

HANK LAW, PLLC
EAST LANSING • JACKSON • GRAND RAPIDS
PO BOX 1358 • EAST LANSING, MI 48826
(888) 490-8550 TELEPHONE • (888) 490-7750 FACSIMILE
CONTACT@HANKLEGAL.COM

August 11, 2010

City of Ann Arbor
City Council
100 N. Fifth Avenue
Ann Arbor, MI 48104

*VIA FIRST-CLASS MAIL
& EMAIL*

RE: NOTICE - VIOLATION OF THE MICHIGAN OPEN MEETINGS ACT

To Whom It May Concern:

This law firm represents The Ann Arbor Chronicle, LLC, in connection with claims against the City of Ann Arbor, also known as "City Council", for violations of the Michigan Open Meetings Act, *MCL § 15.261 et seq.* ("OMA").

In response to the growing threat of secretive public interest decisions being made behind closed doors to the prejudice of the general public, the Michigan Legislature passed the Open Meetings Act prohibiting the conduct complained of below.

Specifically, on July 19, 2010, the Ann Arbor City Council had unlawful deliberations in a closed session regarding a legislative strategy for handling medical marijuana, and made the decision to direct its city attorney to develop a draft of legislation that would address the issue. The decision to have deliberations regarding this issue out of public view violates the OMA and is not allowed under any exception or precedent.

The OMA provides for a private right of action in Washtenaw County Circuit Court to seek injunctive relief. *MCL § 15.267(11)*. The OMA provides for attorney fees and court costs in relation to filing suit. Additionally, the OMA provides for criminal penalties and fines, including up to one year in jail for an intentional violation. *MCL § 15.272(12)*.

My client desires an open and transparent government. While we reserve our right to initiate litigation and to seek all available legal and equitable damages and we do not waive any right or privilege, my client is willing to give the Ann Arbor City Council an opportunity to correct its clearly unlawful actions. We would ask simply that the City Council acknowledge that the legislative strategy discussion on medical marijuana and direction given to the city attorney that took place on July 19, 2010 in closed session did not conform to the requirements of the OMA; that the council vacate its moratorium decision made at its Aug. 5, 2010 meeting; that the council to the best of its recollection and ability re-enact in an open session the prior closed session conversations; that City Council give additional opportunity to the public to comment on the issue; and that the City Council (on hearing additional public comment) then reconsider and act on the moratorium in whatever way the Council in its wisdom sees fit to act. We believe that this remedy could be implemented in its entirety at the City Council's upcoming August 16th

meeting, and would avoid any unnecessary costs to Ann Arbor taxpayers that could be incurred in the course of a legal process.

The council's conduct on July 19, 2010 set forth above constitutes a violation of the OMA. As such, I urge you to contact a qualified and reputable attorney to discuss this letter and assist you in this matter, either through representation during the settlement process or as defense counsel in a civil law suit.

On behalf of my client, demand is hereby made for the actions above to be immediately taken by the City of Ann Arbor. It is obvious that the citizens of the State of Michigan, and of Ann Arbor particularly, desire to have legal and unimpeded access to medical marijuana. It is clear that this is a matter of crucial public interest and the duty of the Ann Arbor City Council is to serve the people of Ann Arbor, not to deliberate in private to the prejudice of the fundamental rights of its citizens.

Please contact me upon receipt of this correspondence so we may determine an appropriate resolution to this matter. If the City Council does not take the corrective action described above, including acknowledgment of the council's non-conformance with the OMA at the upcoming Council meeting on August 16th, 2010, we will institute litigation and seek all available legal and equitable remedies. In addition, we will take appropriate measures to report your conduct to the Michigan Attorney General's office and any other appropriate state or local agencies or other governmental authorities.

I look forward to hearing from you.

Very truly yours,

HANK LAW, PLLC

A handwritten signature in dark ink, appearing to read 'J. Hank', with a long horizontal flourish extending to the right.

Jeffrey A. Hank, Esq.
Attorney and Counselor

JAH/

Enclosures:

Copies:

Client
City Attorney
City Council Members