’s position. Oakland Schools’ prior legal counsel from the Dickinson Wright law firm

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

Mr. Joseph M. Murphy
Director of Planning
Royal Oak Community Development

-2-

March 9, 2021

previously sent a letter and several emails to your Department and others in the City's administration regarding this matter without any resolution.

Oakland Schools would appreciate a prompt response from the City regarding the City's stance on this issue. If the City's position is that the Royal Oak Technical Campus is not a public school, please provide Oakland Schools with the basis for this position.


It is further our understanding that a facility is seeking licensure within the buffer zone for the Royal Oak Technical Campus. A recent FOIA request submitted on behalf of Oakland Schools sought all pending applications for marihuana licenses in Royal Oak. However, no applications were provided in response to this request. Please either confirm that the City has not received any applications or provide the exception under FOIA that you claim justifies withholding the requested records.

Oakland Schools would like to resolve this matter as soon as possible. Your response is requested by March 19, 2021. If we do not receive a timely response, Oakland Schools will have no choice but to pursue all available legal remedies.

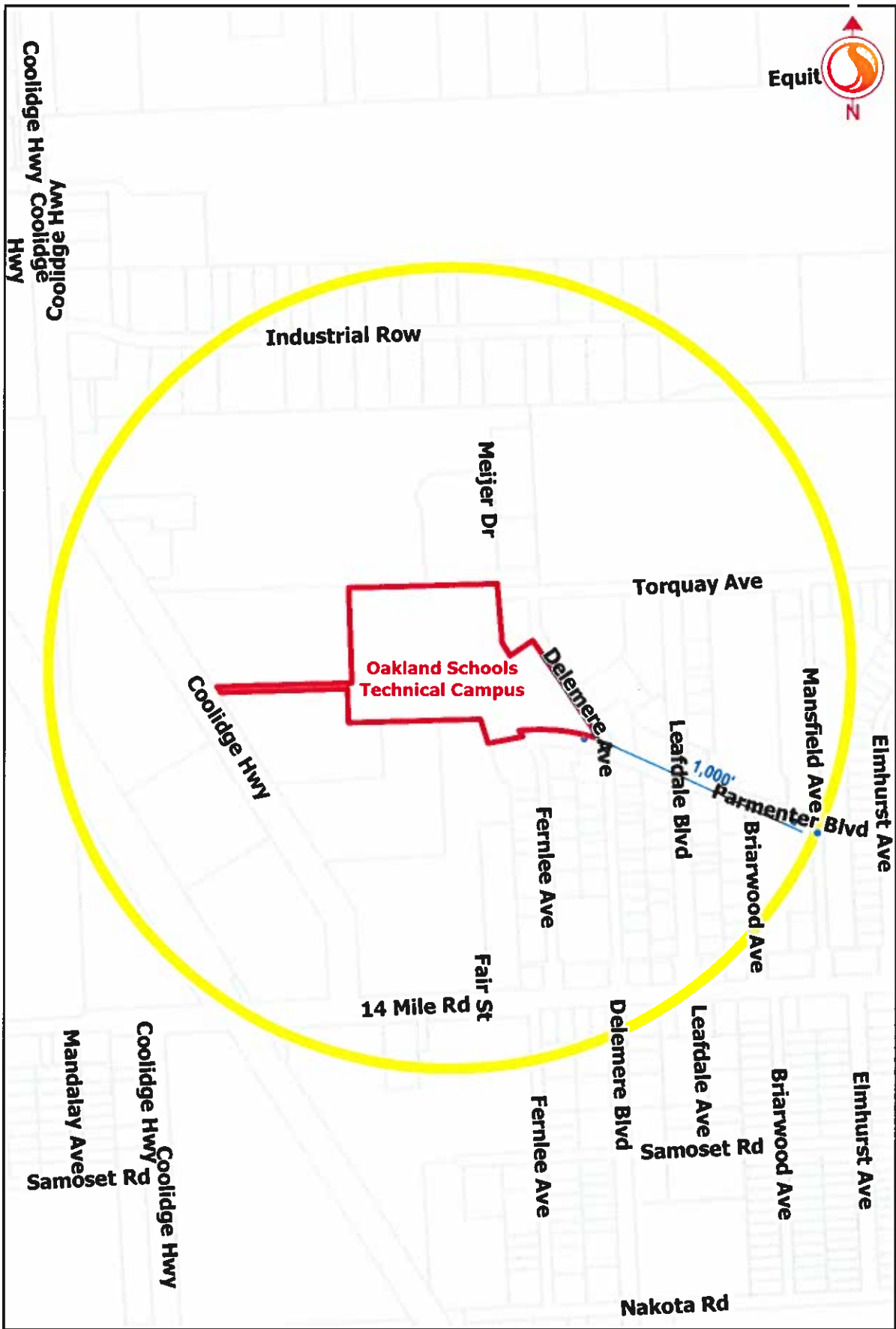
We are available at your convenience to further discuss this matter.

Very truly yours,

Miller, Canfield, Paddock and Stone, P.L.C.

By: 
James M. Crowley

JMC/lam
Enclosure
cc: Mark Liss
Anne McLaughlin
Julianna A. Tschirhart
Timothy Thwing
Deanna Braswell
Michigan Marihuana Regulatory Agency



Original Sheet - ANS 3

February 2021

Legend:

- Oakland Schools Technical Campus
- Boundary: 1,000' Radius
- Oakland County Parcels

Client/Project

Oakland Schools Technical Campus
City of Royal Oak
Oakland County

Figure No.

