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City of East Lansing Ordered to Restore Country Mill as Farm Market Vendor ^[1]

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By:

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Judge Paul Maloney of the United States District Court for the Western District of Michigan has made the first decision in Country Mills lawsuit against the City of East Lansing, and he has ruled in favor of the cider mill.

The City has been ordered to reinstate Country Mills as an East Lansing Farmer's Market (ELFM) vendor for the rest of the 2017 Market season, pending the ultimate outcome of the case.

As we reported previously [2], Country Mills' suit is based on the City's refusal to allow them to return as an ELFM a vendor after the Mill's owner, Stephen Tennes, made a public statement (on Facebook) to the effect that same-sex marriages would not be performed at the Charlotte orchard for religious reasons. The Tennes family, which owns Country Mills, is Catholic and has been represented in the case by the Alliance Defending Freedom [3].

The City changed its market vendor rules to specify that vendors that practice discrimination prohibited by the City's civil rights ordinance cannot participate, even if that discrimination happens somewhere other than at the East Lansing market. The change in the vendor rules was made specifically in response to the Tennes refusing to host same-sex marriages at their business location in Charlotte.

In preliminary filings, Country Mills had requested injunctive relief, asking specifically that they be permitted to return to the Market for the remainder of the 2017 season. A "preliminary injunction" is an order made by the court before the case is heard on its merits. The idea is to prevent unfair harm to the party asking for relief while the case plays out.

Judge Maloney today ordered [4] that "The City of East Lansing must allow Plaintiffs to participate in the East Lansing Farmer's Market for the remainder of the 2017 season." The judge's order concludes that "[i]n the evidence before this Court, the City amended its Vendor Guidelines and then used the changes to deny Country Mill's vendor application."

Specifically, the Order says that Plaintiffs have established a substantial likelihood of success on the merits for the First Amendment retaliation claim and their Free Exercise of Religion claim.

We have asked for comment on this development from Mayor Mark Meadows and Mayor Pro Tem Ruth Beier but have not yet received a response.

The City has released the following response to the court's decision:

"The City is disappointed in the Court's ruling. The City believes that the Court relied on the Plaintiff's complaint and disregarded the contrary facts that were set forth in the Defendant's answer and reply to the Plaintiff's motion. At the time of the Court's ruling, the Court also had the benefit of the facts established by the City's Motion to Dismiss. The City will be considering the seeking of a stay and an appeal of the ruling."

The City's statement continues, "In the meantime, the city will comply with the ruling of the Court and urges those who may also be disappointed in the ruling to respect the Court's decision. The City has a significant event scheduled for the Farmer's Market this weekend and urges everyone participating to respect each other and the sometimes conflicting views that people have."

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