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Michigan Supreme Court rules local laws can't ban medical marijuana

By Bill Laitner
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The Michigan Supreme Court ruled Thursday that local officials in Michigan may not ban the use of medical marijuana within their boundaries — a unanimous landmark ruling expected to overturn local ordinances in Livonia, Birmingham, Bloomfield Hills and Lyon Township.

The outcome was hailed by marijuana activists, because if it had gone the other way, there was a chance that the decision would have barred all Michiganders from using marijuana for health purposes. And numerous communities were said to be watching the outcome before considering passage of their own local ordinances.

“This is fabulous news, but it’s actually no surprise,” said Detroiters Tim Beck, 61, who for years has pushed to relax marijuana laws and has helped organize local ballot proposals in Detroit and Ferndale.

An earlier Michigan Court of Appeals ruling strongly affirmed the right of retired attorney John Ter Beek, a resident of the Grand Rapids suburb of Wyoming, to use medical cannabis. But supporters nonetheless were relieved by the new ruling, Beck said.

Livonia Mayor Jack Kirksey said he was disappointed by the ruling.

“As a parent, as a grandparent and now a great-grandparent, in terms of how marijuana can affect young people, I think this is a regrettable step backward,” Kirksey said Thursday night.

A handful of Michigan communities have passed bans on medical marijuana that carried serious criminal penalties, including jail time, according to the ACLU of Michigan, which sued to overturn ordinances in Livonia, Birmingham and Bloomfield Hills. Most such ordinances did not mention medical marijuana but instead merely said that any activity illegal under federal law was also illegal in their community — a clear swipe at medical marijuana, ACLU lawyers said.

“Needless to say, we are thrilled” by the ruling, ACLU of Michigan spokeswoman Rana Elmir said.

Those joining forces in the lawsuit to block medical cannabis included the public corporation law section of the State Bar of Michigan and the Prosecuting Attorneys Association of Michigan, both of which argued for nullifying the entire state act allowing medical marijuana — passed into law in 2008 by 63% of Michigan voters.

Opposing groups included organizations with widely diverging political trappings — the arch-liberal American Civil Liberties Union of Michigan and the arch-conservative Cato Institute in Washington, D.C.

In Wyoming, a city of about 73,000 residents, Ter Beek sued in 2010 to overturn a medical cannabis ban. Ter Beek is a state-registered user who has diabetes and a painful neurological disorder, according to the lawsuit.

He lost in a local court, won 3-0 in the Michigan Court of Appeals, and, in April, the Michigan Supreme Court granted the City of Wyoming's request to appeal.

Wyoming's ban was matched by an almost identical ordinance in Livonia, which filed a brief siding with Wyoming in the appeal. Ter Beek, who could not be reached Thursday for comment, said in 2012 that he sued because he feared he would be arrested if he grew or used medical marijuana.

“I've tried narcotic-based drugs like Vicodin and OxyContin, and nothing worked like medical marijuana,” Ter Beek told the Free Press in a 2012 statement. “I just couldn't sit by as our elected officials try to ignore the will of the people and take this option from me and thousands of others.”

The Court of Appeals ruling declared Wyoming's ordinance to be pre-empted by Michigan's medical marijuana act. It also said that local governments could not use federal drug laws as grounds for ignoring the state act.

In Thursday's ruling, written by Justice Bridget Mary McCormack, the Supreme Court held that it was not impossible to comply with both federal drug laws and Michigan's medical marijuana act, as the City of Wyoming contended. Last year, federal authorities made it plain that they will not block states from easing laws on marijuana for recreational and medical use.

Furthermore, the state's high court held that the city's ordinance directly conflicts with the state medical marijuana act, creating a violation of the way in which Michigan's Constitution separates powers of the state and its municipalities.

In support of the losing arguments, a brief filed by the State Bar of Michigan's public corporation law section argued, in bold-face type, that Michigan's medical marijuana act should be voided “in its entirety.”

Also arguing in support of local bans on medical marijuana was the Michigan Municipal League, the Lansing-based lobby group for 524 cities, villages and townships across the state, which is funded by taxpayers of Michigan's communities. The organization's brief said that Michigan

communities should be free “to zone and regulate their own unique land use activities” in ways that ban medical marijuana.