1.0

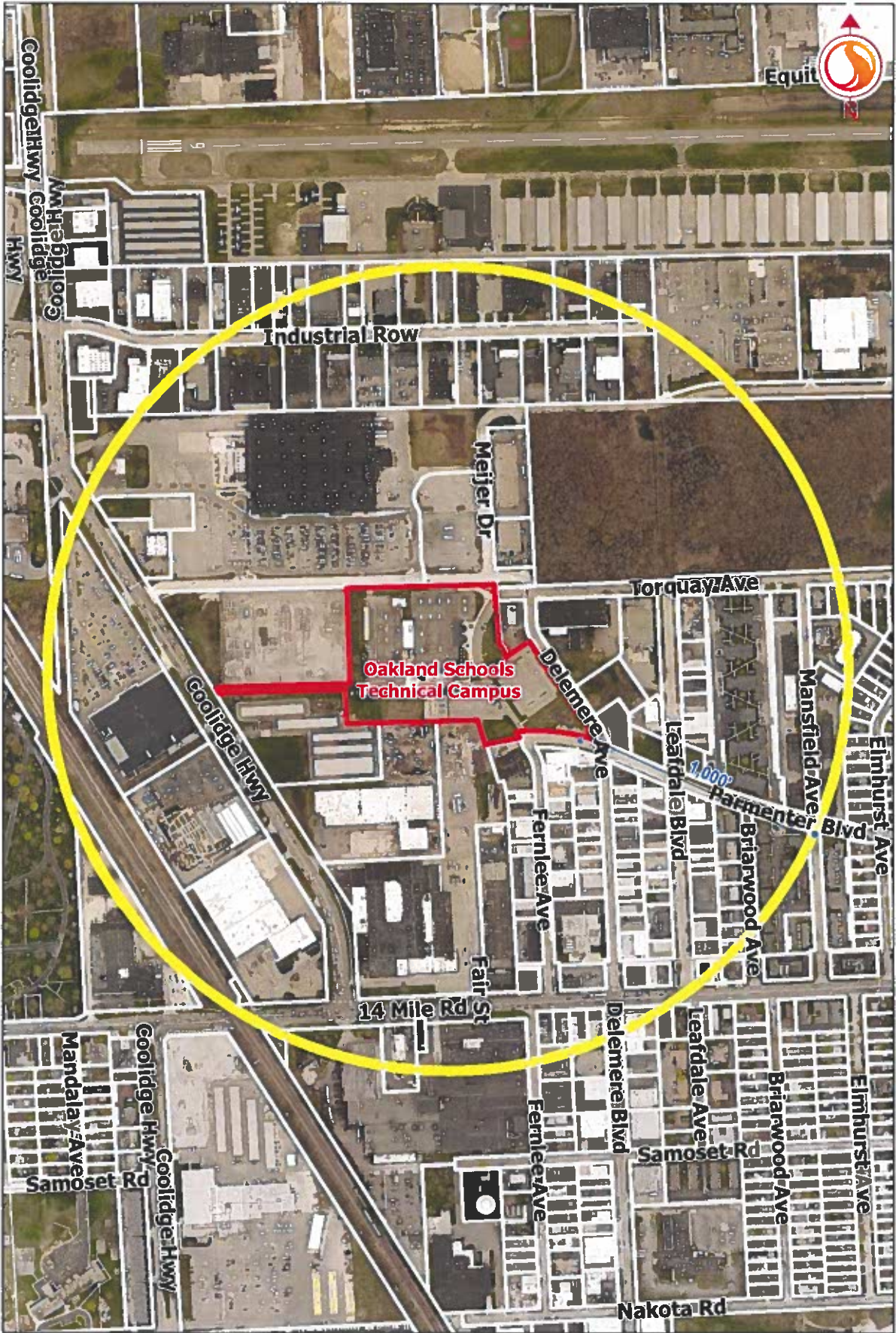
Title

Oakland Schools Boundary



3754 Ranchers Drive, Ann Arbor, Michigan 48106
Stantec does not certify the accuracy of the data.
This map is for reference only and should not be used for construction.





Original Sheet - AHS 8

February, 2021

Legend:

- ▭ Oakland Schools Technical Campus
- ▭ Boundary: 1,000' Radius
- ▭ Oakland County Parcels

Client/Project
 Oakland Schools Technical Campus
 City of Royal Oak
 Oakland County

Figure No.
 1.0

Title
 Oakland Schools Boundary



3754 Ranchero Drive, Ann Arbor, Michigan 48108
 Stantec does not certify the accuracy of the data.
 The map is for reference only and should not be used for construction.

ATTACHMENT J

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: McLaughlin, Anne <AnneM@romi.gov>
Sent: Friday, March 26, 2021 1:46 PM
To: Crowley, James M. <Crowley@millercanfield.com>
Cc: Kapalla-Bondi, Lara <kapalla-bondi@millercanfield.com>
Subject: RE: Oakland Schools: Royal Oak Technical Campus: Marihuana Act

CAUTION EXTERNAL EMAIL: DO NOT open attachments or click links from unknown or unexpected emails.

Jim,

It was a pleasure speaking with you today. See attached letter .

Enjoy your vacation.

Anne McClorey McLaughlin
Interim City Attorney

AnneM@romi.gov
248-246-3240
203 S Troy Street
Royal Oak, MI 48067



The information contained in this communication is intended for the use of the recipient named above and contains confidential and legally-privileged information. If the reader of this communication is not the intended recipient, do not read, copy, disseminate or distribute it. You are hereby notified that any dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and delete the original message and any copy of it from your computer system. Thank you.

From: Crowley, James M. <Crowley@millercanfield.com>
Sent: Friday, March 26, 2021 12:15 PM
To: McLaughlin, Anne <AnneM@romi.gov>
Cc: Kapalla-Bondi, Lara <kapalla-bondi@millercanfield.com>
Subject: RE: Oakland Schools: Royal Oak Technical Campus: Marihuana Act

WARNING: This email originated from **outside** The City of Royal Oak. **Do not click on any links or open any attachments** unless you recognize the sender and are expecting the message.

Anne: Any update on this matter? JMC

James M. Crowley | Principal
Miller Canfield
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Detroit, Michigan 48226 (USA)
T +1.313.496.7606 | F +1.313.496.8453 | M +1.248.561.7188
crowley@millercanfield.com [View Profile](#) + [VCard](#)

From: McLaughlin, Anne <AnneM@romi.gov>
Sent: Wednesday, March 24, 2021 11:50 AM
To: Crowley, James M. <Crowley@millercanfield.com>
Subject: RE: Oakland Schools: Royal Oak Technical Campus: Marihuana Act

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Jim,

I have a written response in the offing to come to you with some additional documents. Unfortunately, due to another urgent matter, I am unable to get to my office at City Hall today to get it all to you. (I am working under contract for Royal Oak, not on staff.) I am at City Hall on Thursdays, however, and I will be there tomorrow, as will my paralegal, who is working remotely today.

I will get the response and the documents over to you tomorrow afternoon. I apologize for another extension but this urgent matter was unforeseen and is taking up an inordinate amount of time. Thanks for your patience and understanding.

Anne McClorey McLaughlin

Interim City Attorney

AnneM@romi.gov
248-246-3240
203 S Troy Street
Royal Oak, MI 48067



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From: Crowley, James M. <Crowley@millercanfield.com>
Sent: Thursday, March 18, 2021 6:25 PM
To: McLaughlin, Anne <AnneM@romi.gov>
Cc: Liss, Mark <MarkL@romi.gov>; Tschirhart, Julianna A. <JuliannaT@romi.gov>; Thwing, Tim <TimT@romi.gov>; Braswell, Deanna <DeannaB@romi.gov>; Murphy, Joseph <JoeM@romi.gov>; Kapalla-Bondi, Lara <kapalla-bondi@millercanfield.com>
Subject: Oakland Schools: Royal Oak Technical Campus: Marihuana Act

WARNING: This email originated from **outside** The City of Royal Oak. **Do not click on any links or open any attachments** unless you recognize the sender and are expecting the message.

Anne: A response by March 24th works for us. You can reach me on my mobile phone at (248) 561-7188. Thanks JMC

James M. Crowley | Principal
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T +1.313.496.7606 | F +1.313.496.8453 | M +1.248.561.7188
crowley@millercanfield.com [View Profile](#) + [VCard](#)

From: McLaughlin, Anne <AnneM@romi.gov>
Sent: Thursday, March 18, 2021 5:13 PM
To: Crowley, James M. <Crowley@millercanfield.com>; Murphy, Joseph <JoeM@romi.gov>
Cc: Liss, Mark <MarkL@romi.gov>; Tschirhart, Julianna A. <JuliannaT@romi.gov>; Thwing, Tim <TimT@romi.gov>; Braswell, Deanna <DeannaB@romi.gov>
Subject: RE: Oakland Schools: Royal Oak Technical Campus: Marihuana Act

CAUTION EXTERNAL EMAIL: DO NOT open attachments or click links from unknown or unexpected emails.

Mr. Crowley:

I am in receipt of your March 9, 2021 letter addressed to Joseph Murphy copied to me. I have attempted to no avail to reach you (or anyone) at the both the Detroit and Chicago phone numbers listed in your letterhead to discuss the issues.

Your letter requested a response by March 19, 2021. Due to other pressing business this week, I am not able to provide a full response within that time frame. I will provide a response by next Wednesday, March 24, 2021. If this presents a problem, please advise immediately. Thank you.

