

STATE OF MICHIGAN
COURT OF CLAIMS

JOHN DOE, VB CHESANING, L.L.C., and
GREEN PEAK INDUSTRIES, L.L.C.,

Plaintiffs,

v

MICHIGAN MEDICAL MARIHUANA
LICENSING BOARD, and DEPARTMENT OF
LICENSING AND REGULATORY AFFAIRS,

Defendants.
_____ /

OPINION AND ORDER

Case No. 19-000058-MZ

Hon. Stephen L. Borrello

Pending before the Court is defendants’ motion for summary disposition. For the reasons that follow, the motion is GRANTED.

Plaintiffs’ complaint alleges that defendant Department of Licensing and Regulatory Affairs (LARA), by allowing the sale of untested medical marijuana products, is taking action directly contrary to MCL 333.27504(4)(a). Plaintiffs Chesaning and Green Peak (“entity plaintiffs”) allege that the failure to enforce the MMFLA has a potentially devastating effect on their respective operations, for the reason that allowing the purchase of untested caregiver product makes their competitors’ products less expensive in comparison to entity plaintiffs’ products. Plaintiffs ask the Court to enjoin and restrain defendants from, in plaintiffs’ phraseology, ignoring their duty to enforce the MMFLA.

This matter is now before the Court on defendants' motion for summary disposition. Of note, defendants ask this Court to hold that injunctive relief is not warranted on the allegations presented in plaintiffs' complaint. Injunctive relief "represents an extraordinary and drastic use of judicial power that . . . issues only when justice requires, there is no adequate remedy at law, and there exists a real and imminent danger of irreparable injury." *Davis v Detroit Fin Review Team*, 296 Mich App 568, 613; 821 NW2d 896 (2012) (citation and quotation marks omitted).

The Court agrees with defendants' position and concludes that defendants are entitled to summary disposition. As an initial matter, the harms alleged by plaintiffs are largely speculative and are, at this point, moot, given the expiration of the prior administrative rules. Any concerns expressed by plaintiffs regarding whether LARA's past practices will continue are hypothetical, and this Court will not issue an advisory opinion. See *Tenneco Inc v Amerisure Mut Ins Co*, 281 Mich App 429, 456; 761 NW2d 846 (2008). Moreover, with respect to injunctive relief, entity plaintiffs' attached documentation fail to set out a particularized showing of irreparable harm. For this reason alone, their request for relief must fail. See *Pontiac Fire Fighters Union Local 376 v Pontiac*, 482 Mich 1, 9; 753 NW2d 595 (2008). Furthermore, the gist of plaintiffs' complaint asks this Court to enter injunctive relief that will require defendants to comply with existing statutes. Caselaw has long held that such allegations do not form a proper request for injunctive relief. See *Davis*, 296 Mich App at 614. Finally, to the extent plaintiffs ask the Court to direct LARA with respect to how the latter should exercise its statutory discretion, plaintiffs have failed to state a claim on which relief should be granted. This Court cannot supplant LARA's decision-making authority. Put simply, plaintiffs have failed to plead and prove facts "which indicate an adverse interest necessitating a sharpening of the issues raised" and neither

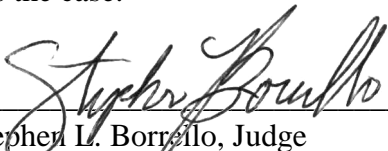
declaratory relief nor injunctive relief is not warranted. *Van Buren Charter Twp v Visteon Corp*, 319 Mich App 538, 546; 904 NW2d 192 (2017) (citations and quotation marks omitted).¹

IT IS HEREBY ORDERED that defendants' motion for summary disposition is GRANTED pursuant to MCR 2.116(C)(8).

IT IS HEREBY FURTHER ORDERED that plaintiffs' remaining motions—for temporary restraining order, show cause, and to exceed page limits—are hereby DENIED as moot.

This order resolves the last pending claim and closes the case.

Dated: April 30, 2019



Stephen L. Borrello, Judge
Court of Claims

¹ Because the Court concludes that the relief requested by plaintiffs is not warranted, it will decline to discuss defendants' additional reasons as to why summary disposition should issue in their favor.