Sincerely,

Anne McClorey McLaughlin
Interim City Attorney

AnneM@romi.gov
248-246-3240
203 S Troy Street
Royal Oak, MI 48067



From: Crowley, James M. <Crowley@millercanfield.com>
Sent: Tuesday, March 9, 2021 9:33 AM
To: Murphy, Joseph <JoeM@romi.gov>
Cc: Liss, Mark <MarkL@romi.gov>; McLaughlin, Anne <AnneM@romi.gov>; Tschirhart, Julianna A. <JuliannaT@romi.gov>; Thwing, Tim <TimT@romi.gov>; Braswell, Deanna <DeannaB@romi.gov>; mra-adult-use-marijuana@michigan.gov; Kapalla-Bondi, Lara <kapalla-bondi@millercanfield.com>; Sherry L. McMillan (<Sherry.McMillan@oakland.k12.mi.us> <Sherry.McMillan@oakland.k12.mi.us>
Subject: Oakland Schools: Royal Oak Technical Campus: Marihuana Act

WARNING: This email originated from **outside** The City of Royal Oak. **Do not click on any links or open any attachments** unless you recognize the sender and are expecting the message.

Mr. Murphy: See the attached letter being sent to you on behalf of our client Oakland Schools.
JMC

James M. Crowley | Principal
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150 West Jefferson, Suite 2500
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T +1.313.496.7606 | F +1.313.496.8453 | M +1.248.561.7188
crowley@millercanfield.com [View Profile](#) + [VCard](#)

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Farmington Hills, Michigan 48331
P 248.489.4100 | F 248.489.1726
rsjalaw.com



ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

March 25, 2021

James M. Crowley, Esq.
MILLER, CANFIELD, PADDOCK & STONE, P.L.C.
150 W. Jefferson Ave., Suite 2500
Detroit, MI 48226

Re: Oakland Schools Technical Center, Royal Oak

Dear Mr. Crowley:

I have received your letter of March 9, 2021 to Joseph Murphy, Royal Oak City Planner, regarding the Oakland Schools Technical Center at 5055 Delemere and your inquiry pertaining to OSTC's status as a K-12 school, in relation to the Michigan Regulation and Taxation of Marihuana Act (MRTMA), MCL 333.27951, *et seq.*

The MRTMA, MCL 333.27959(3), provides that the State will award a recreational marihuana establishment license if, *inter alia*, "(c) the property where the proposed marihuana establishment is to be located is not within an area zoned exclusively for residential use and is not within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, unless a municipality adopts an ordinance that reduces this distance requirement." The MRTMA, then, clearly defers to a municipality's zoning ordinance as to the spacing. The Royal Oak zoning ordinance's requirement is at § 770-52.1(3): "No marihuana establishment shall be permitted within a 1,000-foot radius of any existing public or private school with a curriculum equivalent to kindergarten through 12th grade."

The zoning ordinance establishes the permitted uses of properties in each zoning district. Only those uses specifically identified in each district are permitted uses in each zone. § 770-21. OSTC is located in the City's General Industrial zoning district. See the zoning map at <https://www.romi.gov/DocumentCenter/View/20170>.

§ 770-44 of the zoning ordinance defines the General Industrial zoning district and its permitted uses. § 770-44.B(1) allows as permitted uses all those land uses that are expressly identified as permitted uses in the Office Service zone. § 770-38.B(6) provides that "[b]usiness, technical or trade schools and automobile driving schools" are permitted uses within the Office Service zone. The OSTC is a "business, technical or trade school," permitting that use in the Office Service zone and, by operation of § 770-44.B(1), within the General Industrial zone.

By contrast, "public and private schools with curriculum equivalent to kindergarten through 12th grade" are permitted only in the One-Family Residential zoning district. § 770-34.B(4). The zoning ordinance clearly distinguishes between K-12 schools and technical/trade schools. Technical/trade schools permitted in the Office Service and General Industrial districts are not permitted in the single-family residential zoning district.

The Royal Oak zoning ordinance establishes that marihuana retailers or microbusinesses are not permitted as of right, but are special land uses in the General Business (§ 770-41.C.(27))

James M. Crowley, Esq.
March 25, 2021
Page 2

zoning district. Marihuana establishments, with certain exceptions that are expressly prohibited, are also special land uses allowable in the General Industrial (§ 770-44.C(31)) zoning district. This means that those land uses must proceed through the special land use process governed by § 770-11, requiring hearing and decision by the Planning Commission and subject to the Planning Commission's discretion.

The zoning ordinance contemplates that the permitted land uses in each zoning district are subject to the other uses in that district, due to the judgment inherent in the ordinance that the uses are of similar density and general nature. No marihuana businesses may be located within 1,000 feet of K-12 schools which, by definition, are in the single-family residential zoning district. Those uses are mutually exclusive in each zoning district.

The City's Planning Department has not made an express determination whether the OSTC is or is not a K-12 school for purposes of the MRTMA. The OSTC has been in its current location for many years. Without conducting in-depth research, it is presently unknown whether OSTC was considered a K-12 school at the time it began using the Delemere property. If it was at that time, and the zoning map and ordinance were subsequently amended to change the zoning classification of the Delemere property, then OSTC became a nonconforming use. As a nonconforming use, it would be permitted to continue without change, but is deemed incompatible with the uses and structures in the General Industrial zoning district. § 770-112.

Therefore, either OSTC is a nonconforming use or is a technical or trade school. In either case, the rules of the zoning district otherwise apply to the OSTC. The 1,000-foot buffer zone thus required under the City's zoning ordinance does not apply to OSTC.

As you know from the City Clerk's supplemental response to the February 1 Freedom of Information request, the City may not disclose information provided by an applicant for a marihuana establishment license. The MRTMA's exemption under FOIA for such information is not discretionary. However, the process of evaluating the numerous applications is continuing and no decisions have been made as to which applicants may receive a "license slot". Any applicant that is granted a slot must proceed through the special land use permit process, which includes a public hearing. Notice of the public hearing would be posted and any input from the public would be solicited and received by the Planning Commission before any decision would be made. In the event an applicant within 1,000 feet of the OSTC were granted a license slot, OSTC would have an opportunity to provide its input at the time of the public hearing during the special land use process.

I hope this clarifies the position of the City of Royal Oak in this matter. Please contact me should you have any further questions.

Sincerely,

ROSATI, SCHULTZ, JOPPICH & AMTSBUECHLER, P.C.

Anne McClorey McLaughlin

Anne McClorey McLaughlin
Interim City Attorney, City of Royal Oak

AMM/mdia
cc: Tim Thwing
Joseph Murphy
Julianna Tschirhart

ATTACHMENT K



City Clerk's Office
203 S Troy Street
Royal Oak, MI 48067
248.246.3050

March 25, 2021

Dear Mr. Crowley:

I am providing additional documents in response to the February 1, 2021 Freedom of Information request made on behalf of Oakland Schools. The documents have been scanned to electronic format on a USB flash drive, as the volume of electronic documents is too large to send by email. Please advise whether you would like to pick up the flash drive from the City Clerk's office or whether I should put the media in the U.S. Mail. These additional documents are being provided at no additional charge.

The February 1, 2021 included a request for:

All public records of any City proceedings regarding the application for, eligibility for or location of a license for a marihuana establishment within the City.

To the extent that this portion of the request seeks copies of applications for recreational marijuana establishment licenses, the request is DENIED. *Information obtained from an applicant related to licensure under the Michigan Regulation and Taxation of Marihuana Act is expressly exempt from disclosure under the Freedom of Information Act. Section 9(7) of the MRTMA, MCL 333.27959(7); Section 13(1)(d) of FOIA, MCL 15.243(1)(d).*

This is a final determination to deny this portion of your request. In the event you are not satisfied with this response, I want to advise you of your rights. You have the right to submit a written appeal to the head of the City of Royal Oak, who is Paul Brake, City Manager, that specifically states the word "appeal" and identifies the reason or reasons for reversal of this denial.

In addition, you may also seek judicial review of this denial pursuant to MCL 15.240. If you seek judicial review and the Court determines that the public records are not exempt from disclosure, you have the right to receive attorney fees and damages in an amount not to exceed \$1,000.

Deanna Braswell,

Deputy City Clerk
City of Royal Oak
203 S Troy St.
Royal Oak, MI 48067

ATTACHMENT L

ANNE McCLOREY McLAUGHLIN
amclaughlin@rsjalaw.com

27555 Executive Drive, Suite 250
Farmington Hills, Michigan 48331
P 248.489.4100 | F 248.489.1726
rsjalaw.com



ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

March 25, 2021

James M. Crowley, Esq.
MILLER, CANFIELD, PADDOCK & STONE, P.L.C.
150 W. Jefferson Ave., Suite 2500
Detroit, MI 48226

Re: Oakland Schools Technical Center, Royal Oak

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By contrast, "public and private schools with curriculum equivalent to kindergarten through 12th grade" are permitted only in the One-Family Residential zoning district. § 770-34.B(4). The zoning ordinance clearly distinguishes between K-12 schools and technical/trade schools. Technical/trade schools permitted in the Office Service and General Industrial districts are not permitted in the single-family residential zoning district.

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James M. Crowley, Esq.
March 25, 2021
Page 2

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The City's Planning Department has not made an express determination whether the OSTC is or is not a K-12 school for purposes of the MRTMA. The OSTC has been in its current location for many years. Without conducting in-depth research, it is presently unknown whether OSTC was considered a K-12 school at the time it began using the Delemere property. If it was at that time, and the zoning map and ordinance were subsequently amended to change the zoning classification of the Delemere property, then OSTC became a nonconforming use. As a nonconforming use, it would be permitted to continue without change, but is deemed incompatible with the uses and structures in the General Industrial zoning district. § 770-112.

Therefore, either OSTC is a nonconforming use or is a technical or trade school. In either case, the rules of the zoning district otherwise apply to the OSTC. The 1,000-foot buffer zone thus required under the City's zoning ordinance does not apply to OSTC.

As you know from the City Clerk's supplemental response to the February 1 Freedom of Information request, the City may not disclose information provided by an applicant for a marihuana establishment license. The MRTMA's exemption under FOIA for such information is not discretionary. However, the process of evaluating the numerous applications is continuing and no decisions have been made as to which applicants may receive a "license slot". Any applicant that is granted a slot must proceed through the special land use permit process, which includes a public hearing. Notice of the public hearing would be posted and any input from the public would be solicited and received by the Planning Commission before any decision would be made. In the event an applicant within 1,000 feet of the OSTC were granted a license slot, OSTC would have an opportunity to provide its input at the time of the public hearing during the special land use process.

I hope this clarifies the position of the City of Royal Oak in this matter. Please contact me should you have any further questions.

Sincerely,

ROSATI, SCHULTZ, JOPPICH & AMTSBUECHLER, P.C.

Anne McClorey McLaughlin

Anne McClorey McLaughlin
Interim City Attorney, City of Royal Oak

AMM/mdia
cc: Tim Thwing
Joseph Murphy
Julianna Tschirhart

ATTACHMENT M

Founded in 1852
by Sidney Davy Miller



JAMES M. CROWLEY
TEL +1.313.496.7606
E-MAIL Crowley@millercanfield.com

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March 31, 2021

Anne McClorey McLaughlin
Interim City Attorney
City of Royal Oak
203 S. Troy Street
Royal Oak, MI 48067

Re: Oakland Schools Technical Center (“OSTC”)

Dear Ms. McLaughlin:

I received your March 25, 2021 letter responding to my March 9, 2021 request that the City provide its position regarding the status of the Oakland Schools Technical Center (“OSTC”) as a public school providing education in kindergarten or any grades 1 through 12 under Section 9 of the Michigan Regulation and Taxation of Marihuana Act (MCL §333.2795(3)(c) (the “Marihuana Act”). In your letter you indicate that the City Planning Department has not made an express determination whether the OSTC is or is not a K-12 school for purposes of the Marihuana Act. However, your letter also states that “[t]he 1,000 foot buffer zone thus required under the City’s zoning ordinance does not apply to OSTC.”¹ It thus appears that you have in fact either taken the position that OSTC is not a public school under the Marihuana Act, or that the City need not follow the Act. Neither position is supported by applicable law. In an effort to resolve this issue without having to seek a judicial remedy we would ask that the City consider the following additional information.

¹ The Marihuana Act states that for a recreational marihuana establishment license to be awarded, the property may not be “within 1,000 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, *unless a municipality adopts an ordinance that reduces this distance requirement.*” You have confirmed that the City did not in fact reduce the distance requirement set forth in the Act, requiring spacing of 1,000 feet. Accordingly, the exception in the “unless” clause of the Act does not apply. The operative issue is whether the 1,000 foot buffer zone required under *the Act* applies to OSTC.

Anne McClorey McLaughlin
Interim City Attorney
City of Royal Oak

-2-

March 31, 2021

1) **OSTC is a “pre-existing public ... school providing education in kindergarten or any grades 1 through 12” under the Marihuana Act**

Oakland Schools is a Michigan intermediate school district created and governed by Part 7 of the Michigan Revised School Code (MCL §380.601 et. seq.) (the “School Code”). The OSTC is a career and technical education program authorized and operated pursuant to Section 681 through 690 of the School Code (MCL §380.681 through §380.690). The vocational/technical education program operated at the OSTC is for high school students in the 11th and 12th grades.

Section 5(6) of School Code (MCL §380,5(6)) defines a “public school” in pertinent part to mean “a public elementary or secondary educational entity or agency that is established under this act or under other law of this state, has as its primary mission the teaching and learning of academic and **vocational-technical skills and knowledge**, and is operated by a school district, **intermediate school district**, school of excellence corporation, public school academy corporation, strict discipline academy corporation, urban high school academy corporation, or by the department, the state board, or another public body.” (emphasis added)

The term “public school” is not defined under the Marihuana Act. However, when it passed the Marihuana Act, the legislature was certainly aware of how it defined the term “public school” in the School Code. The purpose of the 1,000-foot buffer zone in the Marihuana Act is to protect students from the exposure to the marihuana business. In order to accomplish this purpose, there is no better place to look for the definition of a “public school” than the School Code which governs the operations of all public schools in the State.

Based on the above, we reiterate Oakland Schools’ position that the OSTC is a public school under the Marihuana Act, and accordingly the location of a licensed marihuana facility within 1,000 feet of this campus is prohibited.

2) **As a public school OSTC is not subject to local zoning ordinances regarding its site plan.**

It is well-settled law in Michigan that public schools are not subject to local zoning ordinances. Section 1263(3) of the School Code (MCL §380.1263(3)) provides that the state superintendent has “sole and exclusive” jurisdiction over the review and approval of site plans for school buildings used for instructional or noninstructional school purposes.² The Michigan

² The State Superintendent has delegated its authority under Section 1263(3) to the Michigan Department of Licensing and Regulatory Affairs (“LARA”)

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

Anne McClorey McLaughlin
Interim City Attorney
City of Royal Oak

-3-

March 31, 2021

Supreme Court in *Charter Township of Northville, et. al. v Northville Public Schools*, 469 Mich. 285, (2003) held that the words “sole and exclusive” in Section 1263(3) are unambiguous and that this section “grants sole and exclusive jurisdiction to the state superintendent to review and approve plans and specifications of school buildings and site plans for those buildings” and further held that “what the state superintendent approves is immune from the provisions of local zoning ordinances.”

In accordance with Section 1263(3), Oakland Schools’ requested and received site plan approval to operate the OSTC as a career and technical education program at the Royal Oak Campus. Attached is the most recent Certificate of Use and Occupancy dated February 15, 2012 from the State.

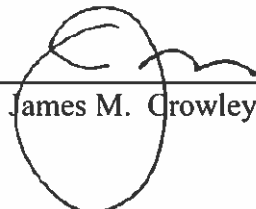
In short, as a public school, the OCTC is not subject to local zoning ordinances, and therefore the City’s assertion that local zoning ordinances control this issue has no basis in applicable law. The OSTC is a public school under the Marihuana Act and therefore the City is prohibited from approving the licensure of a marihuana facility within 1,000 feet of the OSTC.

This is a very important issue for Oakland Schools, and they would like to resolve it with the City as soon as possible. We would ask the City to reconsider its position. Your response is requested by April 9, 2021.

We are available at your convenience to further discuss this matter.

Very truly yours,

Miller, Canfield, Paddock and Stone, P.L.C.

By:  _____
James M. Crowley

CERTIFICATE OF USE AND OCCUPANCY

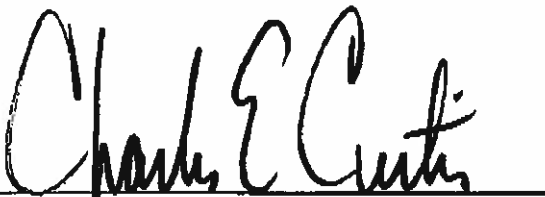
PERMANENT

Michigan Department of Licensing and Regulatory Affairs
Bureau of Construction Codes/Building Division
P. O. Box 30254
Lansing, MI 48909
(517) 241-9317

Building Permit: B031239
Oakland Technical Center Southeast Campus
5055 Delemere Street
Royal Oak, Michigan
Oakland County

The above named building of Use Group E and Construction Type 2B is approved for use and occupancy.

THIS APPROVAL IS GRANTED UNDER THE AUTHORITY OF SECTIONS 13 OF ACT 230 OF THE PUBLIC ACTS OF 1972, AS AMENDED, BEING §125.1513 OF THE MICHIGAN COMPILED LAWS, AND, IN ACCORDANCE WITH SECTION 110.0 OF THE STATE BUILDING CODE. THIS SHALL SUPERSEDE AND VOID ANY PREVIOUS APPROVAL OF USE AND OCCUPANCY.



Larry Lehman, Chief
Charles E. Curtis, Assistant Chief
Building Division

February 15, 2012

ATTACHMENT N

Mcmillan, Sherry

From: Crowley, James M. <Crowley@millercanfield.com>
Sent: Wednesday, May 12, 2021 9:06 AM
To: McLaughlin, Anne
Cc: Mcmillan, Sherry; Kapalla-Bondi, Lara
Subject: Oakland Schools: OSTC Marihuana Act Matter
Attachments: May follow up letter to Anne McLaughlin at City of Royal Oak - Oakland Schools(37643813.pdf)

Anne: Attached is a follow-up letter to my letter to you dated March 31, 2021. Oakland Schools' was disappointed with the lack of response to my previous letter. This is a very important issue to Oakland Schools and it will be monitored closely. Oakland Schools as a public school benefitting many students residing in Royal Oak and surrounding school districts in the County was hopeful that the City would at least be open to a dialogue to attempt to resolve this matter. The City's silence is puzzling to us. Although Oakland Schools has indicated in the letter it does not intend to currently pursue this matter in court this position will be revisited if we are given any indication that a marihuana facility is proposed to be located within our 1,000 foot buffer. In addition, if we cannot resolve this matter Oakland Schools will avail itself of public relations efforts with the citizens of Royal Oak, Oakland County and the local constituent school districts whose students attend the OSTC. Oakland School's has not taken this step in hopes that we can resolve this matter with the City. We are available at your convenience to further discuss this matter. JMC

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crowley@millercanfield.com [View Profile](#) + [VCard](#)

ATTACHMENT O

Founded in 1852
by Sidney Davy Miller

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E-MAIL Crowley@millercanfield.com

May 12, 2021

Anne McClorey McLaughlin
Interim City Attorney
City of Royal Oak
203 S. Troy Street
Royal Oak, MI 48067

Re: Oakland Schools Technical Center (“OSTC”)

Dear Ms. McLaughlin:

On March 31, 2021, I provided you with additional information regarding the status of the Oakland Schools Technical Center (“OSTC”) as a public school providing education in kindergarten or any grades 1 through 12 under Section 9 of the Michigan Regulation and Taxation of Marihuana Act (MCL §333.2795(3)(c) (the “Marihuana Act”). Specifically, I provided authority that as a public school, the OCTC is not subject to local zoning ordinances, and therefore the City’s assertion that local zoning ordinances control this issue has no basis in applicable law. I requested a response by April 9, 2021, but none was received. Does the City have a response, or does it now agree that it is prohibited from approving the licensure of a marihuana facility within 1,000 feet of the OSTC?

In your March 25, 2021 letter, you stated that “no decisions have been made as to which applicants may receive a ‘license slot’” for a marihuana establishment, and that if a slot were granted to an applicant within 1,000 feet of the OSTC, Oakland Schools would receive notice and an opportunity to object. Based on those representations, it does not appear that there is a need to pursue the matter in court at this time. However, Oakland Schools’ position remains that any attempt to locate a facility within 1,000 feet of the campus would violate the law, and it will take appropriate actions to enforce its rights and protect the students of OSTC if that becomes necessary.

Sincerely,

Miller, Canfield, Paddock and Stone, P.L.C.

By: _____

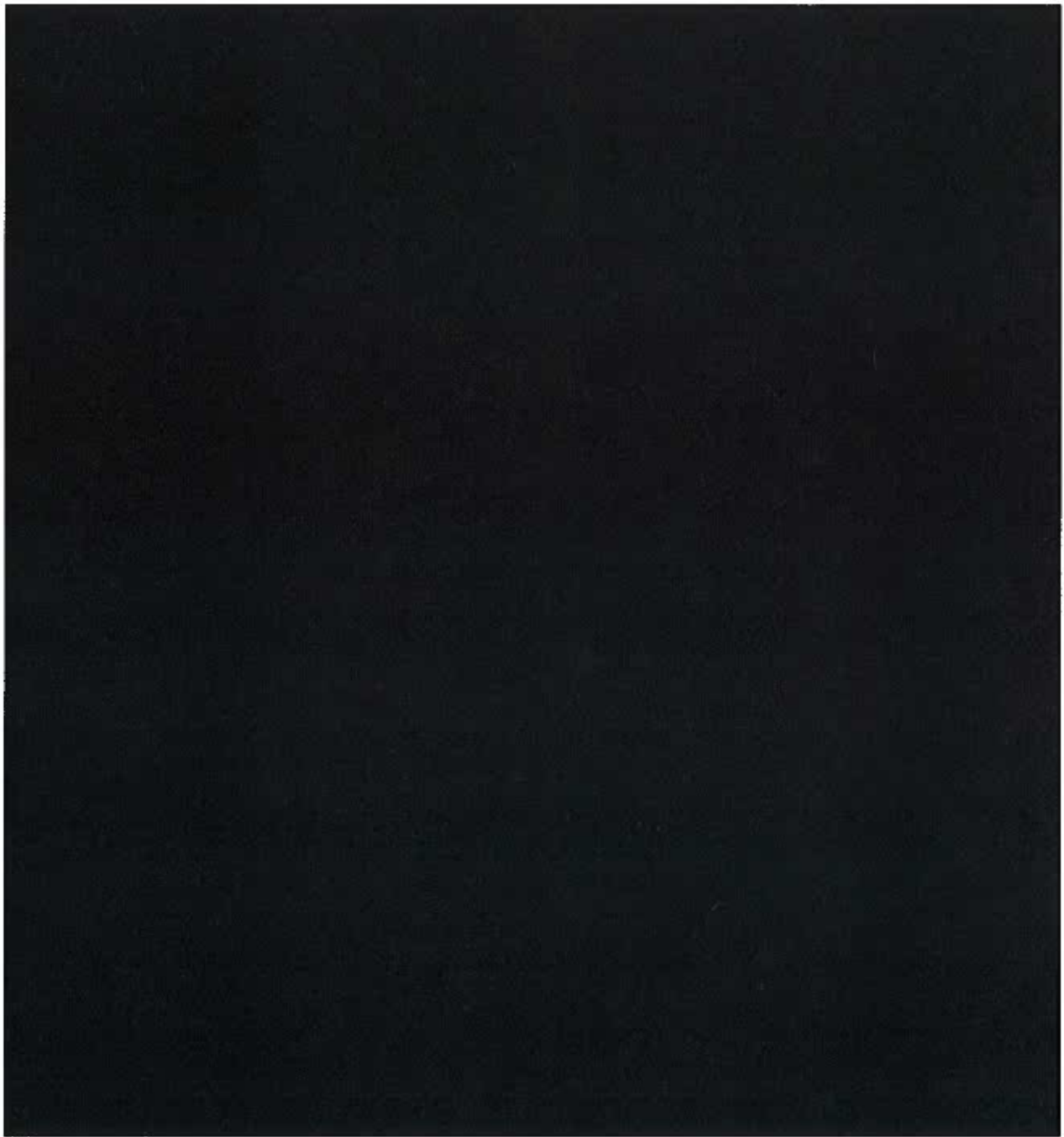
James M. Crowley

JMC:lam

37643813.1/155130.00015

ATTACHMENT P

Attachment P



From: McLaughlin, Anne <AnneM@romi.gov>
Sent: Wednesday, May 12, 2021 5:21:53 PM
To: Crowley, James M. <Crowley@millercanfield.com>
Subject: RE: Oakland Schools: OSTC Marihuana Act Matter

CAUTION EXTERNAL EMAIL: DO NOT open attachments or click links from unknown or unexpected emails.

Hello, Jim,

I apologize for not responding to your recent letter. I am presently in the middle of a

contract negotiation and a brief filing deadline that must take priority. I will respond to your letter this week. Thanks.

Anne McClorey McLaughlin
Interim City Attorney

AnneM@romi.gov
248-246-3240
203 S Troy Street
Royal Oak, MI 48067



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From: Crowley, James M. <Crowley@millercafield.com>
Sent: Wednesday, May 12, 2021 9:06 AM
To: McLaughlin, Anne <AnneM@romi.gov>
Cc: Sherry L. McMillan (Sherry.McMillan@oakland.k12.mi.us) <Sherry.McMillan@oakland.k12.mi.us>; Kapalla-Bondi, Lara <kapalla-bondi@millercafield.com>
Subject: Oakland Schools: OSTC Marihuana Act Matter

WARNING: This email originated from **outside** The City of Royal Oak. **Do not click on any links or open any attachments** unless you recognize the sender and are expecting the message.

Anne: Attached is a follow-up letter to my letter to you dated March 31, 2021. Oakland Schools' was disappointed with the lack of response to my previous letter. This is a very important issue to Oakland Schools and it will be monitored closely. Oakland Schools as a public school benefitting many students residing in Royal Oak and surrounding school districts in the County was hopeful that the City would at least be open to a dialogue to attempt to resolve this matter. The City's silence is puzzling to us. Although Oakland Schools has indicated in the letter it does not intend to currently pursue this matter in court this position will be revisited if we are given any indication that a marihuana facility

is proposed to be located within our 1,000 foot buffer. In addition, if we cannot resolve this matter Oakland Schools will avail itself of public relations efforts with the citizens of Royal Oak, Oakland County and the local constituent school districts whose students attend the OSTC. Oakland School's has not taken this step in hopes that we can resolve this matter with the City. We are available at your convenience to further discuss this matter. JMC

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crowley@millercanfield.com [View Profile](#) + [VCard](#)

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ATTACHMENT Q

McMillan, Sherry

From: Crowley, James M. <Crowley@millercanfield.com>
Sent: Thursday, May 27, 2021 1:08 PM
To: McLaughlin, Anne
Subject: RE: Oakland Schools: OSTC Marihuana Act Matter

Anne: Still waiting for a response. Any update? JMC

James M. Crowley | Principal
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crowley@millercanfield.com [View Profile + VCard](#)

From: McLaughlin, Anne <AnneM@romi.gov>
Sent: Wednesday, May 12, 2021 5:22 PM
To: Crowley, James M. <Crowley@millercanfield.com>
Subject: RE: Oakland Schools: OSTC Marihuana Act Matter

CAUTION EXTERNAL EMAIL: DO NOT open attachments or click links from unknown or unexpected emails.

Hello, Jim,

I apologize for not responding to your recent letter. I am presently in the middle of a contract negotiation and a brief filing deadline that must take priority. I will respond to your letter this week. Thanks.

Anne McClorey McLaughlin
Interim City Attorney

AnneM@romi.gov
248-246-3240
203 S Troy Street
Royal Oak, MI 48067



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From: Crowley, James M. <Crowley@millercanfield.com>
Sent: Wednesday, May 12, 2021 9:06 AM
To: McLaughlin, Anne <AnneM@romi.gov>
Cc: Sherry L. McMillan (Sherry.McMillan@oakland.k12.mi.us) <Sherry.McMillan@oakland.k12.mi.us>; Kapalla-Bondi, Lara <kapalla-bondi@millercanfield.com>
Subject: Oakland Schools: OSTC Marihuana Act Matter

WARNING: This email originated from **outside** The City of Royal Oak. **Do not click on any links or open any attachments** unless you recognize the sender and are expecting the message.

Anne: Attached is a follow-up letter to my letter to you dated March 31, 2021. Oakland Schools' was disappointed with the lack of response to my previous letter. This is a very important issue to Oakland Schools and it will be monitored closely. Oakland Schools as a public school benefitting many students residing in Royal Oak and surrounding school districts in the County was hopeful that the City would at least be open to a dialogue to attempt to resolve this matter. The City's silence is puzzling to us. Although Oakland Schools has indicated in the letter it does not intend to currently pursue this matter in court this position will be revisited if we are given any indication that a marihuana facility is proposed to be located within our 1,000 foot buffer. In addition, if we cannot resolve this matter Oakland Schools will avail itself of public relations efforts with the citizens of Royal Oak, Oakland County and the local constituent school districts whose students attend the OSTC. Oakland School's has not taken this step in hopes that we can resolve this matter with the City. We are available at your convenience to further discuss this matter. JMC

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ATTACHMENT R

Founded in 1852
by Sidney Davy Miller



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October 4, 2021

VIA FAX ONLY to (248) 246-3001

City of Royal Oak
211 South Williams Street
Royal Oak, Michigan 48067

Attn: Freedom of Information Act ("FOIA") Coordinator

Re: Freedom of Information Act ("FOIA") Request

Dear FOIA Coordinator:

This Michigan Freedom of Information Act ("FOIA") request is made in the name of and on behalf of Oakland Schools, a Michigan intermediate school district. Please provide the undersigned with copies of the following public records within five (5) days of this request:

1. All public records regarding any requests for special land use permits for marihuana establishments to be located in the City under the City's Zoning Ordinances;
2. All public records regarding any requests for a municipal license to operate a marihuana establishment to be located in the City under the City's Recreational Marihuana Licensing Ordinance;
3. All public records regarding the locating or municipal licensure of a marihuana establishment within the 1,000 radius of the Oakland Schools' Technical Campus located at 5055 Delemere Street, Royal Oak.
4. All correspondence or documents exchanged between the City of Royal Oak and RJB Enterprises, LLC d/b/a Pleasantrees Cannabis Company (hereinafter "Pleasantrees"), or anyone acting on behalf of Pleasantrees, including but not limited to Randall Buchman.
5. All correspondence or documents exchanged between the City of Royal Oak and Floraplex Terpenes, or anyone

October 4, 2021

acting on behalf of Floraplex Terpenes, including but not limited to Alec Riffle.

6. All correspondence or documents exchanged between the City of Royal Oak and SEM 1 LLC or anyone acting on behalf of SEM 1 LLC, including but not limited to Alec Riffle or Kenneth Morgan.
7. All public records since July 2, 2020 pertaining to the proposed use or development of the following properties located within Royal Oak: 4949 Delemere, 5061 Delemere, or 5130 Meijer Road.
8. All public records, including but not limited to notices and proceedings, regarding any applications for special use permits for the following properties located within Royal Oak since July 2, 2020: 4949 Delemere, 5061 Delemere, or 5130 Meijer Road.
9. All public records since July 2, 2020 regarding building permits issued for the following properties located within Royal Oak: 4949 Delemere, 5061 Delemere, or 5130 Meijer Road.
10. Correspondence with any newspaper(s) regarding publication of the most recent notice of public hearing pertaining to an application for special land use permit under Royal Oak Zoning Ordinance 770-11.

Please contact me when copies of the above-requested public records are available, and I will make arrangements for them to be picked up from the City. In the interim, if you have any questions, please contact me at your convenience.

Sincerely,

Miller, Canfield, Paddock and Stone, P.L.C.

By: _____


James M. Crowley

ATTACHMENT S



October 25, 2021

Miller, Canfield, Paddock and Stone PLC
James Crowley
150 West Jefferson, Ste 2500
Detroit, MI 48226

RE: FOIA Request of October 4, 2021, is Granted in Part and Denied in Part

Dear Mr. Crowley:

Please be advised that your FOIA request received by the City of Royal Oak on the 4th day of October 2021 has been granted in part and denied in part. (See enclosed FOIA request).

The Planning/Zoning department has supplied a response for a portion of your request. The total for this portion of the request is \$34.44. You can mail in a check, or if you wish, I can email you a link to pay by credit card. If you wish to do a credit card payment, please let me know and I will send that link to you.

The City Manager, City Attorney, Economic Development/Deputy City Manager have all stated that they have no records that satisfy your request. They have no records; therefore, this portion of the request is denied.

To the extent that this portion of the request seeks copies of applications for recreational marijuana establishment licenses, the request is DENIED. *Information obtained from an applicant related to licensure under the Michigan Regulation and Taxation of Marijuana Act is expressly exempt from disclosure under the Freedom of Information Act. Section 9(7) of the MRTMA, MCL 333.27959(7); Section 13(1)(d) of FOIA, MCL 15.243(1)(d).*

This is a final determination to deny this portion of your request. In the event you are not satisfied with this response, I want to advise you of your rights. You have the right to submit a written appeal to the head of the City of Royal Oak, who is Paul Brake, City Manager, that specifically states the word "appeal" and identifies the reason or reasons for reversal of this denial.

In addition, you may also seek judicial review of this denial pursuant to MCL 15.240. If you seek judicial review and the Court determines that the public records are not exempt from disclosure, you have the right to receive attorney fees and damages in an amount not to exceed \$1,000.

Sincerely,

Deanna Braswell
Deputy City Clerk
City of Royal Oak
203 S Troy St.
Royal Oak, MI 48067

ATTACHMENT T

Founded in 1852
by Sidney Davy Miller



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millercanfield.com

Lara Kapalla-Bondi
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November 3, 2021

VIA US Mail

Paul Brake, City Manager
City of Royal Oak
203 S Troy Street
Royal Oak, Michigan 48067

Re: Appeal of Freedom of Information Act ("FOIA") Denial

Dear Mr Brake:

We represent Oakland Schools, a Michigan intermediate school district. This is an appeal of a partial denial of a FOIA request that we sent to the City on October 4, 2021. In relevant part, our FOIA request sought:

2. All public records regarding any requests for a municipal license to operate a marihuana establishment to be located in the City under the City's Recreational Marihuana Licensing Ordinance;
3. All public records regarding the locating or municipal licensure of a marihuana establishment within the 1,000 radius of the Oakland Schools' Technical Campus located at 5055 Delemere Street, Royal Oak.

The City's October 25, 2021 FOIA response stated:

To the extent that this portion of the request seeks copies of applications for recreational marijuana establishment licenses, the request is DENIED. *Information obtained from an applicant related to licensure under the Michigan Regulation and Taxation of Marihuana Act is expressly exempt from disclosure under the Freedom of Information Act. Section 9(7) of the MRTMA, MCL 333.27959(7); Section 13(1)(d) of FOIA, MCL 15.243(1)(d).*

MCL 333.27959, entitled "Application for state license; procedure; term; renewal" pertains only to applications for a state license that are submitted to the state's department of licensing and regulatory affairs for licenses issued by that department. However, our FOIA request sought only municipal licensing materials, to which MCL 333.27959 does not refer. Accordingly, we ask the City to reverse its denial of our request.

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

-2-

November 3, 2021

Sincerely,

Miller, Canfield, Paddock and Stone, P.L.C.

By *Lara Kapalla - Bondi*
Lara Kapalla-Bondi

38321700.1/155130.00015

ATTACHMENT U

Graziano, Gabriella

From: Kapalla-Bondi, Lara
Sent: Tuesday, December 7, 2021 10:57 AM
To: AnneM@romi.gov; citymanager@romi.gov
Cc: Crowley, James M.
Subject: Status of FOIA Appeal
Attachments: FOIA Letter to City of Royal Oak - Oakland Schools(38209250.2).pdf; 10 25 2021 FOIA response from City(38321684.1).pdf; FOIA Denial Appeal(38321700.3).pdf; Certified Return Receipt for City of Royal Oak(38364877.1).pdf

I am following up on an appeal of the partial denial of a FOIA request that I submitted on behalf of Oakland Public Schools. Per the attached certified mail receipt, the City Manager's office received the appeal on November 9, but I have not received a response to date. Could you please let me know when I might expect a response to the appeal?

For your convenience I'm also attaching the FOIA request, partial denial, and appeal to this email. Please let me know if there is anything else that you need to answer this inquiry.

Thank you,

Lara Kapalla-Bondi | Principal

(she/her/hers/herself)

Miller Canfield

150 West Jefferson Avenue, Suite 2500

Detroit, Michigan 48226 (US)

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Mansfield Rule
Certified *Plus* 2021

DIVERSITY

ATTACHMENT V



Office of the City Manager
203 South Troy Street
Royal Oak, MI 48067

December 15, 2021

VIA US Mail Certified Return Receipt Requested

Ms. Lara Kapalla-Bondi
Miller, Canfield, Paddock and Stone, P.L.C.
150 West Jefferson, Suite 2500
Detroit, MI 48226

RE: City of Royal Oak Response to Freedom of Information Act ("FOIA") Denial

Dear Ms. Kapalla-Bondi:

I am writing in response to your letter dated November 4, 2021 requesting a reversal of our denial of your FOIA request. You state the position that the request for municipal licensing materials which MCL 333.27959 does not pertain. We respectfully disagree with that interpretation.

In consultation with corporation counsel, the city's position is that municipal authority to license any marihuana establishment derives directly *and only* from the Michigan Regulatory and Taxation of Marihuana Act (MRTMA) itself, thus any application for a marihuana establishment license is under the MRTMA. Stated in another way, a municipality has no authority to adopt an ordinance for marihuana establishment licensing except under the MRTMA.

In our opinion, it does not make any sense for an applicant to be required to supply information to a municipality for its purposes and be subject to disclosure under FOIA, but then the same information would be exempt once the application goes to the state to get its state license. The city's licensure process and approval are also a prerequisite to the ability of an applicant even to apply for a license as the state level, another factor weighing in favor of the exemption. It would be an exemption with no way to enforce it if the local records are public.

For the above-mentioned reasons, the request for the request to reversal of denial is hereby upheld as originally presented in the city's October 25, 2021, FOIA response.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'Paul J. Brake', is written over a faint, large watermark of the city seal.

Paul J. Brake, ICMA-CM, CEcD
City Manager

ATTACHMENT W

Mcmillan, Sherry

From: Cowan, Dennis <DCowan@plunkettcooney.com>
Sent: Wednesday, January 19, 2022 3:58 PM
To: Mcmillan, Sherry
Subject: RE: 5130 Meijer Drive Royal Oak

Follow Up Flag: Follow up
Flag Status: Completed

External Message

Sherry: I mis-typed your email address. Please see below. Thanks, Dennis

Dennis G. Cowan



Plunkett Cooney
Attorneys & Counselors at Law
T 248.901.4029 C 248.321.2820

[bio](#) | [office](#) | [vcard](#) | [web](#) | [linkedin](#)

From: Cowan, Dennis
Sent: Wednesday, January 19, 2022 1:40 PM
To: Sherry.McMillan@oakland.k.12.mi.us
Subject: 5130 Meijer Drive Royal Oak

Sherry: I left you messages on your office and cell lines (don't know how everyone "best" communicates these days!). I was given your contact information by Dave Woodward (who I have know for a long time going back to when he was State Rep and I was Mayor of RO). I represent Gatsby Cannabis Co. who was recently selected to receive 3 marijuana licenses for the property near the Oakland Schools' Royal Oak campus. We wanted to reach out to our immediate neighbors to have a chance to talk about Gatsby's operations, future plans, etc. As you may know , this is a highly regulated business with state-of -the -art security and significant operational restrictions that are monitored by the Marijuana Regulatory Agency. That being said, we recognize the unique nature of the Royal Oak campus amid the industrial/business area and proximity to Gatsby's facilities. I would like to set up a meeting between the ISD and Gatsby in the coming week or so. Please call me so we can discuss at my cell # below. Thanks, Dennis

Dennis G. Cowan

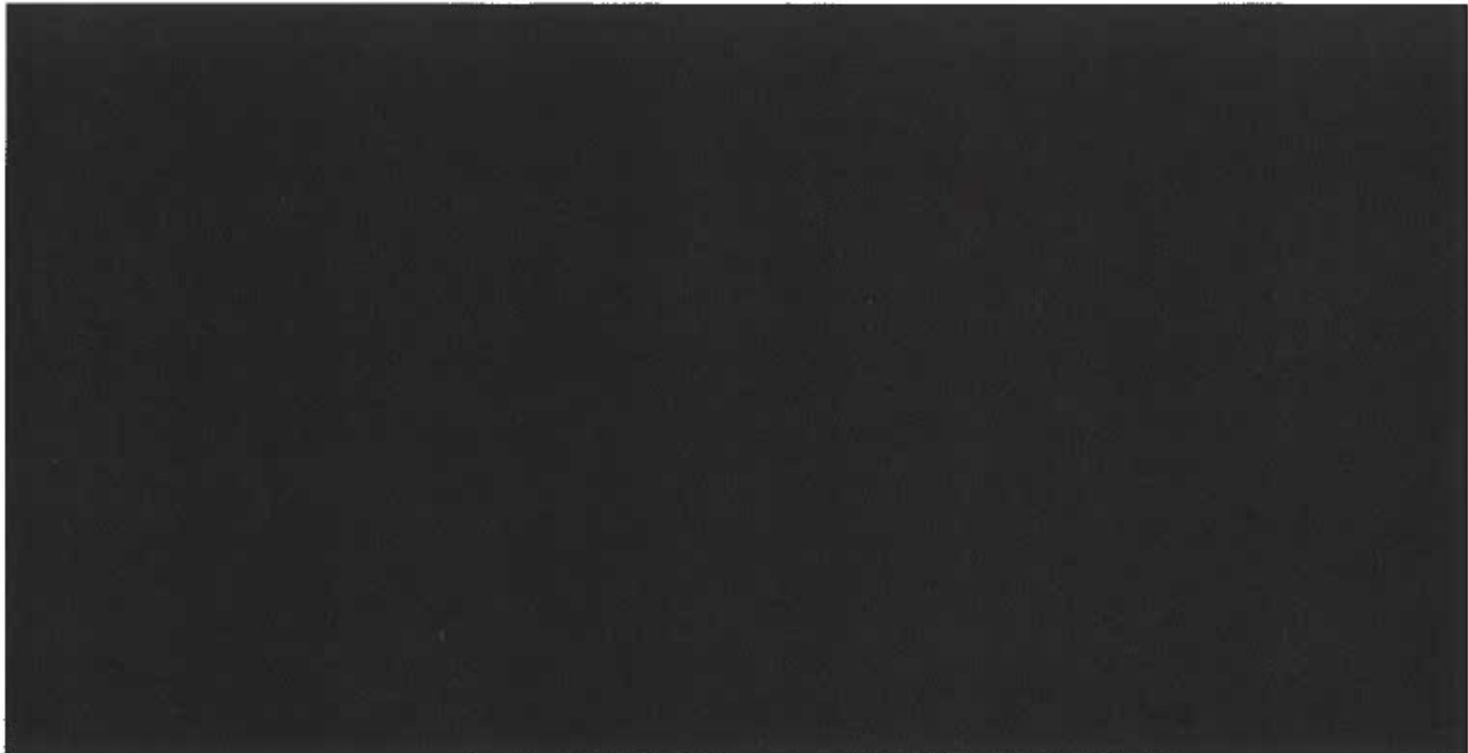


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ATTACHMENT X



From: Kapalla-Bondi, Lara
Sent: Monday, January 24, 2022 1:39 PM
To: dcowan@plunkettcooney.com
Cc: Crowley, James M. <Crowley@millercanfield.com>
Subject: Gatsby Cannabis Co/5130 Meijer Drive Royal Oak

Dennis,

Together with Jim Crowley, I represent Oakland Schools. Sherry McMillan asked that I reach out to you regarding your request to arrange a meeting between Gatsby and Oakland Schools to discuss Gatsby's plans to open a marijuana business near the Schools' Technical Campus.

While we appreciate the gesture, we unfortunately do not believe a meeting could address a fundamental issue. The Technical Campus is a public school, providing education to children in 11th and 12th grades. Accordingly, a marijuana establishment cannot locate on the 5130 Meijer Drive property without violating the buffer zone for public schools provided for in the State's Marijuana Act.

Given this threshold issue, we do not believe a meeting of our clients would be fruitful. However, if there is anything further that you would like to discuss, I am largely available to talk this week.

Sincerely,

Lara Kapalla-Bondi | Principal

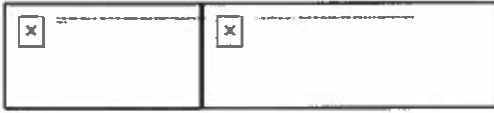
(she/her/hers/herself)

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